

Grievance to the Jackson County Board of Commissioners
regarding violations of the Oregon Public Meetings Law on
January 11, 2024

FACTS AND CIRCUMSTANCES

1. This grievance is made pursuant to ORS 192.705 by Denise D. Krause in her individual capacity and as representative of Jackson County For All ("JCFA").
2. Krause is a Chief Petitioner on Petitions Jack 23-01, Jack 23-02 and Jack-03 which are being presented to Jackson County voters by volunteers of JCFA. She resides at 2946 Siskiyou Boulevard, Ashland, Oregon.
3. JCFA is a grassroots, nonpartisan association of Jackson County citizens exercising their rights and responsibilities under ORS Chapter 250, the Oregon Constitution, and the First Amendment of the United States Constitution.
4. The Petitions would place three measures concerning the Jackson County Board of Commissioners ("BoC") on the ballot in 2024. The Petitions address matters which are likely to, and indeed on multiple occasions on and subsequent to January 11 have, come before the BoC – for example, the salaries and partisanship of the Commissioners.
5. Three Commissioners are currently on the BoC: Dave Dotterrer, Rick Dyer and Colleen Roberts.
6. The Commissioners routinely hold a BoC/Staff meeting each Thursday at 9AM inside the County headquarters building. These meetings are noted on the official County Calendar on the County's website, www.jacksoncountyor.gov, under the menu heading Board of Commissioners.
7. A BoC/Staff Meeting was entered on the County Calendar for Thursday, January 11, 2024. The written agenda issued in advance of that meeting is attached as Exhibit 1.
8. As specified in the written agenda, this BoC/Staff Meeting was a "public meeting" within the scope of ORS 192.610(7)(a).
9. The agenda does not reveal that the business of the Jackson County Republican Central Committee ("JCRCC") would be deliberated.
10. The BoC provided no notice to the public, to Krause or to JCFA that the Petitions, JCFA, and the opposition campaign of JCRCC would be deliberated. The BoC provided no notice that the BoC would deliberate and decide to launch its own serial opposition to the Petitions.

11. The January 11 meeting was convened by Dyer; those also present were Dotterer, Roberts, County Administrator Danny Jordan, and Senior Deputy County Administrator Joel Benton.

12. Earlier in the meeting, the attendees discussed compliance with the Public Meetings Law, namely whether more than one Commissioner could participate in meetings of the Association of Oregon Counties ("AOC"), a state association from which the BoC has decided to withdraw. Their exchange was as follows:

Roberts: "It causes us problems if two of us are on."

Jordan: "Well, you're allowed to have two people on for that because, for anything with AOC, although we're not members ..."

Roberts: "Right."

Jordan: "It doesn't matter."

Benton: "No, it does matter, so we can't have two people on."

The Commissioners accepted and have acted in accordance with Mr. Benton's answer.

13. JCRCC is not an association within the scope of ORS 192.610(7)(b).

14. On July 9 Dyer and Dotterer both attended a meeting of JCRCC. This meeting was not conducted in compliance with ORS 192.610-192.705.

15. Matters that will come before the BoC were deliberated at the JCRCC meeting. In fact, Dyer himself raised those matters at the BoC/Staff Meeting on January 11. Such matters were also deliberated without notice during the BoC/Staff Meeting on January 18.

16. A transcript of the relevant discussion on January 11 is attached as Exhibit 2. Those facts and circumstances are incorporated in this grievance. The discussion starts at 52:30 in the audio record of the meeting posted at www.jacksoncountyor.gov.

17. Jordan and Benton were physically present during this discussion, as evidenced by the video of the meeting streamed real time on Zoom. That video is no longer available on County's website. The framing of the video from a single angle did not disclose all of the communication taking place in the meeting – for example, facial expressions, hand gestures, whatever Mr. Benton did when he walked away from the table. None of these means of communicating and deliberating are reflected in the audio record or the summary written minutes. The written minutes, attached as Exhibit 3, give no meaningful information about

what was actually deliberated during the January 11 meeting. The back and forth about the applicability of the Public Meetings Law, and the decision to mount a "serial" opposition campaign, are entirely omitted.

18. Jordan and Benton are witnesses who may be deposed or called to testify in any judicial proceedings brought under ORS 192.680. Jordan and Benton are therefore disqualified from advising the BoC or participating in any way in the written response which the BoC is required to make under ORS 192.705, or in related meetings or executive sessions.

19. Benton was present in his capacity as Senior Deputy County Administrator and not as County Counsel. Minutes, audio and video of numerous other BoC convenings show that, when acting as County Counsel, Benton will caution a Commissioner whenever they stray beyond those matters properly noticed in the meeting agenda or announcements. He did not do so in this case. He said nothing, so obviously did not provide any privileged advice or information to the Commissioners.

VIOLATIONS OF THE OREGON PUBLIC MEETINGS LAW

The foregoing facts and circumstances amount to the following violations of ORS 192.610-192.705:

Failure to give notice to the public

The details of the public notice required for the January 11 meeting are spelled out in ORS 192.640(1):

The governing body of a public body shall provide for and give public notice, reasonably calculated to give actual notice to interested persons including news media which have requested notice, of the time and place for holding regular meetings. The notice shall also include a list of the principal subjects anticipated to be considered at the meeting, but this requirement shall not limit the ability of a governing body to consider additional subjects.

