

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

February 7, 2007

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, Sarah Hanson, 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 January 23, 2007 Work Session; January 24, 2007 Board meeting; January 31, 2007 Board meeting; and January 31, 2007 Staff meeting. The motion carried unanimously.

**VISITOR COMMENTS:**

Pat Anderson, County Sheriff's Office, came before the Board to request approval to apply for a Rural Domestic Violence grant. If awarded, the grant would also need to be approved by the Board. Commissioner Hyde informed Pat that there is a form that is required to be completed, to determine all costs associated with the grant. The form is available through the HR department. Pat stated this is a 100% grant, so there would be no cost to the county. Commissioner Bernhard is in favor of this, but the cost estimate form still needs to be completed. They asked that Pat complete the form and bring it back before the Board for action.

**DELIBERATIONS: ORDINANCE #2007-1 - SYSTEMS DEVELOPMENT CHARGE:**

This is the time set for deliberations on Ordinance No. 2007-1, adopting a methodology for a Systems Development Charge. Sarah gave the Board a copy of the final Ordinance, with all attachments, which include methodologies for the County, City of Scappoose, and City of St. Helens. At this point, the Board is ready for deliberations and the first reading of the ordinance. Sarah stated that there is no emergency clause so the second reading will need to be held in two weeks.

With that, Sarah gave the first reading of Ordinance No. 2007-1, "In the Matter of Adopting the Columbia County System Development Charge Ordinance". The second reading will be held on Wednesday, February 20, 2007.

**PUBLIC HEARING: PORT OF ST. HELENS ZONE CHANGE FROM RR-5 TO AI:**

This is the time set for the public hearing, "In the Matter of the Application of the Port of St. Helens for a Comprehensive Plan Amendment and Zone Change from Rural Residential (RR-5) to Airport Industrial (AI)".

This hearing will be on the record of the Planning Commission decision unless the Board opens the hearing for additional testimony and evidence. If so, they would need to make a motion to that effect. With that, Commissioner Hyde moved and Commissioner Corsiglia seconded to open the hearing to consider new evidence and/or testimony. The motion carried unanimously. The Board stated they had no ex-parte contact or conflicts of interest. 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" which includes a list of all contents. Copies of that list are available to the public. Sarah noted that Exhibit "2" was a letter unrelated to this hearing and was removed.

Glen Higgins, Chief Planner, came before the Board to give the staff report. He submitted a clearer copy of Exhibit "A" of the Scappoose Industrial Airpark Plan, which more clearly identifies the subject property, and was labeled Exhibit "3". The oversized aerial photo was entered into the record, labeled Exhibit "4". The Port of St. Helens owns a 3.22 acre parcel adjoining, directly east of the Scappoose Airport property. The subject parcel is zoned Rural Residential, has an existing dwelling/outbuildings/well & septic, and has been historically accessed by Ring-a-Ring Road, along with four other existing dwellings in this block. The Port has no immediate plans for the 3.22 acres but are purchasing nearby properties to the east as they become available in an effort to plan for future growth of the Scappoose Airpark. The subject property, along with the other residential properties in the vicinity have been identified in the "2004 Scappoose Airport Mast Plan" as needed area for airport expansion. In the last 10 years, the Scappoose Airport has become prominent in the Portland regional air transport system and the Master Plan projects significant growth in the airport operations in the next 20 years. The Port received a grant from FAA to purchase the subject property. The federal funds are subject to the zoning being consistent with airport related uses. The Planning Commission held a public hearing on the matter and recommended denial because the possible impacts on the bordering residential area would be too great. However, staff recommends approval of the zone change, with conditions, because the application meets all of the applicable criteria as presented in the staff report and the fact that the only logical area for the Scappoose Airport to grow is to the east.

The hearing was opened for public testimony.

**PROPONENTS:**

***Mark Greenfield, AAL, 495 NW Greenleaf Road, Portland, OR 97229:*** He is the attorney for the Port of St. Helens. Also here today is Kim Shade, Port Operations Manager and Cliff Tetrault, Port Commissioner. This is an application to re-zone 3.22 acres from RR-5 to Airport Industrial, owned by the Port of St. Helens. The Port is requesting approval of this rezone because it meets all applicable state and county standards for a plan amendment and zone change, including requirements in the statewide Airport Planning Rule. It is consistent with the adopted and FAA approved 2004 Scappoose Industrial Airport Mast Plan and it is consistent with the direction the county is going for this area and thus constitutes good planning.

