

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

March 7, 2007

The Columbia County Board of Commissioners met in scheduled session with Commissioner Rita Bernhard and Commissioner Joe Corsiglia, together with Sarah Hanson, Assistant County Counsel, and Jan Greenhalgh, Board Secretary. Commissioner Hyde was attending a NACo conference in Washington D.C.

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

MINUTES:

Commissioner Corsiglia moved and Commissioner Bernhard seconded to approve the minutes of the February 27, 2007 Work Session and February 28, 2007 Board meeting. The motion carried unanimously.

VISITOR COMMENTS:

None.

PUBLIC HEARING: MICHAEL CLARK CU PERMIT:

This is the time set for the public hearing, "In the Matter of the Application of Michael Clark for a Conditional Use Permit for a Type II Home Occupation in a Single-Family Residential (R-10) Zone".

Sarah explained that the Planning Commission held a hearing on this matter and approved the application, with conditions. Michael Clark has appealed this because he disagreed with two of the conditions of approval. The Board stated they have no conflicts of interest or have had no exparte contact. Sarah then read the pre-hearing statement as required by ORS 197.763. She entered County Counsel's hearing file into the record, labeled Exhibit "1" which included all items in the record. She has made copies of the list of items for anyone wishing a copy.

Jacob Graichen, Planner III, presented the staff report. There has been 2 Planning Commission hearings on this proposal. At the first hearing in November 2006, staff recommended denial of the Conditional Use permit, largely due to Road Department concerns about the substandard condition of Orchard Street, the subject site's only access. The Planning Commission continued the hearing to December 2006 and asked staff to prepare conditions for approval that included a time limit for the Conditional Use Permit and a condition addressing the concerns of the Road Department of Orchard Street. At the December 2006 hearing, staff offered 13 recommended conditions of approval which included condition #2, imposing a two year time limit for the CUP and condition #8b, requiring certain improvements to Orchard Street recommended by the Road Department. The Road Department maintained its recommendation for denial of the CUP but recommended improvements to Orchard Street if the application was approved. The owner/appellant appealed the Planning Commission conditions #2 and #8b.

Lonny Welter, Transportation Planner, addressed the road concerns. The portion of Orchard Street that is within the County's authority, is approximately 2000 feet long with a 40 foot right-of-way. It is a gravel road averaging 12 to 14 feet wide, traversing a side slope, with one section on the west end having a 200 foot length at 17% grade. Also, at the west end, a small stream passes under the road through a culvert of unknown age or condition. The Road Department deems it is not feasible to construct Orchard Street to County Road and County Fire Access standards. The Road Department is strongly recommending denial of this application for three reasons: 1) There is a 17% grade of 200 feet on the west end of Orchard Street. This exceeds the 15% maximum grade allowable and is in itself a cause for denial; 2) the 40 foot right-of-way on Orchard Street. Orchard Street traverses a hill side and in order to widen the road to the required width of 26 feet, additional right-of-way will be required. It is estimated that an additional 60 feet (for a total of 100 feet) of right-of-way will be required in several sections; and 3) Based on the cost of improvements, it is not feasible. The overall cost of improving Orchard Street to county standards is between \$500,000 and \$700,000 for the total 2,000 feet under county authority. With that, Lonny reiterated that the Road Department is recommending denial.

The hearing was opened for public testimony.

PROPONENTS:

Michael Clark, 16716 Orchard Street, Clatskanie: He is the applicant and is appealing two conditions of approval by the Planning Commission: condition #2, imposing a two year time limit for the Conditional Use Permit, which is abnormal and condition #8b, that he has to put a drain system all the way down the road with fire turnouts every 400 feet. In the first Planning Commission meeting in November, he presented his case and they were ready to grant approval on everything when staff interrupted. Staff said there was so much to rewrite that the hearing was then carried over to December. The Planning Commission was ready to override the Road Department's denial. When the December hearing was held, there was an entirely new staff report, new evidence and a new letter from Lonny Welter. The Commission acknowledged the new evidence and re-opened the public hearing. The whole case was heard again and they talked about the road issues. He noted that this road is not maintained by the county, it is maintained by the residents on Orchard Road. Michael feels that the real problem is the logging operation which is going on up on Orchard Road. Jeff Heller did a logging project up there and took 150 logging trucks out of there, weighing 80,000 lbs each. There is also another logging project going on right now up Orchard Street with another planned in the near future. These loggers do not have to get permission to use this road. Michael presented a photo of his truck, which is a Dodge pickup and photo of a logging truck weighing 80,000 lbs. He also had a photo of the truck, a Ford 350, that delivers his steel for the small trailer manufacturing business. The long and short of this is that, per the decision, a pickup truck cannot deliver steel to his business 2-3 times a month, but 80,000 lb log trucks can use the road all day long. This is completely ridiculous and the Planning Commission agreed with him. When they were ready to approve it again, staff stated that the Planning Commission did not have the authority to override the LDS staff and the Road Department staff. So they approved the application with these conditions. The two year time limit came about just to satisfy the Road Department. The Board should take the time to listen to the Planning Commission tapes because they were in total agreement to

