

**12-2-15**

Judge Shaffer called the regular Gilliam County Court meeting to order at 10:04 a.m. The meeting was held at the Gilliam County Courthouse in Condon, OR. Present were Judge Steve Shaffer, Commissioner Michael Weimar and Commissioner Dennis Gronquist. Absent: None.

#### IN THE MATTER OF ADDITIONS TO THE AGENDA

Approval of an Appointment to the Community Advisory Council

Shutler Industrial Park Well Application update

#### IN THE MATTER OF CONDON SCHOOL DISTRICT CONSOLIDATION UPDATE

Condon School District Principal Michelle Geer and Condon School Board member Nicole Schott were present to give a school district facilities consolidation update. The School Board formed a Facility Design Team that met with the architects in October and November to work on program design requirements. The architects will be coming to Condon on December 9<sup>th</sup> to meet with Staff on individual requirements. The Schematic Design set should be completed by the end of December. Senate Bill 447 passed and the allotted \$125 million will be awarded in three cycles. The first will be \$62.5 million and the application is due January 15, 2016. Individual schools will be awarded up to \$4 million. Condon ranked 185 out of 197 on the State's priority list of projects so the District will be in the \$25 million lottery portion for funds to be awarded May of 2016. The District will not pursue the bond measure until they know the outcome of the grant. Their current bond extends through 2023. Geer and Schott provided analysis of how the new bond would affect homeowners.

- New bond with deferred interest. Payments during the overlap years would be \$1.42/per \$1000 of assessed value. Total interest paid: \$1,985,824.
- New bond with layered payments would be \$2.04. Total interest paid: \$1,407,674.
- New bond with the support of the County Court paying for the new bond during the overlap years the total savings to District taxpayer would total \$1,145,651 and amount to \$538,582 in saved interest.

Schott asked Members of the Court what the group would need to do in order for the Court to consider making a commitment to pay for the new interest portion of taxpayer's property taxes during the overlap period when residents would be paying down two school bonds. Commissioner Gronquist said they would need to get the grant and pass the bond measure. Judge Shaffer said he would like to see a strong pledge of community support for schools consolidation. Schott said it would be very helpful to have the Court make a commitment prior to going out for the bond. Members of the Court will wait to hear whether the District receives the grant and resume discussion at that time.

#### IN THE MATTER OF PLAYGROUND EQUIPMENT FOR CITY OF CONDON PARK

Condon Chamber of Commerce Director K'Lynn Lane gave a presentation of proposed new playground equipment for the City of Condon Park. Lane explained the current structure is a safety hazard for young children. There has been a baby boom in the past three years and that means there are a lot of young children who have nowhere to play during school hours. After extensive research, Lane chose to work with Wildwood Playgrounds NW – the firm that designed the

playground at the Oregon Zoo – to design the proposed structure. The Play and Park structure was designed specifically to fit the playground’s small footprint and will accommodate children aged two to 12. Wildwood is offering a 45% discount on the structure through December 15, 2015. With the discount the structure and installation would cost \$34,243.56. The City of Condon will remove the existing play structure and the Condon City Council has approved \$4000 toward the cost of the project. There was a general Court discussion regarding the structure, cost and timing. Judge Shaffer informed that there were funds in the County’s Recreational Revolving Fund that could pay for the structure. However, due to public purchasing rules, there needs to be a request for three bids for any County funded project over \$5000. Commissioner Gronquist and Judge Shaffer were in support of the project, but Lane needs to request two more proposals. Lane said she would work to get the bids ahead of December 15<sup>th</sup> deadline.

