

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

January 29, 2003

The Columbia County Board of Commissioners met in scheduled session with Commissioner Joe Corsiglia, Commissioner Rita Bernhard, and Commissioner Anthony Hyde, together with Sarah Tyson, Assistant County Counsel, and Jan Greenhalgh, Board Secretary.

Commissioner Corsiglia called the meeting to order and led the flag salute.

MINUTES:

Commissioner Hyde moved and Commissioner Bernhard seconded to approve the minutes of the January 22, 2003 Staff meeting, and the January 22, 2003 Board meeting. The motion carried unanimously.

VISITORS:

Stephanie Klepel, 34067 Sykes Road, St. Helens. Stephanie questioned Commissioner Corsiglia about a comment made during the KOHI call in that he sponsored last Friday about Asburry Acres. She had called in to get an update on Asburry Acres. At the end of the call in, a gentleman called in to say there was a problem with the wetlands delineation. He said something to the effect that there cannot be a park situated at Asburry Acres.

Commissioner Corsiglia explained that the County has run into some unexpected hurdles. He would not agree with the comment that a park cannot be situated there. The property has been designated as a park. The state agencies that the county is working with have required some studies be done on the wetlands. They want those studies performed during the wet time of the year and are in the process of conducting those studies at this time. The bulk of the land is in wetlands but the county is trying to mitigate those issues.

PRESENT MIKE JOHNSTUN WITH RETIREMENT PLAQUE:

The Board presented Mike Johnstun with a retirement plaque in recognition of his 30 years of service to Columbia County.

PUBLIC HEARING: LIVESTOCK KILL - MARUGG V. BURDETTE:

Shawn Barrett, Animal Control Officer, gave the Board an update. There have been no settlement on the issues and he understands that Mr. Burdette will be asking the Board to continue this hearing again. Commissioner Corsiglia asked if the County had been reimbursed their costs on this and, if not, that needs to happen. Shawn stated that he hasn't received any payment to date. Commissioner Bernhard spoke with both parties yesterday and both feel that they can come to some type of resolution on this and also cover the County's costs.

Mr. Burdette approached the Board. He spoke with the County attorney yesterday and it appears this can all be worked out, if given more time. Therefore, he requested this hearing be continued again to allow more time to work out the issues.

John Knight stated that he spoke with Mr. Marugg and Mr. Burdette who are both willing to continue the hearing. John informed them that the Board needs to see this settled sometime soon, however, John would recommend the hearing be held over for 2-3 weeks. The Board agreed that three weeks is adequate time to resolve the issues and reimburse any county costs.

After some discussion, Commissioner Hyde moved and Commissioner Bernhard seconded to continue this hearing to February 19, 2003, at or after 10:00 a.m. The motion carried unanimously.

PUBLIC HEARING: RICH MORTON APPLICATION FOR (2) PARTITIONS:

As scheduled, the public hearing, "In the Matter of the Applications of Rich Morton for two (2) Partitions in the Rural Residential (RR-2) Zone", was held.

Sarah Tyson clarified that there are two separate applications, MP 01-08 & MP 01-09, the Board will be hearing today. Staff has prepared two separate staff reports. The Planning Commission approved both applications and were subsequently appealed by John Heller. The Board declared no conflicts of interest. Regarding exparte contact, the Board received and read a letter from Robert and Mary Adams in support of both applications. Sarah read the letter into the record. Sarah then read the pre-hearing statement into the record as required by ORS 197.763. She entered County Counsel's hearing file into the record, marked Exhibit "1", and noted all contents. If anyone believes that there are any items that she did not list that should be in the record at this point, they will need to bring those to the attention of the Board and specifically ask that it be included in the record of this proceeding or it will not be considered part of the record.

