

Board of Okanogan County Commissioners
December 23, 2019

In attendance:

Jim DeTro - (JD) BOCC, Chair, District 3
Chris Branch - (CB) BOCC, District 1
Andy Hover - (AH) BOCC, District 2
Maurice Goodall - (MG) Director of OK County Emergency Management Services
Kelly - Filling in as Clerk of BOCC, subbing for Lalena Johns
Dave Gecas - Civil Deputy Attorney

Notes were taken at the meeting by a county watch volunteer. Every attempt is made to be accurate. Notes are verbatim when possible, and otherwise summarized. Note taker comments or clarifications in italics. These notes are published at <https://countywatch.org> and are not the official County record of the meeting. For officially approved minutes, which are normally published at a later time, see the Okanogan County Commissioners' website at <https://www.okanogancounty.org>.

SUMMARY OF SIGNIFICANT DISCUSSIONS AND DECISIONS:

Hover will not drive over from the Methow tomorrow, due to **blank agenda tomorrow**. Reasons for large **increase in bills from State Auditor** explained. Executive sessions evaluating employees' performances: Dan Higbee (contract approved) and Maurice Goodall (lengthy discussion as to whether the County or the Emergency Management Council should hold his contract.) **Needed improvements in clarity of regulations and procedures of Emergency Management Council/Commissioners** are identified. **Retroactive salary increase to Goodall ok'd. Difficulties in Commissioners receiving each others' e-mails during meetings discussed. December 18th minutes (in which Interim Control is Imposed) -** discussion of correct adjournment time. **Changes in format of BOCC meeting minutes and discussion of last-minute changes in agendas. Agenda and changes** will now be at the top of the minutes, **Conflict: January 27th: Hearing on Interim Control Ordinance in Methow Valley at 5PM, Planning Commission at 7PM in Okanogan. Debate regarding Methow Basin Plan**, water quantity solutions, goals, how to determine public opinion, etc. **Public participation: gate on French Creek road** in light of Summary Judgment that it is a county road.

9:00 Pledge of Allegiance

AH - Dan Higbee's evaluation at 9:05?

9:03: Commissioners' Schedules

AH - Tomorrow - Nothing on the agenda. I am not planning on coming over. Don't want to come over just to check and then drive home.

Meeting with state auditor on Friday. It got to the point where they showed why our costs had gone up so much. 2015-2019 their rate has gone from \$35 /hour to \$105 /hour. Travel time went from about 45 per hour, but now \$75 - they will give us an itemized bill from now on. The one they gave us was incorrect. They forgot some hours.

CB - You went there and negotiated a higher price? (Joking- AH takes it seriously.)

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AH - We have never been allocating the cost of the audits across the different departments. They will give an itemized bill for certain departments. Building is the most difficult. The reason Public Works gets audited is because of federal money. It triggers the single audit. Building is kind of wrapped up with current expense in re credit cards, etc. We will try, but it will be harder to figure out Building's correct portion. In discussion, I said DeTro said we don't want to pay them at all. (Laughter.)

CB: Dan (Higbee) is out there waiting for us.

9:15 - AH - Moves to go into Executive Session (110.1 To review performance of a public employee for 15 min. Detro seconds.

(Note taker leaves to go back to planning Dept to discuss map showing error in zoning in H.E. Beardslee's decision on Methow gravel pit.)

9:30 Note taker re-enters:

New Interim Control in Methow - BOCC is already discussing WRIA 48 Watershed meeting attended by quorum of Commissioners in Methow Valley on 12/19/2019 (New Interim Control re Methow Valley Overlay/Water Availability Study Area.)

CB - Was saying, "That's when I left the meeting." He found himself wondering what had actually been (accomplished? Talked about?) Says: we will see what the newspaper says.

AH - I also talked with the newspaper afterwards.

BOCC returning to consent agenda:

CB - Had a communication from a person in his district regarding wolves. *(Notetaker did not catch details.)*

CB - RE 2nd appeal on an issue in his district regarding a house straddling 2 parcels , line 102. There was discussion on "107" *(goes through lots of numbers.)* We were talking about when it wasn't a proposal (?). There was an issue of e-mail between previous Planning Director and landowner - there was no written statement, just discussion between landowner and previous Planning Director. We might want to put in there that it was not a legal petition.

AH - It should never have been brought.

