

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

April 4, 2007

The Columbia County Board of Commissioners met in scheduled session with Commissioner Rita Bernhard and Commissioner Anthony Hyde, together with Sarah Hanson, Assistant County Counsel, and Jan Greenhalgh, Board Secretary. Commissioner Corsiglia was not present.

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

MINUTES:

Commissioner Hyde moved and Commissioner Bernhard seconded to approve the minutes of the March 27, 2007 Work Session; March 28, 2007 Board meeting; March 28, 2007 Staff meeting; and March 29, 2007 Special meeting. The motion carried unanimously.

VISITOR COMMENTS:

None.

HEARING: PACIFIC CASCADE RESOURCES SURFACE MINING PERMIT:

This is the time set for the public hearing, "In the Matter of the Application of Pacific Cascade Resources - Siercks Road Site for Renewal of a Surface Mining Operating Permit #05-0032 for the Period 2006-2011".

The Board originally heard this matter on December 13, 2006 and the Surface Mining Permit was approved. That approval was appealed by the neighbors surrounding the site and, under the Surface Mining Ordinance, the appeal goes directly back before the Board of Commissioners. Sarah stated that this is a quasi judicial hearing so she asked that the Board declare any exparte contact or conflicts of interest. Commissioner Hyde had none. Commissioner Bernhard has no conflict of interest, however she toured a lot of roads in the county with Dave Hill and Siercks Road and Vernonia Hwy were two of them, however, no discussion was held on the mine itself. 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". She has prepared a list of all contents in the record and made copies for the public. Sarah noted that she has a copy of the reclamation plan which is not on the list, but is in the record and marked Exhibit "2".

Todd Dugdale, LDS Director: As indicated the Board held a hearing on this matter in December, 2006. At that time, the Board approved the renewal of the Operating permit with 14 conditions, contained in Order No. 12-2007. On February 13, 2007, an appeal was filed by Mark Peckover, representing Siercks Road Neighborhood Association. Attached to the final order was staff findings and a staff report addressing the criteria. Bob Brinkman, Surface Mining Administrator, has prepared an addendum to that report, dated 3/13/07, which focuses on the grounds for appeal. The appellant cited 4 errors in the original decision: 1) that the current reclamation plan is not being followed; 2) there are new permit conditions that are in conflict

with the reclamation plan; 3) the permit conditions do not fully address neighborhood safety; and 4) that there is a current 10,000 lb weight limit on the access road to the mine. Those issues are what is addressed in the report from the Surface Mining Administrator.

Bob Brinkman, DOGAMI, Surface Mining Administrator for Columbia County: Bob submitted his amended report to the Board and, in lieu of going through the report, simply asked if there were any questions. The Board had none at this time.

The hearing was opened for public testimony.

PROPONENTS:

Lou Adler, PO Box 68, Creswell, OR 97426: He apologized to the Board for having to go through this twice. On December 13, 2007, the Board made a decision to approve this permit. The Board comes with a lot of experience and knows what they are doing. We have a few trouble makers in the county that have come out on this, but as far as he is concerned, the Board approved the permit and we shouldn't be sitting here today. A question on who is notified. He understands that only the surrounding property owners are notified within a certain radius of the property. How can people from 20 miles away be allowed to testify on this? The State issues a permit and it is only taken away when there is a violation. In response to the errors cited by the appellant, 1) the pit is not ready for reclamation yet; 2) permit conditions should be dealt with through the Surface Mining Administrator; 3) not sure what safety issues aren't being addressed in the permit conditions; and 4) the weight limit is an issue for the Road Department. He is appalled that these people come here to waste our time and money. Nothing has changed at this site in a long time. There has never been a safety concern, a water problem, a traffic problem, etc. Anything that has come up has been addressed immediately.

Commissioner Bernhard asked about the gate that was a condition of approval. She did not see anything when she went by the site and asked if Lou is intending to fence the area. He stated that he had no immediate plans to do that, but would not be against it. He put in some concrete blocks to keep people and cars out of the site which has helped a lot. He discussed options that may work, such as a berm around the front part, possibly fencing the area, gating, etc. Lou stated that he is personally responsible for this site and is personally offended by what is being said against him.

Allen Kozlosky, 31444 Newkirk Road, Scappoose: He owns pretty much all of the property up behind the pit. Lou has always been a good neighbor and any problems that came up, Lou took care of them right away. He has no problem with this operating permit being renewed.

