

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

May 19, 2004

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

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

**MINUTES:**

Commissioner Hyde moved and Commissioner Corsiglia seconded to approve the minutes of the May 11, 2004 Work Session and May 12, 2004 Board meeting. The motion carried unanimously.

**VISITOR COMMENTS:**

None.

**HEARING: PROPOSED VACATION OF BISHOP CREEK ROAD:**

As scheduled, the public hearing, "In the Matter of the Proposed Vacation of a Portion of Bert Bishop Road [aka Bishop Creek Road] Lying Within Section 32, Township 6 North, Range 2 West, Columbia County, Oregon [Petersen Petition]" was held.

Cynthia Zemaitis gave the staff report. This is the time set to hold a public hearing on the petition filed by John and Agnes Petersen to vacate a portion of Bishop Creek Road. There is a map attached to Dave Hill's recommendation for reference. The Petersen's have asked that this road be vacated to prevent trespass, vandalism and harassment. They allege that the road has not been used or maintained by the County for many years. In looking at the map, the Board can see that this road is completely surrounded by property owned by the Petersen family. There are no other underlying or abutting property owners. In support of this petition, Agnes Petersen has submitted letters from William Petersen and James Petersen. William and James own Tax Lot 1400 and support this vacation. By way of background, the Board will recall that Tammy Maygra brought to the Board's attention, that a gate had been installed on Bishop Creek Road. She requested that the County take steps to have that gate removed. In response to a letter from the County requesting that the Petersen's remove the gate, a petition for vacation was filed. The letter gave the Petersen's 30 days to remove the gate or the county would take steps to remove it and advised the Petersen's that they could apply for a construction permit, which may grant them approval to have the gate installed. After the petition for vacation was filed, Tammy Maygra and her father, Frank Jones, came before the Board to voice objections to vacate Bishop Creek Road. Because this petition meets the requirements of ORS 368.351(2), in that it contains signatures of

100% of the abutting and underlying property owners and the Public Works Director has submitted his recommendation stating that vacating this road would be in the public interest, the Board really has what it needs right now to make a final decision on the petition without holding a hearing. However, since there were objections raised, the Board has decided to hold a hearing, so that the objections can be heard and the petitioners are given the chance to respond to those objections. As for the hearing process, Cynthia would suggest that the Board start with the objections and then allow the petitioners to respond.

The hearing was opened for public testimony.

**OPPOSITION:**

***Tammy Maygra, 34319 Cannan Road, Deer Island and Thelma Bonar, 56734 Way Lane, Warren:*** Tammy first spoke to the vacation and then she will address the gate. In their paperwork, the Petersen's stated there has been vandalism, harassment, trespassing and illegal dumping. Tammy went to the newspapers and went through the newspaper reports starting in 1991 and went forward several years. She found a number of reports of theft on Columbia River Hwy, Pittsburg Road, Meisner Road and some reports for harassment. She found no reports for Bishop Creek Road, except for one in 1990 for menacing. She happened to be one of the participants in that case, when she was accosted by an individual that lived on Bishop Creek Road. She questions the motive to close a public road on hear say.

Commissioner Corsiglia asked Tammy if she were to use Bishop Creek Road, where would she be going. Tammy stated that is not the point. Commissioner Corsiglia stated that the Board is looking at if it is in the public's best interest to vacate this road or not, rather than harassment incidents. Is there a reason this would deprive the public of something? Tammy will address that, but she just wants it on record that there have been no calls to substantiate the claims made. Commissioner Bernhard stated that there could have been incidents that weren't reported because it is common knowledge that the Sheriff's office is understaffed. Tammy stated that there are a number of roads that have illegal dumping on them, but they are not closed or vacated.

Tammy feels there is a problem with vacating this road. No one has talked to the Forestry Department about this, but she has. They would be glad if the County would have sent them a letter about this. They do not like to close established roads in forest lands in case of fire. If this road is vacated, a gate installed and a fire breaks out, the time it would take to get in there could make a big difference in the damage the fire does. Commissioner Corsiglia asked how this differs from a logging road that is gated. Thelma stated that it still causes difficulty for emergencies services to get through any gated areas and causes delay in response time. Tammy also noted that it costs the county nothing to have that road there, because they haven't ever maintained it. This property was given to the County for a county road and to support that, Tammy read from the paperwork dated 1920 where Lam Timber Company gave this property to the county and stipulated that it would be a "public utility". Tammy feels that if they were good enough to give this property to the county and the citizens for a public road, then that should be honored and remain a public road. There was some clarification on the difference between a

“county road” and a “public road”. The Board stated that they receive a number of requests for road vacations for various reasons and this is a very common one. The petitioners own all the surrounding property and this is a reasonable request. Tammy still feels that if we have roads that are established, they should remain open to the public for the future.