Glen Higgins, Chief Planner, came before the Board to give the staff report(s). As some history, Rich Morton made application for 3 partitions; MP 01-08, MP 01-09 and MP 01-10. The partitioning was to be processed administratively with a decision by the Planning Director. During the review, it was determined that wetlands on the property would substantially change the lot pattern of applications MP 01-08 and MP 01-09. An amended tentative map was submitted which triggered re-notification of nearby property owners. A neighboring property owner requested the two applications: MP 01-08 and MP 01-09, which bordered their property, be referred to the Planning Commission, based on a dispute with the applicant about a common property boundary. The Planning Commission held a hearing on the two partitions and approved both with conditions, as noted in the final orders. Both applications were subsequently appealed by John and Joyce Heller. The appeal is now before the Board for consideration. Glen then went over the applicable criteria and findings. At this time, staff recommends approval of both partition applications with all conditions of approval, as outlined in Planning Commission Final Orders MP 01-08 and MP 01-09. This recommendation is based on the findings that the

applications comply with relevant criteria for review and that the boundary dispute is a survey issue outside of the scope of this land use review.

Glen read a letter addressed to Rich Morton from the BPA, Department of Energy, dated 1/27/03, into the record. He also entered the letter into the record which was marked Exhibit #2.

The hearing was then opened for public testimony.

PROPONENTS:

Rich Morton, 34385 Southview Drive, St. Helens: Rich first wanted to apologize to the Board for having to be here today. He feels it is a waste of time and expense for everyone involved. He has attempted a number of times to resolve the issues, including deeding the Heller's the disputed property in question, but the Heller's have refused.

Rich introduced those who will be testifying on his behalf and who will answer any questions. His brother, Doug Morton, County Surveyor Phil Dewey, PBS Environmental Engineer Jim Carsner, and the Morton's attorney Art Coyne.

Doug Morton, 3437 NE 31st, Portland: He is half owner in both of these partitions. This property has been in the Morton family for 113 years. Prior to logging the property in 1996, they hired Phil Dewey to establish their property line boundaries. Phil is here today to testify and answer questions regarding the boundary lines. In December, 2002, they submitted the proposed plat partition to the Land Development Services, with no objections. However, sanitation was referred to the Division of State Lands for wetland assessment. PBS was then contracted to delineate and mitigate the wetland issues. Jim Carsner will answer any questions regarding the wetlands. When the partition applications were filed, they anticipated the possible property line dispute. They accommodated that with an additional acre so that no matter which survey is recognized, there exists at least two acres in each parcel. Doug believes they have implemented proper procedures and processes to comply with everything. He would encourage the Board to have an open mind when hearing the testimony.

Rich Morton: Rich referred to the overhead map to point out the property line in question. Even if the line in question was moved over, Phil Dewey will verify that there still remains two acres in each parcel. Rich submitted an oversized preliminary partition plat into the record, marked Exhibit "3". Rich had a comment on the appeal process. On the appeal form, there is a place to state a reason for appeal. On this appeal, the Heller's simply state that there is no legal basis to approve this application. Rich feels there should be an actual reason stated on the form. He received a number of calls from people who received notice, asking what the reason for appeal is.

Regarding the applications, the first one was filed in December 2000. At that time, LDS received no objections, so there were no boundary issues that surfaced at that time. The changes in the road alignment were felt to be minor in nature. Rich referred to the map to explain the changes in road alignment. Once that change was made, there was a boundary dispute. Rich would ask

that the Board approve these partitions based on the following reasons: a boundary issue should not be a consideration of the Planning Commission, the Board of Commissions or LUBA; and no legal action has been filed on the property line dispute.

Phil Dewey, County Surveyor: Phil surveyed the boundary on this property and the proposed partitions. In his 30 years of being a surveyor, he has never had someone try to stop a partition because of an alleged boundary dispute. Often times, it has been the policy of the planning department to approve partitions that doesn't partition 100% of the property. They take the questionable area and set it aside and only partition the unquestionable area and let the two parties settle the questionable area. Phil believes that is the way this should be handled. He sees no reason to change policy after 30 years and feels that this partition would be a welcome addition to the neighborhood.

