

Ethics cases dropped against officials

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Gary Neal

laws by using his positions at the Port and on the CREZ board to financially benefit Windwave through negotiations with tech giant Amazon, without disclosing a conflict of interest. After preliminary investigation, OGEC moved to official investigation on Dec. 16, 2022.

The window of investigation was short; OGEC's jurisdictional period began on Sept. 18, 2018, and Neal retired from the port on Dec. 21, 2018. Neal moved from Boardman to his hometown in Eastern Washington after his retirement.

On Oct. 1, 2018, Neal was present by phone at a CREZ board meeting where a consensus was reached to ask the CREZ sponsoring entities—Morrow County, the City of Boardman and the Port of Morrow—to expand the enterprise zone boundary so more Amazon developments could be included in the CREZ. Amazon apparently already owned the property in question.

OGEC investigator Susan Myers told the ethics commission that, because Windwave does business with Amazon, Neal should have declared a conflict of interest, which there was no record of.

"While there was no certainty that Windwave would get the Amazon contract to construct those lines, it was a possibility," said Myers.

In response, Neal and his lawyers stated that, because there was no formal vote and Neal made no statements, he did not act. However, Myers said participating in the consensus still gave rise to a conflict of interest. Her recommendation was to find Neal guilty of one violation of ORS 244.120(s) and move the case either to a contested case or a settlement.

Neal's attorney, Caroline Harris Crowne, replied that he had "served honorably" for more than 20 years and, given what she called the "skinny" nature of the evidence, asked for dismissal. She cited the lack of an action decision by Neal. In addition, she pointed out that Neal had announced his retirement from the Port of Morrow and his replacement had already been hired. According to records, while Neal was present at the Oct. 1 meeting via phone, his replacement was present in the room.

"He intentionally did not involve himself in any discussions relating to Amazon," Crowne said. "It wasn't just that he was a lame duck. It wasn't just that his tenure had come to an end. Someone else had taken over his job."

Crowne said that, while fault might be found with the CREZ board proceedings at the meeting, it was the understanding of Neal and everyone else at the meeting that he was not an active participant.

Crown added that the benefit to Windwave was too remote for consideration, since Windwave was one of many companies that would have been able to pursue the contract.



Jeff Wenholz

"It was not Amazon's sole provider. It was not Amazon's preferred provider," said Crowne. "It was a small fish."

She finished by saying it was not a good use of public resources to move forward with the case.

"We ask you not to mar this clean record of a career performed with highest integrity," said Crowne.

After hearing the arguments, the OGEC board appeared split in its response, some citing the need for an "abundance of caution" while others found the situation ambiguous. Commissioner David Fiskum said he had "mixed emotions" about the decision.

"It's not abundantly clear to me that Mr. Neal had a meaningful conflict of interest," said Fiskum. "It's not exactly clear to me that, while a member of the board, he did participate in any meaningful way, including by talking or voting."

OCEG Chair Amber Hollister clarified that Amazon could have developed the land and possibly contracted with Windwave without the boundary move, though the tax benefits of inclusion in the enterprise zone made the development more favorable.

"This is a challenging case," said Hollister. "I feel like I'm really thinking through, what is the threshold for potential conflict of interest?"

Myers asserted that, while there was no certainty of a conflict, the law stated that Neal should have recognized and declared the potential conflict as an owner of Windwave.

"The point of this is transparency for the public," said Myers.

A motion to move forward to formal proceedings failed in a split 3-5 vote. The commission then voted 7-1 to officially dismiss Neal's case.

The commission has yet to rule regarding other Windwave owners Don Russell, Marv Padberg and Jerry Healy.

Michael Hughes

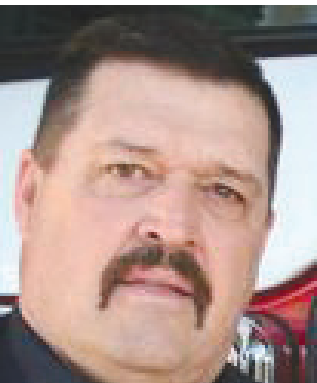
The case against Hughes was even less clear-cut, ending with a stalemate within the ethics commission.

