

Morrow County Board of Commissioners Meeting Minutes
May 3, 2023
Bartholomew Building Upper Conference Room
Heppner, Oregon

Present In-Person

Chair David Sykes, Commissioner Jeff Wenzholz, Roberta Vanderwall, Roberta Lutchter, Jaylene Papineau, Justin Nelson; and approximately 20 members of the public

Present Via Zoom

Commissioner Roy Drago Jr., Sandi Pointer, Lindsay Grogan, Bobbi Childers; and approximately 10 members of the public

Call to Order, Pledge of Allegiance & Introductions: 9:00 a.m.

City & Citizen Comments

Chair Sykes said comments would be limited to three minutes. Six individuals offered comment: Emily Roberts, David Landstrom, Josie Foster, Stuart Dick, Will LePage, Kelly Doherty.

Open Agenda: No items

Consent Calendar

Commissioner Wenzholz moved to approve the following items in the Consent Calendar:

1. *Minutes: April 19th*
2. *Oregon Health & Science University Subaward Agreement #1015198, Care Coordination (CaCoon) Program; and authorize Chair Sykes to sign on behalf of the County*
3. *Award Spraying Services for Mormon Cricket Abatement to Gar Aviation Inc.*

Commissioner Drago seconded. Vote: Unanimous approval.

Business Items

Discuss Relocation of the Oregon-Idaho State Border

Mike McCarter, President, Citizens for Greater Idaho/Move Oregon's Border

In the May 2022 election, Morrow County voted in favor of the following question on the ballot: "Shall the Board of Commissioners be required to meet three times annually to discuss relocation of the state border?" Chair Sykes said the meeting today would fulfill part of that obligation. The second and third dates for discussion before the BOC will be August 16th and November 1st.

Mr. McCarter added the format was established by the Secretary of State's Office when it determined it was a legislative process and had to be on the ballot as an initiative petition. We couldn't do it any other way, he stated. Mr. McCarter talked about his background as a lifelong Oregonian and said the things coming out of Salem are contrary to what most people believe. He went on to list a few examples: relaxation of drug laws, weakening of parental rights, and homeless people who can rest on private property and not be removed. He said eastern Oregon voters were being marginalized and a message needed to be sent to the legislators that they have a problem in eastern Oregon. Eleven out of the 15 counties voted in favor of looking into this, he said, and more counties will be on ballot in the near future.

As there were no questions for Mr. McCarter, he thanked the Board and members of the audience for the opportunity to discuss this.

Request from Oregon Rural Action

Kelly Doherty, Community Leader, Oregon Rural Action

Ms. Doherty requested “Zoom meeting recordings with the translation services be uploaded to the website immediately following all County public meetings.” She also thanked the Commissioners for the addition of “translation services that you recently provided.”

Chair Sykes asked staff about prior discussions on this topic. Mr. Nelson said the issues that came up related to storage capacity and control over the retention of the recordings when hosted by a third-party, such as YouTube. Chair Sykes asked for this to return to the agenda when staff had an opportunity to look into it further.

Letter in Support of Boardman Fire Rescue District (BFRD) Applying for an Ambulance License

Justin Nelson, County Counsel

Commissioner Wenzholz read the following statement:

“Before we discuss this item, I would like to make a couple of statements and a declaration concerning comments, letters from the Morrow County Health District and Ms. Roberts’ filing of an ethics complaint against me because of my position as a Board Trustee for Good Shepherd Hospital.

The first statement is that to-date there has not been any action taken by the Morrow County Board of Commissioners that has changed anything or in any way affected Morrow County Health District. There has not been a letter sent in support of Boardman Fire and Morrow County Health District is still the only ambulance provider in Morrow County.

