

7.11.18

Judge Shaffer called the regular Gilliam County Court meeting to order at 10:00 a.m. at the Gilliam County Courthouse in Condon, Oregon. Present were Judge Steve Shaffer, Commissioner Michael Weimar, Commissioner Leslie Wetherell, Court Administrator Sandy McKay, Recorder Mary Dyer and County Legal Counsel Ruben Cleaveland.

IN THE MATTER OF CHANGES TO THE AGENDA

- Judge Shaffer announced that a staff report scheduled to be presented by Community Development Coordinator Rachel Weinstein has been canceled.
- Commissioner Wetherell asked that time be set aside to consider how the Court should approach disbursement of funds to Arlington Port Commission. The discussion will be included as an action item later in the meeting.

IN THE MATTER OF PUBLIC COMMENT

There were no public comments.

IN THE MATTER OF WEED CONTROL ASSESSMENT

Commissioner Weimar noted a problem with wording, as follows: “The assessment for the 2018-19 fiscal year will be *.07 (seven) cents per acre...*” Commissioners agreed that the wording should be changed to, “*\$.07 per acre.*”

MOTION by Commissioner Weimar, second by Commissioner Wetherell, to approve a weed control assessment in the amount of \$.07 per acre for the 2018-19 fiscal year. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

IN THE MATTER OF CITY OF CONDON REQUEST

Kathryn Greiner, City of Condon Administrator, asked the County to sign a Letter of Intent, thus supporting the City in its efforts to attain grant funding provided by ODOT’s Safe Route to Schools program. Greiner explained that the program is devised to connect pedestrians and bicyclists with safe routes to schools, and presented the following list of sidewalks:

- Gilliam from Oregon to Main Streets (side of NCESD)
- Gilliam from Main to Ward Street (near Gilliam County Library)
- Summit from Main Street to Ward Street (Near Jamieson and Marshall)
- Bayard from Main Street to Court Street (across from City Park)
- Main Street from Spring Street to Court Street (Mid-Columbia Bus to the Drive-In).

Greiner also explained that two other ODOT grants are available for sidewalk construction, and that a 20 percent match is required, thus presenting a “stretch” for the City. The ESD may match \$17,000. Condon Schools have indicated they have no

funding available for the project, but are willing to support the project with in-kind contributions. Greiner said the City crew could also provide some form of in-kind work. Greiner explained that the grant would be completed in the 2019-20 fiscal year, but that a Letter of Intent must be submitted to ODOT by the end of August this year, with a full application due in mid-October. She provided a rough estimate of project costs (estimates need for \$30-\$50,000 in match) and suggested that any funds the County has set aside for the sidewalk by the library could be used as a match. However, she said that today, her request is only for the County to sign on to the project and that no financial commitment is required at this time. Engineering work is in process and more exact figures will be available soon.

After further discussion, it was the Court's consensus to move forward and sign the Letter of Intent.

IN THE MATTER OF PCDC QUARTERLY REPORT

PCDC Executive Director Rob Turrie provided a report for the last quarter. Turrie said that the Affordable Housing loan program thus far has been frustrating but informative, and that the program "may need modifications as we go along." Problems include difficulties involved in getting contractors to come to frontier counties, concern on the part of potential investors that low rental rates won't justify the high cost of construction, and a requirement that work must be done by licensed contractors. However, Turrie said some homes in the County are being rehabbed by private investors.

Turrie said he intends to talk to the PCDC board about the possibility of more grant programs. PCDC plans to host an informational table at the upcoming class reunion, and Turrie also suggested creation of an inventory of vacant houses that can be rehabbed.

IN THE MATTER OF SAFETY COMMITTEE APPOINTMENT

MOTION by Commissioner Weimar, second by Commissioner Wetherell, to appoint Gary Hardie to the County Safety Committee to replace Larry Hardie. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

IN THE MATTER OF PILT CLASS ACTION LAWSUIT

Judge Shaffer explained that Gilliam County has been asked to participate in a class action lawsuit regarding the County's right to recover additional sums under the Payments in Lieu of Taxes (PILT) Act for fiscal years 2015, 2016 and 2017.

