

Gilliam County Court
Regular Meeting
2/20/2019

Judge Farrar called the regular Gilliam County Court meeting to order at 1:00 p.m. at the Gilliam County Courthouse in Condon, Oregon. Present were Judge Elizabeth Farrar, Commissioner Leslie Wetherell, Commissioner Sherrie Wilkins, Court Administrator Sandy McKay, Recorder Mary Dyer, and County Legal Counsel Ruben Cleaveland.

IN THE MATTER OF CHANGES TO THE AGENDA

Judge Farrar suggested that a request for release of budgeted funds by Condon School District be included in the Consent Agenda. There were no objections.

IN THE MATTER OF CORRESPONDENCE

From Les Ruark of Rock Creek, a letter requesting that the following communication be placed on the record. Subject: "A few fundamental expectations involving the newly established Gilliam County Road Committee."

1. "That there will be established by the road department an "interested persons" email distribution list which is used to disseminate to interested persons requesting to receive it, and at the same time such is provided to committee members, the notice of and agendas issued for all meetings, gatherings or other collective use of the committee (in-person or telephonic);
2. Regardless of the way the resolution establishing the committee has been worded, all meetings, gatherings, and work of the committee will be conducted in adherence to the state's public records and meetings statutes, chapter 192, including providing for reach access to agenda support material (if there is that prepared for the committee; and,
3. That any consensus reached or votes (formal or informal), taken by the committee reflecting advice, counsel, or intended direction to the roadmaster and/or to the county court on matters brought before the committee, will be considered as having been rendered collectively, even though on occasion this may entail being received, relayed or otherwise obtain individually by the roadmaster.

In other words, the committee's purpose needs to be clearly seen and interpreted, as being one of advising and making recommendations, not just to a public body (or public official), but also to that public body's governing body (and/or, as I believe it could also be said of the committee, assisting with forging decisions made by a governing body's public body) therefore requiring the committee to adhere to Chapter 192 -- whether or not it may not be legally required to as the committee's establishing resolution is written

(that is, quorum or no quorum, individually or collectively providing its advice or not, singularly advising “a public official or not).

As I’m seeing the bottom line here, and as I’m believing many others have seen the intent behind establishing it, the road committee is intended to *strengthen*: a) the way by which the roadmaster and the county court (through its road commissioner) ‘arrive at the road department’s day-to-day, week-to-week, month-to-month work plan; and, b) the ways and means (and prioritization) by which the county addresses and determines its longer-term road needs (its transportation infrastructure).

As I’m confident you will agree, this important bottom line will definitely need to be achieved as transparently (and all-inclusively) as possible.

Going forward, I trust that it will be -- whether or not the adopted resolution involved here is revisited or otherwise tweaked to reflect the expectations I’ve identified above. Please understand, none of the expectations I’ve identified should be seen in the end, as hampering or otherwise impeding the roadmaster’s attempt to garner and utilize the ‘on the ground’ and respected input of the many good people apt to be interested in and appointed to the committee. Their involvement needs to be made as inviting and flexible as possible; I recognize that. The expectations I’ve identified simply also recognize this input and involvement as the meaningful and achieving clout it deserves to be, and the important public record it needs to be.”

After Judge Farrar read the letter, Ruark reiterated his request that the committee follows public meeting laws, doing its best to adhere to ORS 192.

Ruben Cleveland noted that a record of minutes isn’t required by ORS 192, although an email list may be appropriate. He said the road committee is intended to be a way to provide public input in a less formal manner. Ruark responded that a committee that makes recommendations to a governing body triggers ORS 192 to the furthest intent.

IN THE MATTER OF CONSENT AGENDA

Sandy McKay requested that approval of a service agreement with Waste Management for NORCOR litter pick-up work crew be removed from the Consent Agenda, as the agreement isn’t yet ready for approval.

Later in the meeting, Ruben Cleaveland briefly presented his recommendations for clarification of the agreement and said he will discuss the matter with Sheriff Bettencourt. The updated agreement will be placed on the Consent Agenda for the March 6 court meeting.