To address the allegations/concerns in the letters sent by Morrow County Health District. The first allegation that I have a conflict is because Boardman Fire has stated that they want to do non-emergent transports from Good Shepherd. Again, there has not been a letter sent up to this point. Even if Boardman Fire were to get a license, there is no guarantee they will be doing any transports because there is not any agreement between Good Shepherd and Boardman Fire. For there to be a conflict of interest, there must be a financial impact to myself or a business I am associated with. Even if Boardman Fire were to do non-emergent transports, there is no financial impact to myself or Good Shepherd. The ambulance provider bills the patient, their insurance provider or Medicare/Medicaid, not the hospital. So again, no financial impact to myself or Good Shepherd, therefore, no conflict. Just to reiterate, the letter is only to support Boardman Fire seeking a license from Oregon Health Authority.

The next allegation that I have a conflict is that Good Shepherd is looking to provide health care services in Boardman and changing the Ambulance Service Area (ASA) Plan would cause financial harm to Morrow County Health District, thereby benefiting Good Shepherd. I will state, once again, that there has not been any action taken to change the ambulance service areas. To state that Morrow County Health District would be financially harmed is to presuppose an outcome that is yet to be discussed, let alone approved. To reiterate, no action taken yet, no financial impact to myself or Good Shepherd so no conflict.

The next statement I want to make is to explain how the State of Oregon defines a conflict of interest. ORS 244.020(1) defines an actual conflict of interest as "...private pecuniary benefit or detriment of the person or the person's relative or any business with which the person or a relative of the person is associated..." ORS 244.020(2) defines a business, and the important part here is "...but excluding any income-producing not-for-profit corporation that is tax exempt under section 501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a nonremunerative capacity." So here it is important to note that yes, I am on the Board of Trustees of Good Shepherd, but Good Shepherd is a tax exempt 501(c). Therefore, this business I am associated with is excluded per ORS 244.020(2). ORS 244.020(13) defines a potential conflict of interest. The main difference between an actual conflict and a potential conflict of interest, is an actual "would" provide a financial impact and a potential "could" provide a financial impact.

Now I will make a declaration concerning the next action item. Even though I have laid out why I don't consider that I have a conflict of interest, no financial impact to myself or Good Shepherd and excluded anyway because Good Shepherd is tax exempt as a 501(c). Out of an over-abundance of caution, I will declare a potential conflict because of my being a Board Trustee for Good Shepherd and I will participate and vote on the next agenda item."

Mr. Nelson provided a summary – on April 5th, the Board directed staff to draft a letter for the April 19th meeting in support of BFRD's application to the Oregon Health Authority (OHA) for ambulance licensing. On April 19th, additional language was requested by OHA through BFRD. The Commissioners continued the letter to May 3rd to allow time to consult with the County's outside legal counsel, Bob Blackmore. Mr. Blackmore proposed the language in the current letter:

"The Morrow County Board of Commissioners supports Boardman Fire Rescue District in its quest to seek licensing for its agency and ambulances.

If Boardman Fire Rescue District is granted an Oregon ambulance service license, operation of the ambulance may be subject to the terms and conditions of operating ambulances which are in Morrow County's Ambulance Service Area Plan."

Commissioner Wenholz moved to approve sending the letter to OHA in support of BFRD. Commissioner Drago seconded. Discussion: Commissioner Wenholz reiterated this was only in support of them seeking a license. It doesn't change any operation of ambulances within the County and it's up to OHA to determine if BFRD gets a license. Commissioner Drago said he agreed. He continued, this is the guidance from Mr. Blackmore and it doesn't really change anything; it just gives OHA the opportunity to talk to BFRD about what they need to do if they want a license. Chair Sykes said he voted against this the first time and nothing had changed his mind. He said he thought the ASA issue should be taken care of first before anything like this is done. Vote: Aye: Commissioners Wenholz and Drago. Nay: Chair Sykes. Motion carried.

Resolution Numbers R-2023-7 through R-2023-11: Approving Agreements between the Sponsors of the Columbia River Enterprise Zone (CREZ) III & Amazon Data Services, Inc.
Justin Nelson, County Counsel

Commissioner Wenholz declared he could have a potential conflict of interest because Amazon would be doing business with a business with which he's associated, even though he said he believed he was excluded. There is an Oregon Government Ethics Commission investigation going on and until that was settled, he said he would refrain from participating in any discussion or vote.

