

FILED
STATE OF OREGON
COLUMBIA COUNTY COURTS
DATE: 9/3/24 3:40 AM (PM)
TRIAL COURT ADMINISTRATOR
BY _____ *we*

- ORDER
- COURT NOTES
- SHOW CAUSE ORDER

Case Number: 24CV41209

Original 9/3/2024
Correct Copy
Verified

PLAINTIFF: Tyler Miller

PLAINTIFF'S ATTORNEY: Clifford Davidson

DEFENDANT: Board Of Directors Of The Columbia County 9-1-1 Communications District;
Michael Fletcher; Doe 1

DEFENDANT'S ATTORNEY: Michael Peterkin; Lydia Anderson-Dana

DATE OF HEARING: 09/03/2024 **TIME:** 2:30 PM

MOTION(s):

- 1) Petition for Review of Ballot Title
- 2)
- 3)
- 4)

RULINGS:

The court hereby grants Respondent's motion to strike, denies Petitioner's Petition, and certifies the ballot title submitted by the District. Respondents will submit a judgment for the court's review and signature later today. Parties are to communicate regarding the form of judgment so that the court may review, sign, and enter the judgment no later than tomorrow 9/4/24.

Date: 9-3-24

mtc

Michael T. Clarke, Circuit Court Judge

COLUMBIA COUNTY



ST. HELENS, OR 97051

Office of County Counsel Historic Courthouse

Sarah Hanson, County Counsel
Spencer Parsons, Sr. Assistant County Counsel
Ed McGlone, Assistant County Counsel
Kelly Johnson, Legal Secretary

230 Strand St., Room 20

Direct (503) 397-3839

Fax (503) 366-3295

columbiacountyor.gov

August 28, 2024

Hand Delivered

Hon. Michael T. Clarke
Presiding Judge
Columbia County Circuit Court
230 Strand St
St Helens, Or 97051

Re: Miller v. Board of Directors, *et al*
Docket No. 24CV41209

Dear Judge Clarke:

I am writing on behalf of the Columbia County Clerk's Office, a non-party to this litigation. My purpose in writing is to make the Court aware of the need to expeditiously decide this matter as required by ORS 255.155(3).

This action is a challenge to a ballot title for a measure referred to the voters by the Columbia 9-1-1 Communications District. That election is scheduled for November 5, 2024. Oregon law establishes a deadline 61 days prior to an election for the filing or withdrawal of special district measures. That date is September 5, 2024, for the November election. Immediately after that date the Clerk's office must ready election ballots for printing so that it can meet the statutory deadline for the mailing of military and overseas ballots, in this case September 21, 2024. (See: ORS 253.065(1)). Because of these tight deadlines it is necessary that a decision on this matter be reached prior to September 5, 2024.

Thank you for your consideration of this matter.

Sincerely,

Edward S. McGlone
Assistant County Counsel

cc: Clifford S. Davidson, via Electronic Mail
Michael Fletcher, via Electronic Mail

Snell & Wilmer

601 SW 2ND AVENUE
SUITE 2000
PORTLAND, OR 97204-3229
503.624.6800 P
503.624.6888 F

RCVD COLUMBIA CO CLER
27 AUG 2024 9:31:4

Clifford S. Davidson
(503) 443-6099
csdavidson@swlaw.com

August 26, 2024

VIA OVERNIGHT DELIVERY

Debbie Klug
Columbia County Clerk
Columbia County Clerk's Office
230 Strand Street
St. Helens, OR 97051

Re: 24CV41209, Miller v. Board of Directors of the Columbia County 9-1-1
Communications District

Dear Ms. Klug:

Pursuant to ORS 255.155 (2), enclosed please find the above referenced complaint, filed today. Thank you.

Sincerely,

Snell & Wilmer

/s/ Clifford S. Davidson

Clifford S. Davidson

Enclosures

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IN THE CIRCUIT COURT OF THE STATE OF OREGON
IN AND FOR THE COUNTY OF COLUMBIA

TYLER MILLER, an individual,

Petitioner,

v.

BOARD OF DIRECTORS OF THE
COLUMBIA COUNTY 9-1-1
COMMUNICATIONS DISTRICT, as the
governing body and District Elections
Authority of the Columbia County 9-1-1
Communications District; MICHAEL
FLETCHER, in his capacities as Executive
Director of the Columbia County 9-1-1
Communications District and District Elections
Authority of the Columbia County 9-1-1
Communications District; DOE 1, in his or her
official capacity as District Elections
Authority,

Respondents.

Case No. 24CV41209

PETITION FOR REVIEW OF BALLOT
TITLE

Filing Fee: \$281, (ORS 21.135(1), 2(g))

NOT SUBJECT TO MANDATORY
ARBITRATION

1.

