

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

February 4, 2009

The Columbia County Board of Commissioners met in scheduled session with Commissioner Rita Bernhard, Commissioner Anthony Hyde and Commissioner Earl Fisher, together with Spencer Parsons, 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 Fisher seconded to approve the minutes of the January 27, 2009 Work Session; January 28, 2009 Board meeting and January 28, 2009 Staff meeting. The motion carried unanimously.

VISITOR COMMENTS:

*Thelma Bonar, 56734 Way Lane, Warren:* She first wanted to compliment Dave Hill and his crew for the fantastic work they did during the snow.

On another subject, Thelma asked if the Board has made any decisions about going out for a Transit District. Commissioner Bernhard stated that the Board has talked about this, but did not feel the timing is good at this point. However, Henry and Janet are working on a number of grants to help fund CC Rider. Thelma feels that grants are not a guarantee and something should be done to permanently fund the transit system.

Commissioner Bernhard stated that the formation of a district is in the future but not at this time.

*Tammy Maygra, 34319 Cannan Road, Deer Island:* Tammy also commented on the transit system. With the gas prices the way they are, people depend on this system to get them around. The county pays into PCC and county residents should be able to get there for classes. Grants are fine, but they require a match and are not always guaranteed. Tammy suggested either the Board give some of their pay or have Henry calculate the costs and do a referendum like they did for the hospital. She would help any way she can to help this get through. There are a lot of people out there that support this transit system and want to see it continue.

*Scott Groves, 57218 Old Mill Road, Scappoose:* He received his appointment letter from the Board, along with a packet of information regarding the Kennel Land Use Task Force. He would like to talk to the Board at some point about the membership on that committee.

On a separate issue – In January, he called Robert Crain about a violation of the ordinance who was out on vacation. Scott has continued to call Robert since he was supposed to be back from vacation, however his calls have been unanswered. Scott has talked with both Todd and Spencer about the continuing problem with his neighbor and was directed to contact the Sheriff's office. Scott did that, however, this doesn't seem to be a priority for them. He ran into this same problem about a year ago with Roger Kadell who was out of the office and no one else was available to respond to his complaint. Commissioner Bernhard explained that the county has seen a lot of budget reductions and staff is trying to do the best they can. The County is aware of Scott's issue and will inform Todd regarding a response.

**CONTINUE HEARING: TODD VIKEN CU PERMIT FOR PET CARE FACILITY:**

This is the continuation of the public hearing, "In the Matter of the Application of Todd and Liana Viken for a Conditional Use Permit for a Type II Home Occupation to Operate a Pet Camp and Care Facility in the rural Residential (RR-5) Zone".

Spencer reviewed the prior proceedings in the matter and some procedural items. At this time, Spencer entered the following into the record: Letter from Dana Pearlman and Thomas Howell, dated 1/14/09, marked **Exhibit 6**; Letter from Terri Moore and John Oyler, dated 1/9/09, marked **Exhibit 7**; Letter from Steve Payne, dated 1/27/09, marked **Exhibit 8**; and a Letter from Jeffrey Kleinman, dated 2/3/09, marked **Exhibit 9**. Staff has submitted a map detailing where property owners live who signed the petition previously submitted, map marked **Exhibit 10**.

The hearing was reopened for testimony.

**OPPOSITION:**

*George Benz, 55580 Shamrock Way, Scappoose:* He presented his written testimony and other documents, collectively marked **Exhibit 11**. George read from his testimony regarding the changes this business will make to the surrounding area, effect on neighbors, and the noise.

*Phil Warner, 29681 Scappoose-Vernonia Hwy, Scappoose:* He doesn't understand how the county can apply all of the conditions to the application knowing full well that there will be no enforcement. He

already has a lot of dogs barking and can't even enjoy a BBQ with friends because of the noise.

*David Brian Wilson, 32893 NW Peak Road, Scappoose:* He owns property adjacent to the subject property. He had plans to build there, and now hears there is going to be a dog business there. If this is approved, who does he call if there is a problem with dogs barking, etc. He has continued to hear how these things are allowed, with nothing ever done for enforcement. This area is almost all residential and this business shouldn't be allowed here. He would ask that the Board use some discretion in making their decision.