Mr. Nelson discussed the background – the CREZ III Board voted to approve the five agreements for data centers. Business Oregon requires that the entities (Morrow County, Port of Morrow, City of Boardman) adopt resolutions approving the property tax exemption using Long-Term Rural Enterprise Zone Agreements.

Commissioner Drago moved to approve Resolution No. R-2023-7: In the Matter of Approving an Agreement Between the Sponsors of the Columbia River Enterprise Zone III & Amazon Data Services, Inc., PDX 154. Chair Sykes seconded. Vote: Aye: Chair Sykes and Commissioner Drago. Recused: Commissioner Wenholz. Motion carried.

Commissioner Drago moved to approve Resolution No. R-2023-8: In the Matter of Approving an Agreement Between the Sponsors of the Columbia River Enterprise Zone III & Amazon Data Services, Inc., PDX 162. Chair Sykes seconded. Vote: Aye: Chair Sykes and Commissioner Drago. Recused: Commissioner Wenholz. Motion carried.

Commissioner Drago moved to approve Resolution No. R-2023-9: In the Matter of Approving an Agreement Between the Sponsors of the Columbia River Enterprise Zone III & Amazon Data Services, Inc., PDX 170. Chair Sykes seconded. Vote: Aye: Chair Sykes and Commissioner Drago. Recused: Commissioner Wenholz. Motion carried.

Commissioner Drago moved to approve Resolution No. R-2023-10: In the Matter of Approving an Agreement Between the Sponsors of the Columbia River Enterprise Zone III & Amazon Data Services, Inc., PDX 186. Chair Sykes seconded. Vote: Aye: Chair Sykes and Commissioner Drago. Recused: Commissioner Wenholz. Motion carried.

Commissioner Drago moved to approve Resolution No. R-2023-11: In the Matter of Approving an Agreement Between the Sponsors of the Columbia River Enterprise Zone III & Amazon Data Services, Inc., PDX 202. Chair Sykes seconded. Vote: Aye: Chair Sykes and Commissioner Drago. Recused: Commissioner Wenholz. Motion carried.

First Reading: Ordinance ORD-2023-4: Ratifying the Creation of a Broadband Public Improvement Consortium; and Intergovernmental Agreement (IGA) with the Port of Morrow to Establish the Morrow County Broadband Network Consortium

Aaron Moss, Broadband Action Team

Justin Nelson, County Counsel

Mr. Moss said the Second Reading was scheduled for May 17th, which would also be the date for ratification of the IGA. He said the tentative effective date would be June 1st and the first meeting will take place June 15th. This timeline lines-up with funding opportunities that are set to close at the end of June. He asked the Commissioners to begin considering who should be the representatives on the new board.

Mr. Nelson said an emergency clause was added to the Ordinance to aid in meeting the deadline for the funding opportunities. The Commissioners agreed to a First Reading by title only, which Mr. Nelson provided.

IGA for Sheriff's Services with the City of Heppner

Representatives of the Sheriff's Office were unavailable to present the IGAs.

Commissioner Wenholz moved to continue the IGA to May 17th. Commissioner Drago seconded.

Vote: Unanimous approval.

IGA for Sheriff's Services with the City of Irrigon

Commissioner Drago moved to continue the IGA to May 17th. Commissioner Wenholz seconded.

Vote: Unanimous approval.

Discuss New Water Advisory Committee to Provide Practical & Technical Expertise to Staff and GSI Water Solutions, Inc.

