

Morrow County Board of Commissioners Meeting Minutes
March 13, 2019
Irrigon Branch of the Oregon Trail Library District, Community Room
Irrigon, Oregon

Present

Chair Jim Doherty
Commissioner Melissa Lindsay
Commissioner Don Russell

Darrell Green, Administrator
Richard Tovey, County Counsel
Roberta Lutcher, Executive Assistant

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

City & Citizen Comments:

- Chair Doherty said the Executive Session might be moved up on the agenda, but the Board will return to the regular meeting afterward. Commissioner Russell was in agreement and Commissioner Lindsay said she would refrain from participating.
- Irrigon City Manager Aaron Palmquist asked if the Commissioners had questions for him as he needed to leave for a meeting. Commissioner Russell said Mr. Palmquist will attend the Portland State University Population Research Center's public meeting in Boardman regarding its Population Forecast Program. He asked Mr. Palmquist to encourage them to look at real data for Morrow County instead of using questionable information, as they have in the past. He said PSU shows the County is declining when everything else shows we haven't, one example being school enrollments. Carla McLane, Planning Director, said PSU showed significant drops in the unincorporated areas of the County but her office approved 20 applications for single-family dwellings in the last year. It's inconceivable it's declining, she said. Mr. Palmquist said he planned to pushback and maybe take it to the Association of Oregon Counties and the League of Oregon Cities. He said it's the "concrete jungle that wants to show they're growing and rural areas aren't...It's politics and gerrymandering."

Open Agenda: No items

Consent Calendar

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

1. *Accounts Payable, March 14th, \$14,673.58*
2. *Minutes: February 13th*
3. *Fifth Amendment to Oregon Health Authority 2017-2019 Intergovernmental Agreement #153133 for the Financing of Community Mental Health, Substance Use Disorders, and Problem Gambling Services, and authorize Chair Doherty to sign on behalf of the County (Amendment adds Exhibit B-3, Access Agreement for Use of OHA Systems, with no fiscal changes to the original agreement.)*

Commissioner Lindsay seconded. Unanimous approval.

Legislative Updates

Commissioner Russell provided a brief update on meetings in Salem, as well as on a gathering where discussion took place about House Bill 2020 (Cap and Trade) and its possible failure in the Senate due to lack of support by four uncommitted Democrats.

Business Items

Appointment Requests: The Loop - Morrow County Transportation, Statewide Transportation Improvement Fund Committee

Anita Pranger, Coordinator, The Loop

Ms. Pranger explained she was not officially appointed to the committee in her capacity as a public transit provider.

Commissioner Russell asked if she would be a voting member.

She replied, yes, and that she verified with the State that it was appropriate to do so as she had reservations about serving on the committee and voting.

Commissioner Lindsay asked what community outreach efforts were undertaken for these vacancies.

Ms. Pranger said people approached her about being appointed, but in the past it was hard to fill vacancies.

Commissioner Russell said he didn't think Ms. Pranger's appointment would be a problem as the other committee members are strong-willed, but he has seen it be a problem with other committees.

Commissioner Russell moved to approve the following appointments to The Loop, Morrow County Transportation Statewide Transportation Improvement Fund Advisory Committee:

- 1. Anita Pranger as Public Transportation Service Provider, term to be March 13, 2019 through December 31, 2019*
- 2. Carla McLane to fill the remainder of Seth Whitmer's term which expires December 31, 2022*
- 3. Mike Jones to fill the remainder of Edie Ball's term which expires December 31, 2022*

Commissioner Lindsay seconded. Discussion: Commissioner Lindsay said the Commissioners have mentioned several times about the need for community outreach regarding appointments to committees instead of appointing staff, so she had some hesitation about these appointments. Chair Doherty agreed and said it was something to continue to work on, but he was comfortable moving forward with these appointments. Vote – Aye: Chair Doherty, Commissioner Russell. Nay: Commissioner Lindsay. Motion carried. Commissioner Russell said going forward, we should try to cast a wide net. Ms. Pranger said she agreed and the two current vacancies on the Special Transportation Fund Advisory Committee would be posted on the website.

