

## 9-16-2015

Judge Shaffer called the meeting to order at 10:04 a.m. at the Arlington City Hall. Present were Judge Steve Shaffer, Commissioner Mike Weimar and Commissioner Dennis Gronquist. Absent: None.

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

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

### IN THE MATTER OF WASTE MANAGEMENT QUARTERLY REPORT

Alan Anderson, Jackie Lang and Kip Eagles were present representing Waste Management to deliver their quarterly report.

#### Columbia Ridge

Volumes 2015 3<sup>rd</sup> Quarter to Date: 375,000 tons, down 6.3% vs 2014

Volumes 2015 Year to Date: 1,413,427 tons, down 0.4% vs 2014

Host Fees 2015 3<sup>rd</sup> Quarter to Date: \$472,342

Host Fees 2015 Year to Date \$1,775,730

#### Chem Waste

Volume 2015 3<sup>rd</sup> Quarter to Date: 20,285 tons, up 16% vs 2014

Volume 2015 Year to Date: 61,492 tons, up 3.3% vs 2014

Tax 2015 3<sup>rd</sup> Quarter to Date: \$23,936

Tax 2015 Year to Date: \$72,561

#### Site Updates

Safety – Neither site has had any significant injuries. Both sites are part of the companywide “100 Days of Summer Safety” program, which will conclude at the end of September.

Employee engagement and recognition – There will be an Employee Appreciation picnic Saturday September 26<sup>th</sup> in Arlington. The public is invited to attend.

Hiring – Waste Management has moved several temporary personnel to full time and continue to seek up to five new positions for Equipment Operator, Laborer, Administration and Lab Chemist. Anderson said they are seeking to be more diligent in advertising those positions.

Community Engagement – They continue to support the local community.

Youth recreation, athletics, and leadership development:

- Waste Management donated to the 4-H Livestock Auction. This year rather than purchasing animals as they have done in the past, they divided a \$5,000 contribution evenly amongst all youth that participated in the livestock auction. Commissioner Weimar noted there are a large number of participants beyond those doing livestock. Anderson said he was not aware of that and perhaps they need to look into that for next year.

#### Host Agreement

The Waste Management Host Agreement with Gilliam County expires December 31, 2015. New Agreement discussions continue.

#### Metro Update

Lang said the Metro process continues to move forward. Metro is continuing to deploy resources to explore options for long-term management of discards. The Metro Council has also directed staff to develop a report regarding landfill capacity available in the region. This will likely involve staff reaching out to several other counties to ask whether they are interested in receiving Metro waste.

#### RUTE Foundation Systems Project

Waste Management expressed continuing support for the RUTE project.

#### IN THE MATTER OF REVISIONS TO THE AGENDA

Discussed use of the Gilliam County motor pool vehicle which is parked in Arlington.

Postponed agenda items 1.6 Senior Transportation Coordinator appointment to award bid for vehicle purchase is postponed and 4.3 Human Resources/Risk Management job description.

#### IN THE MATTER OF USE OF THE ARLINGTON COUNTY VEHICLE

Judge Shaffer said Port of Arlington Manager Peter Mitchell is the primary user of the County car which is parked in Arlington. Policy has been the keys are kept at Arlington Justice Court office. However, recently Judge Patnode had an upcoming reservation to use the vehicle and the keys were had not be turned in to their office. Judge Shaffer said he thought there should be a renewed discussion of policies and procedures for use of the vehicle. If Mitchell needs a car exclusively perhaps the County should surplus a vehicle to the Port of Arlington. In the meantime, perhaps the policy should be amended and the keys stored at the Port of Arlington. Commissioner Weimar said difficulty in accessing the keys keeps him from using the vehicle regularly. Judge Shaffer suggested a key box outside City Hall might give everyone easier access to the keys. Commissioner Gronquist said he needs to give the issue more thought before making a decision.

No decisions were made and the matter was tabled until the next meeting.

#### IN THE MATTER OF FIBER OPTIC TO SHUTLER STATION INDUSTRIAL PARK

Judge Shaffer informed he has not heard back from IBR. WindWave has quoted \$15,500.00 to hook up to fiber optic to the Industrial Park. IBR's monthly fee will be \$275.00. Commissioner Gronquist said he thinks the County should pay for the cost of the hook up. Commissioner Weimar agreed. Leanne Durfey asked whether the County needed to get other bids since that is the required for projects over \$5,000.00. It was noted in this case WindWave may be the sole source contractor. Judge Shaffer informed he and legal counsel have been working to discern the issue. It was noted Windwave is scheduled to move out of the County the end of October. Durfey asked if fiber to Shutler Station could be deemed an emergency project since WindWave will be moving out of the area.