As Boardman Fire Rescue District Chief, Hughes reportedly used a BFRD ladder truck and staff to install a hot tub at his home—the Nov. 17 complaint included a photo of the ladder truck lowering the hot tub in place. The ethics committee voted to move to official investigation Jan. 15.

In the commissioners' minds, it appeared to be less a question of whether Hughes had done what he was accused of, but whether his actions were unethical under the law. Hughes contested that his contract with BFRD allows him to use district resources for personal purposes.

State law does allow some such use depending on the public body, and investigator Hillary Murrieta said Hughes's contract does say the fire chief's use of district equipment depends on the board's policy.

However, Murrieta said



Michael Hughes

the BFRD board never voted on such a policy regarding the use of the fire truck.

"Because there is no district policy specifying what is allowable, or on what terms and conditions, the use of the district ladder truck in installing his hot tub would not fall within Mr. Hughes's official compensation package," said Murrieta.

Regarding the use of staff to install the hot tub, the investigator said both Hughes and BFRD Board Chair Ken Browne implied that the staff were training when they installed the hot tub.

"Even if the district staff consider this part of their training, that does not negate the fact that Mr. Hughes was using district staff for his private benefit," she added.

Both Hughes and Browne had indicated that community members could avail themselves of similar services, but Murrieta said there was no such written policy in place.

"Nor have such services been publicly offered to the community at large, as indicated by the community backlash that Mr. Hughes was receiving," Murrieta told the commission.

She recommended the commission make a preliminary finding of one violation each of ORS 244.040(1) and 244.120(1) (c).

Hughes requested dismissal because, even though the investigator had failed to uncover any such public use of fire district staff and vehicles, he said he was acting "in good faith" when he used the ladder truck.

"I just want to make it clear that at no time have district personnel ever installed a hot tub at any of the locations. We've simply placed them in the property owners' backyards," said Hughes.

"This is something that we've provided for our community, not only private members, but businesses as well," he added. "We do not advertise for this because we're not in the position to compete against our taxing businesses. We just offer the service if someone happens to call."

Commissioner Shawn Lindsay said he was inclined toward leniency. Murrieta responded that, while there was nothing in the policy prohibiting the use of the ladder truck, the use of staff was also an issue.

A motion by Fiskum to adopt Murrieta's finding failed in a tied 4-4 vote. A five-vote majority was necessary to adopt the preliminary findings and move forward with formal proceedings.

While the vote did not constitute a dismissal, Hollister informed Hughes that they would reach out to him in 180 days and the case would be administratively closed.

"Essentially there is no finding, but our consideration is through today," said Hollister.

Jeff Wenholz

The commission's de-

liberation was short when it came to Wenholz, who had been accused of using his position as a county commissioner to benefit Good Shepherd Health Care System and of failing to disclose a conflict of interest as a member of the Good Shepherd Board of Trustees.

The complaint arose due to the county's current legal battle with Morrow County Health District regarding ambulance services in Boardman.

"Because Mr. Wenholz is on the board of trustees for Good Shepherd Health Care System, a 501(c)(3), this would not be a business with which he is associated, therefore he would not be faced with a conflict of interest working in his position as a commissioner to vote on a matter that may financially affect Good Shepherd or their competitor," said Murrieta.

The OGEC investigator added that, because Good Shepherd is a 501(c)(3), Wenholz had not used his position to financially benefit a business with which he was associated.

The ethics commission voted 8-0 to dismiss the matter. Wenholz still has an ethics case pending regarding a possible conflict of interest between his positions as vice president of the board of directors for the Umatilla Electric Cooperative (UEC) and chairman of the Morrow County Planning Commission.

Other Findings

Several other Morrow County public officials also came under scrutiny by the ethics commission recently, ranging from county commissioners to school board members. Also at the July 14 meeting:

The ethics commission voted unanimously to approve a stipulated final order regarding omissions current Morrow County Commissioner and former Boardman City Councilor Roy Drago made on his annual Statement of Economic Interest (SEI) as a Boardman City Councilor.

As a city councilor, Drago was required to file an SEI each year in 2019-2022. On each of those, Drago listed only his primary job as a source of income and did not list the name of his employer. He also failed to list his wife's employer as a source of income even though her income was more than 10 percent of their annual household income each of the four years.

