

6-20-18

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

### **IN THE MATTER OF CHANGES TO THE AGENDA**

Judge Shaffer noted the following changes to the agenda:

- Review of updated salary schedule has been postponed until the documents are ready.
- Judge Shaffer also noted that a Budget Hearing is scheduled for 11:30 a.m.
- Commissioner Wetherell noted that she received a call from Eric Zander of Omega Morgan. The company's proposal will be discussed later in the meeting.

### **IN THE MATTER OF PUBLIC COMMENT**

Rock Creek resident Les Ruark read the following prepared statement requesting that a recent Court action be rescinded:

Judge Shaffer; Commissioners Weimar and Wetherell: For the record, as you know I am Les Ruark and I live and work at 12888 Lower Rock Creek Lane here in Gilliam County. I am here to ask the court to revisit today action it took at its last meeting allocating \$100,000.00 in discretionary Strategic Investment Program ("SIP") dollars to the Port of Arlington. This action should be rescinded (at least temporarily so) pending further action by the port itself and certainly additional inclusive consideration of the matter by the court. I am not here to particularly question the need for (or, at this point the merits of) the effort for which the dollars allocated are meant to facilitate—a feasibility study for determining whether there's a "project" to proceed with or not. I am here to call into question and to voice serious concern with the way by which the decision-making in this matter has occurred. If there was ever a matter depicting a "cart before the horse" scenario, it's this one. It has definitely, as I'm seeing it, taken on the appearance of being driven more by political expediency than any actually adopted findings and/or recommendations supporting the water distribution endeavor sought. Until there is an actual submission of findings and recommendations from the port's own Irrigation Project Exploratory Committee for this very matter—one that's committed to writing and formally considered by the port's commission, not simply indirectly put forth by the port's manager—it remains significantly premature to allocate such a large amount of public monies for a feasibility study ("tiered" or not), especially doing so with no conditions (none) and such little due consideration at the court's table. Understand here, the port has not formally received or acted upon any such findings from its exploratory committee. There's been no actual "project" created. Simply a decently begun but still preliminary examination of the logistics and requirements for one. What's occurred to date in this matter has been three meetings of the committee, including one that was a joint discussion of the committee's objective with the Arlington City Council; a meeting of city and port officials with the district manager of the Oregon Water

Resources Department, which members of the committee were included in; and the city's engineering consultant having submitted data needed for "proving up" the city's existing Columbia River water right enabling the city to proceed with determining a point of extraction. The first of the committee meetings was not all that public, occurring without notice and at a private residence. The second a little more public, to hear from a selectively invited water rights consultant. And the third being the meeting with the city council. There have been no subsequent meetings of the committee to collate its findings or forge its thinking into a submission to the commission. There's been no subsequent action in this matter by the port commission itself, short of its simultaneous effort to line-item into its budget a request to the county to cover costs of a feasibility study—a request which, as you know, given you are half the county's budget committee, was subsequently turned down by the full committee. This latter effort (the port's request), however, doesn't in and of itself constitute the complete or concluding action more properly needed for representing the IPEC's findings—nor should it be seen as an accurate or appropriate means of politically "advancing" establishment of IPEC's work to the county as being the port's "top priority." Contrary to what was stated to the members of this body June 6 (both collectively and, likely prior to that, individually) by representatives of the port, there's no "on the record" action by the port that I've been able to find actually declaring the overall effort involved here to be the port's "top priority." Those two words are, more or less, the port manager's—perhaps well intentioned and obviously passionately spoken, but nonetheless not the port commission's stated or officially arrived-at stance in this matter. In fact, early on in this matter in response to my asking about it, the port commission's president emphatically stated to me that he and (as he saw it) other commission members "certainly don't consider the irrigation project to be the port's top priority." And he's since repeated that sentiment to me on at least two additional occasions. It also needs to be pointed out here that (as I'm understanding it) there's not yet been a formal "buy-in" by the city to any actual "project" in this matter, other than that of staying up to date with the effort identified by the IPEC and possibly negotiating the particulars of a long term lease of the city's water right. Neither has there been from any of the landowners themselves a financial contribution or commitment to share in the costs of either a feasibility study or whatever "project" there ends up being. Nor has there been an appropriation to this effort from the port itself, aside from the expenditure of paying for port staff time involved and an effort to lobby other jurisdictions for project dollars. The court's action in this matter was taken with minimal notice; with little if any substantive detail prepared or disclosed for it; and with the barest of effort made collectively to seriously or meaningfully solicit, receive and weigh public comment in the matter. The matter simply "showed up" as an agenda item for the June 6 meeting, on the agenda that was disseminated the Thursday before the Wednesday meeting. There was no notation on the agenda of written support material prepared for it, and none was accessible (posted) via either the county's or the port's websites. Neither did I, as a known interested person on record with the port in this matter, receive word from the port of staff's and IPEC's anticipated presentation. From a review of the video of the meeting, there seemingly was little expressed intent on the county judge's part to allow for other participation in the matter. It was clear, the stage had been set, so to speak, for what occurred. In fact, the matter was decided upon without the use of any actually established rules of procedure for prudently and fully considering the important decision-making involved in such a matter; no set of criteria by which to analyze, compare or otherwise inclusively and carefully reach a supported, consistent determination. The approved allocation obviously upended the county's own budget committee action in this matter,