Commissioner Weimar asked how much paperwork is involved, and Court Administrator Sandy McKay responded that there is one page. Legal Counsel Ruben Cleaveland said the beauty of class action lawsuits is that they provide a way to join with others who are pursuing similar claims while avoiding legal expenses.

MOTION by Commissioner Wetherell, second by Commissioner Weimar, to join a Class Action lawsuit for Payments in Lieu of Taxes. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

IN THE MATTER OF CITY OF CONDON POLICING AGREEMENT

Ruben Cleaveland explained that the only changes in the policing agreement with City of Condon were those that had been previously discussed.

MOTION by Commissioner Wetherell, second by Commissioner Weimar, to approve an Intergovernmental Agreement between Gilliam County, Gilliam County Sheriff and City of Condon for law enforcement services. Judge Shaffer noted that the City will pay \$21,000 per year, while the cost to the county is over \$100,000. He said it will probably be necessary to hire another deputy, and said that in the future, the County needs to take a hard look at police contracts with the cities. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

IN THE MATTER OF OSU EXTENSION INTERGOVERNMENTAL AGREEMENT

MOTION by Commissioner Wetherell, second by Commissioner Weimar, to approve an Intergovernmental Agreement between Oregon State University Extension Service and Gilliam County. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

IN THE MATTER OF DISBURSEMENT TO ARLINGTON PORT COMMISSION

The Court discussed Arlington Port Commission's request for funding for the Lower Willow Creek Irrigation Project Feasibility Study and the possibility of making the disbursement on a reimbursable basis. Judge Shaffer said he attended a meeting of the Arlington Port Commission the previous evening, which was also attended by Ruben Cleaveland. Judge Shaffer reported that the Port received three Scope of Work proposals, and selected CES' low bid of \$15,700 with the project capped at \$17,000. Judge Shaffer suggested that funding from the County should be provided based on invoices.

Commissioner Wetherell asked if CES' proposal includes a full feasibility study, and Judge Shaffer said it is his understanding that at this point, CES will take an initial look to see if the project is possible. Ruben Cleaveland noted that a feasibility study can be done one portion at a time, and that this portion indicates if the project is doable. If so, the next step is further analysis.

Commissioner Weimar expressed concern that there hasn't been a more defined project outline and better communication. However, he said he was comfortable providing \$17,000 initially, but not \$100,000 at this point. Judge Shaffer agreed that closer monitoring is needed, and suggested that this stage should be considered Phase 1.

Judge Shaffer commented that he would like to see payments made to the Port on a reimbursement basis and it was discussed that the Port had significant working capital to float costs until they could be reimbursed. Commissioner Wetherell asked for information about funding of the Port's previous Willow Creek projects which had been provided by Connect Oregon and Gilliam County. Commissioner Weimar said that so far, most of the County's funding has been used for legal fees, although the County Road Department also provided in-kind work.

Judge Shaffer said the first thing to be accomplished was construction of a bridge over the railroad tracks, and that funds were received from Connect Oregon, with rock and in-kind work provided by the County. The Connect Oregon grant was approximately \$1.2 million, and the total cost of the project was a little over \$3.5 million. The agreement was for the Corps of Engineers to reimburse the Port and County, and the reimbursement funded basically everything except what was done on the bridge. Judge Shaffer said the Port is hesitant to use those funds because they're afraid that Connect Oregon will request that the money be returned.

Commissioner Wetherell asked how the Court can receive a more definitive answer about the Connect Oregon funds, and Judge Shaffer responded that he has spent a lot of legislative time on the matter, including explaining to legislators that we still have a functional bridge into the Port's Willow Creek area, and that more work can be done on Port property. He said the original project was not completed because the Federal government didn't quite "check all the boxes that should have been checked."