#### IN THE MATTER OF CONDON CHILDCARE REQUEST FOR BUDGETED FUNDS

**Motion** by Commissioner Gronquist, seconded by Commissioner Weimar to approve the \$80,000 to the grant allocation to the Condon Childcare; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF APPOINTMENT TO THE LOCAL COMMUNITY ADVISORY COUNCIL

The Court received an application from Jennifer Bold to be appointed to the Local Community Advisory Council. Judge Shaffer recommended accepting her application

**Motion** by Commissioner Gronquist, seconded by Commissioner Weimar to accept the application from Jennifer Bold to the Local Community Advisory Council for the Eastern Oregon Coordinated Care Organization; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF INDUSTRIAL PARK WELL PERMIT EXTENSION

Judge Shaffer informed Court Members that the Well Permit Extension for two new wells at Shutler Station Industrial Park was not eligible for submission because Gilliam County

did not have an action plan in place. If the County wants to drill for additional wells in the future there will need to be a new application.

#### IN THE MATTER OF CORRESPONDENCE

The Gilliam County Court received a thank you note from the Friends of Gilliam County for supporting Oktoberfest and encouragement for their Woolery project.

#### IN THE MATTER OF THE PUBLIC HEARING ON MARIJUANA ORDINANCE

Judge Shaffer opened the Public Hearing at 11:00 a.m. to receive testimony from members of the community on Gilliam County’s proposed Ordinance declaring a ban on medical marijuana processing sites, medical marijuana dispensaries, recreational marijuana producers, recreational marijuana processors, recreational marijuana wholesalers, and/or recreational marijuana retailers and declaring a state of emergency. The Ordinance will apply to county jurisdiction outside the

boundaries of the incorporated cities. There will be a second public hearing at City Hall in Arlington at 7:00 pm. The purpose of the Public Hearings is to obtain citizens views and to answer questions about the Ordinance.

Public testimony was received as follows:

1. Rob Turrie, 204 S Ward Street, Condon, OR 97823. Testified against a ban on a marijuana testing facility. Turrie thought converting the Grain Lab to a lab that could test marijuana could be a way of turning a lab that is losing money to one that made money. It will be the law to test cannabis for public safety.
2. Bill Kirwan, 21065 Edwards Lane, Gilliam County Oregon. Kirwan noted that he is not a marijuana user, but testified against the Ordinance for economic reasons. He informed that in Colorado revenue from marijuana has surpassed those from alcohol sales; averaging over \$110 million a month. It's a \$1.2 billion dollar industry and in 2014 Oregon's top agricultural business was beef, which brought in less than \$1 billion. The State of Oregon will be distributing tax revenue from marijuana sales to counties on a per capita basis, but counties that opt out will not be eligible. Marijuana revenue will only be allowed to be spent on education, mental health and law enforcement. Kirwan said he couldn't see the benefit to Gilliam County in not taking in money for education, mental health and law enforcement. Opting out would only demonstrate an act of defiance that would cost the county financial opportunities. He doesn't think there would ever be an opportunity for a dispensary in Gilliam County because the population isn't large enough to make a dispensary profitable. Kirwan advocated for putting the subject of opting out of tax revenue on the ballot to let voters decide, because voters voted not to legalize marijuana, not to opt out of tax revenue. Sixteen new schools are going to be built next year in Colorado. How many are going to be built next year in Oregon? Money from marijuana tax revenue could be used for the schools in Gilliam County instead of levying new taxes on County residents. He thinks that Western Oregon counties want Eastern Oregon counties to opt out so it will leave more money for them.
3. Rachel Weinstein, 204 S Ward St., Condon, Oregon 97823. Weinstein testified against the Ordinance and specifically banning a marijuana testing laboratory. The Grain Lab is an underutilized asset that loses money every year. Weinstein believed converting the Grain Lab to a marijuana testing lab might make good financial sense. Testing marijuana is the law and is good for public safety. Weinstein also asked the Court to consider not banning the growing, processing, testing and sale of 0% THC/high CBD marijuana in Gilliam County. Weinstein said she said hadn't thought about Kirwan's idea as a reason for not passing the Ordinance, but thinks his point of view makes sense and agreed with him.
4. Gary Bettencourt, Sheriff. Sheriff Bettencourt testified in support of the Ordinance and reiterated that Gilliam County residents voted down Measure 91 by over 55%. He would not want Gilliam County to support medical or retail marijuana. County residents can already grow at home which he believes will feed the black market. He doesn't have faith in the Oregon Liquor Control Commission (OLCC) to police marijuana businesses. Sheriff Bettencourt said he agreed with Kirwan that capitalism would prevent retail marijuana in South Gilliam County, but with easy access to I84, the North end of Gilliam County could probably support a dispensary. He said fortunately Arlington has imposed an ordinance banning any marijuana industry within city limits. Sheriff Bettencourt stated that he was in support of having a testing lab in Gilliam County since testing is the law and the product needs to be tested for public safety. Additionally Sheriff Bettencourt agreed there could be a revenue opportunity in locating a lab in Gilliam County and he would support that.