**Motion** by Commissioner Gronquist, seconded by Commissioner Weimar to approve the WindWave bid of \$15,500.00 to deliver fiber optic to Shutler Station Industrial Park, pending advice from legal counsel in regards to public contracting rules; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF OREGON MARIJUANA LEGISLATION

Judge Shaffer said he has been waiting to see how neighboring counties are going to respond to the new marijuana law. He informed Wheeler County is going to copy Crook County and intends to ban all marijuana-related businesses in the County. Commissioner Weimar said Gilliam County residents voted the measure down and have spoken. Commissioner Gronquist said he is not promoting the new law, but in the months since the Measure 91 vote there is a lot more information available and perhaps the County should put matter back out to a second vote. Judge Shaffer noted that Wasco County is intending to put the issue out for a second vote. Members of the Court will continue to monitor what other counties are doing and will continue to discuss options.

#### IN THE MATTER OF PUBLIC HEARING RE: INENTEC CONDITIONAL USE PERMIT 2015-05

County Court Members present: Judge Shaffer, Commissioner Gronquist, and Commissioner Weimar. Gilliam County Court Administrator Leanne Durfey and Gilliam County Court Administrative Assistant/Community Development Rachel Weinstein were present. Staff present representing Gilliam County included: Gilliam County Planner Michelle Colby, Tenneson Engineering land use consultant Dan Meader and legal counsel Tim Ramis. Applicant representatives: InEnTec Columbia Ridge, LLC Chief Executive Officer Jeff Surma, Vice President and legal counsel Mike Rockett and General Manager Pablo Perez. Audience members included: Times-Journal newspaper owner/editor Mac Stinchfield, Gilliam County Planning Commissioner Jeff Wilkins, Gilliam County Planning Commissioner Marta Mikkalo, Waste Management Communications Director Jackie Lang, and Gilliam County resident Les Ruark.

This being the time and place advertised, Judge Shaffer opened the public hearing on Gilliam County Conditional Use Permit (CUP) 2015-05 InEnTec Columbia Ridge, LLC. The purpose of the public hearing is for County Court review of InEntec Columbia Ridge, LLC, CUP 2015-05 and to obtain citizen views and respond to questions about the conditional use permit to operate and

expand a solid waste disposal facility for the production for hydrogen. The Conditional Use Permit was approved by the Gilliam County Planning Commission at its public hearing on August 4, 2015 with Gilliam County Planning Commission Order executed on August 10, 2015. Approval was granted by the Planning Commission to InEnTec Columbia Ridge, LLC to operate and expand a solid waste disposal facility for the production of hydrogen.

Judge Shaffer asked the Gilliam County Planner Michelle Colby to begin. Colby introduced Land Use Consultant Dan Meader and Legal Counsel Tim Ramis. Colby deferred to Meader to outline the proceedings for the hearing to remain consistent in the fact that Meader delivered the proceedings outline and staff report to the Gilliam County Planning Commission.

Meader read, explained and outlined the proceedings for the hearing. Meader stated the hearing will be a quasi-judicial hearing. The hearing before the County Court will be a de novo (brand-new) public hearing. The following process was outlined and summarized: The County Court's job is to conduct public hearings for the purpose of making land use decisions and or recommendations according to the ordinances and law of Gilliam County and the State of Oregon. The County Court may not vary from the adopted laws and ordinances. If a law or ordinance is considered to be unfair or unworkable, there is a process to amend the ordinances. All county land use ordinances must meet minimum standards of the enabling state statutes and administrative rules. The application being heard is being weighed against the law and ordinances in effect at the time the application was filed. A copy of the rules of procedure for the hearing, the agenda and a copy of the staff report are available on a table in the room. All those in attendance are asked to sign the attendance sheet and please include your mailing address. Process today will begin with a staff report and any additional comments from staff since the staff report was written. The applicant will speak next, followed by other proponents. Next we will hear any opponents, followed by neutral parties or those who are neither for nor against but have questions they need clarified. Any agency comments will be heard last. The applicant will be given the right of rebuttal, then at which time the hearing will be closed and no more public testimony will be taken. The County Court will then deliberate and render a decision. Testimony from all concerned shall be specific to the law that is understandable. Failure to provide testimony at this hearing may preclude a person from participating on an appeal to the State Land Use Board of Appeals. All persons testifying must be recognized by the Chair. State your name and address and if you are representing someone else, please state who you are representing. The hearing is being recorded. Meader stated there is a continuance rule that normally applies to quasi-judicial proceedings that anyone offering testimony may request a continuance before the public testimony portion is closed.

