

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

July 1, 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 Fisher moved and Commissioner Hyde seconded to approve the minutes of the June 24, 2009 Board meeting. The motion carried unanimously.

VISITOR COMMENTS:

None.

**HEARING: AMEND SECTION 207 OF SUBDIVISION/PARTITIONING
ORDINANCE:**

This is the time set for the public hearing, "In the Matter of the Application by Columbia County for a Test Amendment to Section 207 of the Subdivision and Partitioning Ordinance".

Spencer reviewed the proposed amendments. The Board initiated this amendment back in October 2008 and this is the time set for the hearing. The Board stated they had no ex parte contact or conflicts of interest. Spencer went over the applicable criteria and then read the pre-hearing statement into the record as required by ORS 197.763. He entered County Counsel's hearing file into the record, marked Exhibit "1", and noted all contents.

Glen Higgins, Chief Planner, came before the Board to give the staff report.

He explained the purpose of this amendment. The present provision requires that any change in a line of a partition or subdivision plat be reviewed using procedures for the approval of a new subdivision or partition, that is, it must be replatted. Requiring a full replat procedure for a minor modification to a previously platted lot or parcel is an unnecessarily long and expensive process. State law allows a simple property line adjustment process. Basically, the amendment is to update and amend the Subdivision and Partitioning Ordinance to be less stringent for moving property lines in a platted area, but remain consistent with State Law. The Planning Commission held a hearing on May 12, 2009 and recommended approval. Staff also recommends approval.

The hearing was opened for public testimony.

Jerry Keenon, County Surveyor, feels that the county stands alone in this old ordinance and he is totally in favor of this amendment.

Dave Reynolds, 32990 Stone Road, Warren: He is a local land surveyor and has dealt with this problem for years. It is already in the State law. This amendment would eliminate a lot of redundancy and cost. He lends his support on the amendment.

Joe Nelson, Hillscrest, Scappoose: He gave a brief explanation of his personal situation. He believes that this amendment would alleviate a lot of his problems.

None opposed.

With no further testimony coming before the Board, the hearing was closed for deliberation. The Board agrees that this amendment is long overdue. With that, Commissioner Hyde moved and Commissioner Fisher seconded to tentatively approve Ordinance No. 2009-6 and direct staff to prepare the ordinance. The motion carried unanimously.

**HEARING: REPEAL THE COLUMBIA COUNTY SURFACE MINING
ORDINANCE:**

This is the time set for the public hearing, "In the Matter of the Proposed Repeal of the Columbia County Surface Mining Ordinance".

Spencer recalled that the Board initiated the process to repeal the SMO on October, 2007 however, at the request of DOGAMI, the Board postponed the hearing until the legislature could address transition issues related to the repeal. In response, the legislature passed SB 191 and was signed by the Governor on June 16, 2009. If the SMO is repealed, regulation of surface mines in Columbia County would revert back to the State. The repeal would need to be done by Ordinance which Spencer has prepared. The ordinance includes an emergency clause because DOGAMI has requested that, if approved, it become effective September 1, 2009. Commissioner Bernhard and Hyde stated no ex parte contact or conflicts of interest. Commissioner Fisher had some conversations with Thelma Bonar who

simply expressed her concerns with the State taking over the administration. Spencer then read the pre-hearing statement into the record as required by ORS 197.763. He entered County Counsel's hearing file into the record, marked Exhibit "1" and noted all contents.

Todd Dugdale, LDS Director, came before the Board to give the staff report.

Senate Bill 191 enacted into law in the 2009 State Legislative Session provides specific guidance as to how Columbia County's mining permits and limited exemptions will transition to DOGAMI jurisdiction upon County repeal of its Surface Mining ordinance. Under the new law, County Limited Exempt Mine sites will retain their exempt status under DOGAMI. The Planning Commission met in August 2007 and recommended the Board not repeal the SMO until an economic study has been done to determine the impacts and benefits to the County. The Surface Mining Advisory Committee met and recommended that the SMO be repealed provided that the Limited Exempt Mine sites are recognized under DOGAMI. Based on the findings in the staff report, staff recommends approval of the ordinance repealing the Surface Mining Ordinance, effective September 1, 2009.

Commissioner Bernhard asked that Todd clarify the land use process.

Todd explained that the land use process will still remain with the county, as contained in the CCZO.

The hearing was opened for public testimony.

PROPONENTS:

Agnes Peterson, PO Box 748, St. Helens: She started practicing law in 1960 and has studied constitutional law. Because this is a legislative process, there is no problem with exparte contact on this issue. That said, Agnes explained her disagreement with the comments submitted by Thelma Bonar and Linda Reynolds. DOGAMI has done an outstanding job as the current Surface Mining Administrator and she would ask that the Board follow the recommendation from the Surface Mining Advisory Committee. Agnes submitted a letter from herself, marked Exhibit "3" and from John Petersen, marked Exhibit "4".