approve this application without the two conditions. He has a small business and has been forced to shut it down and move it to Longview, Washington because he cannot afford to put \$15,000 into these road improvements. He estimates a loss of \$108,000 annually to the community because he had to move his business to Washington. He would like to bring his business back to Clatskanie.

Commissioner Bernhard explained the problems with the roads in this county and feels perhaps staff is trying to deal with problem roads as they arise. As for the Planning Commission, they clearly have the authority to put conditions on any application.

Sarah entered the photos into the record

Commissioner Corsiglia asked if there is an actual road maintenance agreement with the neighbors. Michael stated that was a thought, but not as of yet. However, the neighbors have maintained this road annually with their own money. Commissioner Corsiglia showed Michael a letter from a neighbor, Norman Aske, outlining his concerns with noise and paint smells. Michael stated that this issue was addressed in the Planning Commission meeting at length. His intent is to construct a new building and paint booth down below the property which will eliminate Mr. Aske's concerns. Commissioner Corsiglia would like to review the Planning Commission minutes.

OPPONENTS:

None - therefore no need for rebuttal.

With no further testimony coming before the Board, the hearing was closed for deliberation. Commissioner Corsiglia wanted to sort out the discussion on the weight of the logging trucks and the damage they can do to the roads. He asked if there are any fees charged for the logging trucks. Lonny stated there are no fees charged by the county to the logging companies, just the proper permits for the log trucks. Lonny explained that when Jeff Heller began his logging operation, he contacted the Road Department to ask permission to use Orchard Road as his exit route. Because of the time of year he was logging, the impact to the road was not going to be that much, so the Road Department allowed it with the condition that he place rock on the road to bring the base up to a better condition, which he did. As for the current operation, Lonny was just made aware of that recently and has asked the Weighmaster to check to ensure that all permits are in order. Lonny is not aware of what authority the County has to stop a logging operation. Commissioner Corsiglia is concerned with the equatability here by charging the applicant \$15,000 for road improvements, but the inability to charge the heavy users of the road. Maybe a road maintenance agreement with the neighbors would satisfy the condition. Lonny wanted to be on record that in 2000 there were several parties up there that wanted to partition the property, at that time there was a flag put on Orchard Street by LDS that no development would occur in this area until the road was brought up to County Road Standards, so this is not something that just came up. Lonny's recommendation was based on that 2000 letter. Currently, this property does not meet driveway standards. Further, the road was in very poor condition when Mr. Heller began his logging project. Commissioner Corsiglia feels there may

be a flaw in our system because there are property owners maintaining the road, yet log trucks are allowed to damage it. We can always hold to standards, but there are times when it gets to the point where if we just shut down all traffic on our roads, there wouldn't be any problems. It doesn't make sense to eliminate the problem by sending businesses over to Washington. We have a situation here where the neighbors are willing to do the upkeep of the road and have been, and then the Road Department is saying they don't have authority over the logging operations, but has the authority to put all the weight on one operation. He asked if a road maintenance agreement could be one of the conditions. Sarah stated that would be illegal and the county cannot require that Mr. Clark get signatures on an agreement that they may not be willing to sign. Commissioner Corsiglia understands the requirements of the Road Standards, however, it is hard to require someone to pay the costs for road improvements when the County can't afford those costs either.