Mark began with the **Compliance with Standards:**

The Port agrees with the facts, analysis and conditions set out in the staff report. The Planning Commission recommended denial based on perceived incompatibilities with the adjoining residential lots. However, the Planning Commission erred in a couple of regards. First, it misapplied the compatibility standard – perhaps mistakenly assuming that the Scappoose CPAC was correct in saying that a compatibility standard applied under statewide Goal 2, Part II (exceptions). There is a standard in Goal 2, Part II requiring compatible with adjacent uses, but it applies only to reasons exceptions. This application does not involve a reasons exception, so that standard is not applicable. Second, the Planning Commission did not consider a compatibility standard that does apply, which is a requirement of the Airport Planning Rule (APR) regarding compatibility between airport uses and adjoining uses. APR (OAR 660-013-0040(6)) says that “when compatibility issues arise, the decision maker shall take reasonable steps to eliminate or minimize the incompatibility through location, design or conditions. A decision on incompatibility pursuant to this rule shall further the policy in ORS 836.600”. That Policy is to “encourage and support the continued operation and vitality of Oregon’s airports” What this means is that, where airport related compatibility issues arise, the County must decide in a manner that furthers this policy to support airports. There are ways to ensure compatibility consistent with this rule. These include applying standards of AI zone, including: 1) AI minimum setback requirement of 50 feet from abutting residentially zoned property; 2) AI zone 15 percent landscaping requirement; 3) No emissions of smoke, fumes, fly ash, vapor, gases, or other forms of air pollution that could interfere with aircraft operations; 4) no lighting projecting onto adjoining residential zones; and 5) proposed development within AI zone must undergo a public hearing for site design review, where mitigation of incompatibilities can be addressed. In short, consistent with Airport Planning Rule requirements, compatibility issues can and should be addressed not thru denial, but thru application of AI standards, the design review process, and appropriate conditions consistent with the AI zone.

The Planning Commission also might have recommended denial based on CPAC recommendation that all properties be rezoned at one time. This is impractical, for several reasons. First, not all properties may be offered to the Port for sale at one time (or at all). Second, under the Master Plan, the Port won’t exercise condemnation authority to acquire these properties, but will acquire them “if available”; here, the Ross’ offered the property to the Port for purchase, bringing it under the terms of the Master Plan. Third, when a property owner offers to sell land to the Port, the FAA provides about 95% of the acquisition funding, which is very important to the Port and to airports all around the state and country because it frees up their money for airport operation and airport industrial/economic development purposes, which is consistent with state airport policy recognizing the link between airports and vitality of the local economy. However, in return for financing, the FAA requires that the area be rezoned to allow airport related uses within two years (RR does not allow airport uses; AI does). The CPAC proposal does not work within this funding structure or within the FAA’s requirements and would create a hardship for the Port.

**Consistency with Long Range Master Plan for the Airport:**

In 2004, the Port adopted a new Airport Master Plan, which has been approved by the FAA. This plan reflects significant airport growth over the past 20 years and identifies airport plans for growth and expansion over the next two decades. The plan identifies much of the Meier property (now Sierra Pacific) for future airport related uses; it also identifies these five residential properties for airport acquisition and use "if available". The Master Plan is the controlling document for the airport; under the Airport Planning Rule, land use decisions must be consistent with FAA-approved Airport Master Plans, and with state policy to encourage and support the continued operation and vitality of Oregon's airports. Because this application is consistent with the Airport Master Plan, we believe it warrants approval.

**Consistency with Long Range Planning for this Area:**

The application is also consistent with the long range planning for this area and, as such, represents good public policy. Adjoining uses or zoning are: West – Airport; South – RIPD; North – Surface Mining; East – Ag., but Sierra Pacific property identified for future industrial expansion. In essence, RR-5 properties are a very small island of residential use within a sea of industrial or future industrial use. The Master Plan does not provide for their condemnation, but instead provides for the Port to acquire them if available. The Port has done so with the Ross property – but it needs to be rezoned to allow airport uses as required by the FAA. This application gets us there and we ask that the Board approve it.

In answer to Commissioner Hyde's questions, Mark stated that, to the best of his knowledge, the 35,000 square foot building limitation in RR zones applies cumulatively within a lot, rather than building by building. He pointed out that, under state statutes, there is no size limitation for airport hangars and certain other airport uses in rural zones, but the size limitation would apply to manufacturing uses in the zone.