Commissioner Corsiglia understood there is a method in Oregon that boundary disputes are settled by a third party arbitrator. Phil responded. He believes that the law allows for the Judge hearing the dispute, to require the County Surveyor, or neighboring County Survey, to establish the line. So a Judge could decide a boundary line, however, the deed line has to be established by a surveyor. Phil explained the process he used to conduct his survey. The Heller's had their own survey done, which is different from Phil's.

Commissioner Bernhard asked if the difference is enough to make it difficult for the adjacent property owners to meet any requirements they might need for development. Is that the issue here? Phil doesn't see anything that would cause that, however, he is not working for them.

Commissioner Bernhard asked Mr. Morton about the comment he made to offer to go along with the Heller's suggested property line. Rich Morton stated that was correct. He offered to deed the property in question to Joyce Heller based on an agreement, however the Heller's rejected the offer.

Phil added that he is not only the County Surveyor, but also a private surveyor. Any plats that he does as a private surveyor are taken to the Clatsop County Surveyor for review and approval. He has given preliminary approval for this partition plat

Art Coyne, 2828 NE Rocky Butte Road, Portland: He is present today representing Rich Morton. He wanted to comment on Commissioner Corsiglia's question on the process of how a Judge or third party could resolve this matter. First, he does not believe it is incumbent to make that determination today. As we have heard from Glen Higgins and Phil Dewey, the common sense approach to resolving this matter is to decide on the partition issue and then decide if there is a boundary dispute after the fact. The way a boundary dispute is typically handled, is through a process called "claritory" action, where you ask a Judge to make the final determination as to where the property line exists. Mr. Coyne explained that process. In this case, it would be either the Morton boundary line or the Heller boundary line. Given those perimeters, we can make the reasonable conclusion that there would still be a buildable lot per the zoning requirements. Mr. Dewey testified that it still fits within the 2 acre minimum requirement. With regards to Mr. Morton's attempt to resolve the boundary dispute, there has been negotiations with the Heller

family with some key deal points. As Mr. Morton indicated earlier, this is more of an accommodation than anything else. They firmly believe that Mr. Dewey is correct in his survey of the property. However, when you get to a certain point in the development process where it appears you are spinning your wheels, you need to determine what makes the most sense. In this case, they believe that trying to make an accommodation with the Heller's would achieve that purpose. It is unfortunate that those discussions have broken down. Again, Mr. Coyne does not believe this is an issue that the Board needs to consider today. It just needs to be determined that, under the existing rules and state statutes, we can proceed. He believes that answer to be yes. He would respectfully ask that the Board approve these partitions.

Mr. Morton added that they have no real concerns with the conditions approved by the Planning Commission.

OPPONENTS:

John Heller, 606 110th Avenue, NE, Suite 308, Bellevue, Washington: He is here today to represent his mother, Joyce Heller, who owns the property to the east of the applicants two partitions. He wants to go over the key points the Board should be considering here today. At the heart of the issue is the question: 1) does the Planning Commission or Board of County Commissioners have the authority to make a legal determination in a boundary dispute, especially when the decision may have a material impact on the amount of lots that the applicant will receive; 2) did the Planning Commission act in a legal and proper capacity in making their decision; 3) did the County Clerk act properly during the course of this determination; 4) did Columbia County act in a lawful manner by allowing the Columbia County Surveyor to act as both the private surveyor to the applicant, and represent the County in the review process of these partitions; 5) were the two partitions submitted and approved in accordance with the governing laws that determine the proper course of approval; and 6) have these two partitions met the appropriate tests and guidelines in accordance with Planning Commission and staff requirements established in the Columbia County Subdivision and Zoning ordinance. He believes that the answer to each one of these questions is "no".