CB - Minutes: comments on Judge Rawson quote regarding legislature..... *(seems to suggest there should be a change in wording for accuracy.)*

BOCC returns to reviewing consent agenda on computers.

10:00 - Executive Session: performance of an Employee. 15 minutes. Branch, DeTro, Maurice Goodall leave for session.

10:24 - DeTro and Branch re-enter with M.G, who says he will be available in his office. *(Note: time of exec session 9-min extension not announced.)*

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10:25 - Return to Review of Consent Agenda.

#9 on Consent agenda - Re "Mike Port" - It should say Mike Fort.

AH - Some people are calling about being on Water conservancy Board. So this is an appointment letter - let me see the letter. Is there a recommendation attached? (Yes.) *AH reading the appointment letter and recommendation.* OK. That was all done through the Conservancy Board and was a recommendation.

Ah - Are we going to take action on Planning Director position?

CB - We had left that action with a little amount of research to do.

Higbee Contract Approved

CB - Moves to approve contract with Dan Higbee.

AH - Second.

Discussion: Contract changed from last year. The county will pay a monthly \$6,550 per month. This will be the current salary, based on a salary comparison. (Compared with other counties.)
Motion Passed.

Continued review of minutes:

(Note: Note taker does not have copy of documents on Consent Agenda, just a list from BOCC Agenda.)

Review of BOCC Minutes:

12/17 - line 17 - AH - Schrable said there are 3 families in the program. - should be "this month."
Line 200 - Fire District doesn't have a name. Same on next line. Corrected.

AH - The Council on Emergency Management voted on a request for us to pay the Director in retro.

CB - It's a recommendation. We should visit bylaws and law and establish the authority.

AH - One way or the other, we have a recommendation to up his salary.

CB - This is second recommendation we've heard. First recommendation: we did it, but not until this year. 2nd recommendation is to pay retroactively (because we didn't do it before).

AH - I will not make the motion, but if we are going to bring that up, we should. I don't want to visit this issue. We can discuss it, though. I am not in favor of paying people in retro, but there are 3 commissioners here. I don't want them to say we didn't act on it - we should act one way or the other.

CB - Did we get (??)

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BOCC checks who is getting e-mails sent by other commissioners during meeting and how to send/receive.

PUD made determination under SEPA - Something for the committee? Looking for something formal.(CB - got an e-mail at 9:30 AM. AH got nothing.)

AH - Commissioners made a SEPA determination re bypass gates at the dam. Could you look in the e-mail groups ?(to substitute secretary, Kelly.)

CB - I can send you an e-mail, but I can't look at your e-mails.

AH - You sent me an e-mail, but I didn't get it.

CB looking through his sent e-mail. Asks if sec'y got an e-mail ?

AH - To Detro - did you get an e-mail at 10:46? *(All trying to figure out why no one got his e-mail.)*

CB - It goes to the calendar.

AH - I just sent an e-mail that is a test. (CB got it.) Sent to "County " Commissioners. All are looking at the e-mails they just sent.

AH Says changes to 166-2019 is mentioned twice, line 204, 306. (Re Lake Management District)

Continuation of Review of Minutes:

Wed, Dec. 18 (2019) - AH: We actually didn't adjourn at ????. We adjourned at 2:30 on Wednesday. Because we came in at 12:30 - started at 1:00, went 1:00 to 2:00, 2:00 to 3:00, then had a motion at 3:30. *(Note - Is this significant as to which applications for subdivision had been accepted before the Interim Control took effect?)*

Has Sec'y check Dec. 18th minutes - we adjourned at 3:30, at very bottom. I am looking at the minutes from ?....See on top it says Planning Commissioner introduces closed session? That shouldn't be there. We met in regular session to go into exec session, came out of executive session, did not make any decisions, moved to go into closed session for 2 applicants., then came out of closed session. And moved to.....*(incomplete sentence - does he refer to approval of interim control that is dated on this day - Dec. 18th?)*

AH - There should have been 3 motions: One to go into closed session.....(Did not complete.)

11:00 - Public hearing, Supplemental Appropriation, \$ 128,000. No public comment.

AH - Taking the intruded savings revenue from check from PUD, allocating it to contingency reserves so we don't have to come in on Dec. 2 to (?) 168-2019. Cost savings revenue to contingency reserve.

11:02 - Public Hearing closed. BOCC - Continues to review minutes and consent agenda.

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CB. Do we have authorization for political subdivision? No. RCW 38.52.070? ...