Bob Short, Glacier NW, 1050 N. River Street, Portland: Bob would like to commend the Board for being patient enough to allow the legislative process to take place. He served as a member of the Surface Mining Advisory Committee and it has been evident for years that this is the way to go. Ms. Bonar has suggested that the Road Department regulate the surface mining program instead of DOGAMI. Bob's response to that is the Road Department is one of Glacier's biggest customers in the county and that would most likely be a conflict of interest. This proposal seems to be the best for everyone. DOGAMI is very professional and knows the system.

To address the fee issue, he would suggest that the County subsidize DOGAMI annual permit fees using Depletion Fee revenue. He estimated that the total fees due DOGAMI from Columbia County mines would be very close to the annual amount that is currently paid to DOGAMI to administer the county operating permit program, or about \$40,000, basically a wash.

That said, he encouraged the Board to repeal the SMO.

David Williamson, 230 Columbia Blvd., St. Helens: He is not a surface miner, but as an attorney, has represented miners over the years. His experience has been that when the county turned over administration of

surface mining to DOGAMI, it was beneficial to the landowners, operators and the County. It has promoted decisions being made in a professional manner based upon appropriate criteria. Repealing the SMO and turning over the program to DOGAMI would promote the orderly development and regulation of surface mining in the county while retaining county control of actual land use decisions. His only concern with repealing the ordinance is that it be done in conjunction with action by the State legislature to preserve the status of the limited exempt operation in the County. He submitted his letter into the record, marked Exhibit "5".

OPPONENTS:

None.

With no further testimony coming before the Board, the hearing was closed for deliberation. Commissioner Fisher understands this is long overdue and we should give the program to the professionals. Commissioner Bernhard feels very comfortable with this because the county will still be handling the land use portion, so the public will still be allowed to address their concerns locally. She believes that DOGAMI is very professional and very qualified to administer the surface mining program. Commissioner Hyde can remember when mining permits were backed up 5-6 years. The program, with the duplication of the land use portion, has cost the county a lot of money over the years. In recent years, the county has been contracting with DOGAMI for the administration of the program and has worked very successfully. He is clearly in support of the Senate Bill dealing with this and, in fact, testified on that bill. He is in total favor of this.

Spencer has prepared an ordinance that includes an emergency clause which can be adopted and become effective today with a unanimous vote. With no objection, he read Ordinance No. 2009-5, twice by title only. With that, Commissioner Fisher moved and Commissioner Hyde seconded to adopt Ordinance No. 2009-5, "In the Matter of the Proposed Repeal of the Columbia County Surface Mining Ordinance". The motion carried unanimously.

HEARING: TRANSFER SM PERMIT #05-0031 TO KERR CONTRACTORS:

Spencer explained that this hearing is being held to allow for comments on the transfer of the Goble Quarry, SMP #05-0031 from Pacific Cascade Resources to Kerr Contractors, Inc.

Todd stated that all paperwork has been completed and complies.

The hearing was opened for public testimony.

With no testimony coming before the Board, the hearing was closed for deliberations. With that, Commissioner Hyde moved and Commissioner Fisher seconded to approve Order No. 42-2009, "In the Matter of the Transfer of Surface Mining Operating Permit #05-0031 from Pacific Cascade Resources to Kerr Contractors, Inc.". The motion carried unanimously.

HEARING: TRANSFER SM PERMIT #05-0074 TO KERR CONTRACTORS:

Spencer explained that this hearing is being held to allow for comments on the transfer of the Neer City Quarry, SMP #05-0074 from Pacific Cascade Resources to Kerr Contractors, Inc.

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Todd stated that all paperwork has been completed and complies.

The hearing was opened for public testimony.

With no testimony coming before the Board, the hearing was closed. With that, Commissioner Fisher moved and Commissioner Hyde seconded to approve Order No. 43-2009, "In the Matter of the Transfer of Surface Mining Operating Permit #05-0074 from Pacific Cascade Resources to Kerr Contractors, Inc.". The motion carried unanimously.

