

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

November 24, 2004
continued on December 1, 2004

The Columbia County Board of Commissioners met in scheduled session with Commissioner Rita Bernhard, Commissioner Anthony Hyde and Commissioner Joe Corsiglia, together with John Knight, 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 November 9, 2004 Work Session and November 10, 2004 Board meeting. The motion carried unanimously.

VISITOR COMMENTS:

Lona Pierce, 56498 Crest Drive, Warren, approached the Board regarding Measure 37. She understands that the Board will have to deal with this soon and there are three things she would like to suggest. First, that the Board consider public involvement in formulating any ordinances, that consideration is given to nearby residents and neighboring property owners and that their rights are protected, and that a means to raise money for compensation of claims is looked at.

PUBLIC HEARING: REPEALING ORDINANCE #2000-6:

As scheduled, the public hearing on proposed Ordinance No. 2004-6, "In the Matter of Repealing Ordinance No. 2000-6, "In the Matter of Establishing a Procedure to Process Applications for Compensation under Oregon Statewide Ballot Measure 7", was held.

Sarah Tyson reiterated that this ordinance deals with Measure 7 NOT Measure 37. This is basically a housekeeping item to get Ordinance No. 2000-6 off the books prior to December 2, 2004, so there is no confusion between M7 and M37. Sarah briefly reviewed the proposed Ordinance. She would recommend that, after the hearing, the Board adopt this with an emergency clause.

The hearing was opened for public testimony.

With no testimony coming before the Board, the hearing was closed for deliberation. Sarah read Ordinance No. 2004-6, twice by title only. With that, Commissioner Hyde moved and Commissioner Corsiglia seconded to adopt Ordinance No. 2004-6, "In the Matter of Repealing Ordinance No. 2000-6, "In the Matter of Establishing a Procedure to Process Applications for Compensation under Oregon Statewide Ballot Measure 7" and declare an emergency. The motion carried unanimously.

CONSENT AGENDA:

Commissioner Bernhard read the consent agenda in full. Discussion was held on the cancellation of the next Board meeting due to the lack of a quorum. A hearing had been scheduled and published in the Oregonian. John suggested the go ahead and cancel the Board meeting, but hold the hearing by conference call. The Board agreed. With that, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve the consent agenda as follows:

- (A) Ratify Select-to-Pay for 11/23/04.
- (B) Ratify Partition Plat for LRS Architects, Inc.
- (C) Reappoint Carol Brandt and Stan Mendenhall to the Commission on Children & Families for a four (4) year term.
- (D) Reappoint Diana Shrewsbury to the Mental Health Advisory Committee for a three (3) year term.
- (E) Reappoint David Thompson to the Columbia County Fair Board for a three (3) year term.
- (F) Authorize Todd Dugdale to fill one vacant Planning Secretary position in LDS.
- (G) Order No. 82-2004, "In the Matter of the Formation of a new Columbia Health District".
- (H) Order No. 83-2004, "In the Matter of Accepting a Quit Claim Deed from Columbia Community Mental Health, Inc.".
- (I) Resolution No. 85-2004, "In the Matter of Adopting the National Incident Management System".
- (J) Cancel the Board meeting for December 1, 2004.

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (K) Amendment #33 to the 2003-2005 County Financial Assistance Contract #05-001 with State Mental Health.
- (L) Amendment #1 to the Memorandum of Understanding with Columbia Community Mental Health, Inc.

The motion carried unanimously.

WAIVER FORM:

Sarah has drafted a waiver form dealing with the Hammer case that was discussed at the work session yesterday. There is no need for a formal motion to approve.

ORDER # 87-2004: ASSIGNMENT OF PUBLIC HEALTH SERVICES AGREEMENT:

John presented the Board with a letter from Karen Punch of the Columbia Health District. The new board members have set a meeting date to take the oath of office and will then begin the transfer of all assets, liabilities and responsibilities of the old district to the new district. In order to maintain public health services, they are asking the County to approve an assignment of the local Public Health Services Agreement from the old district to the new district. John has prepared an Order that would do that. He stated that timing is an issue here because of the overlapping of the two districts.