*Scott Pollard, 2210 SW Ashwood, Madras, Oregon:* He owns property directly north of the subject property and lived there from 1975 through 1996. Although he doesn't currently live there, he stills owns the property and rents it out. He has over 4 acres and plans to divide it some day. The Vikens are nice people and this is a great operation, however this is not the place for it. The planned building is huge and seems a far stretch to call this a home occupation. Another issue which has already addressed is the noise and enforcement. This would impact the value of the surrounding properties.

*Wynette Wilson, 32893 NW Peak Road, Scappoose:* She owns the property directly adjacent to the subject property. She would be in opposition even if this property was re-zoned to commercial as earlier discussed. Spencer noted that a re-zone is not part of this application and should not be part of this hearing.

*Scott Groves, 57218 Old Mill Road, Scappoose:* He is not a direct neighbor of the Vikens, however he does have some input. He has been dealing with a neighbor that was denied a land use application for a kennel four years ago and the kennel is still there. He has had to deal with this problem for a long time, with no enforcement taking place. This county is not equipped to handle the "what ifs" and there will be plenty. He went over the problems he has had over the years dealing with the illegal kennel next to his property and the lack of enforcement.

*Amy Horn, 55550 Shamrock Way, Scappoose:* Her property is just north of the Wilson property. She wants to be on record that she and her husband would not have bought their house if they had known a kennel was going in. She feels that the County needs to get their kennel rules and regulations in place before any of these types of businesses are granted.

*Debbie Benz, 55580 Shamrock Way, Scappoose:* If this use is allowed, then the property might as well be zoned commercial. This is not a home occupation. The subject property is on high ground and adjacent to many neighbors. The bottom line is that the neighbors moved here because of the livability in the area. They spend their summer evening outside and, if this is allowed, it will have a detrimental effect on the surrounding property owners.

*Thelma Bonar, 56734 Way Lane, Warren:* She sits on the Scappoose CPAC. They had a great deal of concerns with this application and recommended a number of conditions. The application said there will be 3 shuttles between this place and the applicants Beaverton business. Thelma doesn't think pets should be moved that far. She wouldn't do it with her dog because she loves it too much. The owner already owns 6 pets of her own,

which is enough to be a kennel. She is also concerned with the water issue.

She feels that 10 gallons per minute is not enough and the applicant has not even talked with Warren Water yet. Also, the septic system is not enough to handle this business. Dog feces will be put in a garbage container. As a neighbor, she would be concerned. Also, the traffic will increase. She has a couple of neighbors that moved out here because the taxes are cheaper and understands you can do anything in Columbia County. The county must know that this business is going to be noisy with that many dogs. Her main concern with this application is that's it wrong, because of so many things involved. Although the Board said the County doesn't have a business license, they do under home occupation permits. This business is not a home occupation, it's a commercial business and she is opposed to this application. When asked if the CPAC approved this application, Thelma said they did approve it but with conditions.

*Shelley Harley, 55560 Shamrock Way, Scappoose:* She is just northwest of the subject property. Based on the topography, it's like an amphitheater. She has lived on her property for 10 years and she has been able to hear neighbors conversations because of the lay of the land. The 100 feet buffer from the subject property is not very significant when it comes to noise.

**REBUTTAL:**

*Denise Lukins, attorney for the Vikens.* She has been a land use attorney for 15 years, has worked on a lot of doggie day cares, kennels, horse barns and has trained dogs for over 40 years. She responded to many of comments addressed by the opposition. She is struck by how different the presumption about this project is compared to what it really is and what the Viken's are proposing. This is not an application for a kennel. This is