Tammy then spoke to the issue of the gate. The letter from County Counsel to the Petersen’s stated that they would have to obtain a construction permit for the gate from the County Road Department. Tammy called the Road Department and asked for a construction permit and was told that they don’t give out construction permits. Dave Hill clarified that the Road Department doesn’t issue permits to close off a road with a gate because that is not within their authority to put up a gate across a county road. They have a construction permit form for basic construction within utilities or other things within county roads. Tammy went back and forth between the Road Department and Land Development Services and never did get a construction permit. It shouldn’t be that confusing. Sarah stated that this issue doesn’t pertain to the vacation request but she would be happy to discuss the permitting process after the hearing. Tammy stated that the gate was put up illegally and that should have been addressed. Tammy reiterated that to gate this road after the way it was deeded years ago, is not right. The reasons to vacate this road have not been proven. As for what happens to the property once the road is vacated, she assumes it will go to the Petersen’s. She believes that the Petersen’s should pay the county the real market value of that property. The Board explained that, by statute, when a road is vacated, ownership is split between the two abutting property owners. Sarah stated that the County does not have a fee simple interest in that property. It is an interest that the public has in the road, but is not county owned. So the underlying interest is owned by the abutting property owners. That is why when it is vacated, the property is split between the abutting property owners. Commissioner Hyde stated that it is illegal to sell the property in these cases.

Tammy asked if the County would be contacting the Forestry Department about this issue because it is an access to forest lands. If a fire breaks out and the response is inhibited by the gate, who is responsible if they are burned out. Would the Petersen’s be responsible because of the gate they put up?

In summary, Tammy feels there needs to be a good reason to close a public road. This road has been there for over 80 years and it’s never been a problem. If a gate is installed, there will be no public turn-around. She informed the Board that she will be fencing her property and a gate put in across their logging road so there will be no access off their property for anyone to turn around.

**PROPONENTS:**

***Petitioners John and Agnes Petersen, 33625 Tide Creek Road, Deer Island:*** Agnes stated that she and John have lived at there current address since 1981, but lived on Bishop Creek from the time they were married over 40 years ago until 1981. John bought the property that this road goes through. When they got married, they moved to that property where their children were born and raised. This property is very remote. Bishop Creek road gets very narrow and at the

end, the only thing there is the house where they raised their children. When they lived there, they had problems for people that shouldn't have even been there. This road is not an asset to the county and it is not in the public's best interest to keep it open. They filed this petition because they just want to have some peace and quite and an end to the controversy that continues to go on from Ms. Maygra. Dave Gunter, a tenant of theirs who has lived there for the last 20 years, can tell the Board incident after incident of people trespassing, being threatening to him, and vandalism at various times. Finally, in order to control that, Dave asked to put up the gate. When they received the letter from the County to remove the gate, they felt the best way to handle this would be to file a petition to vacate the road. Agnes is concerned with the last comment made by Tammy Maygra. She has, in effect, threatened the school bus. In her testimony, she stated that she would gate her property. Agnes explained how the school bus has traditionally turned around. Ms. Maygra is in a position to cause problems for someone turning around because of the way the roadway exists. She has caused problems there before.

John Petersen used the grease board to draw a map of the property and where Bishop Creek road lies. He gave some background on the road. He lived there for 65 years. Some years back, the Maygra's put in some steel pipes to the Petersen's couldn't get in to log and then they put two more in right next to the county road so the school bus couldn't turn around. When they got ready to log, they pulled the pipes out with a skidder, which caused some problems. John explained that he does not intend to close off Bishop Creek all the way. The fence will be set back far enough to allow space for the school bus to turn around. He also has no problem with giving a key to the gate to the forestry department and fire department.

***Dave Gunter, 66133 Bishop Creek Road.*** He has lived there for 23 years, right behind where the gate was put up. He is a caretaker over John Petersen's property. It used to be very quiet up there, but in the last 10 years, the noise and traffic of off road machines has increased substantially. In Ms. Maygra's research, she didn't find the number of times that drunks have come back there at 2:00 and 3:00 in the morning. Although no hunting is posted, they still come up there. He has had a number of confrontations with trespassers and it is putting him at risk and this is a big concern for him.

With no further testimony coming before the Board, the hearing was closed for deliberation. Commissioner Corsiglia's concern was with fire, but John Petersen has stated he would accommodate the fire department. He knows that Tammy has concerns but he doesn't see a large outcry here. He feels that what is driving this concern is more of a "Hatfield and McCoy" scenario, than really trying to protect the rights of the public. He does not have a problem vacating this property. As for the gate, that's not part of this process. Commissioner Hyde commented on the forest fire issue. He knows for a fact that the fire departments rely predominately on loggers to fight forest fires. The first thing they would do is commandeer the heavy equipment on the property. John Petersen and his equipment would most likely be used. He sees no compelling reason not to grant this request, Commissioner Bernhard also had concerns with the fire and forestry part of this, but feels that can be worked out. She also sees no reason not to approve this. After discussion, Commissioner Hyde moved and Commissioner

Corsiglia seconded to approve the petition for the vacation of a portion of Bishop Creek Road and direct staff to prepare an order for Board approval. The motion carried unanimously.