OPPONENTS:

Mark Peckover, PO Box 1463, Scappoose: He filed the original appeal on this application. He handed the Board his written testimony and read it into the record, which was marked Exhibit "3". He has lived in Scappoose for just over a year. He and his wife moved their 4 children to Columbia County in pursuit of a smaller town with a vibrant close knit community and a rural setting to raise their children. To date, they have not been disappointed. What he has observed

within his brief time here in Columbia County is this is a land with abundant resources. Timber, minerals, agriculture, water and affordable housing make this area an extremely desirable locale. With this abundance, he hopes that the Board agrees that it is imperative we strive to be good stewards of these gifts. His concerns with the operating of the mine operated under permit #05-0032 as proposed by the Board of Commissioners are the unreconciled safety issues, an apparent lack of sensitivity to sustainable operation of the mine, usability of the site in question for future questions, and what appears to be violations of current land use regulations of Board of Commissioners are allowing to continue. The operation of this particular mine has been discussed since April of last year. His hope is that the Board will hear the concerns presented today by the residents of Columbia County most closely impacted by this mine and consider extending this dialog if it appears a mutually beneficial solution for the County, Pacific Cascade Resources, and the neighbors before you may be reached outside of the options currently before you. Mark then went over the purpose of the Board of Commissioners and the Ordinances; Permit renewal violations; and violations within the current mining practice, as outlined in his written testimony.

In conclusion - as a neighbor, and he believes he speaks for most of them, that they do not desire to place a local business owner out of business, nor are they looking to place the county in a position to expend already stretched limited resources. They simply desire the County accurately enforce the currently adopted regulations governing surface mining activity in order to preserve the beauty and community of Columbia County. His last concern is that there are no time lines set for the conditions of approval. Families with children are moving into this area with a greater frequency. He is very concerned that the Board of Commissioners would approve the permit renewal application with no time lines. In his opinion, this exacerbates a non compliant land use condition which is contrary to Section 1.2(3) of the Board's purpose to prevent undesirable living conditions for the residents.

Commissioner Bernhard clarified that Mark was aware that a surface mine was there when he moved in 1 ½ years ago. He stated that he was aware of that.

Christy Dooley, 31232 Newkirk Road, Scappoose: She doesn't live 20 miles away, she lives very close to the site and has for quite awhile. Over the past 6 years, she and her husband have invested sweat equity and money to improve their place. They have also seen the area around them improve, from an area infested with drug dealers to families like Marks moving in. Everyone there is taking pride in their neighborhood. She was aware of the pit when she moved here and doesn't have a problem with Mr. Adler opening the pit. What they don't want is it to sit there with no time line and no security. As for security, she was coming home one evening and there were children climbing the high wall of the pit. That is extremely dangerous so she chased the kids away. While there, she saw a lot of drug paraphernalia so she came back the next day and spent two hours cleaning up the needles, etc. She stated that, with the concrete barriers up, that stops the drug dealers from pulling in there, but it doesn't keep the kids out of the site or keep people from going in there to shoot their guns. If Mr. Adler could fence the property, at least the neighbors could call the police to report trespassers. Fencing should, at the least, be across the front and the top of the high wall.

Commissioner Bernhard clarified that Ms. Dooley is not opposed to the mining operation, just the safety issues.

Ms. Dooley stated that she is not opposed to the mine as long as Mr. Adler runs it and gives us a time line and sticks to the ordinance. Her husband is an environmental scientist and he knows what it takes to restore an area like that. They have even considered buying the site and restoring it themselves. As long as Mr. Adler follows the reclamation plan, which feels is a joke and the money he has as a bond is a joke. That bond needs to be brought up to current industry standards and the reclamation plan needs to be updated. At least give the neighbors hope that someday they will have a restored pit or a safe area. Again, she has no problem with Mr. Adler opening up the mine, as long as there is a time line. The neighbors can't sell their place and lose a bunch of money because people don't want to live next to an eyesore and a hazard, that they have to disclose that it is an open, permitted mine.

When asked, she stated that the mine was there when she moved in and had no problem with it.

Michael Sheehan, 33126 Callahan Road, Scappoose: He is here on behalf of the Scappoose CPAC and individually. The county has zoned this area rural residential, except for the pit. The expectation when the county zoned it residential would be that people would move in there. It is an invitation for residential uses to come into this area. The land itself is a split lot - surface mine and residential. The surface mine part is superimposed on the RR-5. It is not the normal use for this area.

Commissioner Hyde asked if the mine was in place prior to the 1984 comprehensive plan. If so, then the it is the other way around - the RR-5 was superimposed on the mine.