Meader then proceeded to qualify the County Court as decision makers by asking the County Court members a series of questions.

- Do any of the Court members have a conflict of interest or other bias that would prohibit them from rendering an impartial decision in this matter? All responded No.
- Has any member of the court had any ex parte contact with the applicant or any member of the public? All responded No.
- Does anyone in the audience wish to challenge any of the County Court members?

Hearing none the proceeding carried on.

County Counsel Ramis prefaced by stating there are two issues most likely to be discussed today. First, is the issue of whether or not there are adequate public facilities and services; at the Planning Commission hearing there was evidence that this applicant has not brought their property taxes up to date, the Planning Commission viewed this as an important aspect of providing adequate public facilities and services. Ramis commented he believes the theory is, in the event that taxes have not been paid, essentially means the applicant has not paid their fair contribution to supporting necessary public facilities and services and believes this is the rationale behind the Planning Commission's decision to impose a condition requiring in some way that the property taxes be brought current. This is a subject that may be brought up today in which the Court may accept, modify or reject the condition. A related issue that is new, is what level of public facilities and services is necessary to support a use that involves untreated medical waste as a part of the waste stream brought into the County. Commission Weimar asked Ramis to restate. Ramis restated there is a new fact referring to email dated September 10, 2015 and in the email it becomes apparent that the waste stream that is being included in the application is untreated medical waste. Ramis posed questions 'what level of public facilities and services is necessary to handle the importation of such waste into the County's waste stream? Is there a necessity of having the appropriate hazmat precautions? What are the public facilities and services necessary?' This is a new issue. Ramis stated another context in which this issue is brought up, is whether or not the use is permitted, the County has not previously permitted untreated medical waste through its prior land use decisions involving this property. The Court has options available should the Court be inclined to deny the application one ground might be that the use has not yet been shown to be compatible with the County's Comprehensive Plan, if the Court is inclined to approve the use then the Court will need to address the issue in another way either delegate the question to Department of Environmental Quality (DEQ) or create a condition that requires the applicant to further document use. Ramis reiterated this is additional evidence to the record in the form of an email from DEQ that establishes that feed stock will included untreated medical waste and the Court may wish to ask the applicant about this.

Judge Shaffer addressed staff on proceedings. Meader commented the Court has copies of the original staff report and copies of the Planning Commission Order which approved the proposed use with 13 conditions and stated there is new information which is the crux of the matter today and unless the Court wishes staff to review the staff report and planning commission order Meader proposed in the interest of time the applicant present their proposal. No objections. The floor was turned over to the applicant.

#### Applicant Proposal:

The applicant is represented by Surma, Rockett and Perez. Surma distributed copies of PowerPoint presentation. InEnTec Columbia Ridge presentation included a photo of the existing facility located at Waste Management Columbia Ridge Recycling and Landfill, which was built in 2011 as a joint venture with Waste Management known as S4Energy and operated as a demonstration program 2012-13. The existing facility produced syngas from gasification of solid materials, the plant did not utilize the syngas produced at the time and instead directed the gas to Waste Management flare system. Additional slides included a map showing the location in relation to I-84, a diagram of the location in reference to other Waste Management structures at the site and a flow chart on the process of the gasification technology. Surma stated the gasification technology (equipment/device) was created by a joint venture between