with little if any inclusion of either the budget committee's lay members or the county's budget officer—or even any of the numerous other jurisdictions that easily could and should have been at the court's table for the “orchestrated” reconsideration of the port's request the June 6 meeting amounted to. The allocation as approved provides for no follow-up reporting to the county in the matter—none. No parameters for how the dollars are to be utilized or accounted for. Not even an identification of how auditing requirements that may well apply to such an allocation are to be handled, by either of the two jurisdictions. What's to prevent the port from being able to conveniently “backfill” its own budget courtesy of that portion of the allocated amount which may not be expended? What assurances does the court end up with that a personal or professional services contractor will be equitably selected by the port to produce the feasibility study and that the work won't instead simply be conveniently sole-sourced to the City of Arlington's contracted engineering consultant or perhaps similarly “awarded” to the selectively invited water rights consultant the IPEC met with? Given this entire situation, I respectfully ask you, Judge—and if not you, then one of the two commissioners—to make the following motion (or one very similar to it) at the earliest applicable opportunity during today's proceedings: “I move that the court's action June 6, 2018 to award an amount of \$100,000.00 in Strategic Investment Program discretionary monies to the Port of Arlington for the purpose of funding a study to determine the feasibility of a Willow Creek Irrigation Project hereby be temporarily rescinded, the monies be returned or reclaimed, and that this matter be held in abeyance until such time as certification is provided to the court by the Port of Arlington that the port has formally acted to receive, consider and approve findings and recommendations submitted to it by its Irrigation Project Exploratory Committee; and, furthermore, that no subsequent action reinstating the aforementioned allocation be taken by this court until such time as the court has proposed, considered and approved rules of procedure for its deliberation of all such requests received for allocation or other expenditure of SIP monies held in the county's custody.” Thank you.”

Also during Public Comments, Judge Shaffer read the following prepared statement:

After watching the video and reading the prepared statement and questions that were made part of the record as requested by Columbia Basin Electric's Tom Wolff, I felt obligated to respond. Although it sounds and reads more as an accusation than a question, my response to the accusation that the “Independent Consultant” had very “personal ulterior motives” is **ridiculous!** I never heard nor witnessed at any time, Joe Franell promote or develop any sort of advantage for Eastern Oregon Telecom. To even consider that there might have been improprieties shows the complete lack of knowledge in what was being done and of that broadband service business. Joe Franell served as an advisor in a middle mile build, his company is a last mile provider of data, an ISP or Internet Service Provider.

Mr. Wolff states he recalls being in “Executive Session” type meetings with County Consultant Joe Franell and Judge Steve Shaffer, amongst others, where sensitive information was shared between the County, the City of Condon's Fiber Committee, CBEC, and Frontier Telenet staff Mike Smith. Customer lists, easement routes, existing and proposed pricing information (both retail pricing scenarios and wholesale connectivity pricing options with long-haul providers, etc.) was shared with this “Gilliam County Independent Consultant.”

1. Joe was asked to help determine whether the Zayo offer was beneficial to the County. July of 2017 is the only time I remember sitting with Tom Wolff in what was far from an “Executive Session” type meeting. That meeting did not include, at the insistence of the City and CBEC, Mike Smith or any representative of Frontier Telenet. The customers that Frontier Telenet has, the City and CBEC have no customers, were not discussed in any way. Retail pricing was never discussed when I was present. The “founders” wholesale pricing is what Joe and Adam Haas were asked to look at. I will say that later, after this July meeting, I was informed of easements being discussed. I was **not** informed by Joe, but by Zayo, who was disturbed that easements were being forced into the negotiations when county road right of way was their only interest.
2. Joe was asked to create common ground between the City fiber group and myself. This was after all parties were informed by legal counsel that Zayo couldn’t just be “chosen” but that a RFP would have to be done. There were numerous issues brought to my attention during the drafting of the RFP. All were worked through and a respondent was selected. The RFP was open and transparent and I feel all respondents were given fair evaluation. At no time was there anything that was confidential. For the City and the County, the build and monthly cost for the transport of data is public information available to anybody at any time. The only step that could possibly have been considered negotiations was the interviewing to clarify two respondent’s intentions.

“Broadband service is complicated! Mostly though, it is expensive. It requires the updating of components and software consistently. Very recently I was made aware of a situation where an updated company supplied service to a customer who had a PC operating Windows XP, it didn’t work. This customer finally got served, it took days and extra costs for the company to dummy back their equipment to meet the customer’s need, at the company’s expense of course. The customer hinted that had there been other options, they wouldn’t have a problem. Wrong, the customer needed to keep his PC updated. I know, not everybody wants or needs the latest and greatest equipment, but if you supply broadband, you better or you’ll be like the many who **were** in the business.

Joe Franell only wants success to any user or supplier of broadband services in rural Oregon. Never did he mention serving Gilliam County or its Cities. He states many times how fortunate Condon is to have a committed ISP like OrTelCo. Once and only once, he said “his company was not interested in competing. It would be too difficult for EOT to serve the customers in the way his company feels they should be.”

What I assume to be the question from Mr. Wolff is, “was I previously aware of the achievement that was presented in the newspaper article he submitted to the Court?” The answer is NO. If I had, it wouldn’t have made any difference. In the world of rural broadband supply, Joe Franell is not only a leading voice in Oregon, but also in the nation and the world. Gilliam County could **not** have gotten a better advisor.

