

HARVEY

Continued from Page 1A

Baker County District Attorney Greg Baxter, who filed a complaint with the Ethics Commission via a Sept. 16 letter, cited a \$1,710 invoice from the contracting company that Harvey's son, William S. Harvey, owns.

The invoice was for 19 hours of trucking, at \$90 per hour, to haul docks to Hewitt Park near Richland.

Commissioner Bruce Nichols said on Thursday, Dec. 31, that the county paid the invoice from Harvey's son's business.

Bill Harvey said on Monday, Jan. 4, that his son did help him move the docks to the county park.

That was the least expensive option, Bill Harvey said.

"It's normal procedure for me," he said. "Everything I've ever done for the county was to save the county money and get a job done."

Harvey, who was elected to a four-year term as the only full-time county commissioner in 2014 and reelected in 2018 when he defeated Nichols, who remains a part-time commissioner, said he doesn't believe any of his actions violated ethics laws.

In a Sept. 19 letter to the Ethics Commission in which he addressed issues in Baxter's complaint, Harvey wrote that he spent many hours last spring, and used his own pickup truck and equipment, to prepare Hewitt and Holcomb parks to open to the public.

In his complaint letter to the Ethics Commission, Baxter wrote that he believes "there are clear ethical violations and probable crime(s) of Official Misconduct. For the sake of the county and doing the right thing as DA, I believe this needs to be thoroughly investigated."

In his Sept. 19 letter, Harvey wrote that he "strongly disagrees with the narrative submitted by District Attorney Greg Baxter ..."

"As this is a preliminary review, I take great offense to this statement and believe I have gone above and beyond what I was elected to do in providing expertise and hands on labor in construction."

The Ethics Commission staff is tentatively slated to present its investigation report to the Commission during its April 30 meeting, Susan Myers, an investigator for the Commission, wrote in an email to the Herald on Monday, Jan. 4.

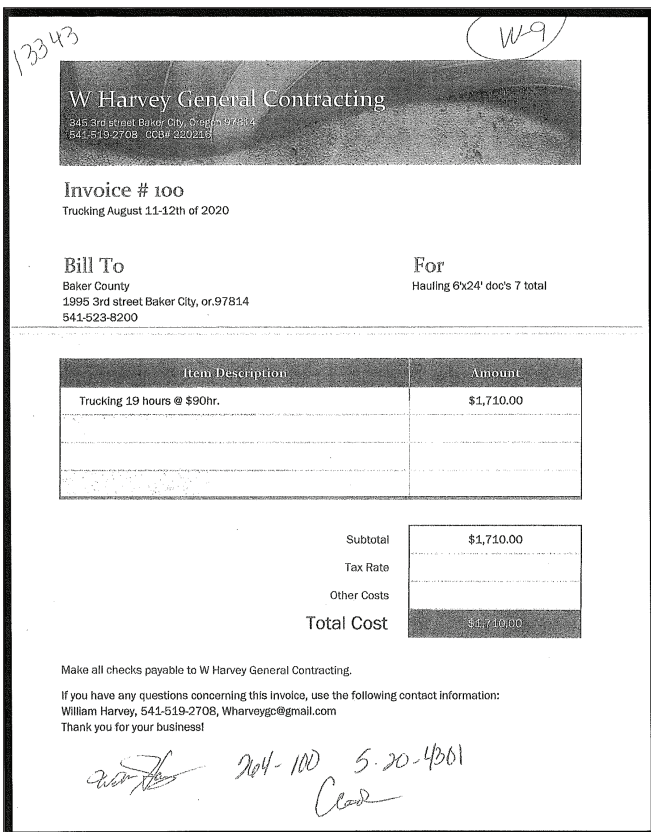
Building demolition proposal

The issue started in August, prior to Baxter filing the complaint, when Becky Maison, a program analyst/trainer for the Ethics Commission, wrote an email to Nichols, one of the county's three elected commissioners.

(The third commissioner is Mark Bennett.)

In the Aug. 27 email, Maison cited an Aug. 6 article in the Baker City Herald regarding the county's purchase of the New Directions Northwest building at 2200 Fourth St. The county bought the building for \$500,000, as a new location for the county health department, which moved into the building last week.

During the commissioners' Aug. 5 meeting, Harvey said he planned to do some demolition work with his own tools, with help from his son,



Copy of invoice from August 2020 from a company owned by William S. Harvey, the son of Bill Harvey, chairman of the Baker County Board of Commissioners.

William S. Harvey.

Bill Harvey proposed paying his son \$35 per hour. Because the work would cost less than \$5,000, commissioners didn't need to solicit bids, he said.

Bill Harvey abstained from the discussion about the proposal. He read from the Oregon government ethics law: "A public body can hire a relative of a public official, but a public official may not be involved in the hiring process. A public official may not directly supervise a relative unless the body authorizes that supervision."

Harvey said on Jan. 4 that because both Nichols and Bennett expressed concerns during the Aug. 5 meeting, he withdrew the proposal to hire his son to do any of the remodeling work on the Fourth Street building.