Massachusetts Institute of Technology Plasma Fusion center and the Pacific NW Laboratory in Richland Washington. Surma explained the process simply put includes breaking material down (solid or liquid) to syngas then the syngas is cleaned and filtered for the production of hydrogen. The next slide showed the existing footprint of the facility and the new hydrogen plant. The ultimate desired result is the production of commercial hydrogen. It was noted InEnTec leases approximately 11 acres from Waste Management and reviewed slide on existing plant footprint and hydrogen expansion. The new hydrogen plant will include equipment and fill stations. The feed stock coming into the plant will either be solid or liquid. Surma provided a detailed description as to how the materials will be delivered and handled. Solid feed materials will be bagged and deposited into a poly-lined Gaylord box which will in turn be placed into a second box and then sealed/banned. The sealed box/container upon delivery will go directly into a sealed shredder unit. The containers are not opened they are directed inserted into a closed shredder unit. The initial process for solids begins with the containers being deposited into the shredder and from there the material is feed into the gasification equipment. Liquid feed materials will be delivered via tanker truck and will be hooked up directly to a pump station and feed directly into the gasification equipment, liquid material will not be stored onsite. He commented the company is excited about the process and new technology. An additional slide highlighted the jobs the plant will create between 12-15 permanent new high tech jobs, with salaries ranging from \$30,000.00 to \$60,000.00 per year. Surma highlighted salary ranges, total annual payroll, estimated tax revenue to county, construction jobs, and increase local economic activity from the plant operations. Surma commented they will be encouraging employees to reside in the County as it is important to live close to the facility. In summary the project is for the conversion of byproducts into renewable hydrogen. The hydrogen will be used primarily for fuel cell vehicles. The vehicle manufactures are very receptive to the concept. Surma concluded by commenting this is a landmark project for the conversion of byproducts into renewable hydrogen.

Testimony from proponents:

Jackie Lang with Waste Management, 18177 Cedar Springs Road, Arlington, OR 97812 (place of business). She expressed the synergy Waste Management feels for the InEnTec Columbia Ridge project. She commented Waste Management is exploring how waste can be used for beneficial purposes such as renewable energy, clean fuels, and green chemicals. She commented Waste Management is very interested in learning more about these opportunities and in bringing these types of technologies to the market place, to our customers, this is what our customers are asking for. With that goal in mind Waste Management would be very pleased to see the InEnTec project operational and successful.

There being no additional proponents, the hearing proceeded.

Testimony from opponents:

There being none, the hearing proceeded.

Testimony from neutral parties:

Jeff Wilkins, PO Box 253 Arlington, OR 97812 asked to be able to ask a shipping related question. How much hydrogen will be shipped and what are the safety standards. *RESPONSE*

by Surma. He stated the amount of hydrogen produced will be about 450,000 standard cubic feet a day, an estimated three tanker trucks a day. InEnTec will not be transporting the hydrogen instead an industrial gas company will be responsible for transportation, these types of vehicles travel through the County on I-84 every day and are highly regulated.

Les Ruark, 1288 Lower Rock Creek, Arlington, OR 97812. Ruark commented as the Court is aware he testified at the Planning Commission hearing and would like to ask similar questions of the applicant and Court today. First, where is and is it necessary for there to be an emergency preparedness plan? How does the company see this in terms of its requirements to have a plan in place? Secondly, How does the Court look at this matter and is it a necessary element that they think should be in the conditions of approval for InEnTec's conditional use permit or is it not? *RESPONSE* by Surma. He stated yes, it is correct this matter was discussed at the Planning Commission hearing and we agreed per any DEQ requirements for emergency preparedness plan(s) that we would comply. *RESPONSE* by Judge Shaffer. Judge Shaffer commented as three individuals responsible to make sure that emergency preparedness plans are in order and it is something the Court does on a regular basis he feels it is something of importance and necessary and understands this is generally a part of the DEQ process.

Testimony from Agency:

There being none, the hearing proceeded.

Judge Shaffer asked if there was any more testimony, there being none, and looking over the procedures guideline Judge Shaffer commented it looks like the applicant rebuttal portion would be next. Meader asked to address the Court commenting the applicant should address the matter of medical waste at this time as a proponent and advised the applicant to do so now as it would not be appropriate to be discussed during the applicant rebuttal.

Judge Shaffer commented before proceeding he would like to acknowledge and thank the Planning Commission members and staff for the outstanding job they did on this project.

Testimony from Applicant/proponent:

Judge Shaffer asked the applicant to define what is untreated medical waste, how it is handled, and stored/contained. What happens to the medical waste in the event the facility is nonoperational? *RESPONSE* by Surma. Surma first stated for the record medical waste was mentioned in the application and would be more than happy to discuss the matter now. Surma prefaced stating InEnTec has previous experience with handling medical waste in the state of California as InEnTec Medical Services, LLC. InEnTec owned and operated a medical waste transport, handle, and disposal company in California. InEnTec is familiar with the procedures to handle medical waste. Medical waste can consist of materials from doctors, dentists, hospitals, and other types of medical facilities. A handout was distributed outlining InEnTec's waste handling experience in California, included in the handouts were pictures of the of facility, trucks, typical medical waste containers, medical waste supplier's facility, pictures of the material repackaged into poly-lined Gaylord boxes, and then loaded and shipped via truck to handling facility. In California the company was regulated by the California Department of Health Services

