

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

August 5, 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 July 22, 2009 Board meeting and July 22, 2009 Staff meeting. The motion carried unanimously.

VISITOR COMMENTS:

*Richard Melton, 55141 Columbia River Hwy, Scappoose:* Mr. Melton has approached all three Board members in the past to inform them that his constitutional rights have been violated by the Planning Commission. His freedom of speech rights, his freedom of the press rights, and his personal safety has all been taken away by Robert Crain. Mr. Melton has lights around his property that have been up for over 50 years and now have been ordered taken down by Robert Crain. He doesn't even have a porch light and his home is on a dangerous stretch of Hwy 30. He was just recently approached by two men who threatened to beat him, blow his house up and destroy all of his vehicles. He called 911 and they still haven't responded. His concern is with the safety of he and his wife. He has asked the Board to solve this problem and, if something isn't done, he will consider suit against the county. He noted that ODOT has been fine with everything he has done at the property and has been grandfathered in since 1980.

Commissioner Bernhard explained that it was her understanding that Mr. Melton was supposed to obtain a permit to get the light fixed. Mr. Melton stated again that his lights are grandfathered in and, because of that, doesn't require a permit.

2<sup>nd</sup> READING OF ORDINANCE #2009-6: AMEND SECTION 207 OF SPO:

At this time, Spencer gave the second reading of Ordinance No. 2009-6, "In the Matter of an Application of Columbia County for a Text Amendment to Section 207 of the Subdivision and Partitioning Ordinance". He noted that there is no emergency clause included, so if approved, it will become effective in 90 days.

With that, Commissioner Hyde moved and Commissioner Fisher seconded to adopt Ordinance No. 2009-6. The motion carried unanimously.

#### HEARING: TIDE CREEK ROCK FOR SITE DESIGN & OPERATING PERMIT:

This is the time set for the public hearing, "In the Matter of an Application by John A. Petersen for a Site Design Review and Operating Permit of Tide Creek Rock Products to Mine Aggregate on a Site Zoned PF-76, FA-19 and PA-38".

Spencer explained that there are actually two separate applications here being consolidated into one hearing. One is for a Site Design Review and the other, a Surface Mining Operating Permit for the Tide Creek site. The Commissioners took original jurisdiction over the Site Design Review decision, which is a normal hearing by the Planning Commission, in order to consider these two related applications together. After the hearing and if a decision is made, the Board will need to address them separately. The Board declared no ex parte contact or conflicts of interest. Spencer then read the pre-hearing statement as required by ORS 197.763. He entered County Counsel's hearing file into the record, marked Exhibit "1" and listed all contents.

*Todd Dugdale, LDS Director*, briefly summarized the applications for a Site Design Review (DR 02-02) and Surface Mining Operating Permit (#05-0070) for Tide Creek Rock on an approximate 20 acre site in Deer Island. When the Conditional Use Permit to mine the subject site was approved by the Planning Commission on November 21, 2003, it was with 13 conditions. These are carried forward to this proceeding.

*Glen Higgins, Chief Planner*, came before the Board to give the staff report on both applications. Because this staff report is very lengthy, Glen gave a brief history on the mining of this property, which began around 1950. In 2000, as part of the Division of State Lands Violation, PBS Environmental provided Tide Creek Rock with an Enhancement and Restoration Plan to mitigate previously identified detrimental impacts to Tide Creek. In 2001, and as part of the required mitigation, the Board of Commissioners ordered the closure of the Tide Creek Rock pit and specifically ordered the applicant to cease and desist all mining operations

inside and outside of the 10 acre Limited Exempt Area. As a condition of the May 2001 closure order, the applicant submitted a Conditional Use Permit (CU 01-4) and a preliminary site design review to expand the surface mining operation beyond the 10 acres SM zoned limited exempt area on lands that are zoned for PF-76; FA-19 or PA-38. Because the applicant had yet to complete the associated Site Design Review at the time of the October 2003 public hearing, the Planning Commission approved the Conditional Use Permit provided the applicant apply for and obtain (1) an operating permit to satisfy the requirements of the Columbia County Surface Mining Ordinance through Condition one of Final Order dated November 21, 2003 and (2) a Site Design Review Permit through Condition (13) of the same order. The one issue of concern has been with water quality and the proximity of Tide Creek to the mining activities and protection of water quality, but the application has now adequately addressed measures that would minimize negative impacts to the water. In conclusion, the applicant has submitted all required documentation and staff would now recommend approval of the Site Design Review, with the 16 conditions listed in the staff report.