Purchase Pre-Authorization Request – Public Works, 2005 Etnyre Chip Spreader

Matt Scrivner, Public Works Director

Commissioner Lindsay moved to approve the Purchase Pre-Authorization Request from Public Works for a 2005 Etnyre Chip Spreader from Linn County Road Department under the Managing Oregon Resources Efficiently (MORE) Intergovernmental Agreement in the amount of \$65,000 plus \$10,000 for additional needed items, total price \$75,000, and authorize Chair Doherty to sign on behalf of the County. Commissioner Russell seconded. Unanimous approval.

Ordinance No. ORD-2019-3 – Amending Morrow County Code, Chapter 8.08, Utility Permit Authority

Darrell Green, Administrator

Mr. Scrivner

Mr. Green explained the amendment requires Board approval of permits that exceed 200 linear feet and any others that are of concern to the Public Works Director. Discussion as to the logistics of the new approval process.

Commissioner Lindsay moved to approve Ordinance No. ORD-2019-3 Amending Morrow County Code, Chapter 8.08. Commissioner Russell seconded. Discussion: Mr. Green explained the ordinance, in its entirety, had to be read aloud if the Board wanted it to be effective today. County Counsel Richard Tovey said that would be the case unless there was a unanimous decision by the Board to agree to read by title only, if there was an emergency provision included, which there was. Generally, the title is read first, then the motion, he added.

Commissioner Lindsay withdrew her previous motion. Commissioner Russell withdrew his second of that motion.

Mr. Tovey said if there was a motion or agreement to read by title only, then it should be read by title followed by a motion.

Commissioner Lindsay moved to read Ordinance No. ORD-2019-3 by title only. Commissioner Russell seconded. Chair Doherty restated the motion and said Mr. Green would read it by title. Commissioner Russell also stated it needed to be read by title. Commissioner Lindsay clarified, after the Board approves it. Commissioner Russell read by title: “Ordinance No. ORD-2019-3, In the Matter of Amending Chapter 8 of the Morrow County Code Pertaining to the Approval of County Permits for Construction Work in County Road Right-of-Ways.” Chair Doherty asked County Counsel if that satisfied. Mr. Tovey said he was going to have Mr. Green read it and then asked if there was an agreement on reading it by title only. Commissioner Lindsay said there was not a vote. Commissioner Russell said the motion is to read by title. Chair Doherty: and seconded, and all those in favor? Unanimous approval.

Mr. Tovey said procedurally, now have Mr. Green read by title.

Mr. Green read by title: “Ordinance No. ORD-2019-3, In the Matter of Amending Chapter 8 of the Morrow County Code Pertaining to the Approval of County Permits for Construction Work in County Road Right-of-Ways.”

Commissioner Russell moved to approve Ordinance No. ORD-2019-3 and attach the emergency clause. Commissioner Lindsay seconded. Unanimous approval.

Progressive Design-Build Consultant Budget & Agreement

Mr. Green said at the last BOC meeting he agreed to come back with further details on the budget submitted by Thaxton Parkinson PLLC, as well as the engagement letter.

Commissioner Lindsay expressed concern over a paragraph about communications being kept confidential, which she termed “an awkward statement to make for a public body.”

Mr. Green said 99.9% of discussions will be held in public meetings and he thought it related more to Ms. Thaxton Parkinson’s side of things.

Commissioner Russell said that was his interpretation, as well.

Chair Doherty agreed, and said it likely meant inside information will not be divulged to contractors, etc.

Mr. Tovey added it’s meant to protect them; they’ll keep things confidential with the realization we’re a public entity.

Commissioner Lindsay said when the document is sent back, make the statement we’re a public entity and all things are public.

Commissioner Russell moved to approve hiring Thaxton Parkinson PLLC to assist Morrow County in developing its Progressive Design-Build Project to build the north County facility, and authorize the Chair to sign the Engagement Letter and Consulting Agreement on behalf of the County, pending review by County Counsel. Unanimous approval.