Commissioner Wetherell requested and received confirmation that the funds for the feasibility study are coming out of the budget for FY 2017-18. She then asked how the budget will be affected if the money is provided in stages instead of all at once. Judge Shaffer said there are sufficient SIP funds, and that it probably won't be necessary to fund the disbursement from the next fiscal year.

After further discussion, the Court reached a consensus to provide up to \$17,000 on a reimbursable basis for the Port's water feasibility study, with payments based on invoices provided to the County.

The Court also acknowledged correspondence from Les Ruark, which Judge Shaffer read for the record:

"As I've spoken to each of you by phone this morning, this send shall simply serve as record of my support for making the recently allocated grant to the Port of Arlington one that's considered to be a 'reimbursement grant' for which the Port submits its actual expenditures for reimbursement. Please make this communication a part of the record of today's meeting. Thank you."

IN THE MATTER OF NORCOR ADMINISTRATOR FUNDING PROCESS

Teresa Hepker of the NORCOR Community Resources Coalition was present to discuss the hiring process for a new NORCOR Administrator, following the June 21

resignation of Bryan Brandenburg. Hepker noted that applications are due July 20 and expressed concern about the short timeframe. She provided examples of administrator hiring processes in Hood River County and Columbia Gorge Community College and recommended that NORCOR consider hiring a current staff member to serve as acting administrator until a permanent administrator is selected. She suggested that members of the public should be involved in the interviewing process.

Hepker also noted that the education requirement has been lowered from a requirement for bachelor's or master's degrees to include candidates with associate's degrees. Commissioner Weimar agreed that the educational requirements shouldn't be lowered for such a challenging job.

Hepker also commented that the NORCOR Board, which meets every two months, isn't as involved as other government entities. Judge Shaffer commented that the facility is operated by the Sheriffs of the involved counties, and that the Board isn't involved in daily operations of the facility.

Katie Cook was in the audience and encouraged a focus on mental health in terms of bringing money into the facility. Cook also noted that although it has been publicly stated that all ICE detainees have committed crimes, she believes some are detained for documentation problems. She said that jailing people without just cause isn't the best use of resources, and expressed concern that the issue is becoming contentious, with a resulting rise of hate and division.

Sheriff Gary Bettencourt spoke about the mental health issue, which he said is a top priority for him. He stated that currently, the system is failing the mentally ill. He also commented that Center for Living is holding up efforts to provide mental health for NORCOR prisoners, although he agrees with Center for Living's reasoning that NORCOR isn't the best place for people who need mental health care. He explained that one-third of prisoners have mental health problems, and that NORCOR has a mental health wing with specialized staff, although the situation isn't ideal. He commented that although most people aren't dangerous, law enforcement is often the first responder to mental health situations. "It's the best we have."

He recommended a regional approach to provide more immediate, appropriate care.

IN THE MATTER OF EXECUTIVE SESSION

Judge Shaffer declared the meeting to be in Executive Session pursuant to ORS 192.660 2 (d) at 11:30 a.m. Separate minutes were taken and will be filed in the office of the County Clerk.

The regular meeting of the Gilliam County Court was reconvened by Judge Shaffer at 12:30 p.m. There were no decisions.

Due to time constraints, Judge Shaffer announced that the Executive Session will be continued later in the afternoon.

IN THE MATTER OF CRIMINAL HISTORY BACKGROUND CHECK POLICY

Gilliam County Sheriff's Office Deputy Chris Fitzsimmons told the Court that about a year ago, the County elected to have pre-employment and volunteer background checks done through the Sheriff's Office. However, the State now requires that the County have a policy, resolution, or ordinance in place establishing guidelines for pre-employment criminal background records checks for employees and volunteers. Fitzsimmons said the State provided several samples, and a document from Tillamook County was ultimately adapted with the assistance of Sandy McKay and Ruben Cleaveland. Fitzsimmons also explained the process of conducting background checks. After extensive discussion, the Court agreed to table approval of the Background Check Policy until certain questions and inconsistencies can be clarified.