Pam Powell and Karen Punch, were present here today because the voters approved the formation of the new Columbia Health District. So that there are no breaks in services, they are here to ask that the Board assign the current contract with the existing Health District to the new district.

After discussion, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve Order No. 87-2004, "In the Matter of Approving the Assignment of the Columbia County Local Public Health Services Agreement". The motion carried unanimously.

COMMISSIONER BERNHARD COMMENTS:

The Board attended the annual AOC conference last week. There was a lot of discussion held on Measure 37, which effects all of Oregon. Other very good topics were discussed.

She has attended a number of holiday bazaars throughout the community. These are all good community events and good fund raisers.

Commissioner Bernhard wanted to mention that Al Sonecker passed away last weekend. He was very active in the community and will be missed. He served many years with Riverside and was a key person there.

COMMISSIONER HYDE COMMENTS:

Commissioner Hyde commented that, again, it was an excellent AOC conference.

He wanted to note that another active community member, Enid Parrow, passed away. This is a big loss for the Vernonia community.

He just has to say that Vernonia's football team is going to state. It was noted that Scappoose is also going to state.

COMMISSIONER CORSIGLIA COMMENTS:

Commissioner Corsiglia attended the Scappoose holiday bazaar and did some volunteer work there. He also visited the new sports bar in Scappoose "Cleats". It looks to be doing very well.

EXECUTIVE SESSION UNDER ORS 192.660(1)(h) - 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, no action was taken by the Board.

The Board recessed the meeting at 11:00 a.m. and reconvened on Wednesday, December 1, 2004 at 6:00 p.m. in the Circuit Courtroom to consider Order No. 84-2004. Present were Commissioner Rita Bernhard, Commissioner Anthony Hyde, Commissioner Joe Corsiglia, John Knight, County Counsel, Sarah Tyson, Assistant County Counsel, and Jan Greenhalgh, Board Secretary.

Commissioner Bernhard called the meeting back to order and led the flag salute. She explained that the purpose of this meeting is to take public comment on Order No. 84-2004, "In the Matter of Establishing a Interim Procedure to Process Applications for Compensation Under Oregon Statewide Ballot Measure 37". The County must have a procedure in place by tomorrow, December 2nd. She stressed that this document is a working document and will be amended as information is received from the State.

Sarah stated that this order was previously reviewed by the Board and some changes had been made at that time.

Commissioner Hyde stated that Measure 37 passed in this county with 70% voting in favor. He reiterated that the Board must establish a procedure tonight, but wants to hear comments from the public for future consideration. This is not the only time public comments will be taken on this issue.

Commissioner Corsiglia found it interesting that, not only was the vote 70-30 in favor, but there was really no difference between the urban and rural areas in their voting. It seemed to be very unanimous throughout the county.

Todd Dugdale, LDS Director, explained that the Land Development Services has been designated as the contact office for submittal of claims and the department has been preparing for this. He would encourage potential claimants to contact LDS to make a pre-application appointment to go over the process. Their intent is to carry out the intent of Measure 37. Todd explained that the \$900 application fee was established to offset the cost of processing claims and nothing more.

At this time, the meeting was opened for public comment.

Agnes Peterson, 33625 Tide Creek Road, Deer Island: She has lived in Columbia County all her life, prior to the land use laws. She is troubled with the \$900 application fee. In the rules and regulations, it states that if you have multiple parcels, the additional fees may be waived. However, there are people in this county, seniors on limited incomes, disabled and low income, that may not be able to pay this fee. There is nothing in the order that allows for a waiver of fees for these people. Even in divorces, there is a process for waiving fees. This fee should not prevent some people from pursuing a claim, as the law allows for. Further, the applicant has to bring in all the information. She feels that the fee is too high and that a waiver form be included. Another issue is that people have invested their time and money into their property so that, someday, their children would have something. Hopefully, this measure will allow them to do that. She thanked the Board for the opportunity to speak here tonight.