a day care center for dogs and there will not be 120 cars per day coming and going. Their proposal is primarily an overnight boarding with a day care related to those dogs. There is also some confusion about the 6,000 sf outside. They are proposing a 3,000 sq area to allow the dogs some outdoor activity, 4 dogs at a time. It was stated that the Viken's own two businesses and couldn't be at both places at once. The Viken's do own two businesses, however there are two Vikens so they can be at both places. She recognizes that there was a petition submitted with quite a number of signatures, however according to the map that was submitted, many of those people are not even in the area. It is hard to understand how these people would be affected by this proposition and who knows if they even read the Viken's proposal. Denise noted that a signature on a petition is not the same thing as testimony at a hearing, where people have an understanding of the project. There has been a lot of argument that this is not a home occupation and, by association that a kennel cannot be a home occupation, but there is no reference to that in the code. The Viken's are proposing their project under the code that is in front of them now. Denise made a remark about this being a commercial enterprise, in response to Commissioner's Hyde questions if this was going to be a dog rescue center. Denise stressed that this project is not a rescue center. She believes this is a commercial enterprise - a home occupation where you make money is by definition a commercial enterprise. There was also an argument by the attorney that this could not be a home occupation because it requires a parking plan and, if a parking plan is required, how could it possibly be a home occupation. There is nothing about this addressed in the code. With regards to the use of a shuttle for the animals, that was only proposed to reduce the disruption to any neighbors. She mentioned again that there are not two 3,000 sq foot outdoor areas for the dogs. There will be one 3,000 sf area in two spots, but there will only be 4 dogs

out at one time. Denise submitted a map showing the outdoor area marked **Exhibit 12**. The dogs will be kept inside at night in suites, in a building built to commercial standards for the very reason of controlling the noise. The Viken's live at the property and they don't want to deal with a lot of noise either. The attorney also stated that the fact that there will be some outdoor use in the form of the play yard, makes this not a home occupation. Denise would point out that most home occupations have at least something outside, i.e. auto repair shops, horse boarding facility, etc. The code requires that a business not substantially effect the character of the neighborhood. Caring for animals in a barn with some outdoor area is analogous to farm use and should be considered if this is a home occupation or not. Again, Denise feels there is a big misunderstanding on the type of project that the Viken's are proposing. She feels that a lot of the opposition is based on the current problems with people not following the rules and allowing their dogs to become a nuisance. The Viken's want to run a business that isn't annoying to the neighbors, is successful for them and keep their customers happy. She heard Mr. Benz' stated that, because the Viken's are building a large pole barn, it will take the subject property out of residential use. No one would want to buy it as a home which would lead it to further commercial uses. Denise stated that this is a standard pole barn that people build on rural properties all the time. There is no indication that this would be a commercial building. She would question Mr. Benz' credentials regarding his testimony on noise. This home is a residence and will continue to be a residence. The Viken's don't wish to ruin the neighborhood or have problems with the County or neighbors. Having said that, this property is zoned to allow a Type II Occupation and what the Viken's are requesting is well within their rights.



*Liana Viken, 55501 Columbia River Hwy, Scappoose:* To clarify the issue about parking, she went to Midway Vet Clinic to introduce herself and explain what her plans were for a dog care facility and asked if she could use the parking lot. Liana was told that the parking lot was not theirs but didn't feel it would be a problem. Liana stated that she only has 4 dogs, not 6. Commissioner Bernhard asked about the letter from Midway Vet saying that they did not agree with the proposal. Liana stated that she just talked with a woman at the clinic, but there was no formal agreement because it was too early in the process for that. Commissioner Bernhard asked about the noise issue. Liana explained that she already has an existing business and has never received any complaints. The dogs will be inside most of the time to help minimize any barking. There are many different ways to calm the dogs which controls the noise. She lives at the property and doesn't want to listen to any barking dogs either. She just wants to be able to provide a nice environment for the dogs.

*Todd Viken, 55501 Columbia River Hwy, Scappoose:* Mr. Benz had made an issue about 50 gallons of water per dog per day - he doesn't know where that came from but dogs don't use 50 gallons of water per day. Regarding barking, these dogs are pre-screened. They don't want barkers either. He has 30 dogs a day at his store in Beaverton and maybe two bark. With a limited amount of time, they stop. Barking can be controlled.

With no further testimony coming before the Board, the hearing was closed for deliberations. Because of the hour, the Board recessed the meeting and will reconvene at 1:30 pm for deliberations.