Michael wanted to state that he has nothing against Mr. Adler. One of the issues of concern is safety. There is a huge high wall with transmission lines on the top. The reclamation plan calls for benching and landslides are a concern. There is a sheer cliff and kids moving into the neighborhood. Having a fence along the edge to keep kids away from the edge is necessary. We also have the issue of the reclamation plan stating that the cliff needs to be benched in the final slope. The problem is that this county tends not to enforce the reclamation plans. In this pit, reclamation could be costly and create problems because of the transmission lines. If an operator continues to obtain an operating permit, they will never have to reclaim the property. Mike understands that there has been little, if any, activity since 1997-1998. Nothing is happening on the site and there is no reclamation going on. If the site has been inactive for 24 months, it should be considered abandoned and is supposed to be reclaimed. Another thing about this site, is that there is a 200 foot setback requirement of activity from any property which would allow a house, a conditional use or permitted outright. This means that, because all of the surrounding properties are zoned RR-5, that leaves a very minimal area that can be mined. Mike moved on to the barrier. If a berm or hedging is put in along the front of the mine, then who knows what is going on on the other side. There is a long history of criminal activity at this site. It makes more sense that it be fenced, with 2 gates. At least this would stop trespassers from going into the site and you would be able to see what's going on in there. With regards to condition #11, the applicant shall install and maintain an access gate to prevent access onto the site. That "shall" means it must be done. CCZO Section 6.1(7) has to do with protection of

public and adjacent properties from steep banks. This is the county's authority to do something about the high cliff. In summary, the major issues are that there needs to be a fence at the top of the property, seal the site off at the entrance, the 200 foot setback, get the reclamation set up so there is a reasonable bond, and do something about the site abandonment so we don't have a situation where the small miners are never going to reclaim because the county continues to issue operating permits. Again, he has nothing against Lou Adler and if he runs things in a right way and takes care of these issues, that would be fine. He has no interest in running a small business man out of business.

Arthur Scharf, 54729 Reed Road, Scappoose: He wanted to address a couple of things that came up during testimony. Mr. Adler spoke about needing a solid plan for his business versus a threat of unknown change. If the Board listens to the testimony of the neighbors, they will realize that they are under exactly the same problem. They don't know when this mine is going to operate, when it's going to close, when it's going to be fenced, or what safety conditions will be dealt with. Mr. Adler also stated that he would take care of danger issues and Arthur applauds that and hopes that he does. However, at the present time, there are danger issues that were brought up at the last hearing in December, still unresolved. The pond and the high wall are the two major safety issues. The pond looks like a frog pond, but is very deep with a sheer drop off. He heard a story of a woman's dog that fell off the top of the high wall and died. So accidents have already happened out there and more waiting to happen. As far as knowing that a mine was there when he moved into his property, he was aware of it. However, he was told it was inactive and would never be opened again. By allowing a mine to be inactive for such a long period of time, you create the impression that there is not an active mine there.

Mr. Scharf then read his written testimony and submitted into the record, which included additional documentation, marked Exhibit "4".

While present, Mr. Scharf asked Lou Adler if he would be willing to meet with the neighbors to come up with a compromise prior to the Board making a final decision on this application.

REBUTTAL:

Lou Adler stated that he has mixed emotions after hearing the testimony. Seems like a lot of the neighbors have been on his property. Maybe he needs to post more trespassing signs. This mine has been inspected annually for years, so where are all these violations coming from. As for property values, if his property value goes down from the testimony heard in this room, he will recoup that from somewhere. He feels this whole surface mining administration should be given to DOGAMI. He has tried to follow the County rules and he has not received any violations from the county to be fixed. When asked, Lou stated that he has no problem meeting with the neighbors to settle some of their concerns.

With no further testimony coming before the Board, the hearing and record was closed for deliberation. Because of the amount of testimony given and the need to review it, Commissioner Hyde moved and Commissioner Bernhard seconded to carry over deliberations to Wednesday, April 18, 2007, at or after 10:00 a.m. The motion carried unanimously.