Mark Didier, 34081 Lawrence Road, Deer Island: Regarding the processing fee, Measure 37 states that all claims are to be processed, fee or not. He agrees with Agnes Peterson, that the fee is too high. If it were lower, people would most likely pay it. Also, if a claimant wins and they can do what they want with their property, they will still have to pay any permit fees required. Another issue is the appraisal requirement. He is a realtor and knows that Realtors do Comparable Market Analysis (CMA) at no charge and the values are very close to that of an appraisal. He feels that only a CMA should be required. If there is any dispute, then require an appraisal.

John Peterson, 33625 Tide Creek Road, Deer Island: The fees and appraisal issues have already been discussed, but he just wants the restrictions taken off his property. He is just trying to get his property rights back. Does he need to get an appraisal, just to have the restrictions removed? John Knight explained that restrictions can't just be removed without proof that the property values have been reduced.

John Yarbor, 404 N. 12th, St. Helens: His family has lived up Pittsburg Road for many year and had to deal with the land use laws. He feels this is a good opportunity for the Commissioners to work with the State on land use laws so that people can build on their property. The more homes, the more tax revenue for the county. People would rather be able to use their property than get money from the county.

Pat Zimmerman, 52057 Rabinsky Road, Scappoose: For the people who may not know, currently there is a little cottage industry going on in Yamhill and Washington counties and she would suspect, Columbia County. Developers are going around and finding heirs of people who own property prior to zoning, locating those heirs in Tuson, Florida, etc. and giving them the money to buy back property which their great grandparents owned in 1950. Then funding the claims under Measure 37 so that the developer can put a slaughter house, hog farm, or a subdivision in forestlands. This is really happening. She agrees that there are many people in Columbia County who are looking to provide homes for their grandchildren and she doesn't have a problem with that. But this measure allows much more than that. Her comments for the record are to allow the public to have more input in the process. The way the measure is written, only people living within a couple hundred feet of the subject property will be notified. So there will be no opportunity for the general public to find out what is happening. She asked the Board to

modify this tonight so that the notification is 1,000 feet from the subject property and consistent with all other land use actions, although this is not a land use action by the terms of the measure. Notice of the hearing should also be published in relevant local papers. This is currently done for variances, conditional uses, etc. This would simply follow the normal process. On page 5 of the order, it states that a hearing can be requested by any person receiving notice. That means that if someone doesn't live within the 250 feet of the property, even if they have concerns, they cannot request a public hearing. She doesn't think that is fair. The public has the right to be heard on the subject. So she asked that the Board include a public hearing in all cases as described in Section 7(a). On another issue, some municipalities have included the following clause in their ordinances: If the city (or county in this case), approves of a claim by removing or modifying a land use regulation which causes a reduction in value on property in the vicinity of the plaintiff, the neighbors shall have cause of action in the state courts to recover, from the plaintiff, the amount of the reduction. So, if someone decides to put a hog farm next to your property, you have no recourse at all under this current order. This clause would allow neighbors some recourse. Fair is fair.

Florence Gestrin, 1893 21st Avenue SE #53, Albany, Oregon: She is here representing her family. Her mother owns 116 acres in Columbia County and Florence is very concerned about the issues being discussed tonight. She gave some history on the family property and how land use restrictions have adversely effected her family and their property values. Her mother is old and not well. They would like to have been able to divide their property and sell it to cover the costs of caring for her mother. She has tried to sell it as it stands, but even the timber companies don't want it because they feel it is too urbanized.. They need to be able to divide this property and sell it and soon because they need the money now. She asked that the Board do what is necessary to expedite this process to help her family and without a lot of fees and red tape. The county needs to stand up and do the right thing for the people.

Judd Yarbor, 34991 Deer Island: He heard Pat Zimmerman say that a public hearing should be held on these claims. That's the problem, there are too many hearings and red tape. The Board knows that people wanted this because they voted for Measure 37. There is no need to have additional hearings. If someone has a claim coming, so be it. He sees too many problems with land use planning.