This is a petition for review of the ballot title prepared on behalf of the Board of Directors of the Columbia County 9-1-1 Communications District ("C911CD") for C911CD's prospective ballot measure petition entitled "Local Option Levy for 9-1-1 Emergency Services" (the "Measure"). The Measure is a proposed C911CD initiative that would implement a five-year levy, at \$0.29 per \$1,000 assessed value, beginning in fiscal year 2025-2026. The proposed ballot title of the Measure is misleading. The proposed levy would not fund "emergency services"—generally understood to mean boot on the ground providing police, emergency medical, fire, poison control,

1 and animal control services. Rather, the levy would fund C911CD emergency and non-emergency
2 dispatch. Because the current ballot title gives the inaccurate impression that funds from the levy
3 would be used to fund personnel providing police, fire, emergency medical, and similar boots-on-
4 the-ground personnel, the Court should certify the following ballot title to replace the one that
5 C911CD has proposed: "Local Option Levy for 9-1-1 Communications Services."

6 2.

7 Given that C911CD's levy on the May 2024 ballot failed when that measure accurately
8 described the levy as supporting "9-1-1 Emergency Communications Operating Funds," it's
9 understandable that C911CD would try to make this latest levy sound more urgent by including
10 "emergency services" in the ballot title. However, ORS 255.155 and 250.035 require accuracy
11 notwithstanding that it might make the levy harder to pass.

12 **PARTIES**

13 3.

14 Petitioner Tyler Miller ("Petitioner") is an Oregon elector who is registered to vote in
15 Columbia County and who resides within the boundaries of C911CD. He is dissatisfied with the
16 ballot title.

17 4.

18 Respondent Columbia County 9-1-1 Communications District Board of Directors
19 ("Respondent") is the governing body of C911CD and functions as its elections authority.
20 Petitioner is informed and believes, and on that basis alleges, that respondent Michael Fletcher,
21 who is C911CD's Executive Director, submitted the Measure to the Columbia County clerk. He
22 therefore functions as respondent's Elections Authority. To be on the safe side, petitioner names
23 DOE 1 in his or her capacity as C911CD's elections authority. Petitioner will amend this petition
24 once the identity of Doe 1 is ascertained, or will dismiss DOE 1 if the appropriate "district elections
25 authority" is already named.

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FACTS

5.

On August 14, 2024, the C911CD Board of Directors held a special meeting. At that meeting, the Board of Directors passed Resolution 24-06, which authorized the C911CD Executive Director to submit a Request for Ballot Title, and a Notice of Measure Election and Explanatory Statement to the Elections Officer of Columbia County, related to the proposed levy.

6.

On August 15, 2024, the Office of the County Clerk for Columbia County issued a Notice of Receipt of Ballot Title and Measure Election pertaining to the levy. The Notice is attached as Exhibit 1. As recited in the Notice, here is the proposed text of the ballot measure:

Caption
Local Option Levy for 9-1-1 Emergency Services

Question
Shall Columbia 9-1-1 implement a five-year levy at \$0.29 per \$1,000 assessed value, beginning FY 2025-2026?
This measure may cause property taxes to increase by more than 3%

Summary
Columbia 9-1-1 Communications District is seeking a five-year levy to support 9-1-1 services throughout Columbia County, including all fire, emergency medical, and police services in each community. Funds will be used for:

- Operating the 24-hour 9-1-1 call center.
- Providing coordination and dispatch services for 13 law enforcement, fire and emergency medical agencies.
- Maintaining essential equipment for 9-1-1 services and emergency response throughout the county
- Coordinating with the Oregon Department of Forestry, Columbia County Emergency Management and other partner agencies on wildfire response and disaster readiness.

This measure would authorize the same rate of \$0.29 per \$1,000 of assessed value that was previously approved by Columbia County voters in 1998, 2004, 2009, 2014 and 2019.

An estimate of the total amount of money to be raised for each year of the proposed levy renewal is: FY 2025-26: \$1,884,044 FY 2026-27: \$1,969,872 FY 2027-28: \$2,059,611 FY 2028-29: \$2,153,438 FY 2029-30: \$2,251,538

7.

This petition is governed by ORS 255.155.¹ This petition is filed within seven business days after the ballot title for the Measure was filed with the County Clerk, so it is timely pursuant

¹ "(1) Any elector dissatisfied with a ballot title filed with the elections officer by the district attorney or district elections authority may petition the circuit court of the judicial district in which the administrative office of the district is located seeking a different title and stating the reasons the title filed with the court is insufficient, not concise or unfair. The petition shall name as respondent the district attorney or district elections authority, depending on who prepared the ballot title, and must be filed not later than the seventh business day after the title is filed with the elections officer. The court shall review the title and measure to be initiated or referred, hear arguments, if any, and certify to the elections officer a title for the measure which meets the requirements of ORS 250.035. "

1 to ORS 255.155(1).

2 8.