*The Board recessed the meeting to 12:30 pm and reconvened the meeting at 1:30 pm with all present.*

Commissioner Bernhard called the meeting back to order.

**DELIBERATIONS: TODD VIKEN CU PERMIT FOR PET CARE FACILITY:**

Commissioner Fisher feels the issue here is if it is a commercial business or a home occupation. Many of the concerns addressed are not valid concerns because these things may happen regardless of what takes place on this site.

As he understands the statutes, kennels are silent in the code. Kennels have continued to come into the county and not always in the best interest of the public. He truly believes that this is a commercial activity, although a good one and one that is needed, however he is not in favor of this application at the current site.

Commissioner Bernhard also feels this is a good business and would hope the applicant pursues this at another site or maybe at another time in the future. Once the land use issues dealing with kennels are addressed, this may work out. Because of the nature of the large shop built to commercial standards, it really is a commercial business. There is also the compatibility with the surrounding neighbors and she believes this would interfere with the neighbors. It would be a big change to the surrounding area. She would strongly suggest the applicant come back with this at another time and for another site.

Commissioner Hyde stated that the Board has to play out the worst case scenario and there is a big issue with noise pollution in the county. They have tried to have the State administer that, but was told they couldn't, so

it is up to the county to enforce. Even after the Kennel Task Force completes their findings, this business will still not work at the currently proposed site. He feels that this application has the ability to significantly impact the neighboring use.

After discussion, Commissioner Hyde moved and Commissioner Fisher seconded to tentatively deny the application by Todd & Liana Viken CU 09-03 and direct staff to prepare the final order. The motion carried unanimously.

**CONSENT AGENDA:**

With no changes/additions, Commissioner Hyde moved and Commissioner Fisher seconded to approve the consent agenda as follows:

- (A) Ratify the Select-to-Pay for 2/3/09.
- (B) Amended Order No. 3-2009, "In the Matter of Declaring Certain Personal Property Owned by Columbia County to be Surplus to the County's Needs and Directing the Sale Thereof", to correct scrivener errors.
- (C) 2009 Social Gaming License for "Wayside Inn".
- (D) 2009 Liquor License for Scipio's Goble Landing and Quincy Store.
- (E) Declaration of Surplus Property and donation of personal property to Community Action Team and authorize the Chair to sign.

**AGREEMENTS/CONTRACTS/AMENDMENTS:**

- (F) Authorize approval of the submission of the Inter City Grant Applications for the FY 2009/10 and 2010/11 for public transit funding, and authorize the Director to sign the applications.
- (G) Amendment #48 to the 2007-2009 Intergovernmental Agreement #119925 with DHS and authorize the Chair to sign.

- (H) Amendment #52 to the 2007-2009 Intergovernmental Agreement #119925 with DHS and authorize the Chair to sign.
- (I) Amendment #53 to the 2007-2009 Intergovernmental Agreement #119925 with DHS and authorize the Chair to sign.
- (J) Amendment #54 to the 2007-2009 Intergovernmental Agreement #119925 with DHS and authorize the Chair to sign.
- (K) Amendment #55 to the 2007-2009 Intergovernmental Agreement #119925 with DHS and authorize the Chair to sign.
- (L) Amendment #56 to the 2007-2009 Intergovernmental Agreement #119925 with DHS and authorize the Chair to sign.

The motion carried unanimously.

**COMMISSIONER BERNHARD COMMENTS:**

None.

**COMMISSIONER HYDE COMMENTS:**

None.

**COMMISSIONER FISHER COMMENTS:**

None.

There was no Executive Session held.

Dated at St. Helens, Oregon this 4<sup>th</sup> day of February, 2009.

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: \_\_\_\_\_

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Rita Bernhard, Chair

*BOC Minutes*

*2/4/09*

*Page 13*

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Recording Secretary:

\_\_\_\_\_

By: \_\_\_\_\_  
Jan Greenhalgh

By: \_\_\_\_\_

Anthony Hyde, Commissioner

By: \_\_\_\_\_

Earl Fisher, Commissioner