Cap & Trade Comment Letter

Commissioner Russell said he drafted the letter and included a section about landfills, after hearing concerns from Kevin Green, Waste Connections, Inc. District Manager. Commissioner Russell said there may be amendments to HB 2020 that address a variety of concerns and he wanted to make sure they remedy Morrow County’s concerns.

Commissioner Lindsay moved to accept and sign the letter drafted by Commissioner Russell regarding HB 2020 and forward it to as many people as appropriate. Commissioner Russell seconded. Unanimous approval.

Discussion - Environmental Health (On-Site Sewage Systems) Partnership with Umatilla County
Carla McLane

Ms. McLane reviewed several draft documents:

1. A Memorandum of Agreement (MOA) between Morrow County, Umatilla County and the Department of Environmental Quality (DEQ) that would have Umatilla County provide On-Site Sewage System permitting and inspections in Morrow County (previously performed by DEQ).
2. Intergovernmental Agreement (IGA) with Umatilla County to provide the On-Site Wastewater Treatment Systems Program for Morrow County.
3. Proposed Fee Schedules for the new On-Site Program and the Food, Pool and Lodging Program. An existing agreement is in place for Umatilla County to provide the Food, Pool and Lodging Program in Morrow County (restaurant inspections, public pool inspections, etc.).

Ms. McLane explained the Fee Schedule and Code Enforcement changes need to be adopted and in place prior to signing the MOA and IGA. She said she planned to have the MOA and IGA back before the Board either April 10th or 17th.

Discussion – Code Enforcement Ordinance Draft

Carla McLane

Ms. McLane provided an overview of the draft changes to the Morrow County Code Enforcement Ordinance, which included the following:

1. Addition of a Chronic Nuisance Section
2. Addition of an Environmental Health Section
3. Updating County Court references to Board of Commissioners
4. Requested changes to the Noxious Weeds List
5. Other minor changes throughout the document based on experience using the Ordinance

She then discussed the public hearing and adoption schedule, if approved by the Board:

1. Draft Code Enforcement Ordinance will be posted on or before March 15th, and notices will be submitted to the Heppner Gazette Times and the East Oregonian
2. March 20th Public Hearing in Boardman
3. April 3rd Public Hearing in Heppner
4. April 10th - tentative adoption

The Board had no objections.

Comment Letter - Draft Environmental Assessment for Willow Creek Arm Easement Renewal

Ms. McLane

The property is located in Gilliam County, explained Ms. McLane, but 97% of the land on which the water is applied is in Morrow County. It involves renewal and expansion of an easement area for Threemile Canyon Farms, she added. Discussion.

Commissioner Russell moved to sign the letter to the U.S. Army Corps of Engineers regarding the draft Environmental Assessment for Willow Creek Arm easement renewal. Commissioner Lindsay seconded. Unanimous approval.

Chair Doherty requested to suspend the regular meeting, take a short break and return in Executive Session, after which they would return to the regular meeting; Commissioners Russell and Lindsay agreed. He added he'd like Commissioner Lindsay to attend the Executive Session, even if it's as a member of the audience.

Commissioner Lindsay said her conflict of interest and decision to refrain should be stated prior to Executive Session because it will be about an energy project in which she is a contract holder. She said she would refrain from voting and state her conflict therein.

Break: 10:34 a.m. -10:43 a.m.

10:43 a.m. Executive Session: Pursuant to ORS 192.660(2)(g) – To consider preliminary negotiations involving matters of trade or commerce in which the governing body is in competition with governing bodies in other states or nations

11:03 a.m. Closed Executive Session

Chair Doherty said in order to move the process forward and provide Jesse Marshall, Project Director, NextEra Energy Resources, with what he needed, and on the advice of County Counsel, the Commissioners determined it would be appropriate to announce “No Decision” coming out of Executive Session and set this as an agenda item next week. In the interim, he said, the County can continue working on the document.