Steve Shaffer

Gilliam County Judge

## **IN THE MATTER OF JUVENILE DIRECTOR QUARTERLY REPORT**

County Juvenile Director Amy Nation provided a quarterly report, noting that since beginning the job in December, she:

- Attended monthly meetings of the Multi-Disciplinary Team (MDT).
- Was present at the Quarterly Central Eastern Oregon Juvenile Justice Consortium.
- Participated in the Local Community Advisory Council (LCAC) and other early education meetings.
- Participated in the Child Abuse Summit in April.
- Is registered for a “Fundamental Skills for Juvenile Workers” training to be held in August.
- Attended Trauma Informed Care training in The Dalles in May.
- Continues weekly visits with youth on probation.
- Travels to The Dalles at least every other week to meet with a youth involved in a delinquency case.
- Travels to Arlington every week to visit with other youth.

Nation told the Court that the County will receive Juvenile Crime Plan Prevention funds in the amount of \$22,550. The money will be used to fund a school-based counselor, as well as the County’s Summer Youth Workforce program. However, if local schools opt not to meet the necessary requirements, it will be necessary to determine how their portion of the funds will be used.

Nation also noted that a report from Disability Rights of Oregon in December did not shine a good light on the NORCOR Juvenile Detention Facility. She said the Juvenile Director Oversight Committee has met every other week to address concerns, and as a result, several suggested changes have been implemented. The facility’s policies are still under review.

## **IN THE MATTER OF WASTE MANAGEMENT QUARTERLY REPORT**

Alan Anderson, Waste Management Senior District Manager and Kip Eagles, District Manager, provided a report for the second quarter and year to date as follows:

### Columbia Ridge

- Volumes for the second quarter, at 406,456 tons, are down 14% vs. second quarter 2017.
- Volumes for the year to date, at 968,219 tons, are down 4% vs. 2017. Anderson said the decreases in tonnage aren’t a long-term issue, but are related to soil projects that haven’t yet begun.
- Host fees paid to the County for the second quarter are \$675,889.
- Host fees for the year to date are \$1,607,192.

### Chem Waste Management

- Volumes for the second quarter, at 18,292 tons, are up 20.1% vs. second quarter 2017.
  - Volumes for the year to date, at 40,596 tons, are up 27.8% vs. 2017.
  - Host fees paid to the County for the second quarter are \$21,585.
  - Host fees paid to the County for the year to date are \$47,903.
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- One accident occurring at Columbia Ridge Landfill, a tractor/trailer rollover deemed to be due to excessive speed, resulted in no injuries.
  - Positions for employment are still open at both sites.
  - A second commuter van has been provided for employees traveling from The Dalles. The next van will be for employees traveling from Condon.
  - Cell construction is ongoing at Chem Waste Management.
  - Columbia Ridge Landfill cell construction and rail siding are ongoing projects. A rail extension has been completed.
  - Scholarships in the amount of \$8,000 were awarded to eight students.
  - WM plans to again support the Gilliam County Fair with a \$5,000 contribution.

Anderson also noted that Waste Management is currently ranked No. 1 among bid proposals for the Metro disposal contract, which will be awarded once a final agreement is signed. Anderson thanked the Court and the community for the support.

Judge Shaffer noted receipt of official notice stating that Metro has ranked Waste Management #1 for the disposal RFP process. The next step is for WM and Metro to negotiate a new contract. Once the contract is signed, the news will be shared with the community.

In response to Commissioner Wetherell's inquiry about a monthly newsletter, Anderson said there has been a high turnover and the office manager has recently retired. However, the newsletter should be resumed in the next two or three months.

Commissioner Wetherell asked if additional shifts have been added. Anderson said a second shift, 4 p.m. to 1 a.m., was initiated on June 3, and is working well.

### **IN THE MATTER OF OMEGA MORGAN REQUEST**

Judge Shaffer acknowledged that Commissioner Wetherell received a call from Eric Zander of Omega Morgan requesting to increase the company's agreement for lease of County-owned property at Shutler Industrial Park from three acres to eight at a price of \$750/acre. Judge Shaffer explained that the company proposes to haul windmill components, via truck, to Shutler Industrial Park from Port of Portland. The components would be stored at the Park until they are ready to be loaded on rail cars and shipped to construction sites. The extra acreage would be used to operate cranes to load and unload windmill components and park trucks before the components are loaded on to railcars.

In addition to the cost of the lease for extra acreage, Omega Morgan would be charged two separate fees for use of the rail siding: \$50 per car that is loaded or unloaded at the site, plus \$3 per car storage rate, per day -- the same rate that Waste Management pays the County for rail cars it has parked at the siding.

According to Commissioner Wetherell, Zander indicated the company wants to move quickly and would need to use the site for about a month.

Judge Shaffer asked Anderson and Eagles how Omega Morgan's proposal would affect Waste Management. Anderson said a short-term arrangement wouldn't be a problem and wouldn't affect WM's use of the railroad siding at all. Judge Shaffer indicated he didn't know if Omega Morgan had been in discussion with Watco Trucking.

### **IN THE MATTER OF CITY OF CONDON POLICING AGREEMENT**

Sheriff Gary Bettencourt presented an Intergovernmental Agreement between Gilliam County and the City of Condon for law enforcement services. Sheriff Bettencourt said he met with the City at a June 6 meeting, when the contract was tentatively accepted with several minor changes in language.