In 1999, he ordered a survey because there was some concern over Mr. Dewey's survey because the stakes were located in a different location than they had anticipated. Their survey was contradictory to Mr. Dewey's survey. There is a 14.5 feet difference on the north parcel and down in a straight angle to a little over 6 feet to the south parcel, for a total of 1,270 feet. It is important to note that both of these surveys are recorded and there is a record that there is a dispute on this property. ORS 197.015 states that *"a land use decision includes a final decision or determination made by a local government or special district that concerns the adoption, amendment or application which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment."* There is no question, in his mind, that the Planning Commission is making a legal determination on which boundary line is correct. It is not proper or legal for them to determine whether or not Mr. Dewey's survey is correct or whether Mr. Duncanson's survey is correct. When the question was asked who makes the decision on boundary line disputes, Mr. Dewey says a court of law does and Mr. Higgins says it's all conjecture.

Commissioner Hyde asked Sarah to respond. Sarah stated that, first of all, the Board is not making a decision based on the Planning Commission's decision. This is a denovo hearing, the Board is hearing this case as if it had never been heard before. She did not attend the Planning Commission hearing, but she does read in the final order that they determined one survey to be correct. So that Mr. Heller understands, Commissioner Hyde reiterated that the Board is hearing this application for the first time. Whatever transpired at the Planning Commission hearing does not count. Sarah also clarified that, from this application, the Board is not being asked to decide which boundary or survey is correct. That is not the Board's decision. However, the boundary is certainly important to the partition because we have to know if it meets the 2 acre minimum. The decision the Board needs to be made is if it is possible, no matter which survey is used, to meet the 2 acre minimum.

John Heller does not believe that, using his survey, that this will meet the 2 acre minimum. Doing the math will show that. His other concerns are with county clerk items, missing documents and missing parts of the transcript of the Planning Commission hearing. He would request that a copy of the Planning Commission hearing tape be entered into the record as an exhibit. Sarah stated that is public record and Mr. Heller can obtain a copy for LDS and submit it into the record. Sarah is not comfortable adding something into the record that is not physically submitted. Commissioner Corsiglia asked Glen Higgins to locate a copy of the Planning Commission tape referred to by Mr. Heller.

At this time, the Board recessed the meeting at 12:00 p.m. and reconvened at 3:00 p.m. with all present.

Commissioner Corsiglia called the meeting back to order and moved directly back into the public hearing.

John Heller continued... Using visuals, John did some math to explain why he is concerned with the Planning Commission's approval of this partition. Commissioner Hyde reiterated again, that this is a new hearing on the application, not on the decision of the Planning Commission.

With that clarification, John then talked about the merits of the application. There are four parcels in the application that about the Heller property. This application was submitted with Mr. Dewey's survey. However, John will be submitting another survey conducted by Duncanson into the record. When using the Duncanson survey, the difference in the square footage doesn't add up to allow for the number of lots that the Planning Commission approved. In doing the math, he comes up with a loss of 1 lot.

There has been a new development in this case. On the south parcel there is a 30 foot strip of land that runs over 400 feet. That is now in question as to who owns that property and Mr. Dewey can't answer it. There was a recent legal decision done in December on "*Applegate v. Ward*", a 12 page ruling by a Circuit Court Judge in Tillamook County that states that Phil Dewey's survey in this area is incorrect. John entered the ruling of Judge Rick Roll into the

record, which was marked Exhibit "4". He then submitted a preliminary plat map by Phil Dewey into the record marked Exhibit "5".

As for Mr. Morton's offer to deed the property in dispute over to Joyce Heller, the Heller's believe they already own it. Further, there were a number of very restrictive conditions on the proposed transfer of that property. Again, John does not believe that the Planning Commission has the ability to rule on something that does not depict an accurate amount of property.

