

**1-26-2017**

Judge Shaffer called a special work session of the Gilliam County Court to order at 1:00 p.m. The meeting was held at the Gilliam County Courthouse in Condon, Oregon. Present were Judge Steve Shaffer and Commissioner Michael Weimar.

### **IN THE MATTER OF DISCUSSION ON LAND USE REGULATIONS**

Participants at the work session, other than Court members, were Legal Counsel Will Carey, Sheriff Gary Bettencourt, Planning Director Michelle Colby, and Court Recorder Mary Dyer of High Desert Writing Services.

Will Carey explained that the purpose of the meeting was to develop criteria for a draft land use ordinance in relation to Measure 91, which in 2014 legalized the possession and use of marijuana for adults 21 years of age and older. Subsequently, in the 2016 General Election, Gilliam County voters denied a ballot measure prohibiting the production, processing and sale of marijuana and marijuana-related products within the County, and also approved of a measure imposing a three percent tax on sale of marijuana by retailers in the County.

Judge Shaffer told those present that the intent of the meeting was to hold a work session – not to accept public comments. He explained that citizens will have opportunities to speak and ask questions at a Public Hearing to be held prior to adoption of land use ordinances. He also commented that this is potentially one of the most important decisions the Court will make in the next several years.

Will Carey explained that the first step for applicants interested in establishing a cannabis-related business within Gilliam County is submission and approval of an OLCC Land Use Compatibility Statement (LUCS), a form used to determine whether a proposed land use is consistent with the local government's comprehensive plan and land use regulations.

In further explanation, Carey noted that Oregon has placed very stringent requirements on growing and processing of marijuana. Although much of the burden falls on the OLCC, the County shares in the responsibility, which includes development of land use measures.

Carey recommended that it isn't necessary to "reinvent the wheel" when other Counties have already gone to great expense to create workable ordinances. He said that Gilliam County may want to consider Hood River County's imposition of a two-year waiver that allows establishment of marijuana-related businesses before County Ordinances are formally approved. The permit must be activated as a complete permit within two years.

He also discussed grandfathered use, in which neither authorizes nor bans projects initiated before the adoption of land use permits. However, grandfathered projects can't be altered or changed in any way without a new permit. Projects approved under a two-year waiver such as that established by Hood River County would be grandfathered.

At this point, the Court discussed recommendations for land use in specific zones of the County. Gilliam County zones subject to recreational and medical marijuana-related activities include Airport Development, Exclusive Farm Use, General Industrial, Intermodal Industrial, Limited Industrial, Recreation Residential, Rural Residential and Rural Unincorporated Communities. Discussion and recommendations were as follows:

**Airport Development Zone (Condon Airport)** – Carey's recommendation is to prohibit production and growing marijuana in the Airport Development Zone. Commissioner Weimar asked why, noting that the closest residents are in the cemeteries, and that all adjacent farm land will be allowable regardless. Carey said that the County could consider Conditional Use, but Judge Shaffer said he doesn't want the airport to be a grow location. No decisions were made and Court members "agreed to disagree" at this time; however, Michelle Colby was asked to determine whether the County is precluded from regulating the Airport zone, since the Airport is state-owned.

**Exclusive Farm Use Zone (EFU)** – Carey recommended that the County allow growing and production in EFU Zones, with processing allowed on a conditional basis, and an outright prohibition on retailing. Commissioner Weimar asked about sale of marijuana at farm stands. Michelle Colby said that she believes State Land Use Laws prohibit any sales from farm stands within EFU Zones, but will research the issue to be sure.

**General Industrial Zones** – (Chemical Waste Management, the Radar Base, Blalock by the Columbia River, etc.). Carey recommended that the County allow production and growing with conditional use for processing and outright prohibition on retailing. Sheriff Bettencourt noted his concerns regarding security, especially for kids, and asked if Conditional Use permits would stipulate that facilities be sited a certain distance from cities. Michelle Colby said that the County can impose setback requirement in all zones, but she is unsure if the County can impose setbacks specific to city limits. Will Carey noted that growing operations, including outdoor grows, have stringent security requirements.