One change involved hours, originally stated at 40 per week. Sheriff Bettencourt explained that a 40-hour week doesn't work well for the Sheriff's Office schedule, noting that the City will receive "more than they expect." He also said the need for services varies substantially depending on time of year and other factors, and Ruben Cleaveland agreed that setting a quota isn't always in the best interests of public safety. It was agreed to change the language to, "an average of 40 hours per week."

Commissioner Wetherell asked if the monetary amount of the contract is the same as the contract with the City of Arlington. Sheriff Bettencourt said both contracts, at \$1,750 per month, are the same.

Sheriff Bettencourt said he hopes to begin on July 1, and that City of Condon Police Chief Dale Scobert, who is retiring, has agreed to remain through the Fourth of July holiday. Ruben Cleaveland indicated he would make changes as discussed and send the adjusted contract to Condon City Attorney Wyatt Baum. The finalized contract will be ready for approval at the July 11 Court meeting.

In the meantime, it was the Court's consensus to approve a tentative agreement so the Sheriff's Office can begin providing law enforcement services to the City of Condon on July 1.

The Court agreed with City Administrator Kathryn Greiner's suggestion that the County and City work together from July 1 to July 11.

### **IN THE MATTER OF COLUMBIA HILLS MANOR BOARD OF DIRECTORS**

Columbia Hills Manor Board Members Jeff Wilkins, Tia Devin and Nancy Proctor updated the Court on the organization's recent activities and 501(c) (3) status. Devin said that the organization's purpose is to provide low-cost housing at Columbia Hills Manor and

opportunities for retail rental space at the Gronquist Building. She explained that the Board has made an effort to consolidate certain services, such as maintenance and landscaping, between the two and possibly with another local entity. She said that the Board approached Port of Arlington about sharing maintenance services, but after consideration, the Port declined.

She said various entities have expressed an interest in the retail rental space, including a dental service that eventually withdrew.

Devin stressed that the organization is not planning to dissolve, but is looking for somebody to help with day-to-day property management.

In response to Commissioner Wetherell's request for clarification, Devin discussed the difficulty involved in attaining certain services in frontier Oregon, often due to unwieldy insurance requirements. The board members have been doing much of the work, but are now thinking that an existing business might be interested in taking on the work, as a complement to existing services.

#### **IN THE MATTER OF BUDGET HEARING**

Judge Shaffer opened a public hearing at 11:30 a.m. to receive public comments and consider Budget Resolution 2018-10, adopting a supplemental budget and making appropriations for fiscal year 2017-18.

With no public comments, Judge Shaffer closed the Public Hearing at 11:35 p.m. and opened the matter to discussion by Court members.

County Treasurer Nathan Hammer noted the following budgetary adjustments:

- Unexpected income, \$555,000 from the Federal Reimbursement for Asphalt Paving Project (FLAPP).
- A line item adjustment involving \$20,000 for road weed chemicals, reimbursed by the Oregon State Highway Department.
- Adjustments in the amount of \$16,000 due to improper amounts budgeted for health insurance expenses for two new employees.

**MOTION** by Commissioner Wetherell, second by Commissioner Weimar, to adopt Resolution No. 2018-10 adopting a supplemental budget and making appropriations fiscal year 2017-18. Commissioner Wetherell suggested possible changes in the way the budget resolution is broken down, but no decisions were made. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

#### **IN THE MATTER OF COUNTY SAFETY COMMITTEE**

**MOTION** by Commissioner Wetherell, second by Commissioner Weimar, to appoint Court Administrator Sandy McKay to the County Safety Committee. McKay will replace retiring Court Administrator Leanne Durfey. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**



## **IN THE MATTER OF LOCAL PUBLIC SAFETY COORDINATING COUNCIL**

**MOTION** by Commissioner Wetherell, second by Commissioner Weimar, to appoint Juvenile Services Director Amy Nation to the Local Public Safety Coordinating Council. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

## **IN THE MATTER OF GILLIAM COUNTY LIBRARY BOARD**

**MOTION** by Commissioner Weimar, second by Commissioner Wetherell, to reappoint Sara Whatley and Sara Rucker to four-year terms on the Gilliam County Library Board. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

## **IN THE MATTER OF SHUTLER STATION BATCH PLANT SYSTEM UPGRADES**

Judge Shaffer discussed a problem that arose when Thompson Bros., current lessee of the concrete batch plant, was unable to utilize hardware and software to comply with requirements of a customer who required documentation of a specific concrete mix. Subsequently, Judge Shaffer contacted Greg Julson of Keithley Electric, who surveyed the equipment last week. Julson and Keithley Electric are both approved contractors for Command Alkon systems in the Northwest.

Sandy McKay, who was present at Julson's visit, said that Julson was able to get the equipment up and running. However, Julson stressed that the repair was only a bandaid and that the system is old and outdated, and that the hardware and software need to be upgraded for the plant to remain viable into the future. He also noted that parts are no longer made, and that in the future, a breakdown may not be repairable.

Command Alkon provided a proposal for a total of \$31,770 for the upgrade.

Ruben Cleaveland noted that the Court isn't obligated to provide the upgrade according to the current contract with Thompson Bros. It was also noted that Thompson Bros. didn't request the upgrade, but only informed the Court of the problem. He also explained that if the Court decides to move forward with an upgrade, it would be necessary for the Court to go through an RFP process, or at least attempt to attain several quotes.