2nd READING OF ORD #2009-4: AMEND CCZO SECTION 942 - AIRPORT ZONE:

The Board held a public hearing on this matter on June 10, 2009. After the hearing was closed, the Board made a tentative decision to approve the ordinance and an ordinance was drafted. The first reading of the ordinance was held on June 17, 2009. This is the time set for the 2nd reading. He noted that no emergency clause is included, so once approved, the ordinance would become effective in 90 days. Spencer then gave the second reading of Ordinance No. 2009-4, by title only. With that, Commissioner Hyde moved and Commissioner Fisher seconded to adopt Ordinance No. 2009-4, "In the Matter of an Application to Amend Section 942 of the Columbia County Zoning Ordinance in the Airport Industrial Zone", by title only. The second reading will be held on July 1, 2009 at or after 10:00 a.m. The motion carried unanimously.

CONSENT AGENDA:

Commissioner Bernhard read the consent agenda in full. Spencer pulled Item (E), to be held over. With no other changes/additions, Commissioner Fisher moved and Commissioner Bernhard seconded to approve the consent agenda as follows:

- (A) Ratify the Select-to-Pay for 6/30/09.
- (B) Deny the request of Sonia Ahmad for a waiver of building permit fees for Application BLD 2009-00121.
- (C) Reappoint Tony Hyde and Diane Pohl to the Northwest Oregon Economic Alliance Board.
- (D) Resolution No. 45-2009, "In the Matter of Approving Columbia River Fire & Rescue Ordinance No. 10-04, "An Ordinance Adopting the International Fire Code as the Fire Code for Columbia River Fire & Rescue and Repealing Ordinance No. 4-03".

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (E) Public Procurement Contract with Western Shelter Mobility Systems, LLC. ***(PULLED AND HELD OVER)***
- (F) Approve Memorandum of Agreement with AFSCME Local 1442 regarding furlough days, effective July 1, 2009 through June 30, 2009.
- (G) Public Facility License LI-7981, APP19978 with the Oregon Department of State Lands for J.J. Collins Marine Park.
- (H) Ratify Commissioner Bernhard's signature on the Acceptance of the Acknowledgment of State Assistance regarding the purchase of the Stimson Lumber property.
- (I) Ratify Commissioner Bernhard's signature on the Acceptance of the Warranty Deed regarding the purchase of the Stimson Lumber property.
- (J) Ratify Commissioner Bernhard's signature on the closing documents for the purchase of the Stimson Lumber property.

The motion carried unanimously.

COMMISSIONER BERNHARD COMMENTS:

Commissioner Bernhard attended the Parks meeting last night. There has been quite a bit of interest in the local parks with a lot of reservations being made. There is also the new horse park at Camp Wilkerson.

Yesterday, she attended the CAT meeting. A lot of discussion on the residents being displaced with the loss of NOHA vouchers. Many different local agencies are working to help these people with housing.

Last week, she went to the NOHA meeting. During that meeting, it was approved for NOHA to pay the July rent for the displaced residents.

The Board adopted the FY 2009-2010 Budget yesterday. It was a very difficult process this year and she wanted to publicly thank the employees for stepping up to help out.

There were two gentlemen here yesterday, dressed appropriately as early pioneers Jason Lee and Jedidiah Smith, who gave a presentation on the steps of the old Courthouse. Pictures were taken and a press release done. This was done in celebration of Oregon's 150th Birthday.

COMMISSIONER HYDE COMMENTS:

Last Wednesday, he met with Senator Merkley and his staff on county issues. That meeting was immediately followed by an Oregon Solutions Team meeting on the Vernonia project. There was a signing of the cooperative agreement committing to this project.

On Thursday, he spoke at the south county Chamber meeting. It was not very well attended because a lot of the people were at the 13 Nights on the River.

On Friday, he and Commissioner Fisher met with the new PGE CEO and their staff. They discussed the economy and effects on the county.

The County adopted the budget yesterday and he agreed with Commissioner Bernhard on the union stepping up and something should be done to show our appreciations.

COMMISSIONER FISHER COMMENTS:

Commissioner Fisher wanted to thank Commissioner Bernhard for all the work she has done on the housing issues effecting the local community. We should all try to do what we can to help out our neighbors.

He reminded everyone that there will be a lot of community events going on this weekend around the county to celebrate the 4th of July. Rainier Days is also coming up.

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He attended the retirement party for Scotty Davidson at the Sheriff's office. Scotty was a long time employee with the county.

Commissioner Fisher thanked our State legislators for all they have done. In reality they had a very difficult task to complete and did the best they could to help our community. They should be commended for their efforts.

He and Commissioner Hyde met the new CEO of PGE on Friday morning. They discussed where PGE is on power, costs, etc.

The Museum group met last week and are still working to finalize things.

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

Dated at St. Helens, Oregon this 1st day of July, 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: _____

Rita Bernhard, Chair

By: _____

Anthony Hyde, Commissioner

Recording Secretary:

By: _____

Earl Fisher, Commissioner

By: _____
Jan Greenhalgh, Board Secretary