John Vlastelicia, 32710 Callahan Road, Scappoose: He agrees with everyone that has spoken tonight except Pat Zimmerman. As he understands Measure 37, compensation is only for the original owner, not a new purchaser. He doesn't believe that people from Arizona are going to come to buy property for a pig farm.

Lona Pierce, 56498 Crest Drive, Warren: She gave testimony on this issue to the Board last week but wanted to say that she agrees that the whole community needs to be notified of these claims. This should be fair to everyone. The cost for noticing could be taken out of the fee, however, she is not sure about the suggested fee. It may be reasonable or not. She believes that waivers and refunds should be considered.

Lou Sutton, 50571 Maple Avenue, Scappoose: He owns property in Columbia Acres. After he purchased his property, the zoning changed and he was not able to develop two of his lots. This was going to be for his retirement. Because he was not allowed to build, he lost money and doesn't feel that he should have to pay more to use it. It is ridiculous to charge \$900.

Jeff Yarbor, PO Box 686, St. Helens: He attended the Scappoose City Council meeting when they discussed this issue. They started out with a fee of \$1,000. By the end of the meeting, the council members felt that was too high and ended with a fee of \$500. The measure states that all claims have to be processed. Regarding the appraisal requirement, he agrees that a CMA should be allowed in the first steps of a claim. If the value becomes an issue, then get an appraisal.

Nathan McGilvra, 60368 Rays Way, St. Helens: He wanted to thank the people who gave testimony tonight on how they have been effected by land use regulations. He was born and raised here in Columbia County. His parents purchased their property many years ago and it was hard to hold on to with a limited income, but they wanted to be able to have something for their children. His parents are gone now and he and his brother have the property. They just want to be able to go back to where they can use the property as it was back when his parents owned it. He also agrees that a CMA should be allowed to determine the value. Regarding public input, he feels that too much input isn't always good. There is always someone who complains about everything. Also, he agrees with the previous comment that more homes means more tax revenue and that will help the economy of the county.

Joe Luttrell, 61160 Skeet Avenue, St. Helens: He has questions about the application form. It asks for ordinance numbers, etc. Will that information be available through Land Development Services? If so, then they should already know what land use regulations were in effect at the time the property was purchased. The applicant doesn't always know that information. Todd stated that LDS would help the applicant with that information.

Discussion was held on the issue of filing claims with both the County and State if the laws are both county and state laws. Todd stated that there are still a lot of questions about this issue, but even if the county agrees to a waiver, and it is also a state law, then a claim would have to be filed with the State.

Jeff Yarbor stated that every time his family wanted to build a house on his parents property, LDS said that LCDC mandates that. Now it should be the opposite, the claim should go to the county first and, once decided on, then let the state come back with their determination. He doesn't agree with dual applications. The claims should go to the county first. The people spoke on Measure 37 and the County should back the people.

Ron Bjornstad, 513 E. 2nd, Rainier: He asked about an application for each parcel. If he has one parcel at this time but if he subdivided it, how many applications would he be required to file? Sarah stated, if there is only one parcel at this time, only one application would be required. Ron stated that he supports most of the comments made here tonight, but agrees with dual applications.

Mark Didier - as he understands it, the county would process a claim and, if valid, would enter it into the state registry for their review. This registry is on-line and available to the public. He does not agree with Pat Zimmerman about holding public hearings on these claims. The information will be available to all on-line and the measure doesn't say anything about publication of claims. He is really against a 1,000 foot notification process.

Joel Yarbor, 58212 Old Portland Road, St. Helens: He feels it is a must that the county take the first step on this. He asked about the compensation, who pays, the County or the State". John Knight stated that, because the county doesn't have the funding to pay claims, waivers would be issued. If the State doesn't grant a waiver, then they would pay the compensation. John further stated that county and state regulations are different and applications have to be filed to both. However, that is only when the regulation is both a county and state law.