Commissioner Wetherell asked if the County would recoup the investment and Judge Shaffer indicated that it probably would not. Commissioner Weimar said the investment would be recouped if enough concrete is produced. He also commented that the batch plant helps the County in terms of attracting more windmills, and that although it doesn't look profitable, keeping the plant operational helps the County stay competitive.

Julson also told McKay that it would be necessary to upgrade the scales from analog to digital, and the cost was not included in Command Alkon's proposal. However, he said the current scales have a significant value that could be used to offset the cost of the new scales.

Commissioner Weimar suggested the matter should be explored in more depth. McKay and Cleaveland will work together to provide more information on various options.

## **IN THE MATTER OF FAMILY SERVICES COORDINATOR QUARTERLY REPORT**

Family services coordinator Teddy Fennern provided a quarterly report, which included the following:

- 23 Gilliam County Youth are currently slated to participate in the OYCC summer youth program, including nine from Arlington, nine from Condon, five OYCC crew members and one adult crew leader. The project is funded by an OYCC grant in addition to grant funds from the Juvenile Department.
- The Local Community Advisory Council (LCAC) is currently working on several projects, including a Veggie RX program, colorectal cancer screening kits, and potential provision of low-income dental services for North Gilliam County.
- The new child care and education center is established and open. Fennern is on the Board of Directors.

Fennern also noted that she:

- is LCAC coordinator for Gilliam County, serves on the Regional CAC Board for Gilliam County, and on the Frontier Veggie Rx Regional Advisory Committee.
- is also Gilliam County's representative for the Regional Family Services Advisory Team, serves on the Four Rivers Early Learning Hub fiscal team, and is Gilliam County's representative for the Gilliam/Wheeler Early Childhood Team.
- has been working with the Parenting Education HUB on strategic planning to determine priority areas for the region and Tri-County area.
- is a trained facilitator in Nurturing Parents Curriculum.
- is partnering with Condon Child Care on a Summer Food Service Program, including take-home bags to provide children with nutritious food over the weekends.
- is Coordinator for the Condon Food Pantry, which serves an average of 44 households and 75 people per month. She is also intake specialist for the Energy Assistance Program, with Jennifer Bold serving as second.

Judge Shaffer asked Fennern if there have been any conversations regarding Alan Cunningham's summer internship program. Fennern said that SWCD is moving forward with an internship.. The Transportation Department also plans to hire an intern to help with office duties.

Judge Shaffer also asked how much money Gilliam County receives from the Four Rivers Early Learning Hub. Fennern said the amount is \$85,000, which is shared between Sherman, Gilliam and Wheeler Counties, as well as programs in Cascade Locks and Celilo.

## **IN THE MATTER OF 2017-18 COURT STENOGRAPHER AGREEMENT AMENDMENT**

Ruben Cleaveland explained that an amendment is needed to increase a personal services contract with High Desert Writing Services. The original procurement, set at

\$10,000, is based on estimates and can be revised to \$12,500 to prevent an overage as per the County's Public Contracting Rules.

**MOTION** by Commissioner Weimar, second by Commissioner Wetherell, to amend a Personal Services Contract with High Desert Writing Services for a maximum of \$12,500 from \$10,000 for fiscal year 2017-18. Shaffer – Yes; Weimar – Yes; Wetherell – Yes;

**Motion Carried.**

### **IN THE MATTER OF 2018-19 COURT STENOGRAPHER PROPOSAL**

Sandy McKay reported that a Request for Proposals, which outlined the basic duties of the Court Stenographer, was published in the Times-Journal. Two proposals were received from Hollie Winslow for \$39 per hour and current stenographer Mary Dyer for \$50 per hour.

In response to a question by Commissioner Weimar, McKay said that Winslow's proposal was submitted personally and not through the Health District, and that Winslow continues to work for the District. Commissioner Weimar questioned whether there might be any conflict in terms of money provided to the District.

Commissioner Wetherell asked Dyer to confirm that High Desert Writing Services was established in 2006, and Dyer responded that was correct. Commissioner Wetherell said that working with an established service provider might be beneficial for the Court in terms of public contracting. She also said it's difficult to switch to a new entity when there are no problems with the current service provider.

Ruben Cleaveland advised that price is a consideration, but that the ultimate goal is to select the best service for the County.

Commissioner Weimar noted that information from Winslow is limited and that a decision is difficult when details are lacking. Commissioner Wetherell questioned if the work might interfere with Winslow's current schedule.

Commissioner Weimar said that \$50 requested by Dyer is equivalent to \$33/hour for in-house employees, and wondered if the work can be done in-house. Judge Shaffer said that had been attempted time and time again with limited success. Commissioner Weimar also stressed the importance of ensuring a back-up is available and was told that McKay can provide backup services if necessary.

McKay reminded the Court that negotiating is appropriate under Public Contracting Rules. Judge Shaffer asked Dyer if she would accept \$47/hour, and Dyer indicated that she would accept that amount.

**MOTION** by Judge Shaffer, second by Commissioner Wetherell, to approve a contract with High Desert Writing Services for the position of County Stenographer in the amount of \$47 per hour. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

Ruben Cleaveland indicated he will prepare a contract for submission to High Desert Writing Services.

