



**LEGISLATIVE COMMISSION ON INDIAN
SERVICES**

900 Court Street NE, Room 167
Salem, Oregon 97301-1347
(503) 986-1067

MINUTES

Meeting Date: May 15, 2019

Meeting Location: Oregon State Capitol, Room 167-G

Members Present:

Cheryle Kennedy, Chairwoman, Confederated Tribes of Grand Ronde (LCIS Chair)
Gary Burke, Chairman, Board of Trustees, Confederated Tribes of the Umatilla Indian
Reservation
Raymond Tsumpti, Tribal Chairman, Confederated Tribes of Warm Springs
Dan Courtney, Tribal Chairman, Tribal Board of Directors, Cow Creek Band of Umpqua Tribe of
Indians
Dee Pigsley, Tribal Chairman, Confederated Tribes of Siletz Indians
Don Gentry, Tribal Chairman, Klamath Tribes
Brenda Meade, Tribal Chairperson, Coquille Indian Tribe (Vice-Chair Elect)
Warren Brainard, Chief, Tribal Council, Confederated Tribes of Coos, Lower Umpqua and
Siuslaw, attended on behalf of Doc Slyter, Tribal Chairman, Confederated Tribes of Coos,
Lower Umpqua and Siuslaw
Bill Hansell, Senator
Tawna D. Sanchez, Representative
Jackie Mercer, CEO, NARA Northwest (non-voting)

Members Absent:

Eric Hawley, Tribal Chairman, Burns Paiute Tribe (Tribal Government Business)
Arnie Roblan, Senator (Legislative Business)
Sherrie Sprenger, Representative (Legislative Business)

Staff

Danny Santos, Interim Director, Legislative Commission on Indian Services
Adrienne Fischer, Commission Assistant, Legislative Commission on Indian Services

In Attendance:

1. Shana M Radford, US Census Bureau, Oregon
2. Paul Lumley, Yakama, Native American Youth and Family Center
3. Kim Travis, Oregon Housing and Community Services
4. Louie Pitt, Confederated Tribes of Warm Springs
5. Michael Mason, Confederated Tribes of Siletz Indians, Coquille Indian Tribe
6. Justin Martin, Confederated Tribes of Grand Ronde
7. Richard Fitzgerald, Department of State Lands
8. Theresa McHugh, Legislative Fiscal Office
9. Misha Isaak, Governor's General Counsel
10. Dustin Buehler, Governor's Deputy General Counsel
11. Ruth Miles, Tribal Liaison, Oregon Secretary of State
12. Callie Philips, Representative Sanchez's Office
13. Chief Delvis Health, Confederated Tribes of Warm Springs
14. Aaron Ashley, Tribal Council, Confederated Tribes of Umatilla

Welcome

Chairwoman Kennedy called the meeting to order at 12:08 p.m. and welcomed the members and guests.

Invocation: Chairman Gary Burke gave the invocation.

Adoption of Minutes

Commission members approved the minutes for the February 20, 2019 LCIS meeting. There were two abstentions.

Election of Officers: Chairwoman Kennedy noted that she was willing to remain Chair of the Commission so that there is continuity through the selection of a new Executive Officer. The Commission agreed that Chairwoman Kennedy would remain Chair of the Commission. Chairwoman Kennedy then asked for nominations for the position of Vice-Chair. Chairman Courtney was nominated, and he indicated that he would respectfully decline. Chairperson Meade was nominated and accepted the position. Commission Members approved the nomination by acclamation.

Staff Report:

Danny Santos, Interim Director: Interim Director Danny Santos thanked the Commission for the opportunity to fill in this role and looks forward to working in the months ahead. He noted that it was been an ongoing education. Yesterday was a meeting of the Governor's Cultural Items Task Force focusing on the training of State Agencies. They spoke to Agency representatives about how to train their agencies to survey for cultural items. Key things for consideration include the continuation of this work beyond just State Agencies to community colleges and state universities. The SHPO permit process is an ongoing activity

of the office. He also noted that inadvertent discoveries were a concern of the office and that the process could certainly be improved. Tribes have been invested in communicating concerns around this topic.