**Intermodal Industrial Zones** - (Shutler Station Industrial Park and land across Cedar Springs Rd.). Recommendations are the same as General Industrial Zones.

**Limited Industrial Zones** – (Port of Arlington-Willow Creek, Heppner Junction, Land along Hwy 9 just outside of Arlington, etc.) Recommendations are the same as General Industrial Zones.

**Recreation Residential Zones** – (May comprise John Day Site and Philippi Park). Carey recommended prohibition of production, grow, processing and retailing.

**Rural Residential Zones** – (City of Lonerock). Carey recommended prohibition of production, grow, processing and retailing.

**Rural Unincorporated Community Zones** – (Olex, Mikkalo and Mayville). Carey initially recommended prohibition of production, grow, processing and retailing. However, after discussion, he said there may be good reasons for production, grow and processing on a conditional use basis.

At this point, those present entered into general discussion regarding various related issues.

John Barnett was in the audience and asked for clarification regarding Conditional Use Permits in General Industrial Zones, noting that a requirement for a Conditional Use Permit may inhibit investments. Carey confirmed that is the recommendation and stated that the County has the ability to place conditions on permits, even in Exclusive Farm Use Zones. He also explained that Conditional Use allows an opportunity to see how the process works, and that the County can change from CPU to outright use later, while the reverse would be much more difficult.

Commissioner Weimar asked if certain restrictions on EFUs could violate the Right to Farm Act, and Carey said that the County can't trump state laws. Commissioner Weimar also asked about potential problems caused by the odor, and Carey agreed that there is a very strong smell at certain stages of processing.

Commissioner Weimar asked the difference between production and processing, and Carey explained that processing involves conversion of the plant to liquid form such as edibles and oils. Cutting, drying, and other actions that don't change the nature of the plant are not considered part of processing. Packaging is part of growing and production.

Commissioner Weimar asked about proximity to housing at the Radar Base. Carey explained that the residential area is separate and is probably designated as a Rural Residential zone.

Sandy McKay was in the audience and asked if there will be any distinction between recreational and medical marijuana. Carey responded that there will be no distinction.

Carey again stressed the stringency of requirements in the State of Oregon, and that although "it's terrible at the start, the process isn't so bad thereafter."

At this point, Carey said that he and Michelle Colby will prepare documents based on the discussions. He explained that the work session just gets the process started.

He also asked the Court to consider if they wanted to allow permits with a two-year waiver, or if they preferred to just go ahead with issuance of permits. In response to questions regarding a waiver, he said that approved applications would be grandfathered so applicants wouldn't lose what they have developed, even if the County opted to change designation of zones. However, he reiterated that operations couldn't be expanded or amended without a new permit.

Carey also noted that County residents arguing against the County's determination regarding Conditional uses must have valid, substantive criteria. All conditions established by the County regarding a Conditional Use Permit must be reasonable.

At the conclusion of the work session, Carey said he wasn't aware how choppy the County's current ordinances are, and commented on the difficulty involved in finding anything in the zoning ordinances. He said that updating the system would be worth a lot to County residents, and that grant money may be available.

Carey also asked the Court to develop a zoning map, as no map is currently available. Sandy McKay told the Court that the SWCD can develop a map at no cost to the Court, and the Court agreed this is a good option.

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

The next regular meeting of the Gilliam County Court will be held on Wednesday, Feb. 1, 2017 beginning at 10:00 a.m. at the Gilliam County Courthouse in Condon.

Judge Shaffer adjourned the work session at 3:00 p.m.

GILLIAM COUNTY COURT

By \_\_\_\_\_

Steve Shaffer, Judge

By \_\_\_\_\_

Dennis Gronquist, Commissioner

By \_\_\_\_\_

Michael Weimar, Commissioner

Mary H. Dyer/Recorder