5. Sandy McKay, 310 E Spring Street, Condon, Oregon 97823. McKay testified against the Ordinance and advocated for Gilliam County taking the approach that Deschutes County took. Deschutes County opting in, but they are intending to use planning and zoning ordinances to control the types and amount of marijuana related businesses that will be able to operate in the County. McKay stated that the vast majority of Gilliam County is not suitable for a large marijuana grow operation. Through zoning ordinances, which are law, the County could control what if any industry is allowed in the County. Deschutes County has put a restriction that a grow operation be at least 20 acres and all grow operations will need to be OLCC licensed. He agreed with Sheriff Bettencourt that without access to legal marijuana in the region, home grows will feed the black market. McKay also agreed with Sheriff Bettencourt that the North end of the County might be able to support a dispensary and that he felt that people coming and spending money in the County was not necessarily a bad thing. Additionally the tax structure allows cities and counties to levy up to an additional 3% of local taxes on top of the 17% state tax on retail sales. Lastly McKay asked the Court to allow reasonable restrictions to keep the County safe, but allow for reasonable business opportunities in a county that needs business opportunities. McKay said this wasn't an opportunity that the County couldn't have envisioned, but asked the Court to consider the potential viable economic opportunities enabled by the law.
6. Kevin Gramson, 14840 Mountain View Drive, Condon Air Base, Condon, Oregon. Gramson testified against the Ordinance. He stated that he agreed with McKay's testimony and like Kirwan is not a marijuana user. As one of the owners of the Air Base he thinks the Base is a unique industrial site in Gilliam County. They have their own utilities, a quarter mile from an electric substation, have a natural gas pipeline, fiber located along the County road and a number of building that are in a secured location that would be suitable for an indoor marijuana grow. The area is secured behind an 8' high fence, 70% of which is barbed wire. He said he hoped that would address a lot of issues that law enforcement might have. He has a potential renter interested in a building or two for a wholesale indoor grow operation. They are a young couple with two children who would attend local schools, pay taxes and shop at area businesses. He feels they are the demographic that Condon is trying to attract. Their business plan is to keep the business a mom and pop operation forever. If they ever need to hire additional labor they intend to hire within the County. By law they and employees will be subjected to a background check. In addition to growing marijuana they would like to do some value added processing and sell that wholesale to a distributor in Portland or Seattle. They are not interested in the retail marijuana industry. Gramson had not thought about repurposing the Grain Lab, but thought it would tie in nicely.
7. Marla Davies, Barnett Road, Arlington, Oregon. Davies testified against the Ordinance. Davies stated that in her opinion in voting for the Ordinance Gilliam County would be passing up economic opportunities. She advocated for adding additional testing options to the Grain Lab that could include cannabis testing. She informed there is high demand for 0% THC/high CBD marijuana that can be used in medical lotions and tinctures. There are currently local Multiple Sclerosis patients that use both to treat their disease. Davies noted that as of October 1<sup>st</sup> in Sherman and Gilliam Counties there are 74 residents who have medical marijuana licenses. Davies said that Gramson was correct, that background checks on industry participants is the law. Davies also informed that it is illegal to sell Oregon grown marijuana out of state because of federal law. If the County were to allow for a commercial grow, Columbia Basin Electric Co-op would make quite a profit. The OLCC is estimating that marijuana will bring in \$10.7 million in tax revenue in the 2015-17 biennium. Forty percent of tax revenue will go to the common school fund, 20% to mental health, 15% to state police,