(DHS) to ensure they were compliant with all rules and regulations and InEnTec will comply with the state of Oregon DEQ and department of health services equivalent in Oregon. Waste will arrive in sealed boxes and those boxes will go directly into the gasification process. InEnTec will not be transporting the material but accepting it and directly depositing into the shredder. If for any reason the InEnTec Columbia Ridge facility is nonoperation the company will comply with all DEQ and Department of Health regulations for storage of the materials, for example in California after seven days material had to be moved to a refrigeration unit. InEnTec will comply with whatever the State of Oregon regulations are.

Judge Shaffer asked the applicant to provide more specific types of medical waste, it was mentioned gloves, face masks, needles, table coverings what else? Commissioner Gronquist stated in conjunction with Judge Shaffer and in reaching out to DEQ about DEQ's permitting process, DEQ has indicated that InEnTec's current permit does not allow for some types of feed stock that is being proposed to be received and asked specifically is any of the proposed feed stock material hazardous? *RESPONSE* by Surma. Surma replied InEnTec's current solid waste permit is limited to municipal solid waste (MSW), biomass, and certain refuse derived fuel (RDF) materials generated from specific operations in the Portland Metropolitan area. This is what InEnTec is proposing to change by the addition of hydrogen production equipment.

Commissioner Gronquist asked what feedstock is InEnTec not permitted to receive at this time. *RESPONSE* by Surma. Surma responded InEnTec is not permitted to receive any type of medical waste at this time or non-hazardous industrial waste a feedstock that would come from companies such as Intel. Rockett interjected and added to the discussion stating these questions are related to the timing of the permits. Oregon is unique in its permitting process in that DEQ will not begin their permit process until the land use process is complete and a land use compatibility statement (LUCS) is issued. Rockett commented the discussion that InEnTec is not permitted to receive current types of feed stock is directly correlated to first having to go through the land use process. It was emphasized again that DEQ will not begin its permitting process until the land use process is complete once the land use process is complete than the process will start with DEQ.

Commissioner Gronquist stated a discussion needs to take place on the matter of taxes; commenting condition of approval No. 10 currently reads 'Prior to processing feedstock at the facility for the purpose of commercial operation all county taxes will be brought current.' Commissioner Gronquist commented he would prefer a more concrete deadline in which the taxes shall be brought current, the condition is too vague. Commissioner Gronquist added it is his understanding there is a test period, how long is the test period? At what point does the test period move to commercial operations? *RESPONSE* by Surma. Surma stated the company wants to be commercially operational as soon as feasible to avoid negative cash flow. Rockett added an exact time frame is difficult to arrive at because part of the process involves obtaining permits and securing financing. Rockett added the condition was reached with the Planning Commission to allow a level of certainty to prospective financiers so for example six months down the road the permit is still valid. He commented the process with the Planning Commission was



to arrive at a point of development that would allow the process to move forward and allow an amount of certainty to ICR funders. It was asked at what point is commercial operations defined? Rockett commented commercial operation would be basically when ICR is being paid to take waste. Discussion continued on trying to come up with a specific timeframe in which taxes are to be paid rather than the wording prior to commercial operations. Commissioner Gronquist stated he is trying to protect the County and if everyone decided to pay their taxes when they could afford it, there would be a lot of taxing districts in trouble. Rockett commented he understands the position however, this is a land use permit, the County is protected in other ways, the tax collector has other mechanisms to collect taxes.

Commissioner Gronquist returned to the issue that InEnTec could be permitted to receive untreated hazardous medical waste if DEQ approves the permit. Surma restated the handling process in which the waste would be handled at the facility.

