

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

October 10, 2007

The Columbia County Board of Commissioners met in scheduled session with Commissioner Rita Bernhard, Commissioner Anthony Hyde and Commissioner Joe Corsiglia, together with Sarah Hanson, 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 October 3, 2007 Board meeting and October 3, 2007 Staff meeting. The motion carried unanimously.

VISITOR COMMENTS:

Jan Kenna, CCCC Director, presented information on the Community Comprehensive Planning process they are working on. A team of people have been going over information and issues, i.e. adult alcohol & drug use, poverty, reading and math scores. That information is compiled into a plan which is due January 2008. As a way to obtain information, they are doing an on-line survey, which is available on the county web-site and is anonymous. She encouraged the Board to visit that web-site. There will be a press release going out today regarding this.

PRESENT CERTIFICATE OF ACHIEVEMENT TO FINANCE DEPARTMENT:

The Board was pleased to present the Finance Department with a Certificate of Achievement for Excellence in financial reporting. This is the 4th consecutive certificate our county has received. Those present were Ruth Baker, Shelley Blickenstaff, Mary Ann Guess and Sharmel Evans. This is a huge accomplishment and the Board wanted to congratulate everyone in the department for all their hard work.

HEARING: CLOSEOUT OF CDBG REGIONAL HOUSING FACILITY GRANT:

This is the time set for the public hearing to solicit input on the program performance of the Regional Housing Facility grant.

The hearing was opened for public testimony.

Beverly Danner, CAT, was present to give information on the 35 households they provided funding for through the NW Oregon Regional Housing Rehabilitation program through 2005-2007. This was a very good program overall. These funds are paid back to the revolving loan fund when a homeowner either refinances or sells their home. The money is recycled within the program. A requirement of the grant is to hold a public hearing when the grant is closed out. No formal action is needed.

With no further testimony coming before the Board, the hearing was closed. There is no action required by the Board.

CONSENT AGENDA:

Commissioner Bernhard read the consent agenda in full. Sarah asked that Items (D) & (F) be removed and held over. With that, Commissioner Hyde moved and Commissioner Bernhard seconded to approve the consent agenda as follows:

- (A) Ratify the Select-to-Pay for 10/9/07.
- (B) Authorize the increase to .9 FTE for Administrative Assistant in Commission on Children and Families' department, effective October 15, 2007.
- (C) Approve the new 2007 Liquor License for Blue House Café, LLC.
- (D) Resolution No. 138-2007 "In the Matter of Acquiring a Temporary Construction Easement and a Right-of-Way Easement for Hermo Road Improvements from Lower Columbia Tree Farm, LLC." *(Removed and held over)*
- (E) Accept a Temporary Construction Easement from Lower Columbia Tree Farm, LLC, for Hermo Road improvements and authorize payment in the amount of \$6500.
- (F) Accept a Dedication Deed from Lower Columbia Tree Farm LLC, for Hermo Road improvements and authorize payment in the amount of \$14,500.00. *(Removed and held over)*
- (G) Cancel the Commissioner's 10:00 am session for October 17, 2007, however, the public hearing scheduled for 6:00 pm at Scappoose City Hall will be held.

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (H) GIS Data License Agreement with First American Flood Data Services.
- (I) Amendment to contract with Community Action Team for the Healthy Start Program.

The motion carried unanimously.

TRANSPORTATION UPDATE:

Janet Wright was present to give an update on the County Transit system. They are in the process of moving the CC Rider offices out of the Road Department and into their new site on Port Avenue. She is working on various grants for the transit system. She was working on

getting shelters for 5 different stops, but getting them up from Eugene has been a problem. She will continue to work on that. The Board again thanked Janet for the wonderful job she is doing on the program.

COMMISSIONER BERNHARD COMMENTS:

Commissioner Bernhard wanted to publicly thank the Lee's for the work they do to the grounds around the courthouse and would like to send a thank you letter to them. The Board agreed.

When she was leaving the building Friday evening, she noticed that the LDS employees were staying late to paint their offices. They worked Friday, Saturday and Sunday, their own time, to do this. Kudos to them.

Last night she watched the Crystal Nightmare program that was aired on every channel. It was an excellent program.