The Commissioners gave no notice that they would deliberate on behalf of JCRCC and explicitly reach a mutual decision to launch an orchestrated opposition campaign against the Petitions and JCFA.

Failure to give notice to Krause and JCFA

Dyer expressly referred to JCFA, also calling the association "the group." The Commissioners know that Krause is Chief Petitioner. Krause and JCFA are "interested persons." The BoC made no effort to give actual notice to Krause and/or JCFA.

The JCRCC meeting violated ORS 192.610-192.705

Attendees at the January 11 meeting reached consensus that no more than one Commissioner could attend an AOC meeting. Both Dyer and Dotterer attended the JCRCC meeting. They thus constituted a quorum of the BoC and the requirements of the Public Meetings Law became applicable. Those requirements were not complied with.

Please address the written response required by ORS 192.705 to:

Denise Krause - denisekrause4jc@gmail.com

Denise D. Krause



JACKSON COUNTY

Oregon

Board of Commissioners

Rick Dyer (541) 774-6118
Dave Dottererr (541) 774-6119
Colleen Roberts (541) 774-6117
Fax: (541) 774-6705

10 South Oakdale, Room 214
Medford, Oregon 97501
www.jacksoncountyor.gov

BOARD OF COMMISSIONERS

Staff Meeting Agenda

January 11, 2024

9:00 a.m.

Jackson Room and Audio/Videoconference*

1. Input From County Counsel
2. Input From County Administrator
 - a. Review Agenda Items for the January 17, 2024, BoC Regular Meeting
3. Liaison Committee Reports
4. Review Calendars

Monday, January 15, 2024 – County Offices Closed, Martin Luther King Jr. Day

Tuesday, January 16, 2024, 9:00 a.m. – BoC Work Session, Jackson Room and Audio/Videoconference

Wednesday, January 17, 2024, 9:30 a.m. – BoC Regular Meeting, Auditorium and Audio/Videoconference

Thursday, January 18, 2024, 9:00 a.m. – BoC Staff Meeting, Jackson Room and Audio/Videoconference
5. Executive Session
 - ORS 192.660(2)(a) and (b), Employment of Employee
 - ORS 192.660(2)(d), Labor Negotiations-Press Excluded ORS 192.660(4)
 - ORS 192.660(2)(e), Real Property
 - ORS 192.660(2)(f), Information or Records Exempt From Public Disclosure
 - ORS 192.660(2)(h), Litigation

If an accommodation, auxiliary aid, or service is needed to participate in a County meeting, please contact the Human Resources Office at hr@jacksoncountyor.gov or 541-774-6036 or TTY/TDD 711 or 800-735-2900. Requests made at least 48 hours prior to the meeting, preferably in writing, will assist County staff in providing the accommodation.

Please Note: This is a public meeting, but no public testimony will be received.

*This meeting is being held in the Jackson Room and by audio/videoconference. The meeting may be viewed by going to <https://jacksoncountyor.zoom.us/j/92309669095>. The meeting may also be listened to on the phone by calling 253-215-8782 and entering Webinar ID 923-0966-9095.

Jackson County Commissioners' meeting with Staff January 11, 2024

The "resolution you discussed last week" will be on the January 17 BoC meeting. *Interesting* that DJ didn't say "Sanctity of Human Life Resolution."

Long discussion about recovery by landowners subjected to foreclosure beyond their tax liability.

Roberts had monitored a meeting of the Association of Oregon Counties – JaCo withdrew last year, BoC saying it wasn't worth the fees. Roberts challenged how AOC counted a vote "It's just an interesting factoid. I'm just an onlooker, not a member... But my concern is, their voting on county matters, does affect us, somewhat."

24 min: "I couldn't let it go. I think it does concern us."

Benton?: "It does, although our standing so say so ... They should take it for what it is, anyone there could point it out ..."

DJ: "It's a public meeting. Why can't see who was there?"

Roberts: "Well, it causes us problems if two of us are on."

DJ: "Well, you're allowed to have two people on for that because, for anything with AOC, although we're not members ..."

Roberts: "Right."

DJ: "It doesn't matter."

Benton: "No, it does matter, so we can't have two people on." (Please listen on if interested.)

52:30: Dyer: "I did go to, and Dave was there was well, the Jackson County Republican Party committee meeting on Tuesday night, and Randy Sparacino – he has already officially announced, but he got up and talked to the party and announced again to them.

But also, it's interesting, the article in the paper yesterday about the initiatives, the Jackson County For All initiatives and how they are now potentially are trying to get this on the May ballot. I didn't know this on Tuesday. But the other thing that was mentioned in there is the only opposition is the three Commissioners and then the fourth prospective Commissioner, Randy Sparacino, which is totally untrue.

Roberts: Ya, but, they haven't talked to me.