Fred Bernet, 51364 Dike Road, Scappoose: We had this coming because we let the legislature make the rules and then turn them over to LCDC. Every single county in Oregon voted for this measure because of the land use restrictions. He was on the Planning Commission when SB100 was passed. He quit because he saw what was coming. The county needs a couple of good lobbyists to go to the legislature to make some very needed changes.

Mike Balteau, 33387 Stone Road, Warren: He has owned property for a number of years in Columbia County. There has been many changes in the zoning over the years with no fee being paid to him. He feels there should be no fee and most everyone agreed with a show of hands.

Randy May, 491 S. 3rd, St. Helens: He feels it is a good idea to have a pre-application meeting with LDS. He then commented that Oregon law does not require any procedure to file a claim under Measure 37 and that a claim must be processed within 180 days.

Diana Multanen, 30942 Pittsburg Road, St. Helens: She feels it is unfair to charge a \$900 application fee and require an appraisal, then lose at the State. Too unfair.

Ron Steinke, PO Box 98, St. Helens: The wolf came in the back door and took something - now we have to pay to get it back. He disagrees with having to pay a fee. He has property in Scappoose that has been in the family since the early 1900's. The City of Scappoose wanted to bring it into the UGB, but was told by the state that could not happen because of all the property near the airport that was included. Now he can't get it into the city. Who has jurisdiction regarding a claim. The City or the County. John Knight stated that because it is not in the Scappoose UGB, they would not be involved. The County would have jurisdiction

Jack Sherer, 33598 Pittsburg Road, St. Helens: He asked about the appraisal guidelines. How is a property appraised, at it's current use or its potential use? Answer: The property would be appraised on the intent. If a person wanted to subdivide a field into ten 2 acre lots, it would be appraised as such. Jack then addressed his rights. Whenever the State took away his property rights, they didn't pay him anything. He should not have to pay anything either.

Agnes Peterson - Again stressed the importance of considering a fee waiver. She ended with a quote from Abraham Lincoln "If you want to get rid of a bad law, exercise it to the maximum".

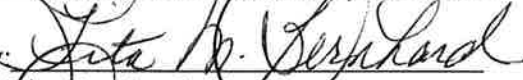
With no further comments coming before the Board, the public comment period was closed. The Board deliberated. After some discussion, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve Order No. 84-2004, "In the Matter of Establishing a Interim Procedure to Process Applications for Compensation Under Oregon Statewide Ballot Measure 37", with a change in the application fee from \$900 to \$500 and direct staff to work on a process to accept hardship waivers during the application process. Under discussion, Commissioner Corsiglia asked about appraisals versus CMA's. Sarah explained that there is necessary information provided in an appraisal, and not sure if a CMA would have that information. He would like to see the appraisal requirement deleted.. Todd stated that staff will need to determine the value of the current use and the intended use. John Knight disagreed, staff will just need to determine what the land would be worth if the restriction was removed. Sarah suggested having an appraiser come in to discuss this issue with the Board. The Board could remove the requirement all together, but it is still necessary for the applicant to establish the validity of their claim. After discussion, Commissioner Hyde amended his motion to approve Order No. 84-2004, "In the Matter of Establishing a Interim Procedure to Process Applications for Compensation Under Oregon Statewide Ballot Measure 37", with a change in the application fee from \$900 to \$500 and direct staff to work on a process to accept hardship waivers during the application process **and delete the language requiring an appraisal and adding language that requires evidence that a regulation has reduced a properties market value, such as an appraisal.** Commissioner Corsiglia seconded and the motion carried unanimously.

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

Dated at St. Helens, Oregon this 24th day of November, 2004.

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

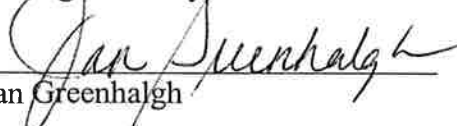
BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Rita Bernhard, Chair

By: _____
Anthony Hyde, Commissioner

By: 
Joe Corsiglia, Commissioner

Recording Secretary:

By: 
Jan Greenhalgh