She also attended the annual spaghetti feed at the CRPUD after attending the MHAC and LADPC meetings.

Yesterday at noon, she went to the luncheon at the Elks where the St. Helens School Superintendent was present to speak along with some students on the Leadership program..

Over the weekend, she went to the Salmon Festival in Vernonia.

Last Thursday, she was in Boardman to attend a GOBHI meeting, which deals with mental health services.

COMMISSIONER HYDE COMMENTS:

Commissioner Hyde also went to the Salmon Festival in Vernonia, which was a lot of fun and the fish were running.

On Monday and Tuesday he attended the OEDA conference. He also met with the Oregonian, along with other Commissioners regarding the BLM plan.

On Tuesday, he attended the St. Helens High School Leadership program at the Elks.

Unfortunately, he had to attend another funeral yesterday for a local resident of Vernonia.

He mentioned that he received a letter this morning from FEMA appointing him to FEMA's Region 10 Council.

COMMISSIONER CORSIGLIA COMMENTS:

Commissioner Corsiglia attended a St. Helens City Council meeting last week where they discussed Systems Development Charges. They are working on changes to make themselves more in line with other cities.

On Tuesday, he went to the Elks for the St. Helens Leadership program. He was very impressed with the student speeches.

He also went to Vernonia for the Salmon Festival. He and Debi took the motor home and just made a weekend out it.

He is looking forward to the TOPOFF exercise next week.

The Board recessed the meeting at 10:45 a.m. and will reconvene next Wednesday, October 17, 2007 at 6:00 p.m. at Scappoose City Hall.

The Board reconvened their meeting on Wednesday, October 17, 2007 at 6:00 pm at the Scappoose City Council Chambers. Commissioner Bernhard, Commissioner Hyde and Commissioner Corsiglia were present, along with Spencer Parsons, Assistant County Counsel and Jan Greenhalgh, Board secretary. Also present were Dave Hill and Aaron Clodfelter, Road Department.

Commissioner Bernhard called the meeting back to order.

PUBLIC HEARING: LEGALIZATION OF A PORTION OF WEST LANE ROAD:

This is the time set for the public hearing, "In the Matter of the Proposed Legalization of a Portion of County Road "D", commonly known as West Lane Road".

Spencer Parsons - The Board adopted Order No. 137-2007, which formally initiated the legalization process. Under state statute, the Board is required to hold a public hearing to allow for testimony, which is the purpose of this hearing. The legalization process is a method to clarify the record as to right-of-way boundaries, when it is not clear in the record. Notice was sent to abutting property owners and notice was also posted as required.

Dave Hill, Public Works Director: The Road Department received an award of \$2,000,000 for improvements to West Lane Road and a section of Honeyman Road. Using an oversized map, Dave explained the areas of the road to be improved. The agreement with the State says that bids for this project need to be advertised by December, with the intent to make the improvements next spring and summer. The intent to make the road, from Crown Zellerbach Road to Moore Road, to a width of 32 feet wide. Currently, this section is about 21 feet. So they will be widening the road another 10-11 feet. West Lane Road will more heavily constructed with an asphalt overlay. Along with the widening, we will also need to relocate the power poles along West Lane Road. In review of the survey documents, we need to make

certain that we have the correct right-of-way in place. The location of the road does not conform to the "as traveled" road. It is clear, and the evidence will show, that this road was established in 1871. The request tonight is for the Board to legalize the location of the road and determine what the right-of-way should be. Aaron Clodfelter, Road Department and OBEC Consulting Engineers.

Aaron Clodfelter, Road Department, presented the Board with a packet of information regarding the history of West Lane Road and survey documents from 1871 forward. Aaron reviewed this information, and noted that, based on his research and the information supplied, that the original intent was for this road to be 60 feet in width.

The hearing was opened for public testimony.

Gale Walker, 52806 West Lane Road, Scappoose: She and her husband own 3 parcels where CZ Road and West Lane intersect and have for approximately 34 years. She asked if the County intends to take 30 feet of their property. Dave Hill explained that the intent is make the right-of-way 30 feet from center. Currently, the total width of the pavement is about 21 feet from center. This will add approximately 11 feet from the center line. He noted that they will not be making improvements to the full amount, only to establish that the right-of-way will be 30 feet from the existing center line. In summary, it will only be about 5-6 additional feet on her property.