The Oregon State Land Board has reached a decision to work with Oregon State University concerning the use of the Elliot State Forest as a research forest. The University has taken steps to work with Tribes concerning this issue. The Department of State Lands will present on navigable waters later today.

The Legislative session is a big topic for Tribes and there will be a presentation later today on that topic. There is also a bill signing for Representative Sanchez's HB 2625 this afternoon. He then spoke about the LCIS budget for the end of the current biennium and the new budget for the upcoming biennium. He and Chairwoman Kennedy presented to the Joint Committee on Ways and Means Subcommittee on General Government and felt that the presentation was well received. He then explained the process for the budget approval.

He noted that the Cluster groups remain the front line for discussion between Tribal and State agencies. He also spoke briefly about the possibilities of a new cluster group and agencies joining additional cluster groups.

He ended his time by expressing his appreciation for the opportunity to serve as Interim Director.

Chairperson Meade: Chairperson Meade noted that there has been discussion of work to be done around the process for inadvertent discoveries. She also noted that there had been requests from Tribes and Cluster groups to hire someone to take on that work and asked if there was any movement towards hiring someone. Interim Director Santos answered that there has been a lot of interest and noted that the presentation by the Washington State Anthropologist, Guy Tasa, reinvigorated the discussion. From a budgeting perspective, it probably wouldn't happen until 2021, but now is the time to start the conversations.

There was discussion about the work of the Governor's Task Force and whether there should be a report available at the next meeting of the Commission.

Commission Member Reports:

Representative Sanchez: Representative Sanchez spoke about the work of the Legislature and her efforts to identify bills where the Tribes should be included. She has also worked on many bills for the Tribes including a bill which allows Tribes to apply for the SPIRE Grant. She brought forward HB 2625 this session and spoke to the Commission about the bill and how it will move forward. Representative Sanchez also noted that she had requested input from the Commission about a bill that is no longer moving forward and would like to do the same for bills in the future.

Break for Lunch

US Census Presentation: A representative for More Equitable Democracy in Seattle spoke to the Commission about his efforts to help Tribes in Oregon and Washington get ready for the Census on the non-profit side. He noted that it was very important to have Tribal participation in the upcoming Census. Aldo Solano, Governor Brown's Census Project Manager, introduced himself and spoke briefly about the State's efforts surrounding the Census. He has been working the We Count campaign to understand the best approach. Shana Radford, Tribal Partnership Specialist in the Los Angeles Regional Census Center of the U.S. Census Bureau, spoke about how important it was for Tribes to be involved in the Census. She noted that each Tribe was encouraged to appoint a Tribal Census liaison. There will be a Census Bureau training at NCAI and they will be able to pay for one person from each tribe to fly or drive out on June 24th. This year will be online self-response, which can pose some unique hurdles.

Commission Member Reports, Cont.:

Senator Hansell: Senator Hansel spoke about legislation he was working on this Session. He is working on three bills related to Indian country that are still moving through the process. One is SB 297 which came about from work with the Umatilla Indian Reservation and related to individuals with mental illness in Indian country. SB 312, relating to resident tuition for indigenous people, started out with students from Chemawa in mind and then expanded to include all other schools that Native American children attend. SB 293 would specifically call out opportunities for Native American scholars in the area of healthcare.

Coquille Indian Tribe - Chairperson Brenda Meade: The Tribe is celebrating the 30th year of restoration this year. They are making efforts to bring Tribal members together for this event. Many Tribal members do not live in Coquille's service areas, so they are challenged with providing services to those members. The Tribe actually serves 21 states. The Tribe will also be recognizing Karen Quigley at the event. The Tribe has outgrown their health center and are looking at ways to expand. Health, education and elder care has always been a priority for the Tribe. Chairperson Meade also spoke about the Indian Trust Asset Reform Act which allowed Tribes to request to participate in a demonstration project to allow timber Tribes to begin to develop an Indian Trust Asset Management plan that defines how they manage timber land. This will allow for more self-determination. Chairperson Meade then spoke about the need for investment from the State in public safety.