3 In several respects, the proposed ballot title of the Measure—"Local Option Levy for
4 9-1-1 Emergency Services"—does not comply with the requirements of ORS 255.155(1) because
5 it is "insufficient" and "unfair," or does not "reasonably identif[y] the subject of the measure"
6 pursuant to ORS 250.035. To begin, 'emergency services' commonly are understood to mean the
7 emergency personnel that C911CD dispatches, not the public body doing the dispatching. ORS
8 ch. 403, the section of the ORS that authorizes the creation of C911CD and similar districts, itself
9 makes this distinction. *See, e.g.*, ORS 403.110(3) ("This section does not affect any liability a
10 9-1-1 jurisdiction may have for employee negligence in receiving emergency calls from the public
11 and dispatching emergency services to the public."); ORS 403.135(5) (distinguishing between "the
12 9-1-1 jurisdiction" and the "emergency services provider"); ORS 403.105(30)(c) (defining "9-1-1
13 jurisdiction" to include "A 9-1-1 communications district"); ORS 403.155 ("Public or private
14 safety agencies may enter into agreements requiring that an emergency unit dispatched by a public
15 safety answering point must render emergency services without regard to jurisdictional
16 boundaries.").

17 9.

18 The ballot title is also inaccurate because, as C911CD's own website states, C911CD also
19 handles non-emergency dispatch. Exhibit 2, p. 1 (noting that C911CD provides "9-1-1 call-taking,
20 dispatching and non-emergency communications services . . .").

21 10.

22 Pursuant to ORS 255.0155(2), Petitioner will provide notice of this Petition by 5:00 p.m.
23 on August 27, 2024.

24 ///

25 ///

26 ///

1 **PRAYER FOR RELIEF**

2 WHEREFORE, Petitioner prays for a judgment certifying to Respondent and the County
3 Clerk for Columbia County, a ballot title in the following form, "Local Option Levy for 9-1-1
4 Communications and Dispatch Services," or a form that otherwise complies with the requirements
5 of ORS 255.250.035(1). Petitioner respectfully requests that the Court conduct its review
6 "expeditiously to insure the orderly and timely circulation of petitions or conduct of the election
7 at which the measure is to be submitted to the electors."

8
9 Dated: August 26, 2024

SNELL & WILMER L.L.P.

10
11 By: s/ Clifford S. Davidson
12 Clifford S. Davidson, OSB No. 125378
csdavidson@swlaw.com

13 Attorneys for Petitioner

14
15 4855-8605-8973

NOTICE OF RECEIPT OF BALLOT TITLE AND MEASURE ELECTION

Filed in the Office of County Clerk 08/15/2024.

NOTICE IS HEREBY GIVEN that a ballot title for a measure referred by Columbia 9-1-1 Communications District has been filed with the Columbia County Clerk on August 15th, 2024. The measure election will be conducted by mail and will be held on Tuesday, November 5, 2024.

The ballot title caption is: Local Option Levy for 9-1-1 Emergency Services

Caption

Local Option Levy for 9-1-1 Emergency Services

Question

Shall Columbia 9-1-1 implement a five-year levy at \$0.29 per \$1,000 assessed value, beginning FY 2025-2026? This measure may cause property taxes to increase by more than 3%

Summary

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NOTICE IS HEREBY GIVEN that any elector may file a petition for review of this ballot title in the Columbia County Circuit Court no later than 5:00 p.m. August 26th, 2024 (which is the 7th business day after receipt.) The challenger must notify the Columbia County Clerk's Office in writing not later than 5:00 p.m. on the next business day following the day the petition for review is filed (ORS 255.155). This notice is published pursuant to ORS 255.145(5) by Debbie Klug, Columbia County Clerk.

About the District

WHAT IS THE COLUMBIA 9-1-1 COMMUNICATIONS DISTRICT?

Columbia 9-1-1 Communications District (C911CD) is the sole public safety 9-1-1 answering point and dispatch center for all public safety agencies based in Columbia County, Oregon. The District also serves small adjacent portions of Clatsop and Multnomah Counties. The District is an Oregon special district formed under Oregon Revised Statutes Chapters 198 and 403. The District is governed by a Board of Directors elected from five geographic zones within Columbia County. The Directors serve at large and select their President, Vice President, Secretary and Treasurer. The Board governs with the participation of a statutory Advisory Committee consisting of appointed executives from each law enforcement, emergency medical, emergency planning and fire service based in the county. The Board appoints five citizen members to the annual Budget Committee.

The Columbia 9-1-1 Communications District provides 9-1-1 call-taking, dispatching and non-emergency communications services for seven law enforcement agencies and five fire districts – including emergency medical dispatch for four fire district owned ambulance services and one private ambulance. In addition, the District provides a variety of communications support activities for several other public and private entities in the county. The District owns and maintains the dispatch center facilities and the county-wide public safety communications system, including the narrowband Very High Frequency (VHF) 8 channel simulcast voice radio system, Ultra High Frequency (UHF) mobile data system, the microwave backbone and associated remote facilities.

Download the pdf file below to learn more about the Columbia 9-1-1 Communications District

Supporting Documents

- [District Overview 997.22 KB](#)