He filed an amendment correcting the omissions on March 8 of this year, but the ethics commission voted to open investigation into the matter on June 2. Drago chose to settle the matter without investigation and will receive a letter of education in lieu of civil penalty.

Lexington Town Councilor Will Lemmon will receive a \$50 fine for filing his 2023 SEI after the deadline. This was the second time Lemmon missed the deadline; he received a letter of education for filing late in 2020.

Morrow County Planning Commissioner Stanley Anderson will also receive a \$50 fine for filing his 2023 SEI late, his second violation.

Ione School Board member Rob Crum will receive a letter of education for filing his 2023 SEI late, his first offense.

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Irrigon land sale

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district. "The bottom line is that staff needs direction from council regarding this matter so we can continue the discussion with WEID," said Palmquist. "And there's some land use action that we need to take care of."

Palmquist said the parcel is currently zoned as open space/recreation and would need to go before the planning commission and the city council in order to be rezoned as commercial, as well as being cleared by the Department of Land Conservation and Development (DLCD). He felt that needed to be addressed before proceeding with any sale.

"Why would they buy it and then they get, 'No, you can't do that?'" he asked.

"We've got to get the horse in front of the cart," added Palmquist. "Otherwise it could create potential LUBA action—and we don't want that."

Palmquist said he didn't see anyone challenging the rezoning of the lot. He added that the "land use hawks" out of Portland would be all over them if the property were residential, "But I don't foresee this having a problem."

There is also a short section of unused federal canal that would need to be vacated.

"It's a large process," said Palmquist. "I think we can get there."

Irrigon Councilor Heather Bishop said she was in favor of improving irrigation services.

"Anything that helps make that easier, makes sure it's taken care of faster, I'm all for that," she said.

With the council's consensus, city staff will work with the irrigation district to move forward with appropriate land-use steps before returning to the council for an official purchase request.

Also at the July 18 meeting, the city council agreed to sponsor the Community Women's Club of Irrigon and Boardman in the amount of \$250 for the group's sixth annual Sunshine Open Golf Scramble at the Marker 40 Golf Club in Boardman Sept. 16.

Irrigon City Manager Aaron Palmquist told the council this is something the city has historically donated to. The golf event is the group's main fundraiser for the year. Funds raised are used for scholarships, school supplies for needy children and other community service projects in the two North Morrow communities.

"They actually do all kinds of things for other organizations, and especially

youth stuff in the community for the schools, things like that," put in Bishop.

Palmquist also pointed out that, while this was the amount the city council had historically given, he also knew the club would not be conducting a fundraiser during the watermelon festival as they had done in the past. That would mean a shortfall for the group this year.

"If there are other people who are so inclined to help," he said. "It is a good cause, and they do more than is noted in there."

In other business: The council heard from some concerned citizens about their utility bills, especially their water bills. The city has received questions about customers' historical usage compared to current, but said each account showed no difference from previous years. The city has also had the meter vendor in town to check and calibrate meters to ensure they are working correctly.

The Morrow County Sheriff's Office reported 338.25 hours spent in Irrigon in June. Of that, 210 hours were spent on patrol, 20.75 on traffic, 59 hours on reports and 48.50 hours on investigations and follow-ups. The number of extra patrols doubled over May. The city contracts for 173 MCSO hours each month.

Palmquist reported that the food pod is 80 percent designed with some minor edits to take place. The city is continuing to look at costs and funding possibilities.

The city manager also reported that a motorist did extensive damage to part of the Division St. walking path on July 11, and the staff was currently getting repair quotes.

The U.S. 730 Sidewalk Project had been awarded to Nelson Construction, and schedules are being coordinated.

The Safe Routes to Schools Sidewalk Project is being designed and the city plans to send the project out for bid this fall with construction planned for late spring or summer of next year so as not to disrupt school traffic. Infrastructure funds are coming from Columbia River Enterprise Zone dollars.

Future items on the council agenda will include a camping and homelessness ordinance, the food pod project and a splash park project.

The 39th annual Irrigon Watermelon Festival is this Saturday, July 29.

The next regular meeting of the Irrigon City Council will be Aug. 15 at 6 p.m.

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