## **IN THE MATTER OF LEGAL COUNSEL**

Legal Counsel Ruben Cleaveland of Annala, Carey, VanKoten and Cleaveland, P.C. presented a Memorandum addressed to Gilliam County, City of Arlington and the Port of Arlington regarding a proposed irrigation water project. The Memorandum stated that because the project is exploratory at this juncture and cooperation between the entities seems to be a mutual goal, it doesn't appear that Cleaveland is obligated to contend on behalf of one organization to the detriment of the other. However, should such an issue arise that would necessitate advocacy on behalf of one party against another, he may have to withdraw from the project.

The Memorandum, a Letter of Informed Consent, which also includes a recommendation to seek independent legal advice, is required by Oregon's Rules of Professional Conduct. Commissioner Weimar commented that the Court is already in a murky situation with the irrigation project, even if it is only preliminary. Cleaveland said that if that's the Court's concern, it would be appropriate for him to step aside.

Judge Shaffer said that in his opinion, the irrigation project consists of a request for funds, and that Cleaveland doesn't have anything to do with the project at this point. He said it's still the Court's decision whether or not to proceed, and that before doing so, the Court should consider comments in Les Ruark's prepared statement delivered earlier in the meeting.

In response to a question by Commissioner Weimar, Cleaveland said the Memorandum, which acknowledges informed consent, could be signed now and withdrawn later.

It was the consensus of the Court to sign the Letter of Informed Consent.

At this point, Les Ruark complimented Cleaveland for bringing the matter forward and asked the Court to consider that the problem isn't so much direct conflict, but the overall process. He said he has no personal objection to Cleaveland, but suggested that in the future, the Court should establish a definite policy outlining the role of legal counsel. He also asked the Court to look at the role of court administrator and the possibility that a half-time person could handle minutes and other matters.

## **IN THE MATTER OF SPECIAL PROJECTS GRANTS**

### **North Gilliam County**

Total funds requested by North Gilliam County were \$118,353 while available funds, 2% of host fees, totaled \$79,644, thus creating a dearth of \$38,709.

After discussion, the Court apportioned the Special Projects fund for North Gilliam County as follows:

- Arlington Chamber of Commerce request granted in full - \$27,640 for I-84 billboards.
- Arlington Saddle Club request granted in full - \$12,713 for annual Jackpot Rodeo.

- Arlington Community Schools request granted in full - \$10,000 for community activities.
- Arlington Education Foundation granted \$16,291 (requested \$40,000) for scholarships.
- Arlington Meal Site request granted in full - \$3,000 for refrigerator and dishwasher repair.
- China Creek Golf Course request granted in full - \$15,000 for golf course maintenance (to be funded from Recreation Fund).
- The Woolery Project request granted in full - \$10,000 for Oktoberfest.

### **South Gilliam County**

Funds requested for South Gilliam County projects were \$113,000, after Special Projects was deemed to be the wrong funding pool for Columbia Basin Electric's \$785,000 request. Total funds available, 2% of host fees plus \$12,000 carryover from previous year, totaled \$91,664, thus creating a dearth of \$21,336.

After discussion, (included extensive discussion at the previous Court meeting), the Court apportioned the Special Projects fund for South Gilliam County as follows:

- City of Condon request granted in full - \$13,000 for variable frequency drive for golf course wells (to be funded from Recreation Fund).
- Condon Chamber of Commerce request granted in full - \$15,000 for events.
- Condon Childcare request granted in full - \$3,000 for Healthy Kids Program.
- Condon Education Foundation request granted in full - \$7,500 for art education.
- Condon Elks Lodge request granted in full - \$9,000 for custom outdoor fencing.
- Condon Meal Site request granted in full - \$13,500 for 3-compartment sink and dishwasher.
- Condon Young Life granted \$3,644 for program funding: operations (requested \$12,000).
- Lonerock Community Church request granted in full - \$40,000 for new roof.

Les Ruark suggested that going forward, the Court should consider implementing two separate forms to be completed by applicants, thus simplifying the decision-making process. One form would request basic information on the entity requesting funds, and one would identify particulars of the project. Ruark said that the current process provides very little to enable the Court to certify the accuracy of information provided. Ruark also suggested that the non-profit status of the Woolery is in question and should be addressed.

Commissioner Weimar asked who was responsible for doing the staff report for the Special Projects. He noted it was his understanding that Special Projects Grants was

assigned to Rachel Weinstein. Judge Shaffer said that he had asked Sandy McKay to do the staff reports.

**MOTION** by Commissioner Weimar, second by Judge Shaffer, to approve Special Project grants for South Gilliam County as presented on the spreadsheet. Shaffer – Yes; Weimar – Yes; Wetherell – No; **Motion Carried.**

**MOTION** by Commissioner Wetherell, second by Commissioner Weimar, to award Special Project grants for North Gilliam County as presented on the spreadsheet. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

### **IN THE MATTER OF GILLIAM COUNTY TRANSPORTATION**

The Court discussed correspondence received from Transportation Coordinator Marla Davies regarding her intention to purchase a vehicle before expiration of an ODOT Grant on June 30, 2018. The ADA accessible vehicle, a 2018 Braun Entervan, will be purchased instead of a Toyota Sienna, which would have replaced a 2011 Toyota Sienna. However, purchase of a Toyota Sienna is no longer allowed due to an updated Buy America policy. The bus, provided by Creative Bus Sales in Canby, was selected after vendors were requested to provide information and bids on vehicles that could be delivered by the June 30 cutoff date.