Commissioner Corsiglia stated again, this is a denovo hearing. This led to more discussion on the submission of the tape from the Planning Commission hearing. Commissioner Hyde felt strongly that if someone wants to submit something into the record, they need to have it in hand to submit. John stated that he sent a letter to the Planning Department requesting a copy of the tape, but he never received it. Commissioner Corsiglia stated that, in able to move forward with this hearing, and if the Board agrees, if Mr. Heller would like the Planning Commission hearing tape entered into this record, we can do that. Commissioner Hyde still does not see the relevance in having that tape submitted into this record. John explained that there was testimony by Mr. Higgins during that hearing that stated the method of approval for the Planning Commission on Mr. Dewey's survey and how they made a decision to rule on this. He believes that Mr. Higgins's opinion is incorrect. Sarah explained that if Mr. Heller is trying to make the point that the Planning Commission based their decision on incorrect information, then he can be noted in this record.

Moving on, John read a letter into the record from Jim Holycross, LDS Planner to Mr. Morton, which states in part that... *"the Planning Department was hesitant to proceed with a approval of a preliminary map of the partition until they understand the facts of the dispute. LDS would be willing to facilitate a meeting between you (Mr. Morton), Phil Dewey, Heller's and their surveyor to try and seek the necessary facts so that we may proceed."* John stated that meeting never took place. John then read another letter from Skip Baker to Rich Morton, dated 8/20/2000 which states that he was unable to form an opinion as to which survey is correct.

John feels that the Board Commissioners has to make a decision based on the facts that there are disputed issues on what Mr. Morton owns and, based on the zoning, there may be one less lot available to be partitioned. He believes that the Board is not legally able to make this decision.

Because this discussion was moving off the issues before the Board, Sarah refocused on the applicable criteria of this application. The Board needs to determine that this application meets the 2 acre minimum, remembering that this is a preliminary plat. As for which survey is correct, that is something that needs to be determined outside of this process.

Moving on, John does not feel that all of the criteria was met to even submit this partition application. Further, there is nothing in the record that shows Mr. Dewey's survey was reviewed by the Clatsop County Surveyor. John then submitted his letter dated 1/29/03 into the record, recapping his testimony, which was marked Exhibit "6".

John then spoke about the wetland delineation that was submitted by Mr. Morton's consultant and the many flaws in it. There are many items that cannot be met based on where we are now and when it was made. Part of the report assumes there is an easement between the Morton and Heller properties, but there is no easement. He would highly encourage the Board review to review it. Commissioner Hyde doesn't see how this is a flaw in the wetland delineation. John explained how he believes that takes away from the two acre lots. Commissioner Hyde disagreed.

Commissioner Bernhard asked Mr. Heller if he is unhappy about the development itself or about the property line. John stated that he believes in property rights. He doesn't appreciate the way neighboring property owners are treated or dealt with in manors that are deceiving. That is how he found Mr. Morton to be. As a result, John has concerns about Mr. Morton's plat based on some of the opinions he has formed about Mr. Morton. That's a personal thing. However, he does not have a problem with the application being approved, IF, the Duncanson survey was recognized as being correct.

At this point, John requested that this hearing be continued. John would like the opportunity to submit a copy of the recorded Duncanson survey.

REBUTTAL:

Art Coyne: Clearly the issue of boundary disputes is not something that has been asked for this Board to resolve. As a practical matter, this is something that should be resolved through the circuit court. The issue before the Board is if the applicant has satisfied the criteria so that the Board can approve this partition. The Morton's believe that is the case. Even if we assume that Mr. Heller's survey is correct, we have heard from both staff and Mr. Dewey, there is sufficient land to meet the applicable zoning requirement. Mr. Dewey will speak again and show additional information that each of the lots at issue will satisfy the minimum 2 acre requirement. Again, this is not an exact science, the ordinance is pretty clear on that point. It asks for an approximation. Regarding the Applegate v. Ward case that Mr. Heller submitted, that was a trial court decision issued by a pro tem Judge very recently. It involved a property line dispute between the Applegates and the Wards. It was unfortunate that Mr. Ward was not represented by counsel. It is important for this Board, in trying to determine the relevance of that opinion, what weight it might carry. Art is not sure what relevance it has to this proceeding. It is important to remember what Mr. Heller said here today, which is that he would be willing to accept the conditions that the County is recommending for this partition, assuming that his survey was the correct one. For purposes of today's hearing, we could make that assumption. The point that needs to be made is if the application still fits within the 2 acre minimum requirement. Mr. Dewey will comment on that point.