AH - reads about political subdivisions from this statute.

AH - have we ever looked at Emergency Management Plan? In order for this to have been started, the state had to secure his/her recommendations to our plan to inform it.

JD - Before the (?) for the year, we need to see what Michael Morgan has done re getting some \$\$ for the (?)

AH - Agrees. Should be a budget line. Also, what are we going to do with the Forest Service?

JD - Isn't Chris (*Furr*) supposed to get back with us first? Agreed. Maybe we should send him an e-mail.

Maurice Goodall enters. (It appears he may have been sent for by Commissioners over e-mail.) Lengthy Discussion of needed clarifications in authorization, regulation, procedures, voting of Emergency Management Council.

AH - When we submitted our emergency management Plan to the state, in order to establish a jointwe needed to submit our plan to the state. In the RCW's. CEMP? Yes.

AH - In the very beginning - in order to form this, we would have had to submit to the state Emergency Management....It says the Director may authorize 2 or more political subdivisions to join - Where was the authorization for the joint.....

MG - I need to research to see if designated for every single county to see if adopted....was Okanogan's organization authorized? I can research it. Have not seen it....

AH.... (*Reading*) In each case, each political subdivision mayas determined by the executive heads of the subdivisions..... If in any case, they cannot agree, should be referred to Council (we have agreed.) *Reads on* - each shall pay the cost to be administered by the most populated subdivision....*reading* got each (*organization?*) shall have a director, etc.....an exec head of the political subdivision..... Talks about joint director.

MG - When I was hired, the mayors were here, etc.....

AH - *Reading on* about ...subject to the direction or control, too such officer or exec officers... shall be appointed by the joint action of the exec heads....each local org or joint local orgs will perform.....*reading on*....shall conduct such functions outside.....

MG - May you should look at the actual agreement - there is terminology of exec board and officers (joint local agreement.) That's what I was saying needed to be revamped - and submitted in an e-mail awhile back.

CB - Recites some of the things that needed to be looked at.

MG - The concern that I have, there needs to be an understanding and clarification. In March when we met, we thought that was a problem. Jason didn't understand how that worked....I am

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stating....talks about recommendations from Commissioners to Council. Everyone needs to know how it all works.

CB - specific to the (?)

MG - Yes, but in all ways. If Council says yes, and BOCC says no, what am I supposed to do? I need an understanding.

AH - What is the voting procedure? If the council wants something and we vote no in the Council...

MG - If Omak says we don't have any \$\$....They can opt out by the date and get out of it....but if you are in the organization, you are supposed to pay.

AH. Could county vote no?

MG - Yes.

CB - But then they should have their own Emergency plan

MG - With a director.

AH - If this is the case, through this joint session, the cities can impose an impairment on the county's budget with a note.....We have other things like the jail. A long time ago, there was a mediated decision on which gov't was going to pay....2 things,,,,, county trying to impose things on cities, and they go into arbitration....

MG - You are imposing...and you vote that the (?) is good and Omak says no, Omak has to pay.

CB - My view today ...based on the words we have in place....I don't know if the state approved in 1984 or not - but they did create the statute at that time, I am assuming we have that approval. My understanding is that the Director (County) is responsible to bring forth a budget. I would expect it to be brought to the Council for its needs, etc. and then put to the Council, they would look and approve, and they would look to BOCC for approval. Say there is a discussion in re salaries. You put it in the budget. The Council says No or Yes - the BOCC on this particular one, it's made up of 3 BOCC.

MG - That is the Exec. Board of this Council (?), but the voting rights are 3 BOCC and 13 mayors. 16 people. So you could end up 8 and 8.

**VOTING AND PROCEDURES OF EMERGENCY MANAGEMENT COUNCIL AND BOCC
DISCUSSED AND DEBATED - HOW IT AFFECTS COUNCIL RECOMMENDATION OF
SALARY RAISE FOR DIRECTOR**

CB - Our code establishes the organization but not the membership and its procedures. In our code, it establishes this council. It doesn't establish the voting procedures or anything like that. The agreement makes the By-Laws, signed by the BOCC, saying there are 3 BOCC on the Board.

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MG - Reads who was present in 1998.....It reads 3 Commissioners.

CB - We agreed there that the Council votes to send to BOCC? Yes.