Commissioner Gronquist pointed out a section of the Planning Commission hearing minutes that read 'What if there is a material that the County does not want brought into the County? Meader responded the question as to whether or not local jurisdiction has authority to restrict feedstock has been posed to legal counsel and an opinion has not been received yet.' Commissioner Gronquist asked if there is an answer to this question. County Counsel Ramis stated the Court has an independent authority under its regulatory process to determine what you will allow as a County in your waste stream. The Court needs to make some decisions as to whether or not the County has adequate public facilities and services to support the use of untreated medical waste. The County might conclude there are adequate methods for dealing with extreme circumstances for certain types of waste, but not others. One way to deal with the issue would be in the Conditions of Approval, another would be to say the County currently doesn't have enough evidence to make a determination and either continue the proceedings to allow the applicant time to bring in evidence or deny it and allow the applicant to reapply when the applicant has evidence. If the County uses conditions there would need to be some evidence or expert opinion to support the condition. Rockett stated he understands the County has the authority to grant or deny the permit as a means to control these waste streams, however, from InEnTec's perspective these waste streams are critical to the commercial success of this plant and a permit without them would not allow them to move forward. Rockett reiterated the denial of certain types of waste, high value waste streams that will be integral to making the venture profitable will not allow ICR to move forward. Judge Shaffer asked what percentage of feed stock is InEnTec anticipating to come from medical waste. Surma replied medical waste could be significant, but it is too difficult to say at this time, it is all relevant to which waste streams are available and at what fee. Surma stated for example liquid waste could be more readily available and fully supply the plant at any given time; the waste streams need to be variable. On the other hand at times the waste stream could be all medical waste, it is too difficult to say per Surma.

Commissioner Gronquist brought the discussion back to the tax issue and wanting to have a specified time frame rather than the condition being tied to development process. Discussion took place on how long to allow InEnTec to bring their taxes current. After discussion it was agreed on

a 24 month time limit. Condition of approval No. 10 will be reworded to allow a period of 24 months in which the taxes must be brought current otherwise subject to review.

Ruark asked for clarification on process and is the Court using the Planning Commission's Order list of conditions or creating their own. Legal Counsel Ramis stated the Court has complete discretion to change, amend or affirm the conditions of approval included on the Planning Commission Order. Rockett suggested if the Court is amenable the easiest process would be to take the conditions approved by the Planning Commission and use them as a base line and make the appropriate changes.

Judge Shaffer brought back the discussion on emergency preparedness plan and his understanding there is not a plan currently in place and when might a plan be established. Surma responded the emergency preparedness plan will be part of the overall DEQ permitting process. Judge Shaffer inquired if the emergency preparedness plan will include measures to address hazardous medical waste exposure and/or delayed use or storage of medical waste. Surma responded he is sure the plan will include those types of measures and that the company will most likely need to work with the State and/or local health department as any plan would be most likely subject to review/input from Department of Health.

Commissioner Gronquist asked legal counsel about options to address medical waste. Ramis stated the Court has several avenues available for addressing the issue. The Court could defer the decision to DEQ, and essentially decide whatever DEQ decides will be the standard, in terms of safety plans and other aspects or limitations. Another alternative would be to craft a condition that states once the permit is final and it's apparent what the state regulations are going to be, then the Court will come back and review the use to determine whether or not the County has the public facilities and services to support the use in light of the limitations the state may impose. The County Comprehensive Plan states the County will rely on state regulations in the review of permits but in this case the County does not know what those limitations may be so it is hard to perform that function. This approach might be one way to allow the applicant to proceed and then come back for one more look to make sure it was conditioned adequately. Judge Shaffer commented he is concerned that DEQ or other State agency/department could create a financial burden to the County to uphold a condition. Rockett commented it doesn't work procedurally for ICR to come back and be possibly imposed by additional conditions and suggested a provision that if the DEQ permit imposes a financial burden to the County in that event the permit would be subject to review.

Judge Shaffer asked for guidance in moving the proceedings forward. Meader suggested the Court could make a tentative decision and instruct staff to draw up the final order. Ramis concurred it is better for the Court to reach a tentative decision and then instruct staff to draft the findings and conditions rather than craft them at this moment. Ramis commented Rockett's suggestion of if the DEQ permit includes anything that would impose a burden to the County that the permit would be reviewed is a good suggestion.

Commissioner Weimar commented making reference to condition of approval No.13 and the language that states 'Any surcharge use fee shall be negotiated between owners of ICR and

Gilliam County Court at the discretion of the County Court within 180 days of the order being signed and dated.' He expressed his concern that a month has already been lost on the time frame and that he isn't too concerned about getting a surcharge use fee during this experimental phase but at the time commercial operations being the County should have the opportunity to negotiate. He stated the 180 days is unnecessary and a limit that should not be imposed as there is a state statute that allows the County to do this function. Discussion took place on what the statute says and that additional language shouldn't be added. Court Administrator Leanne Durfey commented the statute reference is based on a DEQ statute that states there is a 90 day time period for the jurisdiction to impose a surcharge use fee after the DEQ application is approved. After a lengthy discussion of the issue the Court agreed to reference the statute only in the condition and eliminate the 180 days thereby removing the last sentence.