**Kim Shade, Port of St. Helens, 100 E Street, Columbia City, OR:** The Port has a 20 year plan but there is no plan for development of those five parcels. The only plan is to acquire them, if available. The Port has a very clear understanding of what the neighbors have said. The Port will not pursue these properties. They will only purchase other properties if the owners offer them for sale. In order to be good neighbors, the Port has asked what their concerns are. The neighbors would like to see the property cleaned up. To do this, the Port has sold the mobile home on the property which will be removed in March. All existing buildings will be removed and a landscaper has been hired to manicure and maintain the property. The Port does not anticipate any construction on the property for many years. There will be no significant use of the roadway, only to check on the property. If and when the property is developed, they can access it through airport property and wouldn't be using Ring-a-Ring Road. The Port has been meeting with Sierra Pacific and the City of Scappoose in an effort to plan all of the development around the airport. Commissioner Bernhard asked about the easement on Ring-a-Ring Road. Kim stated that the Port has met with the neighbors on the easement and the Port will be maintaining the easement. The Port has asked the County to come out and make the easement safer by removing some of the blackberry bushes for better visibility.

**Cliff Tetrault, Port Commissioners, 32995 Woods Drive, Warren, OR:** Cliff just wanted to add that this whole area is going through some real changes, with Sierra Pacific coming on. They plan to work with the neighbors on this and the Port will only acquire additional property as it becomes available. Most neighbors seem to be open to what the Port is doing.

**OPPONENTS:**

**Karen Harris, 53723 Ring-a-Ring Road, Scappoose, OR:** The easement is at the end of the county road. It is 30 feet wide and is supposed to be maintained. She had a lawsuit on this issue and the court said the Port would maintain it, but has only done a portion. If they put a fence around that property, because an airport is supposed to be fenced under the Homeland Security rule, what are they going to do with the easement? Are they going to fence the easement too and leave some of the neighbors cut off? There are two separate easements on Ring-a-Ring Road owned by the Port and both are supposed to be maintained, free and clear 30 feet wide. It is not 30 feet wide and cars cannot even pass each other because the road is so narrow. This is a traffic safety issue and concern. Commissioner Corsiglia stated that there is certain criteria applicable to this application and he is not sure that the maintenance of this easement is something the Board can consider. Moving on, Karen stated that she and four other neighbors have informed the Port that they do not want to be included in the master plan. Now she finds out that they are back on the master plan. She is all for the expansion of the airport, but not through the Port of St. Helens. Commissioner Bernhard asked Mrs. Harris that if the easement issue was resolved, would that address her concerns. Karen felt it would and then she could stop having to pay attorney fees.

**REBUTTAL:**

**Mark Greenfield and Kim Shade** responded. Kim clarified that general aviation airports are not governed by Homeland Security. However, the Port has made every effort to fence the entire airport property for security at the recommendation of the FAA, who governs the airport. The Port would not fence the easement road and cut people off from their property. Kim explained the situation with the easement and stated that the Port has made every effort to make that road safe. Mark concurs with Commissioner Corsiglia's comment that the issues pertaining to the easement, while understandably a concern to Mrs. Harris, are not relevant to the criteria applicable to this application. He noted that the other land owners have no objects to this application, except Karen Harris. With that, they would ask that the Board support this zone change and approve the Port's application.

With no further testimony coming before the Board, the hearing was closed for deliberation. Commissioner Bernhard feels that the concerns have been addressed through the conditions placed on approval. Commissioner Hyde talked about the concerns of Karen Harris, regarding the tree that should be removed and the easement, which are addressed. Commissioner Corsiglia understands that, with land use changes, there is a transition period, which isn't always easy, however, he is comfortable with the recommended conditions. After discussion, Commissioner Hyde moved and Commissioner Corsiglia seconded to tentatively approve the Application of the Port of St. Helens for a Comprehensive Plan Amendment and Zone Change from Rural

Residential (RR-5) to Airport Industrial (AI)" and direct staff to draft the ordinance. 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 2/6/07.
- (B) Order No. 16-2007, "In the Matter of Claim No. 07-03 Submitted by Richard and Shirley Bloomfeldt for Compensation Under Measure 37".
- (C) Order No. 17-2007, "In the Matter of Conveying Certain County-Owned Real Property Known as Tax Account No. 02-01 5133-044-11600 to Alice J. Pierce and Linda D. Pierce".
- (D) Order No. 19-2007, "In the Matter of the Petition by Columbia Hills Development Company to Rename Certain Public Roads Located in the Hillcrest Subdivision."
- (E) Reappoint Margaret Magruder and Bob Skeans to the Columbia County Budget Committee for a three (3) year term.
- (F) Approve 2007 Liquor License Renewals for:
  - Warren Country Inn;
  - Goble Tavern;
  - Bing's Restaurant

The motion carried unanimously.