MOTION by Commissioner Wetherell, second by Commissioner Wilkins, to approve the Consent Agenda. Farrar – Yes; Wetherell – Yes; Wilkins – Yes; **Motion Carried.**

The consent agenda consisted of the following:

- Approval of Feb. 6 work session minutes

- Approval of Feb. 6 regular meeting minutes
- Appointment of Commissioner Wilkins as alternate to the CREA Board
- Request for funds from Condon School District in the amount of \$450,000 previously allocated during the 2018-19 budgeting process

IN THE MATTER OF FRONTIER TELENET UPDATE

Judge Farrar reported that the Frontier Telenet Board of Directors met last week, and that she attended the meeting via phone from Salem. She noted that the FTN Board voted to accept a \$100,000 loan from Wheeler County, at 2.5% interest, payable over five years. Judge Farrar noted that she cast a dissenting vote because no plan has been identified for payback of the loan. The board also agreed to move forward with the supplemental budget process, and a hearing is scheduled Feb. 26 at Moro.

Les Ruark asked a procedural question about the hearing, and Judge Farrar advised that he direct the question to the chairman of the FTN Board of Directors. He also asked if the Court anticipates taking any action at today's meeting. Judge Farrar responded that the Court has approved an offer to bring FTN's finances in-house, which hasn't yet been accepted by the FTN board, and that the Court's offer to fund a turnaround consultant is still on the table. No other action is anticipated today, with the exception of a discussion regarding hiring a telecom attorney later in the meeting.

In response to a question by Commissioner Wetherell, Judge Farrar said there is no update whether or not FTN's bookkeeper intends to move forward with her resignation, but she expects the matter to be addressed at a budget discussion next week.

IN THE MATTER OF WILLOW CREEK INTERGOVERNMENTAL AGREEMENT

In summary, Judge Farrar confirmed that a joint meeting between the court and the Port of Arlington Board of Directors is scheduled for March 27. The purpose of the meeting is to discuss a 2006 agreement between the county and the port, and how to resolve the issue of reimbursements for improvements and advances.

She also reported that she is in the process of identifying alternate counsel to prevent a conflict of interest, as previously discussed by the court. The court agreed that a pre-meeting isn't necessary.

Les Ruark commented that the attorney selected will want to discuss the matter before the meeting. He also urged the court to ensure that the meeting with the Port is as open as possible. He encouraged a "more global approach" going forward and suggested that the court consider appointing a person to act as liaison or representative, and that the Port should do the same, and that a similar arrangement be considered between the court and the SWCD board. Lastly, Ruark asked to be informed regarding the selection of an attorney, as well as the names of other attorneys considered.

IN THE MATTER OF CONCRETE BATCH PLANT

In summary, Judge Farrar noted that the court has asked the Port of Arlington if they would be interested in taking over the batch plant located at Shutler Station if gifted by the court. A Port meeting to discuss the issue on Feb. 12 was canceled due to bad weather. The Port has asked if the court is considering granting the land as well, and if not, how leases and subsequent subleases would be handled, or whether the court expects the plant to be relocated.

The court agreed that the land will not be granted to the Port, but the lease will go along with the batch plant. A contract with the Port would include a long-term lease for the land at a reasonable price.

Port Director Peter Mitchell asked about water and electricity. Commissioner Wilkins suggested that a land lease could include a minimum amount of water, and Ruben Cleaveland confirmed that type of arrangement is possible for both water and electricity. After discussion, the court agreed to extend the current lease of the batch plant to Thompson Bros. for another year, with a stipulation that the lease is assignable. The lease stipulates that the equipment is as-is, and no funds will be granted for repair of the plant. Ruben Cleaveland will review the current lease and develop a plan.

IN THE MATTER OF APPROVAL OF GRANT PROGRAM UPDATES

The court agreed to proceed with approval of Operational Support and Capital Investment program guidelines, but to table approval of Special Projects grant program guidelines to allow time for review.