Dave noted that there is a mix of surveys out there and half say the right-of-way should be 40 and the other half say 60 feet. In 1871, the county accepted this road with a 60 foot width.

Commissioner Corsiglia asked Spencer if this would be considered a taking of property. Spencer explained that a legalization process is not an action for taking property. It is only a clarification of what already exists.

Gale stated that Parker's pit is directly across from her property and is dug out so how can you go further on his property. Does that mean it will all come onto her property? Dave explained that the right-of-way is being determined from the center line, regardless of what is on each side. In answer to her questions, it would only mean about 5-6 feet on her property.

Phil Meyers, 53351 West Lane Road: He is not sure he is opposed to this, he just wants some clarification on what the "center line" is. He is trying to understand what improvements are going to be made. Once the county legalizes this at 60 feet, the county then has control over that 60 feet. Even though it has been stated that the county has no plans to use that full amount, they can in the future.

Dave Hill agreed and stated that, as the city develops out that way, the city or county would have the right to make any improvements inside of that 60 foot ROW. He noted again that there needs to be room for the major utility poles for safety reasons. He has determined that they need to sit about 26 feet from the center line.

Phil asked why not just keep it at 40 feet, why go to 60 feet. Dave stated that research could not find anywhere that states the ROW should be at 40 feet, yet they did find evidence that it should be a 60 foot ROW. It is very clear in the records that the County Commissioner's at the time, they accepted this road as 60 feet.

Commissioner Bernhard stated that this is a very common issue within Columbia County. As we find these situations, steps are taken to legalize these roads.

Commissioner Corsiglia asked if, as these properties have been conveyed over the years and properties sold, was it based on the 60 foot, have structures been measured for 60 feet and have they been taxed accordingly. Dave - probably not because the Assessor's records shows the width at 40 feet. Commissioner Corsiglia then asked Spencer if there are discrepancies and people have been paying taxes on a certain of their property that has been ROW all this time, is there a way to correct that? Spencer - we would have to go through each deed separately to determine what legal description the property owner was taxed on. If someone is concerned about that, they would need to come to the Assessor's office to have it checked. As far as some type of compensation, he is not aware of anything. Commissioner Bernhard felt that if a property owner has been paying on that property over the years, they have had the opportunity to use the property. Spencer explained that it is not that simple. If the road, as established in the 1870's is at 60 feet, then the county may have a deed on file that is inaccurate. A survey that show a property at 40 feet isn't going to legally trump the original establishment of the road at 60 feet.

William Walker, 52806 West Lane Road, Scappoose: As he understands the comments from staff, West Lane Road was established at 60 feet in width in 1871 and was a main road from Scappoose to St. Helens. The county abandoned this road when Hwy 30 was put in. Since he has lived on this road, which has been for 40 years, it has been a country road. His property has been surveyed and it clearly shows a 40 foot right-of-way. He is against increasing it to 60 feet. Commissioner Hyde stated that the county did not abandon West Lane Road to build the highway. The highway is a state highway and constructed by them.

Duane Pizzo, 53795 West Lane Road, Scappoose: He just wants to clarify which center line is going to be used. The map is somewhat confusing. Dave stated that the existing center line will be maintained.

Scott Parker, PO Box AF, Scappoose: He is the owner of Scappoose Sand & Gravel. Someone made the comment that he started mining in 1990. For clarification, his grandfather started that mine in 1940. His grandfather purchased that property, based on a 40 foot roadway. Scott has mined up to his property lines, based on the survey. He has also bought and sold property along West Lane Road, with title insurance and a legal description, all based on a 40 foot right-of-way. He understands why the county is trying to increase the right-of-way to 60 feet, but his understanding with conversations with Dave Hill is that the center line is not straight, it floats as you go north. His question is will the 60 foot (30 on each side) definitely be coming off the existing center line. Dave Hill stated that the county would establish the center of the right-of-way along with existing center line. Brett, OBEC Engineer, stated that his draft is based on the existing center line.