Instead, Harvey said, he and a county employee did the work, at a higher cost than if the county had hired his son.

The Ethics Commission's preliminary review of Baxter's complaint, written by Myers, also addresses Harvey's Aug. 5 proposal.

In his Sept. 19 response to the Ethics Commission, Harvey wrote that he used his own "job trailer and tools at no cost to the county" during the two-week job.

In her email to Nichols, Maison, from the Ethics Commission, wrote that Harvey's statements during the Aug. 5 meeting "are cause for concern with regard to Oregon Revised Statute (ORS) 244, in particular: use of office, conflicts of interest, and nepotism."

Maison wrote that "If this project has not already been undertaken, the (Ethics) Commission staff recommends that the renovation project be put out for bids, regardless of whether it is under the "bid threshold" or not. And, any Commissioner whose relative may answer the RFP would have a potential conflict of interest (COI) in the decision to put the job out for bid and in the writing of the bid, because the effect of those official actions COULD financially impact his relative. If the relative submitted a bid, the official would have an actual COI in evaluating the bids, or selecting the winning bidder; because the effect of his official actions WOULD have a financial impact on a relative; he would have to disclose the nature of the COI and refrain from participating in official actions on those matters." Baxter, in his Sept. 16

complaint letter to the Ethics Commission, wrote that on Sept. 3, "I was approached by Commissioner Bruce Nichols who wanted to chat about Commissioner Bill Harvey and some ethical concerns. Bruce had been contacted by the ethics board regarding ethical concerns about the remodel of the New Directions building recently purchased by the county."

Baxter wrote that he told Nichols he believed Nichols had "an ethical duty to report Bill's behavior to the ethics board."

Nichols said in an interview with the Herald on Dec. 31 that he didn't think it was appropriate for another commissioner to file an official complaint against Harvey.

But Nichols said he felt he had a duty to bring the information he had to the district attorney's office and to Baker County Sheriff Travis Ash.

Nichols said he told Harvey in August that hiring his son to help with the demolition at the New Directions Northwest building would be inappropriate.

Although Harvey didn't follow through on that proposal, Nichols said that when he learned about the payment to Harvey's son for moving the docks to Hewitt Park, his initial reaction was "are you kidding me?"

Nichols said Harvey did tell him he was planning to buy the docks.

"He approved that expense himself, and that in itself aggravated me," Nichols said.

He said Harvey did not mention to him that he planned to enlist his son's help with moving the docks.

"I thought that was pretty deceitful," Nichols said.

Moving docks to Hewitt

In his complaint to the Ethics Commission, Baxter, in addition to citing his conversation with Nichols, referred to a letter he received from Ash.

In that letter, the sheriff wrote that on Sept. 14, "Commissioner Bruce Nichols contacted me at my office regarding ethics concerns in relation to expenses and purchases being made by Commissioner Bill Harvey."

Ash also cited the August invoice for hauling docks to Hewitt Park.

The preliminary review written by Myers, the Ethics Commission investigator, includes an excerpt from Harvey's written response regarding the dock-hauling job and



S. John Collins/Baker City Herald file photo

Holcomb Park is on the north shore of the Powder River arm of Brownlee Reservoir about 3 miles east of Richland. Baker County owns and operates the park along with its neighbor, Hewitt Park.

resulting \$1,710 invoice from his son's company. The county had recently bought the docks from Mountain Man Lodge on the Idaho side of Brownlee Reservoir.

"After conferring with Commissioner Bennett on this matter, I asked my son if he could use his dually truck and 5th wheel trailer to haul the docks," Harvey wrote. "He is a heavy equipment operator and could easily operate the backhoe and load the docks. In order to select which docks we would be purchasing I had to travel with him. We were able to make the trip in two loads instead of three like was recently planned."

Harvey also wrote that "given the circumstances and the oral approval of Commissioner Bennett, it was the best decision for ... Baker County."

Bennett said on Monday, Jan. 4 that Harvey did mention, during a chance discussion at the Courthouse, that he had found docks for sale and that he planned to have his son help him with the move.

Bennett said he didn't consider that an official discussion because it didn't happen during a public meeting.

Mileage and meal reimbursements

Ash's Sept. 14 letter to Baxter also cites other issues related to work that Harvey has done at Hewitt and Holcomb parks.

Ash wrote that "Nichols also told me that Commissioner Harvey has been receiving a higher than usual reimbursement rate on travel reconciliation vouchers for mileage. In addition, Commissioner Nichols told me that Commissioner Harvey is being paid for meal reimbursement while working at Hewitt and Holcomb Parks; receiving meal and mileage reimbursements for in-county work."

Ash concluded his letter to Baxter: "Based on the information presented to me by Commissioner Nichols, I believe a neutral third party should conduct an independent investigation into the allegations and am referring this matter to your office for further action."

Harvey, in his written response to the Ethics Commission on Sept. 19, addressed the purchases he made and the use of his personal vehicle.