Tamra Mabbott, Planning Director

Ms. Mabbott said the committee would draft the bylaws; review the three technical papers being written by GSI Water Solutions; and make recommendations to the BOC, as a result of those papers. She suggested the committee be temporary, with an end-date aligning with the end-date of the GSI contract. Commissioner Wenholz agreed with her suggestion about the temporary nature of the committee and that its future be reevaluated in December 2024. Discussion took place on the committee membership structure proposed by Ms. Mabbott and the lack of names for some of the agencies or groups.

Commissioner Wenholz moved to approve the committee, as presented:

- 1. County Commissioner: Commissioner Drago*
- 2. Planning Department: Tamra Mabbott*
- 3. Public Health Department: Robin Canaday*
- 4. Emergency Management: Paul Gray*
- 5. Morrow County Soil & Water Conservation District: Kevin Payne*
- 6. Department of Environmental Quality: Randy Jones*
- 7. Oregon Water Resources Department: Chris Kowitz*
- 8. Port of Morrow: Miff Devin*
- 9. Municipality: Aaron Palmquist*
- 10. Food Processing Industry: Ian Toevs*
- 11. Irrigated Agriculture: Ralph Morter*
- 12. Central County Agriculture: Todd Lindsay*
- 13. South County Agriculture: Brian Thompson*
- 14. Confined Animal Feeding Operation Operator/Owner: Wes Killion*
- 15. Northeast Oregon Water Association: J.R. Cook or Board Member*

With the exception of the following, to be brought back at a later date:

- 1. Livestock Operator/Owner*
- 2. Water Advocacy/Interest Group*
- 3. Rural Residential Resident*
- 4. Other/At Large*

Commissioner Drago seconded. Vote: Unanimous approval.

Investment Management & Advisory Services

Kevin Ince, Finance Director

Jaylene Papineau, Treasurer

Mr. Ince and Ms. Papineau discussed the reasons the County should enlist the services of an investment advisor and why they recommended Government Portfolio Advisors (GPA). During the discussion of the County's current Investment Policy, Mr. Ince said it could be amended to reflect the conservative approach, or risk aversion level, desired by the Board and brought back to a future meeting.

Commissioner Wenholz moved to accept the recommendation to select Government Portfolio Advisors to provide investment management and advisory services for Morrow County, and authorize the Administrator to execute the contract. Commissioner Drago seconded.

Discussion: Mr. Ince noted the contract needed to be modified to correct a reference to Crook County instead of Morrow County. The Board agreed to bring the corrected contract back to the May 17th Consent Calendar.

Break: 10:18-10:23 a.m.

Update on Executive Session Attendance

Justin Nelson, County Counsel

Mr. Nelson reviewed recent legislation that specifically excluded the requirement for phone or virtual attendance for executive sessions (House Bill 2560). After discussion, the Board agreed to evaluate the use of Zoom for executive sessions on a case-by-case basis, with Commissioner Wenholz saying it will no longer be the default for executive sessions.

Commissioner Wenholz moved to terminate the use of video or telephonic appearance for executive session meetings, as allowed under HB 2560, unless authorized on a case-by-case basis by the Board of Commissioners or County Administrator. Commissioner Drago seconded.
Vote: Unanimous approval.

Department Reports

- The Road Department Monthly Report was reviewed in Mike Haugen's absence (out due to road paving duties)
- The Assessment & Tax Quarterly Report was provided by Mike Gorman
- The Sheriff's Office Monthly Report was reviewed by Sheriff John Bowles (a recent arrival to the meeting)
- The Finance Department Quarterly Report was reviewed by Mr. Ince

Legislative Updates: None

Correspondence

- U.S. Department of Transportation, Federal Aviation Administration, Notice of Grant Award: \$223,000 to the Morrow County Airport in Lexington
- Flyer on the 2023 Eastern Oregon Economic Summit, August 3rd & 4th in Union County

- Two letters from the Morrow County Health District objecting to Commissioner Wenholz “voting on issues concerning MCHD, to include issues concerning ambulance services, due to a conflict of interest...”

Commissioner Reports: Brief reports of activity were provided

Signing of documents

Adjourn: 10:50 a.m.