10% to cities for enforcement and 10% to Oregon counties for enforcement of the Measure. Five percent will go to the Oregon Health Authority for drug and alcohol prevention. If Gilliam County chooses to opt out and pass the Ordinance that will just be more funding that Gilliam County will walk away from. Davies agreed with Kirwan that larger counties in the Willamette Valley want counties in Eastern Oregon to opt out. Payments will be on a per capita basis, so Gilliam County wouldn't receive a lot of money, but every bit counts. Davies agreed that the County doesn't need a marijuana dispensary. However, from a professional perspective as the County's Transportation Director, Davies schedules transportation of County residents to medical marijuana dispensaries on a regular basis and having a dispensary in the County would save Gilliam County a lot of money. Davies understands law enforcement's and citizen's concerns, but she asked the Court to remain open minded to economic opportunities.

Final comments came from

- Weinstein, who spoke to the potential profitability of labs state wide if there are only going to be five or six certified labs and hold those labs to tight standards.
- Kirwan said that so far, as in Colorado, sales of marijuana have far exceeded State projections beginning with \$10.8 million in sales the first week of October.
- Davies informed that all marijuana needs to be tested and will be required to be delivered in person which will bring more people into Gilliam County that will frequent area businesses.

Judge Shaffer, stating that there was no further testimony in Condon, recessed the Public Hearing until 7:00 p.m. in Arlington.

## IN THE MATTER OF OWNERSHIP & MAINTENANCE OF AIR BASE ROADS

Kevin Gramson was present to resume discussion of road ownership and maintenance at the former Condon Air Base. Judge Shaffer informed that after consulting with legal counsel it would require a separate document that doesn't exist to resolve the issue. All that the document at hand states is the roads are designated for public use. In order for the roads to be included in the County road system, the owners would have needed to make a request and the Court would have needed to accept the request and there would need to be documentation to that effect. After consulting the Commissioner's Journal that doesn't appear to be the case. It was referenced in August 1978, in the matter of maintenance of streets in Vaden Heights, attorney John P. Wolke presented to the Court a proposed resolution calling for "The County to maintain streets and driveways, etc., at Vaden Heights Subdivision. The Court decided to take no action in the matter at this time, but asked Wolke to write to Pete Wells, attorney for Vaden Heights and ask Wells to attend the next regular Court meeting and explain the situation to the Court in a satisfactory manner." The Commissioner's Journal does not show that Wells ever took action. Gramson acknowledged it appeared the Court made no determination in 1978. Gramson then asked the current Court if they would be willing to take action on maintaining the roads. Judge Shaffer said that would require Court Member discussions with the Road Master to first determine what the overall maintenance costs might be before he would consider a motion to that effect. Commissioner Gronquist added that the Court would also need to assess whether there were other roads in the County that might fall under consideration which could open the Court up to further requests. Gramson pointed out there are 26 homes at the Base that are paying County taxes and is there another such situation in the County like that. Commissioner Weimar noted that the Court would need to be consistent with

respect to policy, so there could be a similar situation. After discussion, Members of the Court decided to look into the matter further with the County Road Master.

#### IN THE MATTER OF REQUEST FOR 4-H & SNAP OSU EXTENSION FUNDING INCREASE

Oregon State University (OSU) Extension Agricultural Agent Jordan Maley and 4-H and SNAP Education OSU Extension Agent Monica Mitchell were present to request approval from the Court to increase Mitchell from a .75 position to full time. Maley has Extension Reserve funds available to pay the \$9,000 difference from January 1, 2016 to the end of the fiscal year, June 30, 2016 to cover Mitchell's increased salary and would like permission to fund the increase. Mitchell explained she would like to add three additional 4-H programs with the .25 time increase. Commissioner Weimar stated he thought the State of Oregon and OSU should pay for the increase. Maley agreed, but said that would not be an option until the next fiscal biennium. Judge Shaffer thought it would be a good use for the OSU Extension reserve funds.