Confederated Tribes of the Umatilla Indian Reservation – Chairman Gary Burke: Chairman Burke noted that the Tribal health center has been completed and the community school will be completed in August. The fuel station market has also been completed. Chairman Burke shared a story about a family member who was seriously injured at school. This student was admitted to the hospital due to his injuries. The school expelled the injured student and has since admitted they were wrong to do so. Chairman Burke expressed his frustration with the situation. *Chairwoman Kennedy expressed her*

concern with the school systems and that the teaching and testing are focused on values that don't align with Tribal values. She noted that the schools do not teach in the way that tribal people learn. She proposed that this be a topic for the Commission to focus on. Chairwoman Kennedy thanked Chairman Burke for sharing this story with the Commission. Chairperson Meade shared that there was a very similar situation that happened at Coquille.

Cow Creek Band of Umpqua Tribe of Indians – Chairman Dan Courtney: The Tribal Community Center is scheduled to be completed next month. It is a former church that is being remodeled to serve the community. There will be an afterschool program for Tribal youth, so they have a safe place to go. It will also be used for the elders' program. The Tribe received funding for their law enforcement program last year. The Tribe is coming up on a year of their forest management plan. They are also working on a long-range transportation program. There are many Tribal members in need of transportation to various Tribal services.

2019 Legislative Session Update: Michael Mason and Justin Martin greeted the Commission and began by introducing a handout that detailed bills of concern for the 2019 Session. Mr. Mason first noted that it has been a very active session. There are several that have not moved forward, including one that would have allowed for mobile gaming and another that would have allowed ten gaming terminals in every off-track betting facility. He noted that this didn't mean they couldn't come back. He mentioned several bills that are on their way through, particularly SB 971 which concerns native heritage languages. SB 134 A was amended to put tribally-based practices equal to evidence-based practices related to addictions and mental health in reimbursements from Medicaid. HB 3376 allows Tribes to apply for equipment to help with emergency management. A bill that is not going anywhere yet is HB 3430, which concerns filings over water rights. Justin Martin spoke of several bills sponsored by Senator Hansell. He also discussed bills that would have an effect on tribal gaming.

Commission Member Reports Continued:

Confederated Tribes of Siletz Indians – Chairman Delores Pigsley: Chairman Pigsley spoke about emergency management and the Tribe. While their casino is located on the coast, the tribal headquarters are located somewhat inland, so a tsunami isn't necessarily the biggest threat to the Tribe. Lack of water and utilities would ultimately be a bigger concern for Tribal Members in the event of an earthquake. She discussed the preparations of the Tribe for such an event. There has been lots of conversation about the Chemawa school. There is a meeting coming up that has been called for by the Oregon delegation. The Tribe has plans to open a clinic in Lincoln city since they have such a large workforce there. They will be hosting a youth summer program called the Tyee program. The Tribe has been selected to receive the Health Service Portland Area Director's recognition of excellence for its treatment program. This program was started in 2018 and uses a harm reduction approach to treat opiate use disorder. It serves both Tribal and non-tribal members. The program has had very good results.

Confederated Tribes of Grand Ronde – Chairwoman Cheryle Kennedy: Chairwoman Kennedy has testified before the Federal Government on public safety and reminded the committee of the trust responsibility from the Treaties. She also noted the lack of attention nationwide on missing and murdered Native American women. This is graduation season and the Tribe feels a lot of pride for their students that are completing their education. Chairwoman Kennedy noted that she doesn't see the same number of students pursuing further education and careers in social work. The Grand Ronde Youth Council is now attending the General Council meetings. Chairwoman Kennedy noted that the more experience the Youth Councils have, the better. The Tribe is finishing construction of housing for elders. They have also identified a need for single unit housing. The Tribe has completed their strategic plan, which involved the neighboring communities.

Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians - Chief Warren Brainard: Chief Brainard spoke about the Tribe's Forest Plan and how involved the process can be. There has been a lot of work done on the road system, involving access points and a road inventory. Tribal elections were recently held. The current council now consists of relatively new members.

The Klamath Tribes – Chairman Don Gentry: The Klamath Tribes have also just recently had elections. There are now five new Council members. The Tribe has two strategic action plans, one for administration and one for Tribal health. They are looking towards holistic health services for Tribal members. They will soon have a new health facility in Chiloquin. This building will also house the Youth Council and some other offices. The new hotel is doing well and maintaining occupancy. Chairman Gentry discussed water rights issues and some of the recent developments in that area, including dam removal. Chairman Gentry spoke of the Tribe's opposition to the Jordan Cove Project and some recent developments relating to that issue. The Tribe's behavioral health department has been working on a project called Restoration of the Spirit. It began some time ago when elders were speaking of what happened during termination and the longtime effects of that policy on the people. This project focuses on healing of the community.

Confederated Tribes of Warm Springs – Chairman Raymond Tsumpti: Chairman Tsumpti spoke to some of the issues raised this meeting by other Commission Members. The Tribes just recently held elections and there are now four freshmen on Council. He then talked about issues that the Tribe is facing regarding their water. There have been several water line breaks which has led to multiple boil water notices. He also spoke about the Kah-Nee-Ta resort's history, development and current status. Chairman Tsumpti noted Tribal sovereignty and public safety and how the Tribe interacts with local and state agencies. It is important for non-tribal members to understand the Tribe's status.

Commission Member Jackie Mercer: The Friday morning health group is still meeting. She noted that Bruce Goldberg has been a help. One of the things they have been working on is care coordination with Care Oregon. This has been a much better situation for healthcare, however, she noted it could be even better if it was tribally run. There is a new project

called Indian Managed Care which is an opportunity for the Tribe to either establish a State-wide, region-wide or group of Tribes wide managed care entity. It wouldn't be a risk bearing entity, but would it would provide care management and disease management. The State is very excited about this possibility. It would be in operation in about a year. This would be a unique program in the country. The FMAP program is still going on. There has been a lot of activity concerning behavioral health as well. There continues to be funding coming in for multiple different areas including the opioid epidemic, diabetic care, and elder care. Commission Member Mercer also shared updated from their youth programs and invited Commission Members to visit.

Department of State Lands: Navigable Waterways of Oregon

Richard Fitzgerald, Portland Harbor Superfund Specialist for the Department of State Lands, introduced himself and outlined the purpose of his presentation. He noted that navigability is most relevant to state ownership and public rights of use. It is distinct from the Department's regulatory jurisdiction over "waters of this state." He spoke about the term navigable and how it is used under federal and state law. He then covered the history of the state's ownership of these waterways and the court cases that established it. Waterway ownership is ultimately a question of federal law. State ownership extends up to ordinary high water. The State Legislature further defined navigable waters and created different categories including submerged and submersible. Mr. Fitzgerald explained how navigability determinations are made. Regarding public use, the term floatage easement describes "the public's right to use waterways independent of ownership." He noted that "All waterways that meet the state test of navigable-for-public-use: length, width, and depth for boats to make successful progress and adjacent lands when needed for lawful use." Protected uses include any lawful use, recreational boating, and necessary use of adjacent uplands. The "State may prevent any use that will interfere with navigation or commerce."

Commission members discussed past experience and instances where ownership was questioned. Commission Members also emphasized that the Tribes have existed on this land and used these waters long before there was a State of Oregon. Treaty rights have also existed long before many of the court decisions which defined navigable waters. Commission Members encouraged the Department to spend time recognizing the interests of the Nine Tribes of Oregon. Referencing jurisdictions of waterways, Commission Members asked what authority Tribal Courts would have on those waterways. This topic would need to be researched.