Due to the discussion just held, the hearing was re-opened to allow Mr. Clark to make some additional comments. There is an agreement in the record which was recommended to him by enforcement. He and Norman signed it to stop the flow of negative information and work things out. Norman was complaining to every agency he could. After the agreement was signed, Norman started calling again so the agreement was voided. The bottom line is that if he wanted to bring 30 of his friends and their trucks over to his house every weekend, he could do that, but he can't bring 2-4 Ford trucks to bring him his supplies. His business cannot afford to pay the \$15,000 for road improvements and won't. He will just have to stay in Washington.

With no further comments, the hearing was closed. Due to the need to review all of the documentation, Commissioner Corsiglia moved and Commissioner Bernhard seconded to hold deliberations on Wednesday, March 21, 2007, at or after 10:00 a.m. The motion carried unanimously.

PUBLIC HEARING: MEASURE 37 CLAIM FILED BY ROSS WINANS:

This is the time set for the public hearing, "In the Matter of a Measure 37 Claim Filed by Ross & Patricia Winans for Compensation Under Measure 37".

Sarah announced that she had prepared a list of everything that is in the record which is available to the public.

Todd Dugdale, LDS Director, gave the staff report. Five Measure 37 claims have been received from claimants Ross & Patricia Winans for their 5 properties, totaling approximately 316 acres, in the Shiloh Basin area off Nicolai Road in Rainier. One property is currently zoned FA-19 and the other four properties are zoned PF-76. Claimants are alleging a reduction in fair market value in the amount of \$8,463,540 due to land use regulations which restrict the property development of their 316 acres of land into 5 acre lots for residential development.

The hearing was opened for public testimony.

With none coming before the Board, the hearing was closed for deliberation. With that, Commissioner Corsiglia moved and Commissioner Bernhard seconded to approve Order No. 32-2007, "In the Matter of Claim Nos. 07-17, 07-18, 07-19, 07-20 and 07-21 for Compensation under Measure 37 Claim Submitted by Ross & Patricia Winans". The motion carried unanimously.

PUBLIC HEARING: MEASURE 37 CLAIM FILED BY CLAY DAWSON:

This is the time set for the public hearing, "In the Matter of a Measure 37 Claim CL 07-07 Filed by Clay and Lori Dawson for Compensation under Measure 37".

Todd Dugdale, LDS Director, came before the Board to give the staff report. A Measure 37 claim was received from Clay and Lori Dawson for an 8.85 acre property on LeBerg Road in the Warren area. The property is currently zoned RR-5. Claimant is alleging a reduction in fair market value in the amount of \$325,000 due to land use regulations which restrict the proposed development of two 2 acre lots and a 4.85 acre lot for residential development. Notice was sent to adjacent property owners within 500 feet. Comments were received from Vernon and Ashlee Reynolds. A request for a hearing was received from Chris and Kim Jory. Staff has determined that this application meets the threshold of a Measure 37 claim and recommends that the Board waive the CCZO Section 604.1 (RR-5 Minimum Lot Size) and CCZO Sections 201 and 210 (Requiring development to conform to all applicable zoning ordinance provisions).

The hearing was opened for public testimony.

PROPONENTS:

Clay Dawson, Applicant, 55023 Leberg Road, Warren: He would just like to develop his property, which has been in his family for 30 years, for his children.

OPPONENTS:

None.

With no further testimony coming before the Board, the hearing was closed for deliberation. With that, Commissioner Corsiglia moved and Commissioner Bernhard seconded to approve Order No. 31-2007, "In the Matter of Claim No. 07-07 for Compensation under Measure 37 Submitted by Clay and Lorraine Dawson". The motion carried unanimously.

CONSENT AGENDA:

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

- (A) Ratify the Select-to-Pay for 3/6/07.

- (B) Order No. 30-2007, "In the Matter of Conveying Certain Real Property off of Honeyman Road, Scappoose, Oregon, to Elmer & Lucille Hinkle [Tax Account No. 01-08 3107-033-00100]".
- (C) 2007 Liquor License Renewals for:
 - B & B Market;
 - Deer Island Store

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (D) Amendment #46 to the 2005-2007 Intergovernmental Agreement #113022 with DHS.
- (E) Amendment #55 to the 2005-2007 Intergovernmental Agreement #113022 with DHS.
- (F) FY 2007 Drug Court Discretionary Grant application.
- (G) Construction Contract with Civil Construction company, Inc. for J. J. Collins.
- (H) GIS Data License Agreement with CH2M Hill-Hill.