He wrote that he worked long hours at Hewitt Park last spring to prepare the park for opening to the public. Harvey wrote that several pipes were broken, toilets were missing and other maintenance and repairs were needed. He wrote that his wife, Lorrie, joined him on three weekends, working 10-hour days, and that "no reimbursement was given for her time, meals or gas."

In his written response, Harvey noted that he had hauled equipment to and from Hewitt Park, cleaned the restroom at Bishop Springs Rest Area, along Highway 86 between Baker City and

Richland, and driven trash from Bishop Springs to Hewitt Park, which is about 45 miles east of Baker City.

Harvey acknowledged using his personal credit card to buy items, and them submitting the purchases to the county for reimbursement.

"The receipts for all of these items can be found in the Baker County Financial Office," he wrote.

Harvey wrote that he would have preferred to use a county truck, had one been available, "instead of putting mileage, wear and tear on my personal truck."

He says he complied with the county's policy for meal and mileage reimbursements.

According to the Ethics Commission's preliminary review, Baker County provided vouchers showing that Harvey was paid \$3,213.10 from Jan. 1, 2020, through mid-October. The vouchers list a total of 35 trips to Hewitt and Holcomb parks from March through August, and 36 meal reimbursements during that period.

For the first two trips, both in March, Harvey was reimbursed at the rate of 35 cents per mile, which is the county's rate when an employee uses a personal vehicle even though a county vehicle is available. For all subsequent trips the reimbursement rate was 54.5 cents per mile, the rate when a county vehicle is not available.

In his written response to the ethics complaint, Harvey wrote that although in the past he had used a county vehicle for travel, when he assumed oversight for the county parks "a truck was necessary to transport supplies. This information can also be supported through the county vehicle log books."

County commissioners eliminated the position of county parks director in January 2020, deciding instead to hire a contractor to manage Hewitt and Holcomb parks.

The county planned to open the parks on April 1, 2020, but then the pandemic started.

During the spring of 2020 Harvey reported to the other commissioners during their meetings that he had been working regularly at Hewitt and Holcomb parks.

Ethics Commission investigator's findings

The preliminary review written by Myers includes a series of recommendations.

"In this case, there appear to be at least three possible violations of ORS 244.040(1) by Commissioner Harvey: first, the attempt to hire or award a contract to his son for the demolition of the New Directions building; second, the award of a contract to his son's company for hauling the docks from Idaho; and third, Commissioner Harvey's mileage and

meal reimbursements."

That state law states, in part, that: "a public official may not use or attempt to use official position or office to obtain financial gain or avoidance of financial detriment for the public official, a relative or member of the household of the public official, or any business with which the public official or a relative or member of the household of the public official is associated, if the financial gain or avoidance of financial detriment would not otherwise be available but for the public official's holding of the official position or office."

In the case of the demolition at the New Directions Building, Myers wrote that "although it appears that the employment or contract ...

was never actually awarded to Commissioner Harvey's son, (the law) prohibits both using or attempting to use one's official position to financially benefit a relative ..."

Although Harvey didn't participate in the discussion about potentially hiring his son during the Aug. 5 Commission meeting, "further investigation is needed to confirm whether Commissioner Harvey abstained from all participation," Myers wrote.

As for moving the docks, Myers wrote that: "information available in this preliminary review appears to indicate that Commissioner Harvey suggested and may have participated in the decision to award the contract to haul docks from Idaho to W Harvey General Contracting, his son's company. Also, on the approved invoice there is a signature, 'William Harvey,' which matches the signatures on Commissioner Harvey's mileage and meal reimbursement requests. Thus, it appears that Commissioner Harvey may have approved payment of the invoice from his son's company. Should the Commission move this matter to investigation, we would speak with Commissioner Harvey and the other two Commissioners to determine how the contract with W Harvey General Contracting came to be and also confirm whether Commissioner Harvey approved payment of the invoice."

Myers concluded that Harvey might have failed to disclose conflicts of interest as state government ethics law requires.

Baxter, in his letter to the Ethics Commission, said he talked with officials from the Oregon Department of Justice and the Oregon Bar Association regarding his "seemingly conflicting role reporting this issue" since he is an attorney representing the county.

Baxter wrote that Michael Slauson, chief counsel at the Department of Justice, referred him to case law concluding that the district attorney represents county residents, not elected commissioners.

"Furthermore, where criminal activity was alleged by the sheriff, I feel it is my duty to have that investigated," Baxter wrote.

See www.bakercityherald.com for copies of the preliminary review and Harvey's written response.

SNOWPACK

Continued from Page 1A

This winter the snowpack has accumulated faster.

An example is Gold Center, an automated snow-measuring site between Sumpter and Granite. The water content in the snowpack there was 6.3 inches at noon on Monday, Jan. 4, an increase from 5.1 inches at the start of the day on Jan. 2. The noon Monday figure was 26% above average, and 54% above the figure from one year ago.

Last weekend's storms had even larger effects at Schneider Meadow, in the southern Wallows north of Halfway.

The water content there rose from 10.8 inches at the start of the day Jan. 2, to 14.1 inches at noon on Monday, Jan. 4. That's almost 4% above average for the date, and 68% above the water content on Jan. 4, 2020.

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