Phil Dewey: During the break, Phil ran the square footage numbers for each parcel on the computer using the Heller's survey. He reviewed his findings with the Board and entered the three (3) printouts into the record, marked Exhibits "7", "8", "9". When the math is done, the applicant still meets the 2 acre minimum requirement. Phil wanted to respond to the comment by

Mr. Heller that there is no record of the Clatsop County Surveyor checking his work. It clearly shows on page two of the his survey where that was done. Phil pointed out that a preliminary plat is not designed to be as accurate as the final plat.

Rich Morton: Rich briefly responded to a couple of comments made by Mr. Heller. Regarding the comment that he would lose 1 lot. In the early stages of negotiations, he asked Mr. Heller that if something unforeseen happened, would he be supportive of a variance. Mr. Heller was agreeable to that. That agreement has since gone away. However, at no point did Morton say he would lose a lot. Regarding the letter from Jim Holycross offering to facilitate a meeting to resolve this matter, once Rich received that letter he met with Todd Dugdale, Phil Dewey and Glen Higgins to discuss the survey issues. As for the wetlands delineation, it was discussed last June that the mitigation plan would take preference over the delineation plan. An information packet was sent out to the adjacent property owners and allowed for a comment period. The deadline for responses was around two weeks ago. The Division of State Lands had received no negative comments regarding the mitigation plan. Rich understands that the Board has the ability to continue this hearing, but Mr. Heller has had the opportunity to present his case. Rich has brought in experts, at great expense, and feels it is unfair to continue this process any longer. Rich would ask that the Board direct staff to proceed with this partition, based on the Duncanson survey, so they can move forward on this.

Commissioner Hyde asked Rich about the proposed conditions listed in the agreement to transfer the property to the Heller's. Art Coyne responded. He feels that is something that doesn't need to be addressed here today. Their first position would be to accept Phil Dewey's interpretation of the property line, however for the purposes of moving this process forward, we would accept the Duncanson survey, at least for purposes of determining a boundary line and then let the parties work outside of this proceeding on any conditions.

With no further testimony coming before the Board, Sarah explained the options. There has been a request for continuance. The Board has the option to either close the hearing today, or grant the continuance. After some discussion, Commissioner Hyde moved and Commissioner Bernhard seconded to continue this hearing to Wednesday, February 5, 2003 at or after 10:00 a.m. The motion carried unanimously.

CONSENT AGENDA:

Commissioner Corsiglia read the consent agenda in full. Item (E) was not ready for action and therefore removed. With that, Commissioner Bernhard moved and Commissioner Hyde seconded to approve the consent agenda as follows:

- (A) Ratify the Select to Pay for 1/28/03.
- (B) Ratify Partition Plat for Ridgeview Properties "Greenwood Acres".

- (C) Order No. 4-2003, "In the Matter of Correcting Certain Quitclaim Deeds Conveying County-Owned Property".
- (D) Resolution No. 5-2003, "In the Matter of Adopting a Resolution Supporting Submittal of a Grant Application to ODOT for Transportation Enhancement Funding for Acquisition of the Crown Logging Road, Columbia County".
- (E) **REMOVED** - Order No. 6-2003, "In the Matter of Authorizing the Department of Taxation to Cancel Personal Property Taxes on Personal Property Account 0108P 126018, due to Abandonment of Personal Property, Pursuant to ORS 90.675".
- (F) Appoint Lorinda Christianson to the Mental Health Advisory Committee for a three (3) year term.
- (G) Appoint Terry Basco to the Countywide Community Transit Study/Technical Advisory Committee.