Aaron Clodfelter stated that Scott Parker's survey and the survey done by Phil Dewey (County Surveyor) were both based on a 40 foot right-of-way. It appears they were unaware of the documents located in the 1871 records. Aaron noted that there have been a number of surveys done along West Lane and they vary back and forth between 40 and 60 feet.

Commissioner Bernhard asked what the impact would be if the road remained at 40 feet. Dave stated that would most likely begin negotiations with all of the adjacent property owners to make the right-of-way at 60 feet. We do not have a safe clear zone to allow for the power poles at 40 feet.

Commissioner Corsiglia feels that, what is missing, is a current list of each adjacent property to show what the actual right-of-way is. Some may be 60 feet however, some may be only the 40 feet. We need to establish what each right-of-way is.

Commissioner Bernhard stated that there is grant from ODOT pending, so we have to come to some type of agreement so we can move on. This has been dragging on for a very long time and a decision needs to be made on how this is going to work. We don't want to lose the funding we have available to fix this road. This is a very important road in the county.

Scott Parker understands this concern, however the grant funding should not drive the decision on whether this is a 60 or 40 foot right-of-way. This is a truck route and agrees the road needs repair.

Dave Maloney, 53363 West Lane Road, Scappoose: He has about 2,000 feet of frontage property along West Lane Road and doesn't want to just give it to the county. The county can't just come along saying they found an 1871 survey that shows it at 60 feet. This is nothing more than a taking of his property. Why doesn't the county just buy what they need from the property owners.

Commissioner Corsiglia asked Dave Hill about the grant funding and if some of that funding can be used for purchasing the property. However, if additional funding was needed to acquire property, the original project would need to be scaled back because this would be a sizable expense. When asked, Dave stated that the grant agreement was signed July, 2006.

With no further testimony coming before the Board, the hearing was closed for deliberation. Commissioner Corsiglia feels that some additional research needs to take place to determine what people actually purchased and what their boundaries are. Dave stated that the ODOT representative already have all of the property owner deeds, so those can be checked fairly quickly. This is an important project, so staff would get started on any issues that need to be addressed right away. Commissioner Corsiglia feels it would be of interest to see what people purchased. The other piece is that, while it would be easy to expedite this, we don't want any court injunctions on the process. We may need to settle up with property owners rather than them filing lawsuits against the county. Commissioner Corsiglia asked Spencer what the weight of the County Surveyor's determination on the right-of-way and what is the County's liability. Spencer - as far as the road legalization process is concerned, if the Board determines the ROW should be 60 feet, they have the option of legalizing something less than the 60 feet, but the

surveys do not nullify the original creation of the road at 60 feet. Commissioner Hyde feels strongly that these road improvements need to be made, so he would suggest the Board legalize it at 40 feet and negotiate with the property owners to purchase the additional 10 feet on either side. Spencer stated that he would need to prepare a final order for this and that OBEC would need to do some additional work, based on the 40 feet.

After lengthy discussion, Commissioner Hyde moved and Commissioner Corsiglia seconded to direct staff to prepare a final order to legalize the road at 40 feet. Under discussion, Spencer suggested that the Board could approve a 60 foot legalization and then negotiate with the property owners to purchase the additional right-of-way. After more discussion on that option, Commissioner Hyde amended his motion to approve the legalization of West Lane Road at 60 feet, minus that portion previously legalized, with direction to staff to prepare an appropriate Order and identify those properties erroneously taxed for property within the right-of-way. Commissioner Corsiglia seconded the motion. The motion carried unanimously.

Dave Hill noted that the project grant will only pay for property acquisitions up to Honeyman Road.

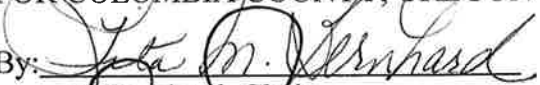
There was no Executive Session held.

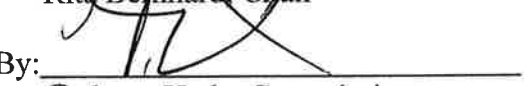
With nothing further coming before the Board, the meeting was adjourned.

Dated at St. Helens, Oregon this 10th day of October, 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