Davies stated that a lower priced vehicle was considered but not selected due to problems with the rear lift and the inability for passengers to communicate due to rough roads and vehicle noises. She said that a side-entry, non-lift vehicle works well and provides easy operation and safety for passengers and volunteer drivers.

Davies also reported that the 2016 Arboc Lo-Floor bus will be going in for a wrap installation in Portland, also to be funded with ODOT grant money. A design was presented to the Court for review.

Judge Shaffer said he has an issue with the Transportation Program, which consists primarily of State and Federal funding, and that Davies basically just informs the Court about what she is doing. However, it is still up to the County to provide upkeep and maintenance via Transportation Department funds.

The Court acknowledged Davies' notification of her intention to purchase a new bus, noting that purchase of a vehicle under the ODOT grant was approved in February.

### **IN THE MATTER OF CORRESPONDENCE: JOE FRANELL**

Court Administrator Sandy McKay read the following statement submitted by Joe Franell, dated June 11, 2018.

Dear Judge Shaffer, Commissioner Weimar, and Commissioner Wetherell;

It was brought to my attention that during the public comment portion of the Court's June 6, 2018 regular meeting, the Manager of Columbia Basin Electric Cooperative (CBEC), Tommy Wolff, read

a prepared statement into the record and asked the Court to respond to three specific questions relating to my work as a professional consultant for the County on the Arlington-Condon fiber project.

Although I was not provided a copy of Mr. Wolff's written statement, I have reviewed the video of his presentation to the Court and believe it necessary to correct a number of inaccurate statements, misrepresentations, and insinuations about the nature of my disclosures to the Court regarding my relationship with Eastern Oregon Telecom (EOT) and use of information learned while working for the County.

Since Mr. Wolff's statement and presentation to the Court are now part of the Court's official record, I ask that this response likewise be read aloud at the next Court meeting and entered into the record.

Let me begin with a minor correction which is still important enough to mention. Mr. Wolff refers to an article that came out in the East Oregonian and states that it came out on May 1<sup>st</sup>. The article was actually published on June 1<sup>st</sup>. This is only important as it relates to other dates that are relevant to the discussion.

The fact that I am the CEO of Eastern Oregon Telecom (EOT) should not be a surprise to anyone as I made it clear in my introduction to the Court on August 16, 2017, that I am not a consultant by trade but am the CEO of EOT, a rural competitive telephone company and Internet service provider serving residents and businesses in Umatilla and Morrow Counties and in parts of SE Washington. Regardless, I am widely recognized as an expert on rural telecommunications and have been asked to advise, write and present about the subject nationally and internationally. In fact, I am on my fourth gubernatorial appointment to the Oregon Broadband Advisory Council (OBAC) representing rural broadband to the Legislature and Governor's office. All of this was made clear to the Court when I made my introductions last year. I merely bring it up again to remind the Court that your decision to engage my services was based on objective measures. Finally, all the time spent working with the County throughout this project was done on my personal time, outside of my EOT duties and responsibilities to as to preclude any conflict.

Regarding my work as a consultant to Gilliam County I can assure the members of the Court that I had then and still have no agenda other than that of assisting the citizens of my neighboring county. In fact Eastern Oregon Telecom's (EOT's) five-year business plan does not include any activity in Gilliam County, nor does Gilliam County even show up on EOT's list of strategic opportunities. The quote in the article from the East Oregonian (EO) about expanding into eastern Oregon is only a small excerpt from the total text of my interview with the EO's reporter. The rest of the interview, had it been published, would have made it clear that our intent is to expand where needed and wanted. There are still numerous communities in Eastern Oregon that are completely unserved or significantly under-served. Those are the areas we are focused on.

Mr. Wolff strongly states that it is his belief that I accepted the role as a telecommunications consultant under false pretenses and intended from the beginning to leverage that role to obtain inside information for personal gain. A closer look at the facts easily shows Mr. Wolff failed to produce any supporting information of a specific wrongdoing while ignoring a litany of those contrary to his insinuations.

One of the beauties of the public process is that all information is "public information", equally available to everyone (farmer, baker, or telecommunications competitor). Thanks to the RFP process, public meetings to discuss contract terms and public records laws anyone who wants to

know the route of the fiber to be built, the cost to build and maintain the fiber, and details of its proposed use by those involved, etc. simply has to ask. So, in the public process, there is no room for “inside information.”

Additionally, Mr. Wolff seems to believe that I had an obligation to report to him, the City and the Court that there had been discussions taking place for several years about transitioning the ownership structure of EOT to that of employee ownership. I am certain that the Court can appreciate that any discussions/negotiations in that regard were, by necessity, confidential. In fact, the memorandum of understating (MOU) which detailed the framework of any future purchase of membership interests in EOT by the employees from Umatilla Electric Cooperative and my partners, was not even executed until the 28<sup>th</sup> of November 2017. Notice of an exercise of our option to purchase UEC’s membership interests in EOT under that MOU was not given to UEC until May of this year, months after my involvement with the Gilliam County fiber project had ended. And, Mr. Wolff also failed to mention the part of the article that talks about the purpose of the acquisition being converted from private ownership to employee ownership. If my agenda was one of personal monetary gain, why would I ever pursue an ownership structure for EOT that includes any other employees.