IN THE MATTER OF ARLINGTON T.V. CO-OP UPDATE AND REPORT

Alan Cunningham of Arlington T.V. Co-op and Port Manager Peter Mitchell updated the Court on recent progress. Alan said that currently, the installation team consists of two full time employees, one part-time employee and one intern, as well as three volunteer installers. He said the crew is working to get customers hooked up as soon as possible. Although scheduling is difficult, everything should be up and running in three to six months. He also noted that the new bucket truck is ready to go. Cunningham also said that the project is halfway to goal, and still at or below the projected budget. Judge Shaffer suggested that removal of weeds around the Co-Op's building would keep the facility looking more professional, and Cunningham said the weeds were cleaned up the previous weekend. In response to a question by Commissioner Wetherell, Cunningham said that analog TV is available now, and digital TV should be ready in the next three months. All installations will be DVR-capable. Judge Shaffer asked about the target goal, and Mitchell said the ideal is 200 customers, with 150 to 180 hook-ups the first year. He commented that installation is a tedious, complex process.

IN THE MATTER OF COUNTY BUILDING INSPECTION PROGRAM

Judge Shaffer said that the State of Oregon Building Codes Division temporarily assumed Gilliam County's building inspection program on Feb. 1, following the dissolution of MCCOG. Now, the State is asking the County to decide if it wants to operate the program at the county level, contract with a service provider or other community, return the program to the State, or provide an alternative idea. Judge

Shaffer noted that inspectors (structural, electrical, plumbing) must be an employee of a government agency, which eliminates certain possibilities.

Judge Shaffer also commented that he doesn't think a decision must be made immediately, and that the County is covered fairly well by the State via an office in Wasco County.

Commissioner Weimar said he doesn't think the County has any good alternatives right now, and commented that the County is being shortchanged as far as quality of service.

Judge Shaffer agreed, and said several counties are in the same position.

The Court agreed to table the matter and see how the situation plays out with Association of Oregon Counties (AOC) and League of Oregon Cities (LOC).

IN THE MATTER OF COUNTY LEGAL COUNSEL

The County picked up discussion concerning how they want to move forward with a permanent replacement of long-term counsel Will Carey. Ruben Cleaveland, of the same law firm, has been serving the County since Will Carey passed away. The County also discussed the process involved in attaining legal counsel in the event that a conflict of interest arises, as Ruben Cleaveland currently represents Gilliam County, Arlington Port Commission, and City of Arlington.

Commissioner Weimar said a major consideration is that the attorney should be more independent of other agencies the County works with, and his concern is that more and more often, legal counsel works "both sides of the table."

Cleaveland agreed there is a possibility for conflict, but said the situation is common in small communities. He said he isn't trying to discourage the Court from making a change, but noted he hasn't been asked to advocate for one entity to the detriment of another. However, the question has come up due to a citizen's concern about delineation of boundaries.

Judge Shaffer said he didn't want to jump into a process without discussing the approach, and Commissioner Wetherell said she isn't sure if the Court has decided a problem actually exists. Judge Shaffer said he is pleased with the service, response time and level of security provided by Cleaveland, and that if it comes down to a vote, his vote is to remain with things as they are.

Commissioner Weimar suggested that the County may need to have another legal counsel as an option, so if a situation does arise, the County won't be left empty-handed. Commissioner Wetherell asked if counsel could be a member of the same firm, and Cleaveland said it would be more beneficial to have counsel from a separate firm. He also agreed that it wouldn't be a bad idea to establish alternate counsel so someone is "keyed up" in the event alternate counsel is required, and that there might be situations when specialized counsel would be needed.

Commissioner Wetherell asked if it would be up to the County to hire another attorney if a situation arises, or if it would be up to the other entity involved. Cleaveland said it would vary, depending on the particular situation.

Commissioner Weimar said he would be comfortable with having an alternative plan in place, and recommended the Court should set up a process soon so the Court has guidance how to move forward without slowing the process.