**Motion** by Commissioner Weimar, seconded by Commissioner Gronquist to approve allowing use of Oregon State University Extension reserve funds to pay for a temporary .25 increase for 4-H and SNAP Agent Mitchell's salary to increase to full time; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF WI CONSTRUCTION CONCRETE CREDIT DISCUSSION

WI Construction CEO Jack Ingram and Gene Williamson were present to resume discussion of resolving WI's remaining \$45,000 concrete credit balance plus the remaining \$15,000 in rent. WI has proposed an equipment trade for payment of the balance. WI would trade the crane truck, worth \$65,000, to pay for the remaining \$60,000. That would leave an excess of \$5000 that Ingram would use to purchase rock from the Road Department. Ingram has the second Kenworth truck for sale on consignment and will give the County the proceeds from the sale. He asked the Court for the title to transfer at the time of sale. Commissioner Gronquist will talk to Road Master Dewey Kennedy to find out what, if any, equipment he might be interested in. Judge Shaffer told Ingram that he thought it was a good proposal. Commissioner Gronquist asked Ingram if WI was still interested in maintaining a presence in Gilliam County. Ingram said WI was interested, not just for concrete, but also for rock sales. Kennedy sold rock to both Waste Management and Watco and WI delivered the rock. Ingram said he appreciated the relationship. After discussion, Members of the Court said that after there was an agreement on the outstanding balance they would work on drafting a new one page agreement for a short term lease that could renew on a rolling basis until a long term renter is secured.

#### IN THE MATTER OF RUTE FOUNDATION SYSTEMS PROJECT UPDATE

The Court has received a preliminary easement lease agreement from Waste Management for lease of the turbine site. Judge Shaffer informed the agreement did not reflect the terms what had been previously discussed. The agreement was accompanied by an email from Alan Anderson stressing that the agreement was simply a starting point in negotiations. The agreement called for \$3000 in legal fees and annual rent of \$10,000. Judge Shaffer informed he is working with Will Carey on a counter agreement for Waste Management. Commissioner Gronquist thought covering Waste Management's legal fees was fair. Judge Shaffer informed a wind resource assessment has

been done on the site that revealed there should be enough wind capacity to meet the 31%-32% consultant Brian Skeehan said would be necessary to generate the kilowattage necessary to make the site viable. That percentage would generate 6,332 kw/day of energy. Commissioner Gronquist asked for an update on the Power Purchase Agreement (PPA) with Columbia Basin Electric Co-op. Judge Shaffer said that the Bonneville Power Administration will be meeting on December 14<sup>th</sup> to discuss the PPA and their Tier 2 power contract with Columbia Basin to allow for the PPA. Judge Shaffer will be sending a letter of support for the turbine that he will sign along with the President of Columbia Gorge Community College and the superintendents of the Sherman and Gilliam County schools. Judge Shaffer said they were having a difficult time finding a consultant to assess the financial outlook for the turbine post construction when it is up and operational. The problem has been costing out construction and operations of a single turbine. Commissioner Gronquist stated that he is still not sold on the project and needs firmer information before he will be able to make a decision in favor the turbine. Judge Shaffer has been told that Brian Skeehan is as capable as anyone of giving the Court accurate information with the exception of the cost of construction, which is why Judge Shaffer brought in Jeff Schott. Commissioner Gronquist asked about the status of the Economic Development Administration grant application for the project. Judge Shaffer informed the County can apply for the grant at any time and would begin work on the grant once the PPA with Columbia Basin was signed. Commissioner Weimar informed he had a discussion with Dr. Mark Weimar with the Pacific Northwest National Laboratory (PNNL) regarding the cost of a single wind turbine. Dr. Weimar said there was a single turbine project being built in North Dakota that was projected to cost \$6.2 million. Commissioner Weimar said that PNNL could be hired to consult on the RUTE turbine and knew of another person who might also be available. Dr. Weimar said his company would charge \$14,000 for the analysis. Judge Shaffer will be inviting Ormand Hildebrand, the owner of PaTu Wind Farm to the next Court meeting to provide additional information on the cost of construction.