CB - Goes over the process. In the vote of the Committee, the BOCC may have no members there. Council should then give the framework on budget and salaries. So we participate in that process. There is a process as to whether there is not an agreement, there is a process to appeal to the Council. So that's in a nutshell, what we have in dealing with this recommendation. (*Apparently referring to Council's recommendation to raise MG's salary.*) Some complications: somewhere in March, the Committee made a recommendation...

.AH - I didn't realize we (BOCC) had 3 voting rights.

MG - Maybe there's a little misunderstanding of the whole process.

CB - At that time, did we protest the recommendation? (*Apparently referring again to Council's recommendation to raise M.G.'s salary*) In essence, it seems like we agreed.

AH - NO. If you vote yes on a recommendation and then getting the recommendation and not agreeing (?) My feeling at the time: April of 2019 we had set an agreement in 2018.... We did not do anything, but we also did not have the process by which we could do anything. For us to just say we are going to raise budgets and salaries.....

CB - But at that time you were in agreement

AH - No - in Dec. of 2018, we set the budget with a salary for director. If at the time we had set the dude (?) higher, we would already be pre-imposing that upon them. So we roll through and get to April; we find out we should have a meeting. We come together and everyone votes. That's a recommendation. But our dude (?) had already been set 5 months ago. For us to change our budget, we'd need to go through...the way we are paying....we'd have to write a new contract....

MG - No, I was an employee

AH - Yes, a little odd. We would need to go back in and do a dude (?) supplemental. I was not prepared to do that. However, we submitted a budget for 2020, and it included the increase requested. But for them to say we want to pay retroactively.... but there are 3 Commissioners. I am not going to be an obstructionist on this. Just telling you how I feel about the situation.

Also, the one thing that is very difficult....you have a contract with the county, which implies that the county can authorize payment to you, and when you come and say I've done a salary survey and I want 100% of what the salary survey says, me as a commissioner that has been negotiating all the contracts, and we are saying we don't have the money???? It puts me in the .. in the jobs I am performing,.....it puts me in a predicament where I'm saying you can get 100% and say no to everyone else. If you are appointed by the committee, it should be a contract with the committee.

MG - It says my appointment is at the leisure of the committee.

Some additional debates....

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AH - I know that we've been at the pleasure of the council....

MG - Yes, but kicking the can down the road for some years. Branch has a point about how the committee is formed.. I am just saying we budgeted a certain amount of money, and during this year we did nothing about it.

I was asked what I was proposing, but I said I did not. Don't know if this is the correct time and place.....this was in 2018. And I brought up the amount I was requesting. We were discussing budget, not wages. What the new part of the agreement....needs to be looked over more thoroughly. I should have a budget for the committee by August (?)

BOCC attempts to figure out whether they have followed the process:

CB - Probably the problem in the process is that we didn't follow the process - budget was prepared and submitted to the council. The 3 commissioners are participating in a discussion with the others, and at the point we agree on the budget, which does or doesn't include salaries.....

AH - You came to us with a proposal for salary. Should have been you asking to convene the council to ask for an increase.

MG - Yes. Confusion was with myself, and I finally saw that I should go to council. However, I answer to the 3 of you.

AH - Yes, but you exist at the leisure of the council.

MG - But I report to you.

CB - 3 ways - 1) an agreement, 2) the code with (?) , 3) and the statute. We need to make sure we are living with statute.

E

MG - But statute says in making this agreement up, and you can't all agree, the State will tell you what to do. But if Omak disagrees with the findings, they can step out.....

BC - But if they step out, it's an issue with the council...in the apportionment means their fair share.. If there is a conflict, it does look like you have a body that can state the differences. In this case, there is a place to go. But we don't have that problem. It is in deciding among us if a recommendation came through

Working through the proposed wage increase and budget issues

CB - If we honor the past we can, but not necessary. If we decide whether we go retroactive...it's about \$8,000 difference.

AH - If 2 commissioners agree, then that's it.

CB - We understand.

MG - reads off figures from last budgets.

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AH - A question first. I just noticed in our 2020 budget sheets, last year you budgeted \$75,000 but it was actually \$119,000 etc.etc.

MG - My budget. I have enough \$\$ in the 2019 budget to absorb it. This issue is the cities pay for the increases, and the county does not. If we dissolved this organization??/ 60% to counties , 40% to the others? Whole (dude?) is 60-40, If dissolved.

CB - Asks Andy what you have to add.

AH - You (?) do a transfer in.