Judge Shaffer called for additional comments, there being none the public hearing was closed.

#### Court deliberations:

Judge Shaffer asked staff to summarize the proceedings. Colby commented the direction would be for the Court to make a tentative decision and deferred to Ramis on procedure. Ramis stated it is his understanding that the goal is to develop a tentative decision today and direct staff to come back with findings and a set of conditions reflecting the Court's comments. It was agreed the draft Order will be presented at the next Court meeting October 7, 2015 at which time the Court will have the opportunity to review the language to make sure it meets the Court's intention. If the draft condition language meets the Court's intentions, and if it does the Court would make a final adoption of a Court Order. Ramis summarized in terms of substance he is hearing the Court say adjust the surcharge language in condition No. 13 and eliminate the reference to 180 days, need to craft or add language to a condition that is based on the principle that Rockett was talking about to notify the County when the state permitting process is final with DEQ for the Court to review to determine whether or not additional burden is placed on the County, and with respect to the tax issue to amend language to condition No. 10 that taxes are to be brought current within 24 months and to eliminate language referencing prior to commercial operation.

**Motion** by Commissioner Weimar, seconded by Commissioner Gronquist to direct staff to address the three substantive changes outlined above amending Conditions of Approval No. 10 and No. 13 and to incorporate language about 'additional burden' to County into an existing condition where appropriate and to draft a Court Order adopting the CUP to be presented at the October 7, 2015 County Court meeting. Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF SHUTLER STATION DRY BLENDING PLANT PROJECT

Dave Wildman with Anderson Perry & Associates was present to discuss bids for the Water Quality Improvement Project at the Dry Blending Plant at Shutler Station Industrial Park. Wildman described the scope of the work for members of the Court. Two bids were received, one from Josh Bray Plumbing, LLC and one from Apollo Mechanical Contractors. Josh Bray Plumbing was the low bidder at \$72,000.00. Judge Shaffer asked about a discrepancy in pricing on PEX piping between the two bids. Wildman thought each of the bids had some line items that were priced

higher and some lower, but overall the bids arrived at close to the same price. Based on the due diligence Anderson & Perry has done on Josh Bray Plumbing they appear well respected in the industry as competent and safety conscious. They perform work for the Port of Morrow and are accustomed to doing industrial work. Wildman pointed out Josh Bray Plumbing's bid form listed quantity rather than unit price on item nos. 6, 7, & 8, which was subsequently discussed with Josh Bray for clarification that Anderson & Perry is comfortable with. Judge Shaffer stated he was in agreement. Wildman said that if these modifications don't correct the water quality problems the next step will be to go directly to the well head for a solution.

**Motion** by Commissioner Weimar, seconded by Commissioner Gronquist to accept the low bid from Josh Bray Plumbing, LLC, in the amount of \$72,000.00 for water quality improvements at the IBR Dry Blending Plant at Shutler Station Industrial Park; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF ALLSAFE FIRE ALARM MONITORING AGREEMENT

The agreement proposed by AllSafe Fire & Security is for monitoring the new fire alarm system at the Gilliam County Courthouse in Condon. The agreement is a month to month contract with a monthly fee of \$23.50. The contract will automatically renew month-to-month unless either party elects to terminate.

**Motion** by Judge Shaffer, seconded by Commissioner Weimar to accept the month to month agreement with AllSafe Fire & Safety for \$23.50/per month for monitoring of the Fire Alarm System at the Gilliam County Courthouse; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF ARLINGTON CTE BUILDING PROJECT UPDATE

Arlington School District Superintendent Kevin Hunking was present to give a project update on the Arlington High School Career Technology Education Building. He passed around examples of projects generated by the school's new 3-D printer and samples of marketing logos students had designed with the new plasma cutter. These are skills students can use in the business sector. After putting out three RFPs the District received one bid. That bid came in so high the District elected to become their own general contractor. Hunking said the entire process has been cumbersome, but the project is progressing. They expect the steel building to be erected by the end of October and to have the interior completed and building open in time for classes in January. BBT Architects have been providing construction administration whenever they are in the area. In addition to holding classes during the regular school week the District will be offering a Diesel Mechanic Class on Fridays that will also be available to students from Condon and Lone.