#### IN THE MATTER OF THE CONSENT AGENDA

**Motion** by Commissioner Gronquist, seconded by Commissioner Weimar to approve the October 21<sup>st</sup> regular Court meeting minutes, the November 4<sup>th</sup> regular Court minutes, the November 4<sup>th</sup> Work Session minutes, the November 4<sup>th</sup> Executive Session minutes and the November Claims pending review; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

**Motion** by Commissioner Gronquist, seconded by Judge Shaffer to approve the November 18<sup>th</sup> regular Court meeting minutes; Shaffer – Yes; Gronquist – Yes; Weimar – Abstained. **Motion carried.**

#### IN THE MATTER OF GRAIN LAB OPERATIONS

Members of the Court resumed discussion of Grain Lab operations. Judge Shaffer had a discussion with Scott Dillingham Manager of Innovative Bakery (IBR) about leasing the Grain Lab to test their product and he was not interested. He stated that IBR would be interested in purchasing some of the equipment. Members of the Court decided to table the matter until the December 16<sup>th</sup> County Court meeting in Arlington.

## IN THE MATTER OF EXECUTIVE SESSION ORS 192.660 (2) (e) (g)

Judge Shaffer declared the meeting to be in Executive Session pursuant to ORS 192.660 2 (e) Real Property Transactions and (g) Trade Negotiations. Separate minutes were taken and will be filed in the office of the County Clerk.

## IN THE MATTER OF COURT MEMBER REPORTS

Commissioner Weimar informed he attended the Association of Oregon Counties Annual Conference in Eugene. While there he Co-chaired a Transportation Steering Committee meeting. A major topic of conversation was that the Oregon Department of Transportation (ODOT) has conducted studies that show that converting conventional intersection to roundabouts greatly improves safety. ODOT will be replacing traffic lighted intersections with roundabouts. ODOT is also looking for an alternative fee approach to the gas tax. They are looking for drivers to participate in a mileage tax trial that will use GPS to track mileage. They are having trouble finding participants in Eastern Oregon. Oregon Transportation Commission (OTC) Chairman Tammy Baney gave a commission update. Lastly there was discussion of the federal Surface Transportation Reauthorization Act that didn't pass. Judge Shaffer informed he heard on the news that morning that the Act had been passed. Commissioner Weimar will be co-chairing the Transportation Steering Committee again next year.

Commissioner Weimar attended a Mid-Columbia Council of Governments (MCCOG) meeting. There was further discussion of the B Transfer portion of the AAA Program. There was discussion of building codes because Wasco County is considering developing their own program of building codes. Commissioner Weimar informed he will be attending MCCOG's Strategic Planning meeting in January 2016. Judge Shaffer will be attending the Strategic Planning meeting also.

Members of the Court discussed Sherman County schools pulling out of the North Central Educational Service District (NCESD). Commissioner Weimar is concerned about losing jobs in the County if the NCESD collapses.

Judge Shaffer will be attending a Northern Oregon Regional Corrections Facilities (NORCOR) meeting on December 3<sup>rd</sup> and hopes to learn what Gilliam County's unbudgeted share will be. He is anticipating the cost will be \$7000.

## IN THE MATTER OF THE NEXT COURT MEETING

The next Gilliam County Court meeting will be held on December 16, 2015 beginning at 10:00 a.m., at City Hall in Arlington.

It appearing to the Court there was no further business to be conducted at this time and not additional matters to be considered Judge Shaffer adjourned the meeting at 2:51 p.m.

GILLIAM COUNTY COURT

By \_\_\_\_\_

Steve Shaffer, Judge



By \_\_\_\_\_

Dennis Gronquist, Commissioner

By \_\_\_\_\_

Michael Weimar, Commissioner

*R. Weinstein/Recorder*