MG : by 121 only.

AH. - We transfer the \$\$ in, but you don't spend it all. What you said was that it's not fair that the city paid in and the City didn't, and you are going to take it out of my budget. But there is a carry-over amount which can be used for your wages without us putting in that \$\$. We have already transferred it in.

MG - goes over what 60%- vs 40% was.

AH - Asked about MG's spending of the \$120,000. If we own 60% of that, either EMS can give it back to county or use it to pay your salary increase.

MG - Trying to explain how you have to pay equally. Waiting to hear how this has to be done.

AH - Trying to get to the point where we follow the recommendations of the council, but I do not have to vote in favor of the things we've been doing. We have 60% of the excess.

CB - We are arguing about something we agree on. If we can see how it.....

AH - We are in a good position. He serves at the leisure of the council . By - laws say he serves as at the leisure of the council. Technically, we shouldn't have a contract with MG, because we cannot terminate it on our own.

CB - I'm used to a contract that has says the same thing....has to do with the host community being the one that pays the bill.

AH - all signatures on board should be there.

(Lost track.....)

CB - The council can make a resolution for board of commissioners. We can say we are implementing it.

AH - But the contract should spell out who can end the contract.

MG - In RCW's, the largest entity is the one th....

AH - What does your new employment contract say?

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CB - We need to make sure we are in a good legal position....give what we want to the civil prosecutor and tell him what we want it to say.

AH - I'm on board with how Maurice is going to deal with it. But I'm not good with us saying we have the right to terminate, etc....

All seem to agree.

MG - Because county is a large entity, or.....

JD - We can hash this out all day long. Let's give it to the civil deputy and see what we can do.

CB - I understand this has been agreement that we should have touched and have not.

MG - - I have asked.

CB - Let's accept the responsibility collectively. It's been the BOCC and that Board.

AH - There is money in his budget to pay him. We would not have to transfer any \$\$\$. I suggest that if we have a suggestion per the auditor's officer how the best way to do this is.

MG - Have brought it up to Deb (*payroll*) and she showed me the numbers.

AH - Into the best way to do it. Let's listen to what she has to say....

CB - Let's make an appt with her on Monday the 30th.

MG - have also already put this in the 2020 budget.

AH - Technically we have not signed your contract yet.

AH - By the time your paycheck comes in on Jan 15th, all will be settled and you will be paid what you should get. We just have to decide the semantics of the contract. I supplied all info to Tanya.....

AH - You serve at the will of the council, so you technically should not have to hold the contract.

MG - The revenues from the cities will be a little less in 2020 because they overdid it in 2019. I will not process at this time until finalized. Anything I need to do in order to reach out to Deb.....

AH - We will make an appt next Monday with Clerk of Board.....

Secretary - Could do it in the middle of your updated dude (?) at 9:30 or at 10:00. Set for 10:00.

MG - I am in town, not present in office, but I will call in. I have 5 days to make up.

AH - This is not about whether or not we should pay you. The meeting with Deb is about how we should do it.

MG- I will be around, just not spending as much time in office for these 5 days.

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Angie Hubbard - Planning Update

Grants for 49 - Eagle is complicated to deal with. Aspect will not do ADT (?) Modeling until March. We should be reimbursed for everything.

Conflict - Jan 27th is PC meeting and also the date for the water Overlay (*Interim Control*) hearing in Twisp.

Angie needs to get a good staff report.

Interim Control /Water issues/ 1/27/2020 Twisp Meeting

CB - Need to advertise for meeting in Twisp

AH - Perhaps wait until what the Methow Valley News says on this last meeting.

CB - We had to answer a lot of questions (*at Methow Watershed Council meeting.*)

Angie - Should we do a "Frequently asked Questions?"

More Studies?

AH - Like Mike Fort was talking about: So are you going to do another study?

CB - But has everyone agreed to what the studies are saying?

AH - Get the Watershed Implementation plan out and see.

CB - There is a legal side and a physical side. There is more study done on the legal side than the physical side.

AH - The well that we allowed the fire district to have a count on? It has a count on it. They put in 4 different pumps going larger and larger from gals to..... they were burning up pumps and couldn't keep up. Like Twin Lakes. There are localized places with physical limitations. My contention is that 14 cfs in that entire valley is not a lot of water. When you talk about...we have pumps sitting in the river that draw out 4cfs instantaneous water. There are limitations in certain areas, but I don't think 14 cfs is a limitation.