**CONSENT AGENDA:**

Commissioner Bernhard read the consent agenda in full. With that, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve the consent agenda as follows:

- (A) Ratify the Select-to-Pay for 5/18/04.
- (B) Reappoint Mary Mitchell and Cheryl Fantz to the Mental Health Advisory Committee for a three (3) year term. Terms to expire on December 31, 2006.
- (C) Reappoint Kathy Tysinger and Darla Knytych to the Local Alcohol and Drug Planning Committee for a three (3) year term. Terms to expire on December 31, 2006.
- (D) Consent to Assignment, Eldora Exploration, LLC and Pitkin Projects LLC.
- (E) Authorize Ruth Baker to fill the Junior Accountant position in Finance & Taxation.

**AGREEMENTS/CONTRACTS/AMENDMENTS:**

- (F) Amendment #17 to the 2003-2005 County Financial Assistance Contract #05-001 with State Mental Health.
- (G) 2003 Fund Exchange Agreement with ODOT for various County Roads.

The motion carried unanimously.

**LIQUOR LICENSE FOR QUINCY STORE - SUE BAN:**

Commissioner Corsiglia explained the situation with the liquor license for Sue Ban. Sue has been dealing with OLCC for the last two years due to an incident where her 9 year old daughter sold alcohol. She is trying to get her license back because this is a big part of her business. Sheriff Derby wrote a letter to the Board stating that he will remain neutral on this. He made some suggestions to help Ms. Ban stay within the laws. Commissioner Corsiglia feels she has been punished enough and would like to give her another chance. After discussion, Commissioner Corsiglia moved and Commissioner Hyde seconded to recommend approval and send the letter from Sheriff Derby to OLCC. Under discussion, Commissioner Hyde shares the concern of any new violations, but he is also concerned with the viability of small businesses. When the vote was taken, the motion carried unanimously.

**COLUMBIA COUNTY CULTURAL TRUST PLAN:**

Commissioner Corsiglia presented a copy of the Columbia County Cultural Trust Plan, which is a result of a number of meetings held. It is not as extensive as it could have been, but it's the best that could be done given the time frame. The plan needs to be on file with the State by June to be able to move forward. Commissioner Hyde would suggest that under the section where the committee members are listed, there should be more personal information on their qualification. After discussion, Commissioner Hyde moved and Commissioner Corsiglia seconded to adopt the Columbia County Cultural Trust Plan, with the additions as noted by Commissioner Hyde. The motion carried unanimously.

**COMMISSIONER BERNHARD COMMENTS:**

Commissioner Bernhard stated the County continues to work on a number of issues, including transportation, for which she credits John Knight for the amount of work he has done on this.

Commissioner Bernhard continues to attend and work with the St. Helens School District Planning Group.

She attended a reception last night at the fire hall to meet the candidates for the new Fire Chief position.

Commissioner Bernhard wanted to congratulate Commissioner Hyde and Commissioner Corsiglia for their win last night.

**COMMISSIONER HYDE COMMENTS:**

Commissioner Hyde was very pleased to see that the 911 measure finally passed.

Last week, he attended his nieces college graduation in San Diego.

There will be a Regional Partnership meeting in Astoria on Friday and he would recommend that the Board attend.

The Scappoose Lions Club will be hosting a PowerPoint presentation on Terrorism on May 25<sup>th</sup> at 7:00 pm at the St. Helens High School. The speaker is Lt. Col. Brian J. Boquist, who recently returned from 8 months in Iraq. This should be very interesting and Commissioner Hyde encouraged people to attend.

**COMMISSIONER CORSIGLIA COMMENTS:**

Commissioner Corsiglia wanted to thank everyone who helped out last night with the election. They don't seem to get the recognition they deserve.

There was no Executive Session held.

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

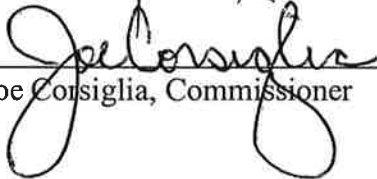
Dated at St. Helens, Oregon this 19<sup>th</sup> day of May, 2004.

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

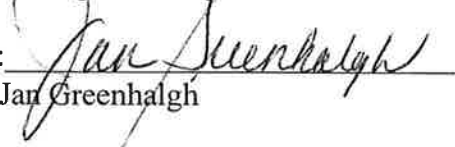
BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Rita Bernhard, Chair

By: \_\_\_\_\_  
Anthony Hyde, Commissioner

By:   
Joe Corsiglia, Commissioner

Recording Secretary:

By:   
Jan Greenhalgh