#### IN THE MATTER OF PLANNING DIRECTOR REQUEST TO APPLY FOR GRANT

The Court considered written request from Gilliam County Planner Michelle Colby's for authorization to apply for Technical Assistance grant to update and correct grammatical and citation errors verify and print zoning maps. Colby also needs a letter of support from the Court to accompany the application. One aspect of the grant application that is not mandatory, but is

viewed as important, is for the applicant to have some matching funds which can either be cash or in-kind. Colby's request includes county matching funds in the amount of \$2,000. Leanne Durfey said Colby indicated the Court can make the determination on the grant match, which can also be in-kind. The Planning Department budget does not include a \$2,000 cash match expenditure. There was a brief Court discussion ahead of the motion.

**Motion** by Commissioner Weimar, seconded by Commissioner Gronquist to approve the Gilliam County Planner request to apply for the Technical Assistance grant, amending it to a \$1000.00 in-kind donation of her time for a total estimated project cost of \$8,500.00 to correct ordinance grammatical and citation errors and verify and print zoning maps; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

**Motion** by Commissioner Weimar, seconded by Commissioner Gronquist to approve a County Court letter of support for the Technical Assistance grant submittal application; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF COURT ORDER 2015-01 PROPERTY TAXES

In reference to July 15, 2015 discussion with County Assessor and County Appraiser regarding Columbia River Mobile Home Park uncollected property taxes on eleven trailers. It was noted the eight trailers that were on the premises in July have since been removed.

**Motion** by Commissioner Weimar, seconded by Commissioner Gronquist to approve Court Order 2015-01 in the matter of cancellation of certain uncollectible personal property taxes in the amount of \$1,494.65; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF COMMITMENT LETTER FOR ARLINGTON TV CO-OP

The Arlington TV Co-op has requested a commitment letter from the Gilliam County Court. The TV Co-op needs the letter to present to banks and for the \$1,124,000.00 loan they will need to secure. The letter does not currently impose a time line on securing financing. After a brief discussion it was the consensus of the Court to give the TV Co-op until June 30, 2017 to secure a loan.

**Motion** by Commissioner Gronquist, seconded by Commissioner Weimar to approve the Arlington TV Co-op request for a funding commitment letter in the amount of \$776,000.00, with clarification that the pledged grant match of \$150,000.00 is included that amount, with a June 30, 2017 deadline to secure a loan; after which time the financial commitment made by the Gilliam County Court will terminate; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF CORRESPONDENCE

Gilliam County Court received a letter from John Hoffnagle, Executive Director of the Oregon Parks Foundation requesting allocation of the \$50,000.00 the Court awarded to go toward the construction of the Experience Center at Cottonwood State Park.

**Motion** by Commissioner Weimar, seconded by Commissioner Gronquist to approve the \$50,000.00 allocation to the Oregon State Parks Foundation to go toward the construction of an Experience Center at Cottonwood Canyon State Park; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.**

#### IN THE MATTER OF COURT MEMBER REPORTS

Judge Shaffer asked the Commissioners if they would like him to invite Brian Skeahan to the next Court meeting on October 7<sup>th</sup> to discuss his recommendation of hiring a financial advisor for the RUTE Foundation Systems turbine project. Both Commissioners thought that would be helpful.

#### IN THE MATTER OF THE CONSENT AGENDA

Members of the Court resumed discussion of whether to switch to recording the Executive Session minutes. After a brief discussion Members of the Court decided to continue taking Executive Session minutes in writing.

**Motion** by Commissioner Gronquist, seconded by Commissioner Weimar to approve the August 5<sup>th</sup> and September 2<sup>nd</sup> Regular court meeting minutes and the August 19<sup>th</sup> Executive Session meeting minutes; Shaffer – Yes; Gronquist – Yes; Weimar – Yes; **Motion carried.** The September 2<sup>nd</sup> Executive Session minutes were tabled.

#### IN THE MATTER OF THE NEXT COURT MEETING

The next Gilliam County Court meeting will be held on October 7, 2015 beginning at 10:00 a.m., at the Gilliam County Courthouse.

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 2:30 p.m.

#### GILLIAM COUNTY COURT

By \_\_\_\_\_

Steve Shaffer, Judge

By \_\_\_\_\_

Dennis Gronquist, Commissioner

By \_\_\_\_\_

Mike Weimar, Commissioner

R. Weinstein & M. Colby/Recorder