CB - This is a matter of your opinion. If I have the same opinion, in the end there has to be a 3rd process eyeing if those two people are right. But if not, everyone should look at it together. All the documents that have ever been done. And can be looked at. This comes from a rule in 1976; it did not look at the total water supply.

Problem and solutions?

CB - Problem?

Andy - Rule is archaic because of when it was written and the cases that have and law that has come up now - look at it as the courts will look at it now. But ours was written so long ago that no one ever contemplated the solutions. The solution is:

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4 parts:

Yakama

Colville

Okanogan County.

The people who live in WRIA 48.

Have to determine what the first 3 want.

Then, what do the people who live there think?

Then, agree among them and walk into DOE and ask for that.

CB - Everyone has to collectively look at it, and come up with a plan. Must have an approach to growth.

From tribal fisheries: The amount of water for fisheries - what role does that play? Upper Columbia has identified a lot of projects. Salmon recovery board must now, through BPA, have to do prioritization. We are looking at this list, and volume of water is not high. So then what do we need to look at in relation to growth? At some point, we'll need to have a conversation. Before I die.

CB - And the comprehensive Plan?

JD - Someday Earl Judge is going to come up and say (?????)

AH - Comp Plan - It's the tail wagging the dog or the dog wagging the trail. If you look from tribal fisheries you have water quantity and habitat. If quantity is the bottleneck and you think you can do it with exempt wells, that is a conversation. If zoning along the rivers needs to be changed, that is another conversation. At this point, we need to come to grip as to what the prioritization is in the watershed as far as listed species goes. And how does that play into the Comp Plan.

In Comp Plan, we say this is what we want it to look like - in re natural environment. OR - this is what we want, but it can't be achieved.

CB - Comp Plan does have a role. I would advise we have the Watershed Council come over here and lay out all the documents

AH - You have to have participation. WATER 66 people showing up - to get views on out-of-basin -transfers, etc....the cross-section of people was not enough to show the will of the people.

CB - How could we do that? Better communication? It might seem archaic, but in the Basin Plan, 1976, DOE sent out a mailer asking what the priorities are. But the input does not match up with the Basin Plan.

CB - One thing about surveys - especially brief ones.....

AH - Wait, wait. Brief surveys are good for people who do not have to know all the details. You can answer some large questions.

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CB - The question is, what are we going to use the survey for? The answer to this determines what kind of answers you get.

AH - We send out a mailer that says if the Methow Rule could be re-written, with priorities for water usage (and list them) and rank them from highest to lowest, and state that we are discussing amendments to the rule....see what you get back.

CB - One extreme - many years ago in Pateros. Simple - Do you want your own police force? When survey came in, the next survey went out immediately - same survey - stamp on the front said "this may raise your tax" and the survey went the other way.

AH - How. Could it raise the taxes? Still, as a municipality, you can only raise taxes by a certain amount. The statement that this may raise your taxes probably was not a very qualified statement.

CB - My point, that this is not necessarily the will of the people.

AH - My point is that if 80% of the people said they wanted it, then they would have facts and figures, etc.

CB - Back then, they did a survey adopting the full (Basin Plan) it wasn't consistent with the return of the survey. (Basin Plan.) If you are going to use this reply to say this is the will of the people, the conversation might have gone a different way.

To Gecas - Why are we doing what we are doing? Don't know what

Discussion of Upcoming Executive Session

Gecas - I thought the exec session was for the Methow Rule.

CB - No, I asked about the French Creek Road.

Gecas. OK - but this can still be appealed. Do you want to have both?

CB - We were first talking about the Open Roads.

AH - About the judge's decision? Other question - do we need Exec Session on water availability ordinance?

A - I don't see why.

CB - We can talk right here - do not go into executive session

Gecas - All the letters we got from Tim Trohimovich are a matter of the public record. (*Says other things could be discussed too, though*)

Attorney/client privilege - All of the letters from Tim T. are open public records. Not attorney/client privileged? (*AH asked, Gecas confirmed.*)

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Gecas - One woman from Conservancy requested the records and what he was withholding was only what is attorney-client privileged. (*That means communication between the attorney and his/her clients.*). Most of the e-mails that have been sent are not attorney-client privileged and are being released.

Dick Ewing asked for the same requests and is receiving them.