**MEASURE 37 CLAIM #CL 07-04 FILED BY EMAD AL ATTRASH:**

Todd Dugdale, LDS Director, addressed the Measure 37 Claim CL 07-04 filed by Jack Weisgerber, who is the representative of Emad Al Attrash for a 48.54 acre property on Bennett Road in Warren. The property is zoned FA-19. Claimant is claiming a reduction in fair market value in the amount of \$1,500,000 due to land use regulations which restrict the proposed development of up to three parcels for residential development. Comments were received but there was no request for a hearing. Based on the staff report, staff has determined that the claimant has met the threshold requirements of a M37 claim. Staff recommends that the Board take action to determine the amount, if any, by which the cited regulations reduced the value of the claimant's property and act accordingly to pay just compensation in that amount, or in the alternative, to not apply CCZO Section 407.1 as necessary to allow the claimant to subdivide the property into up to 3 residential parcels. Because of a lake on the property and some uncertainty, the order would allow up to 10 lots, with no less than 3 acres each.

After discussion, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve Order No. 18-2007, "In the Matter of Claim CL 07-04 submitted by Emad Al Attrash for Compensation under Measure 37". The motion carried unanimously.

**EASEMENT FOR ELLIOT MICHAEL:**

John Knight has prepared an Easement for Ingress and Egress, Light and Air to Elliot Michael as previously discussed by the Board. John also sent a draft copy of the easement to Mr. Michael. Elliot agrees with the \$1,500 fee but asked that #2 be deleted because it would cast a cloud on the easement so John removed it. John then reviewed the details of the easement. Commissioner Bernhard suggested a change in the language in #2, by just adding "as long as applicable", instead of totally removing it. In discussing the language, it was decided to add "*as long as tenant has active lease*". After discussion, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve the Easement for Ingress and Egress, Light and Air to Elliot Michael, with changes in the language under #2. The motion carried unanimously.

**EMERGENCY WEIGHT RESTRICTIONS ON COUNTY ROADS:**

Dave Hill, Public Works Director, came before the Board with a recommendation for a placement of a temporary 5 ton weight limit on the following roads: Smith Road (Columbia City), Robinette Road, Cater Road, Walker Road, Sykes Road, Sierks Road, Pisgah Home Road, Holliday Road, Mt. View Road, Clatskanie Heights Road, Keasey Road, Alder Grove Road, and Shephard Road. He explained that these roads are being damaged because of log trucks, recent freezing temperatures and subsequent thawing. As a matter of practice, these roads have already been posted, however it needs to be authorized by the Board in order to be enforced. The roads would be closed to heavy hauling until such time that the Roadmaster believes the roads have thawed and stabilized enough to remove the signs and allow heavy hauling again, without additional damage to county roads. Based on that recommendation, the Board directed staff to prepare an order for action at the 2:00 staff meeting.

**COMMISSIONER BERNHARD COMMENTS:**

Commissioner Bernhard attended the Police Academy last night, which is always a good experience and the Norman Rockwell exhibit (original pencil drawings) at the Chamber of Commerce. It was very impressive.

She attended the CEPA meeting yesterday and then the Red Cross did a meal out their new meal truck. On Saturday, she attended the Scappoose Boosters fundraiser at the old school.

She attended the Clatskanie PUD meeting. There are some issues that need to be dealt with as a result of that meeting.

On Friday, she met with one of Senator Wyden's staff on the hospital issue and gave them some information on the project.

She and John Knight will be meeting with the Health District representatives on the contract with the County next Thursday.

**COMMISSIONER HYDE COMMENTS:**

Commissioner Hyde attended the RC&D meeting on Thursday. Jenny VanLoo was elected President.

He briefly reported on the Needs & Issues meeting he attended.

On Friday, he attended the COLPAC meeting, CEPA meeting on Tuesday and then a budget meeting.

**COMMISSIONER CORSIGLIA COMMENTS:**

Commissioner Corsiglia spent last Friday with representatives in Clatskanie, recognizing February as Black History Month. The presentation was very well put together and culturally represented.

He attended the Traffic Safety meeting this morning. He has received a lot of comments about the roads and that the Commissioners should be doing something to preserve what we have so they don't get any worse.

There was no Executive Session held.

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

Dated at St. Helens, Oregon this 7<sup>th</sup> day of February, 2007.

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