Dyer: Well, exactly, so that's an assumption (Roberts laughing). But the party has taken this on as one of their biggest, the main issues. They oppose it. I talked to lots of business people and organizations and there is a lot of opposition out there

Roberts: Yeah.

Daye: It's just a matter of the timing. I don't know that it's necessarily a great strategy to wait for it to hit the ballot, but a lot of people think, well, once it hits then I'll get involved.

I think we are there now. I think we are the point where it needs to have some attention. We don't want to be caught flat-footed. That's even before I knew they were talking about putting it on the May ballot. That was my message to the party. And I think it was well received. I think it's something, again, when you look at *all* the details and *all* the possibilities, and everything it would bring that's potentially negative with virtually nothing positive. [Mumbled.] People need to know that, we need to inform, we need educate, and we need to again take a position. I'm not saying as a Board, I'm just saying as individuals and whoever understands the potential damage this could do needs to take those positions and start doing it NOW. I'm not waiting.

Roberts: I'll tell you, Bill Meyers had the issues on his show several times. He called last night. Apparently sent me a text, I did not get. It's out there, but anyway. I'm going to be on his show about it on Tuesday.

Dyer: Good.

Roberts: And if either of you want to reach out. He's had both Commissioners from Josephine County on. If you should be on, talking it up as well. We should reach out to him.

?Dyer or Dotterer?: I will do that.

Dyer: I did hear his discussion with John West.

Roberts: Um hm.

Dyer: I listened to it yesterday, I don't know when it was actually on. They are facing a little bit different ..

Roberts: Ya. It's different.

Dyer: ... proposals. They want to repeal their current charter and replace it with a brand new one, with a lot of ... it's ... then again ...

Roberts: It's different.

Dyers: They are already nonpartisan over there. And it's a similar group. And, you know, it really does feel that it is a group that wants to make sure that the Counties are aligned with state policy. There isn't that line of defense that we've presented, I think. And I do think there is a lot of truth to that. And even if it's not who's bringing it forward, it's certainly going to be one of the effects. That there will potentially be a lot less of that last line of defense present. It's a problem.

But anyway, that was the Jackson County Republican ... and there's a couple other things.

Dotterer: You're going to be on Tuesday?

Roberts: Yes.

Dyer: I'll reach out and go on there as well.

Dotterer: I think we should do this in serial.

Dyer: The more the better, yeah.

Dotterer: Yeah.

MINUTES FOR THE
BOARD OF COMMISSIONERS
STATE OF OREGON, COUNTY OF JACKSON
STAFF MEETING HELD ON
JANUARY 11, 2024

The Board of Commissioners' Staff Meeting was opened by Commissioner Rick Dyer on Thursday, January 11, 2024, at 9:00 a.m. in the Jackson Room and by audio/videoconference. Those participating were:

Rick Dyer, Chair
Dave Dotterer, Commissioner
Colleen Roberts, Commissioner
Danny Jordan, County Administrator
Joel Benton, County Counsel
Kathleen Winfrey, Recording Secretary
Megan Cook, Executive Assistant
Members of the Public and Press

1. *Input From County Counsel*
Mr. Benton had nothing to report.
2. *Input From County Administrator*
 - a. *Review Agenda Items for the January 17, 2024, BoC Regular Meeting*
Mr. Jordan reviewed the agenda (*Submission No. 1*) and there were no changes.
3. *Liaison Committee Reports*
Commissioner Dotterer reported on a letter of support that he submitted for the Medford Irrigation District and Rogue River Valley Irrigation District joint system canal piping project.

Commissioner Roberts reported on attending meetings of the Shady Cove City Council, the Association of Oregon Counties (AOC) Legislative Committee, the Rogue Valley Area Commission on Transportation (RVACT), and the Jackson County Active Transportation Advisory Committee. She also reported that the American Forest Resource Council is having its annual meeting in April. She referenced a discussion with an Oregon State University (OSU) representative regarding OSU and how it can collaborate better with local government agencies when issues may arise. Commissioner Roberts spoke about the proposed groundwater allocation rulemaking, and provided a correspondence letter from the Oregon Ground Water Association with its comments (*Submission No. 2*). She requested to have a draft letter of comments prepared for consideration at a future Board meeting.

Commissioner Dyer reported that the public action committee (PAC) meeting with Sheriff Nathan Sickler and the City of Medford was canceled, and then provided a brief update about a potential survey regarding bed space at the Jackson County Jail. He also reported on

attending the Jackson County Republican Party Committee meeting, and spoke about a discussion with Ms. Heather Stafford, Executive Director, Rogue Workforce Partnership, regarding workforce shortages.

4. *Review Calendars*
The calendars were reviewed and there were no changes.
5. *Executive Session*
There was nothing for Executive Session.

There being no further business, Commissioner Dyer adjourned the Staff Meeting at 10:05 a.m.

JACKSON COUNTY BOARD OF COMMISSIONERS

/s/ Rick Dyer
Rick Dyer, Chair

/s/ Dave Dotterer
Dave Dotterer, Commissioner

/s/ Colleen Roberts
Colleen Roberts, Commissioner

/s/ Kathleen Winfrey
Kathleen Winfrey, Recorder
Approved on: 01/31/2024