CONSENT AGENDA:

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

- (A) Ratify the Select-to-Pay for 4/3/07.
- (B) Ratify the Board's decision to allow logging on Holaday and Pisgah Home Roads, beginning April 1, 2007 and direct Dave Hill to work with the logger to address the issues.
- (C) Ratify Commissioner Bernhard's signature on the April 3, 2007 Certificate for Cascade Grain.
- (D) Authorize County Counsel to recruit for an Assistant County Counsel with the hiring authorization to be reviewed at a later date.
- (E) Approve 2007 Liquor License Renewals for:
 - Jay Dee Tavern;
 - Star Mart
- (F) Order No. 45-2007, "In the Matter of Claim Nos. CL 07-41 and CL 07-42 for Compensation under Measure 37 Submitted by James and Sarah Middleton".
- (G) Order No. 46-2007, "In the Matter of Claim No. CL 07-43 for Compensation under Measure 37 Submitted by Ruby Leno".
- (H) Order No. 47-2007, "In the Matter of Claim No. CL 07-44 for Compensation under Measure 37 Submitted by Donna Cooke".
- (I) Order No. 50-2007, "In the Matter of the Demolition of the Structure Located on County Owned Property Known as Tax Account No. 4313-040-01200".
- (J) Order No. 52-2007, "In the Matter of Claim No. CL 07-32 for Compensation under Measure 37 Submitted by Roy and Joyce Jobin".
- (K) Order No. 64-2007, "In the Matter of Amending the Columbia County Executive Session Policy".
- (L) Authorize Dave Hill to hire a park host position for Camp Wilkerson.

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (M) Amendment #54 to the 2005-2007 Intergovernmental Agreement with DHS.
- (N) Amendment #58 to the 2005-2007 Intergovernmental Agreement with DHS.

- (O) Approve the State of Oregon Emergency Management Infrastructure Contract 1683-DR-OR, and authorize the chair to sign
- (P) Personal Services Contract By and Between Columbia County and OBEC Consulting Engineers for West Lane Road.

The motion carried unanimously.

ABATEMENT OF SOLID WASTE NUISANCE (EBERT):

Robert Crain, Code Enforcement Officer, came before the Board to address the abatement of a solid waste nuisance, on property located at 56510 Old Portland Road, Warren, Oregon. There are several violations that have occurred on this property, including violations of the Solid Waste Ordinance, Zoning Ordinance, Building Code and On-Site Septic Rules. The violations generally pertain to scrapping, recycling and salvage activities, related storage and debris and illegal connection to an RV which is being occupied on the property. Mr. Ebert was issued a citation and was found guilty of several violations in Circuit Court and ordered to pay fines. Since that time, the property has not been brought into compliance and has in fact become worse. In response, LDS posted and mailed an abatement notice under the Solid Waste Ordinance. LDS continues to receive public contacts concerning the on-going violations. Under the abatement procedure, LDS has notified Mr. Ebert that failure to abate the nuisance by March 16, 2007 may result in the County abating the nuisance and placing a lien on the property or the issuance of further citations. Staff is recommending that formal notice be sent to Mr. Ebert to appear before the Board to show cause why a nuisance should not be declared.

After little discussion, Commissioner Hyde moved and Commissioner Bernhard seconded to give notice to Leland Ebert under Section 7.04C of the Solid Waste Ordinance requiring him to appear before the Board at a public hearing to show cause why a nuisance should Not be declared to exist. The motion carried unanimously.

PETITION TO NAME PRIVATE ROAD:

Todd Dugdale, LDS Director, regarding this petition. The Board has reviewed this request and with that, Commissioner Hyde moved and Commissioner Bernhard seconded to approve Order No. 65-2007, "In the Matter of the Petition by Matt Isaacson to Name a Certain Private Road "Benson Heights Drive". The motion carried unanimously.

COMMISSIONER BERNHARD COMMENTS:

Commissioner Bernhard and Commissioner Hyde attended a meeting this morning at Columbia City Hall where Senator Smith was the speaker. Several important issues were discussed, particularly PL 106-393.

The Board held a meeting last week with the logging and trucking companies to discuss county road issues. It seemed to go very well.

There are some issues with the Gable Road intersection with traffic congestion and school buses. It has been suggested by the school district to meet with city and county representatives to address some issues regarding that intersection.

COMMISSIONER HYDE COMMENTS:

Commissioner Hyde moved and Commissioner Bernhard seconded to approve the Intergovernmental Agreements with the City of St. Helens; City of Columbia City; Columbia Health District; and the Columbia River Fire & Rescue District, for Emergency Management services, subject to review by County Counsel. The motion carried unanimously.

COMMISSIONER CORSIGLIA COMMENTS:

Not present.

EXECUTIVE SESSION UNDER ORS 192.660(2)(h):


The Executive Session was carried over to the Staff meeting today at 2:00 p.m.

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

Dated at St. Helens, Oregon this 4th day of April, 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: Not Present
Joe Corsiglia, Commissioner

Recording Secretary:

By: 
Jan Greenhalgh