I would be remiss if I didn’t encourage the Court to pause and consider the glass house from which Mr. Wolff is attacking the Court and my professionalism. In the broadest sense, EOT and CBEC are both considered “private” corporations in that neither is a public body like the County or a city. While EOT is owned by and answers to its owners, CBEC is owned by and answers to a Board of Directors elected by CBEC “members” spread through Morrow, Wheeler and Gilliam counties. Further, while EOT does not provide any services in Gilliam County, CBEC does. EOT has no intention of providing telecommunications services in Gilliam County. CBEC has made it clear that it fully intends to do so. So, if any private entity “at the table” has leveraged their involvement for gain, it is CBEC, not EOT.

While engaged by the Court, I was initially two specific tasks by Judge Shaffer. He told me that my most important task was to build bridges between the County Court and other interested parties. The second task was to advise the Court on a proposed fiber build from Arlington to Condon. Subsequently, I was asked to negotiate terms with Zayo and then later, to manage a Request for Proposals (RFP) for construction of underground fiber from Arlington to Condon, and then develop and recommend the award of contracts to the winning bidder.

While I believe that the second task was accomplished well, my success with the first is still in question and that grieves me. The continued distrust displayed by Mr. Wolff and those with him cannot help but hamper the results that the County hopes for. I again offer my strongest encouragement for all involved parties to spend their time and energy finding ways to effectively work together. Make a conscious effort to lead with trust, not suspicion.

I sincerely regret that the Court’s valuable time must be spent on this when Mr. Wolff’s concerns could have been easily addressed and laid to rest had he decided to make a simple phone call rather than pursuing his chosen course of action.

Respectfully,  
Joseph Franell

## **IN THE MATTER OF COURT MEMBER REPORTS**



Commissioner Weimar:

- Attended a meeting regarding Lonerock Road, which was well-attended and overall positive. He said that County Roadmaster Dewey Kennedy alleviated several concerns, noting that concrete barriers would be placed in strategic locations, that sanding will continue as needed throughout the winter, and that the road is built of more durable material than most County roads, which should minimize damage by truck traffic.

Commissioner Wetherell:

- Attended a meeting of the North Central Public Health District, at which a Budget Resolution was adopted for appropriation of funds. The meeting also included a communicable disease report, noting rising rates of sexually transmitted diseases and an outbreak of pertussis.

Judge Shaffer:

- Attended an AOC meeting, which included work on development of a legislative calendar. Judge Shaffer noted that diminished staff for five AOC lobbyists has resulted in more of a team effort.
- Attended a Regional Solutions meeting, at which 11 programs were introduced for consideration. Local projects include a feasibility study for paving Arlington Municipal Airport. Judge Shaffer said that \$200,000 is available for the 11-region area, and that programs will be prioritized. Kathryn Greiner asked how much money Gilliam County has received from Regional Solutions in the past five years. Judge Shaffer responded there have been two opportunities; the current project, and the first, which wasn't funded.

Les Ruark asked for an opportunity to clarify his previous statements regarding the Woolery project's 501(c) (3) status. Ruark said it's important to protect the credibility of that status, and that his comments weren't intended to demean the project or those involved.

At this point, Commissioner Wetherell commented on Ruark's previous request that the Court rescind a decision to grant the Port's request for \$100,000 for an irrigation project feasibility study. Commissioner Wetherell said she is tired of "only getting half the story," and expressed annoyance about mixed messages and incomplete information regarding the project. Commissioner Weimar noted that the "check hasn't been written," and Judge Shaffer also expressed concern about transparency of the project.

Les Ruark suggested that the Court needs to put in place a set of rules to guide deliberations for funding SIP, Special Projects and Economic Enhancement dollars. He said the rules should include a statement to the effect that money can't be expended for anything else without prior authorization of the County Court. He suggested that money provided to the Port for a feasibility study should be used only for that purpose and any unused money should be returned to the County. He also commented that the Port has money they could put forth for a feasibility study.

Ruark indicated for the record that he may have to take other actions to ensure there is transparency. He said the Port isn't intentionally trying to do things behind the scenes, but they aren't always as well informed as they should be in order to make the best decisions. He encouraged the Court to make a more informed decision when it comes to allocation of SIP dollars.

Judge Shaffer agreed that the Court needs something that provides more data and documentation. Ruark asked if there is any possibility the Court would send the Port a letter regarding the need for transparency, and whether the Court would consider putting a set of rules in place. Judge Shaffer said it's something that should be discussed. Ruark suggested naming a citizens advisory committee to consider the matter and report back to the Court. Judge Shaffer agreed it's something the Court should spend some time thinking about.

**IN THE MATTER OF EXECUTIVE SESSION AND REGULAR MEETING MINUTES**

**MOTION** by Commissioner Wetherell, second by Commissioner Weimar, to approve April 16 executive session minutes, May 16 executive session minutes, and May 16 regular Court meeting minutes. Shaffer – Yes; Weimar – Yes; Wetherell – Yes; **Motion Carried.**

**IN THE MATTER OF THE NEXT COURT MEETING**

The next regular Gilliam County Court meeting will be held Wednesday, July 11, 2018, beginning at 10:00 a.m. at 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 3:45 p.m.

GILLIAM COUNTY COURT

By \_\_\_\_\_

Steve Shaffer, Judge

By \_\_\_\_\_

Michael Weimar, Commissioner

By \_\_\_\_\_

Leslie Wetherell, Commissioner

Mary H. Dyer/Recorder \_\_\_\_\_