2019-2021 Budget Update:

Teresa McHugh from the Legislative Fiscal Office introduced herself and explained her role in addressing the budget of LCIS. The Governor's Budget starts right at the end of the short session. The Legislative and Judicial Branches are not subject to the Governor's Budget. The Legislative Branch does however choose to use the same technology and enters information that connects to the State's accounting system. They enter detail to the point

that it drives to the current service level. This is the level of funding needed to do everything that was approved in the last session. However, the current service level needs to be supported by revenue projections and if there are insufficient funds projected, then there needs to be a cut. This year there was enough funding projected, but the Legislature didn't get an increase. Pay equity increases have been included in the current service level. The Commission's budget has had its first hearing in committee. Typically, there will be a work-session to move the budget out of committee, through the full Ways and Means to the body. Legislative budgets are usually the last ones to be approved. Another thing that is a little different for the Legislative Branch is reversions. When agencies receive their general fund, which don't carry forward from one biennium to the next, whatever is left over is called reversion and is sent back to the general fund. For the Legislative branch, those reversionary funds that came from the Legislative Branch, stay with the Legislative branch. The branch has decided that those funds stay with the agency. So reversionary funds for the Commission come back to the Commission in addition to the passed budget. Because union bargaining is happening, the funds to pay for any adjustments to salary do not get included in the agency budget, since it's not usually decided yet. There is a separate special purpose appropriation for salary fund in the emergency fund. That money is distributed typically after the short session. She noted that she would start discussions with this agency sooner in the event the Commission would like to make any changes.

Governor's Office:

Misha Isaak, General Counsel to Governor Brown, introduced himself and Deputy General Counsel Dustin Buehler. Governor Brown proposed in the recommended budget to increase the size of her legal team to include a tribal affairs attorney. He noted that they have spoken with many Commission Members and representatives from each of the Tribes about the reasons for this change. He spoke about the history of Tribal relations in the Governor's office beginning with the signing of Executive Order 96-30 which formalized Government-to-Government relations with Oregon's Nine Tribes. The Governor's legal counsel is the principle liaison. That structure has continued to this day. There is currently no one in the executive branch whose full-time job it is to maintain Government-to-Government relationships with Oregon's Tribes. The Governor's legal counsel has many other responsibilities. The Governor wants to add a position to fully engage in the work of Government-to-Government work with Oregon's Tribes.

Commission Members asked several questions including whether the individual in that position would be the same throughout different administrations. They noted that they might ensure that the position would remain but couldn't say whether the person would be the same. Chairwoman Kennedy asked how the position would interact with the Director of LCIS. Mr. Isaak noted that the two positions could work closely together but would operate in different areas.

Dustin Buehler spoke about the Governor's Cultural Items Task Force. They just recently held the first annual training for State Tribal Cultural Items Liaisons. There were 35 or 40 agencies in attendance. There were members of the task force, tribal representatives, and

almost all agency liaisons at the training. They covered the meaning of the phrase “tribal cultural items,” the perspectives of the Nine Federally Recognized Tribes on that phrase and did table exercises. They also talked about potential survey mechanisms for when they do their initial look around each of their agencies to identify items that may be of interest to the Tribes. They recognize that there is a lot of work to do. There is a lot of eagerness on the part of the agencies to partner with the Tribes on this issue.

Chairman Tsumpti asked whether there were any representatives from the DA’s office. Mr. Buehler answered that there was not, but the Task Force would like to see the scope of the project expanded to include more county and local governments. They recognize that these items exist in many more areas. Chair Meade spoke about the work the Task Force is doing and thanked the Governor’s Office for their support of the work.

The Commission voted unanimously to support the hiring of a dedicated tribal affairs attorney in the Governor’s Office.

The Commission then discussed preparations for the Spring Celebration happening the following day.

Chairwoman Kennedy adjourned the meeting at 4:05 p.m.