The motion carried unanimously.

MEASURE 37 CLAIM CL 07-08 - DALE LEE:

Todd Dugdale stated that Dale & Lucile Lee filed a Measure 37 claim CL 07-08. Staff has determined that the Lee's meet the threshold for a Measure 37 claim and recommend waiver of CCZO Section 221. After discussion, Commissioner Corsiglia moved and Commissioner Bernhard seconded to approve Order No. 33- 2007, "In the Matter of Claim No. 07-08 Submitted by Dale C. Lee and Lucile L. Lee for Compensation Under Measure 37". The motion carried unanimously.

ORDER NO. 34-2007 - AMENDING MEASURE 37 APPLICATION PROCESS:

This matter has been previously discussed with the Board a couple of times. Sarah reviewed the final order and what it states. After review, Commissioner Corsiglia moved and Commissioner Bernhard seconded to approve Order No. 34-2007, "In the Matter of Amending the Procedures to Process Applications for Compensation Under Oregon Statewide Ballot Measure 37". The motion carried unanimously.

COMMISSIONER BERNHARD COMMENTS:

Commissioner Bernhard attended the NWACT meeting last week in Tillamook. Discussion was held on the study that will be conducted on the increase in rail traffic and other issues.

Last weekend, she attended a forum hosted by the Chamber of Commerce and then went on a walking tour of old town St. Helens to see the different stages of renovations.

The Board continues to work with department heads on the upcoming budget process. Waiting to see if Commissioner Hyde comes back from Washington DC with any positive feedback on the Rural Schools funding.

The Ford Foundation gives out grants for different projects. A gentleman came into her office the other days asking for a letter from this Board, supporting a play facility at Heritage Park in Scappoose. Commissioner Corsiglia would like to see all four projects before sending a letter of support to any one.

COMMISSIONER HYDE COMMENTS:

Not present.

COMMISSIONER CORSIGLIA COMMENTS:

Commissioner Corsiglia briefly commented on the budget shortfalls - we can only cut so much off the bone.

Last Thursday, he attended the 80th birthday of the Kiwanis Club. He and Deb are charter members of Kiwanis and have looked back at the number of projects this club has accomplished.

On Friday night, he enjoyed the Jefferson Dancers at the Clatskanie Arts Commission. There was a huge turnout for their performance.

Commissioner Corsiglia briefly commented on the discussion held at the Traffic Safety Committee this morning. A group will be going to the State on the need for 4 overpasses on Hwy 30.

IGA WITH MULTNOMAH COUNTY - HOLD HARMLESS:

Sarah stated that Walt Pesterfield and others from his department will be attending a defense training class in Portland tomorrow. Multnomah County is requesting that an IGA be signed by the County to hold Multnomah County harmless. Because this class is tomorrow morning at 7:30 am, the IGA needs to be authorized today. With that, Commissioner Corsiglia moved and Commissioner Bernhard seconded to instruct Sarah to draft and Intergovernmental Agreement with Multnomah County and authorize Walt Pesterfield to sign the IGA. The motion carried unanimously.

HANKEY ROAD STATUS:

Commissioner Bernhard asked Dave Hill to report on the status of Hankey Road. She has received a number of calls/complaints on this project. Dave stated that the Road Department has also received a lot of calls regarding the condition of the road, how it is left at night, the mud and

water on the road, etc. Dave and Lonny are working on this and have had discussions with the project manager and, if things don't improve, the construction permit will be revoked. They will be going out there again today after this meeting.

EXECUTIVE SESSION UNDER ORS 192.660(2)(f)(e):

The Board recessed the regular session to go into Executive Session as allowed under ORS 192.660(2)(h)(d). Upon coming out of Executive Session, no action was taken by the Board.

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

Dated at St. Helens, Oregon this 7th day of March, 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 M. Bernhard
Rita Bernhard, Chair

By: Not Present
Anthony Hyde, Commissioner

Recording Secretary:

By:

Jan Greenhalgh
Jan Greenhalgh

By:

Joe Corsiglia
Joe Corsiglia, Commissioner