Judge Shaffer said he prefers alternative legal counsel who is familiar with local process, and Commissioner Weimar suggested it might be more efficient to have several alternatives.

Commissioner Wetherell said the before a decision is made, she would like to hear from County staff regarding how they feel about the situation. Commissioner Weimar indicated he would like to see a plan in place by fall.

The Court agreed to table the matter.

IN THE MATTER OF COUNTY GRANT FUNDING PROGRAMS AND PROCESSES

Judge Shaffer opened the discussion, noting Les Ruark's earlier comments that the County's process for distributing funds needs improvement. Judge Shaffer said he has had several discussions with Ruark, and has also talked to several other counties regarding how they handle similar disbursement of funds to non-profit organizations. He said that everybody manages the process differently, but the commonality is there is always somebody who disagrees.

Judge Shaffer commented that distribution of SIP discretionary funds is done during the budget process, and that his biggest issue is that he doesn't think five minutes is ample time for applicants to provide necessary information. He suggested that everybody should be given 30 minutes. Commissioner Wetherell suggested that five minutes is ample in some situations, while other applicants may require a longer time.

Judge Shaffer also said there should be some type of regular follow-up, and Commissioner Wetherell said that most grants require reporting. She also agreed with Ruark's suggestion that applications could be revised to provide better information.

Judge Shaffer said that at this point, he is just opening a discussion. Commissioner Wetherell asked what the Court might want to work on first, i.e. SIP funds or Special Projects, as processes and problem areas might differ for each. Judge Shaffer said that one (SIP) involves distribution of \$2.5 million, while the other involves granting \$180,000, and that the larger program should be considered first.

Regarding SIP funds, Commissioner Weimar asked how the project fits the County's Strategic Plan. Judge Shaffer said that SIP money is another way of paying taxes -- instead of going directly to the taxing districts, the money is given to the County to distribute.

Commissioner Weimar commented that if the projects don't fit the strategic plan, maybe an update is needed. He said that the plan could form the basis of the process, and if

public input isn't considered, the County isn't doing its job. If a plan is in place, it becomes easier for the Court to make decisions how the money is spent.

Sandy McKay suggested that the Court consider asking recipients to sign grant agreements in which recipients will agree to spend the money the way they indicated in the request. Commissioner Wetherell indicated she was okay with that idea, along with a requirement for reporting back.

McKay said that currently, letters regarding disbursement of SIP discretionary funds awarded by the budget committee are ready to be sent out. However, a section requesting a report on expenditure of the funds has apparently never been enforced in years past. He asked if the Court wants him to include the line and enforce the request, and commented that if the request won't be enforced, he would prefer to remove it.

Judge Shaffer said that the requirement should be kept and expanded to include a request for periodic updates, but that nothing can be set in stone at this point.

Commissioner Wetherell agreed that the request should be enforced. Consensus to include and enforce the reporting requirement on SIP Discretionary grants.

Melissa Drugge with Business Oregon was in the audience, and Judge Shaffer asked her about that organization's follow-up process. She said that recipients are asked to report how the funds were spent, if the project was completed on time and if specific deliverables were met. In some cases, field staff will visit and gather information.

Mac Stinchfield briefly outlined Gilliam County Cultural Coalition's efficient process for distribution of funds.

No decisions were made and the discussion will be continued at a later date.

IN THE MATTER OF JUNE 6 REGULAR MEETING MINUTES

After clarifications and corrections were made, approval of June 6 regular meeting minutes was tabled until Commissioners have an opportunity to review.

IN THE MATTER OF JUNE 20 REGULAR MEETING MINUTES

After clarifications and corrections were made, approval of June 20 regular meeting minutes was tabled until Commissioners have an opportunity to review.