Commissioner Russell said the first time he read the document was this morning. He asked Mr. Marshall if the dollar amounts in the document were proposed by NextEra.

Mr. Marshall replied, correct, and added a few things need to be clarified. One is the dollar amount was to be based on the number of solar megawatts (mw), not inclusive, it would be the same amount paid per mw for battery installed. That might be tweaked so it's clear in the document. Otherwise, it looked consistent with what we're trying to achieve, he said.

Chair Doherty asked Mr. Marshall to speak to the challenges with carving out the PGE portion.

Mr. Marshall said the approach they proposed was to have the ability for partial assignment of the wind portion of the Strategic Investment Program Agreement (SIP) so that with the transaction they're working on with PGE, they can take 100 mw of the facility. As background, he said the way the transaction was set up was once the 300 mw wind facility is done with construction, 100 mw of the facility will be sold to PGE at commercial operation day, when it's energized. At that point, the goal is to try and have a package of assets that are transferred to PGE at that time. One

of those things would be the SIP being able to be transferred over as part of that transaction. Nothing changed with the original SIP, just having the 100 mw of that carved out and transferred to PGE at that time, that's the goal, no other terms changed.

Mike Gorman, Assessor/Tax Collector said he had conversations with the Department of Revenue about this and while it's unique, DOR did not see any challenge. He said PGE reached out to him last week in the same regard and it was agreed to meet in the first year to figure it out.

Commissioner Russell said as a Commission, they'd like to get to a conclusion but since this wasn't noticed as a possible action item, County Counsel recommended it be moved to next week's agenda.

Commissioner Russell moved to set this contract as an action item on the agenda for the next public meeting of the Board of Commissioners (March 20th), which gives all parties an opportunity to tweak the contract a bit, and added at first glance, it's what we've come to agree to. Chair Doherty seconded and added he could safely say he and Commissioner Russell were in agreement. Other discussion from Mr. Marshall, Jerry Rietmann and John Kilkenny. Vote – Aye: Chair Doherty, Commissioner Russell. Refrained: Commissioner Lindsay. Motion carried.

Department Reports

Planning Department Monthly Report

Ms. McLane reviewed her report. A few items not in the report were:

- Planning Commission bylaws are being reviewed and updated draft bylaws will be provided for the Board's review.
- Ms. McLane, Mr. Green and Heppner District Ranger Brandon Houck met to discuss Morrow County's request for Cooperating Agency status regarding the Ellis Integrated Vegetation Management Project. She said the Forest Service is open to the request and conversations will continue at the staff level.

Commissioner Reports

- Commissioner Russell said the Community Renewable Energy Association (CREA) requested to withdraw its sponsorship of House Bill 2852, which would authorize local governments to form authorities for the purpose of implementing Community Choice Aggregation programs. He said CREA's verbal request to withdraw support might not be sufficient, so he requested they follow-up with a letter. Even then, it might not be possible for CREA's name to be removed, he said. Commissioner Russell said as Co-Chair of the Association of Oregon Counties' Transportation Committee, he participated via telephone in the quarterly Transportation Policy-Making meeting. People from the Portland metro area were complaining about solid waste not getting through the Gorge during the recent inclement weather, so he brought up the fact that Clark County sends its solid waste by barge, which was, and still is, an option for the others. Commissioner Russell said he and Chair Doherty attended AOC meetings in Salem on Monday.

- Commissioner Lindsay said yesterday's Department Directors Meeting had a presentation on active shooter/active threat she called "excellent." She suggested the Board engage in a table top presentation, as well.
- Chair Doherty stated he wished to publicly thank Mr. Gorman and Mr. Green for their efforts in the SIP negotiations. He said he was proud of what the County accomplished. He said as the County moves forward with renewables, there is a need to find out the philosophy of the County. In the end, the County might not have any more dryland wheat, we may have solar panels and wind towers from here to there and more money than God. Commissioner Russell said he hadn't heard complaints about solar like he had about wind, but maybe he'd hear those now too.

Signing of documents

Adjourned: 11:45 a.m.