CB - *Seems to favor talking in the open about non-privileged but moves to have Executive Session.*

2:00: CB - EXEC SESSION FOR PENDING LEGAL MATTERS. WITH GECAS.

Resume review of minutes, discussing what good minutes should look like

December 18th minutes: This should look like a normal set of minutes. Agenda on top. So then, it should read plainly....

CB - There is a statement we could add. Take that....where we went to interview. In the future: put on the heading for each set of minutes, the agenda, as it is today, and right after that say that the agenda was amended "to include these items:" Then, Pledge of Allegiance. At the beginning of each meeting, ask if anyone has an amendment to the agenda.

AH - Chair can add or delete anything about the agenda at the beginning of the day. There will be times when I ask Chair to move minutes to a certain time. At the end it states that Chair may add or delete, etc. etc. (*section now at very bottom of the agenda.*)

CB - Recommends that this be put on the top of the minutes (*tiny writing now at end of agenda, stating that any changes may be made to agenda, etc.*)

Minutes of Wednesday (Dec. 18th) - There should be a statement saying that it is a regular meeting.

Branch also asks to clarify what's on the bottom of agenda currently (changes of agenda, etc.)

Approval of consent agenda.

AH - You wanted to add something to the agenda? People are here - wanting to know if we are going to do anything about that. Up to Chair.

JD - Let's do the minutes. (December 16th, 17th, and 18th approved.)

Audience Participation: Open Roads Coalition Decision by Rawson

Paula Mackrow- From Texas creek. Folks I'm in contact with and Open Roads Coalition would like to consider that since there was a clear Summary Judgment saying it is a County road, what sort of action will the county take to provide access to that county road?

CB - As best I can answer, there is an appeal hearing. There is concern that until that 30 day appeal period is over, any orders could end up being for naught - or raise the issue that we want

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to leave alone over the course of that period. (*Unclear.*) Could even result in that the plaintiffs don't do anything. (*i.e, they do not open the road.*) Then our best option is a court order. Then, if we did that, we'd have a second action along with the appeal. So, we hope people are willing to wait 30 days. We asked to have the road opened. The court did not do that.

Paula - Is it the prosecutor's opinion that when they found the 4 roads, the 3rd item...how does your attorney interpret it that they did not ask that?

Our attorney: Item one that he finds in our favor. Asks for atty fees and ignores the (????) How could he not have found for your request for injunction? There is nothing in his statement that implies your case isn't fully reconciled. Does it take action on the part of the commissioners to change the situation? Or can the other parties take action themselves?

What has your attorney told you the necessary next steps are? There is a bit of uncertainty when you get to this part of a Summary Judgment. What will you ask? Do the county authorities have the authority to go there and say "Open your gates"....and if they don't?

3 times in the past (Okanogan County) you haven't enforced. The French Creek gate has never been locked until recently.

CB - I asked if I could rip out the Gate - what could happen? Answer was ??? What is the harm in waiting 30 more days?

Paula - We are asking that the gate be removed, just unlocked.

CB - We can write them and tell them to unlock the gates. What would happen then? Their att'y would probably say, "Don't unlock it." We'll see what they do.

AH - It is not illegal to padlock a public road. BOCC can order it closed or temporarily closed. In and of itself, it is not illegal to block the road.

Right now we have a time frame of stuff going on. I know this doesn't satisfy your concern - we are talking about what our legal rights are, risks, time-frame, etc. We were advised in our Executive session of these things.

PM - Did your attorney advise you of the exact date an appeal is due?

JD - 30 days from the 18th.

CB - One other thing: due to our resistance to "take," I don't know what else folks can expect of us. (?)

AH - I can expect that the people in the county can know that the legislative branch is representing you. We are looking out for public tax dollars, etc. - taking all these things into account, we hope they understand that there are time considerations for different things. The way they can do this is (by voting in different people, if.....) We represent our constituents. We also have to balance tax dollars, etc.

PM - I understand your concern about risks. Thanks for finding the documents that convinced the judge. In 30 days, what will be your action?

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CB - We support the record that was established and take it from there. I don't always like going within the procedures because it cuts us off from our constituents. But establishing the law and record was the important thing.

AH - That is where we are for the next 30 days.

AH - Tomorrow. Everything was canceled and moved. We have nothing on schedule. Office will be open until noon.

JD - Because there is a blank agenda, no sense in Andy coming over here.

AH - Moves to adjourn