IN THE MATTER OF JUNE CLAIMS

MOTION by Commissioner Weimar, second by Commissioner Wetherell, to approve June claims pending review. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

IN THE MATTER OF USDA WILDLIFE SERVICES AGREEMENT

Judge Shaffer reported that a predator control person has been hired under USDA APHIS Wildlife Services Program, with services to be provided as of July 19. He also said that as of June 30, Sherman County's predator control officer left that position. As a

result, the newly hired person will cover both Sherman and Gilliam Counties until a replacement is hired for Sherman County. Judge Shaffer discussed the problems and frustrations involved in maintaining predator control under the federal program, and suggested it might be time to think about bringing the program back in-house instead of paying the Federal Government. Commissioner Wetherell asked how much the County pays for services, and Judge Shaffer responded the County pays \$70,260.61, and that Sherman County provides roughly the same amount of money. Commissioner Wetherell said that the cost may be considerably less than hiring another employee. Judge Shaffer also explained that USDA, Oregon Department of Agriculture and Oregon Department of Fish and Wildlife also provide funding, and that the money goes to the federal government and includes sizable administrative fees. Legislative changes may result in the money coming directly to counties rather than to the federal government, and may possibly bring about a change in the way things operate in the tri-county (Gilliam, Sherman and Wheeler) area.

IN THE MATTER OF COURT MEMBER REPORTS

Commissioner Weimar:

- attended a recent meeting of the MCCOG Board of Directors via phone, which involved resolutions regarding dissolution of the organization and disbursement of remaining funds.
- attended a CAPECO meeting, at which a budget of \$5.7 million was approved. Judge Shaffer asked how much of the increase was due to the absorption of AAA, and Weimar said the amount was for last year; the coming year's budget will be \$6.3 million.

Commissioner Wetherell:

- said she missed Condon's Fabulous Fourth. Judge Shaffer said it was indeed fabulous, and Sandy McKay commented that the event was well-attended, especially for a mid-week celebration.
- reported that she heard that Arlington Schools recently experienced serious computer problems due to a failure to back up information off site. She questioned whether ESD is backing up the County's information off-site, and if the County is safely covered. Judge Shaffer said the County has its own backup servers at two locations in the Courthouse, and that every activity is backed up at

those locations, as well as ESD's system. Regarding ESD's back up, Sandy McKay said he would investigate further.

- inquired about the situation with the fiber project manager. Judge Shaffer said the Court is still waiting to hear from Adam Haas. Ruben Cleaveland said he would follow-up with Haas on the status of the contract.

Judge Shaffer:

- attended a recent NORCOR meeting. As of yesterday, 12 applications have been received for the administrator position, with one stand-out applicant. Judge Shaffer reported that Disability Rights of Oregon requested that an audit be performed on the juvenile facility, which subsequently raised a concern that juvenile directors weren't represented on the NORCOR Board. As a result, a juvenile director's position was created on the Board, which required a change in by-laws. The budget was also approved.
- attended a meeting of Frontier Telenet, which included discussion on ways to maintain public safety communications. Wheeler County's wireless project isn't yet completed, which has delayed the process. He also reported that a secondary air conditioner went out at one of the huts, which was subsequently replaced.
- reported that Senator Hansell will be in Arlington tomorrow to discuss the 2019 legislative approach with area elected officials.

IN THE MATTER OF EXECUTIVE SESSION CONTINUATION

Judge Shaffer declared Executive Session to be reconvened pursuant to ORS 192.660 2 (d) at 3:15 a.m. Separate minutes were taken and will be filed in the office of the County Clerk.

RECONVENED: The regular meeting of the Gilliam County Court was reconvened by Judge Shaffer at 4:15 p.m. No decisions were made and the matter will be addressed at the earliest possible date.

IN THE MATTER OF THE NEXT COURT MEETING

The next regular Gilliam County Court meeting will be held Wednesday, August 1, 2018, beginning at 10:00 a.m. at the Gilliam County Courthouse in Condon, Oregon.

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 Shaffer adjourned the meeting at 4:15 p.m.

GILLIAM COUNTY COURT

By _____

Steve Shaffer, Judge

By _____

Michael Weimar, Commissioner

By _____

Leslie Wetherell, Commissioner

Mary H. Dyer/Recorder _____