MOTION by Commissioner Wilkins, second by Commissioner Wetherell, to move forward with the Operational Support and Capital Investment grant guidelines as discussed in today's work session. Farrar – Yes; Wetherell – Yes; Wilkins – Yes;
Motion Carried.

IN THE MATTER OF JUSTICE COURT IGA WITH CITY OF CONDON

Justice Court Judge Cris Patnode was present via video conferencing to discuss a proposed amended intergovernmental agreement between the City of Condon and the Gilliam County Justice Court. In summary, Judge Farrar noted that currently, all fees associated with prosecutions for municipal cases are collected by the Justice Court to cover court expenses. The amendment to the IGA would allow a portion of fees collected for nuisance abatement cases to be given to the City to help cover the costs. Ruben Cleaveland suggested clarifications of wording in three sections of the IGA regarding court expenses, termination by both party, and division of costs for summary abatement. Judge Patnode said that the Code of Judicial Conduct limits her involvement in the language in laws she will be applying, but in general terms, she has no objection with either the current language or to Cleaveland's proposed changes. Condon City Administrator Kathryn Greiner commented that city approved the IGA with the understanding the county was ok with the City's proposed amendments as written.

She requested confirmation that the updated IGA is final before she takes it back to the City Council for final approval.

The court directed Cleaveland to make recommended changes and to coordinate with the City's attorney. Approval of the revised IGA will be placed on the Consent Agenda for the March 6 court meeting.

IN THE MATTER OF COMMUNITY DISPUTE RESOLUTION PROGRAM

In summary, Judge Farrar noted that the county received an invitation to participate in the selection process for the 2019-20 Community Dispute Resolution Program (CDRP) grant administered by the University of Oregon School of Law. Funding for two years is estimated at around \$1,000. The question before the court is whether to participate in the selection process or to opt out and allow the Dean of the U of O School of Law to assume the county's role. Judge Farrar noted that the grant isn't large enough to cover time and expenses. However, in past years Wasco County has administered the program for several counties including Gilliam County.

MOTION by Judge Farrar, second by Commissioner Wilkins, to approve the joint resolution with Gilliam, Sherman, Hood River, and Wasco Counties in the matter of designating a Community Dispute Resolution Coordinator. Farrar – Yes; Wetherell – Yes; Wilkins – Yes; **Motion Carried.**

In response to a question by Les Ruark, Sandy McKay and Judge Farrar clarified that there are no administrative fees for the county and that Wasco County will receive the grant money, contingent on approval by the Legislature.

IN THE MATTER OF GILLIAM COUNTY TRANSPORTATION

Sandy McKay explained that the Oregon Department of Transportation requires that several documents be in place for the transportation program to receive funding and operate the public transit services.

MOTION by Commissioner Wetherell, second by Commissioner Wilkins, to approve the Gilliam County Transportation Title VI Policy Plan, to adopt Resolution No. 2019-02 adopting the Group Transit Asset Management Plan and Performance Measures, and to approve the Gilliam County Transportation Advisory Committee Bylaws. Farrar – Yes; Wetherell – Yes; Wilkins – Yes; **Motion Carried.**

IN THE MATTER OF HIRING OF TELECOM ATTORNEY

In summary, Judge Farrar noted that with the upcoming completion of the middle mile fiber line, as well as ongoing challenges facing Frontier Telenet, Gilliam County may need the services of legal counsel specializing in telecommunications law to help protect the county's investments in this critical infrastructure. The court agreed to begin a search for a qualified telecom attorney or firm.

IN THE MATTER OF WATERSHED COUNCIL REPORT

Hannah Fatland of the Gilliam-East John Day Watershed Council delivered an annual report. She noted that the Gilliam County Court is the legal governing body of the Watershed Council, and that a report is required in order to receive additional funding from the Oregon Watershed Enhancement Board. She explained that the local council consists of seven representatives from the five main watersheds within the county -- Rock Creek, Hay Creek, Scott Canyon, Thirtymile Canyon, and Ferry Canyon, along with two at-large members. Fatland is the sole employee of the council.