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (H) Amendment #40 to the 2001-2003 #05-001 County Financial Assistance Agreement with State Mental Health.
- (I) Amendment #1 to contract between CCCCCF and Public Health for "Healthy Start" program.
- (J) Amendment #1 to contract between CCCCCF and Dr. David Johnson for "Healthy Start" program.

The motion carried unanimously.

FAIR BOARD & PLANNING COMMISSION APPOINTMENTS:

The Board interviewed Mr. Fetterly earlier today for possible appointment to the Fair Board. At this time, Commissioner Hyde moved and Commissioner Bernhard seconded to appoint Rick Fetterly to the Columbia County Fair Board. The motion carried unanimously.

Further, Commissioner Hyde moved and Commissioner Bernhard seconded to move Marvin McDonald from the alternate position to a full time position on the Columbia County Planning Commission. The motion carried unanimously.

COMMISSIONER CORSIGLIA COMMENTS:

None.

COMMISSIONER BERNHARD COMMENTS:

Commissioner Bernhard will be leaving Thursday to go to Disneyland. She will be back in the office on February 10th.

COMMISSIONER HYDE COMMENTS:

None.

COUNTY COUNSEL COMMENTS:

John has been working on Health Insurance Portability & Accountability Act (HIPAA) issues. He participated in an nationwide telephone conference yesterday. Representatives from the Health and Human Services in Washington, DC, were available to answer questions. John is also having discussions with department heads on what activities which are indicated by HIPAA. We have to comply with the privacy rule by April 14, 2003, unless delayed by Congress. We should be able to met that deadline. He previously received Board authority to hire a consultant to assist with this and will need that help on portions of this. In many ways, we are not severely impacted by HIPAA because the most effected agencies are Mental Health and Public Health.

Sarah informed the Board that she has received a check from Pat Zimmerman in the amount of \$566.00 for the Matiaco record.

Sarah reported that the County has received a petition for withdrawal and annexation. The petition was filed by current members of Columbia River PUD, wanting to withdraw from CRPUD and annex into the Clatskanie PUD. There is some dispute as to whether or not that is legal. The CRPUD attorney would like to have some type of preliminary decision from the Board whether it is legal to file a petition to withdraw if the current service provider is servicing them. At this time, the petitions do not satisfy the requirements and will need to go back for additional work. Once the petition is certified, we will have to go through the full process. Because the CRPUD attorney has asked for a legal opinion on this, does the Board want to deal with it before going through the official statutory process. The Board would like to know if this is legal before moving forward on the petition. John feels that, because the Board is ill-equipped to decide the legal question, it makes better sense to have the attorneys for CRPUD, Clatskanie PUD and the petitions submit arguments to Sarah and then Sarah could give the Board a legal opinion. The Board agreed.

EXECUTIVE SESSION UNDER ORS 192.660(1)(h) - PENDING LITIGATION:

The Board recessed the regular session to go into Executive Session as allowed under ORS 192.660(1)(h). Upon coming out of Executive Session, Commissioner Hyde moved and Commissioner Bernhard seconded to authorize County Counsel to move forward on the Apple Valley timber trespass issue. The motion carried unanimously.

Further, Commissioner Hyde moved and Commissioner Bernhard seconded to authorize County Counsel to move forward on the collection of regulatory fees. The motion carried unanimously.

With nothing further coming before the Board, the meeting was adjourned.

Dated at St. Helens, Oregon this 29th day of January, 2003.

NOTE: A tape of this meeting is available for purchase by the public or interested parties.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____

Joe Corsiglia, Chair

By: _____

Rita Bernhard, Commissioner

By: _____

Anthony Hyde, Commissioner

Recording Secretary: _____

By: _____

Jan Greenhalgh