Fatland outlined current projects, including the Lower John Day Working Group, Lower John Day Regional Conservation Partnership Program (RCPP), Scott Canyon/Hay Creek fire restoration, Ferry Canyon and Upper Thirtymile weed management initiative, Lonerock Ridge Juniper Burn, and a small grants program for local on-the-ground restoration projects. Fatland also clarified that council members are not compensated. Commissioner Wetherell asked about problems with blackberries within the county, and Fatland said the problem is worst along the creek in Ferry Canyon, but otherwise is scattered. She also said the Council works closely with the Weed Department.

MOTION by Commissioner Wetherell, second by Commissioner Wilkins, to approve the membership of the Gilliam-East John Day Watershed Council as presented. Farrar – Yes; Wetherell – Yes; Wilkins – Yes; **Motion Carried.**

IN THE MATTER OF PURCHASE OF NEW BALLOT MACHINE

Judge Farrar noted that the County Clerk needs a new ballot machine. After a brief discussion, it was the court's consensus that the Clerk will be asked to bring three estimates to the court for consideration.

IN THE MATTER OF COURT MEMBER REPORTS

Commissioner Wilkins:

- Plans to attend a work session tomorrow regarding the Port of Arlington's irrigation feasibility study.
- Received a letter from Carmen Oakes of the Wheeler County Wolf Depredation Committee. According to the letter, Wheeler County has completed their 2019 wolf block grant and has requested Gilliam County's assistance in funding a two-day livestock producers seminar to be held in November. Commissioner Wilkins will request additional information.

Commissioner Wetherell:

- Noted that meetings of the Lower John Day Area Commission on Transportation, North-Central Public Health District, and Waste Management's thank you gathering were canceled due to weather.
- Noted she received an email from Representative Smith regarding Cap and Trade and an upcoming hearing.
- Noted that Senator Jeff Merkley will be in Arlington for a Town Hall meeting on Feb. 24.
- Expressed concern that both Gilliam county school districts have decided to join sports programs with schools outside the county. Commissioner Wilkins said she is also concerned about the plan, which she considers divisive. More information is needed.

Judge Farrar:

- Said that while in Salem last week, she attended various AOC meetings, met with Representative Smith to discuss funding, and also attended County College.
- Provided an update on Juvenile Court, noting that the initial caseload inherited by the current court was transferred to Circuit Court. Since that time, four or five new cases have also been moved to Circuit Court. Judge Farrar asked commissioners to check in with Juvenile Director Amy Nation regarding her thoughts on the matter, with an eye toward possible changes in the juvenile court program and decision-making process.
- Asked if commissioners are interested in implementing electronic packets for the consent agenda. Commissioners indicated they are interested and would like more information. Les Ruark encouraged the court to consider a Tri-County arrangement. Kathleen Greiner also provided additional insight and briefly discussed the City's use of electronic packets.

IN THE MATTER OF ANNOUNCEMENTS

Judge Farrar announced:

- a meeting of Frontier Telenet/Frontier 911 scheduled Tuesday, Feb. 26, in Sherman County.
- next week's scheduled work session on the restructuring of county grant programs has been canceled. The next work session will be held on March 6 at 9 a.m.

Sue Greer of the Oregon Watershed Enhancement Board (OWEB) announced that OWEB's Board of Directors will meet in Condon in October. Specifics will be announced later.

Sandy McKay suggested that a request that the Fire Services Coordinator become a county employee be placed on the agenda for the March 6 meeting.

IN THE MATTER OF NEXT MEETING

The next regular meeting of the Gilliam County Court will be March 6 at 1 p.m. at the Gilliam County Courthouse in Condon.

IN THE MATTER OF ADJOURNMENT

It appearing to the court that there was no further business to be conducted at this time and no additional matters to be considered, Judge Farrar adjourned the meeting at 3:00 p.m.

GILLIAM COUNTY COURT

By _____
Elizabeth Farrar, Judge

By _____
Leslie Wetherell, Commissioner

By _____
Sherrie Wilkins, Commissioner

Mary H. Dyer/Recorder _____