Todd addressed the Surface Mining Operating Permit and reviewed the Surface Mining Administrator's staff report prepared by Bob Brinkman of DOGAMI. Basically, this has just been waiting for approval of the Site Design Review. All applicable documentation has been submitted and staff recommends approval of the Surface Mining Operating Permit with the (6) conditions as listed in the staff report.

The hearing was opened for public testimony.

PROPONENTS:

*Dave Williamson, 230 Columbia Blvd., St. Helens:* He is here representing the applicant John Petersen. As staff has noted, this is a very lengthy and thorough report. Dave has reviewed the staff report and conditions. He commented on the prior complaints for non-compliance. There has been a lot of mitigation that has taken place on these issues and the applicant has satisfied all of them. In reviewing the conditions, Dave had a couple of requests he would ask the Board to consider.

Regarding the condition for a \$50,000 reclamation bond, he is requesting that it be modified and reduced to 10%. John is not only the operator of this mine,

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but also the owner of the property and has a major interest in the property. Further, this mine is a very low key operation. With that, he would ask that the Board consider reducing the bond to \$5,000.

Regarding the condition to maintain a 50 foot setback from Tide Creek for excavating, processing and stockpile areas. The condition has already been complied with, however DSL has allowed 25 feet and Dave would ask that the requirement meet the DLS allowance of 25 feet.

Regarding condition #5, three feet of top soil is a huge amount and would ask that the condition be modified to say that "sufficient" soil be brought in.

With regards to the Site Design Review, specifically condition #10, John currently has an access easement with ODOT to use this road, however the deed limits access for farm equipment. For safety reasons, John has been using it for his trucks for many years. He has currently been in contact with ODOT to see if the use of his trucks is grandfathered in. Because they are actively working with ODOT on this, Dave asked that the language in the condition be modified to allow time to comply with the condition. Commissioner Fisher asked about the number of trucks using that property. Dave stated there is maybe 200 trucks per month, but under 1,000 per year.

*Cliff Connelly*, he was a member of the SM Committee for a number of years and has had the opportunity to inspect this property and mining operation. This mine has been in operation for a long time and has been inspected a number of times.

If Cliff ever had to tell John Petersen what needed to be done to be in compliance, John always went over and above to fix any issues. From a safety aspect, Cliff always found John on top of everything. The bond requirement is not a revenue interest for the County and should be reduced. As a citizen, he would strongly recommend that the Board seriously consider John's request to reduce the bond amount because this is just a very small business.

*Agnes Petersen*, She has been married to John for many years. She talked about the reclamation and stated that John is very environmentally conscience. The record doesn't show that they have over 300 acres in the area and live on property just above the mine site with an additional 100+ acres. Neither John or herself want to do anything that would destroy this property. She would ask that the

bond condition be removed. Agnes feels that they have enough money in assets that, if they don't comply, the county can come back at them.

*Jay Stohl, 34115 Cannan Road, Deer Island.* He is not only a business owner, but John is a friend of his. You can't buy any rock in this county after 4:00 pm, but you can at Petersen's. This is just a little thing that is huge for many local business owners. This is an asset to this county and Jay feels that the impacts of this small company on the highway is very minimal.

*Robert Clark, 31810 Cannan Road, Deer Island:* He is a small owner/operator of a local trucking company. He buys a lot of his rock from John and has supplied a lot of people in the county since 1987. He agrees with Jay that you cannot buy rock in the county after 4:00 pm which is very detrimental to the business owners in the county and John's prices are very reasonable. John works this pit 7 days a week. Robert has personally seen the amount of time and work John has put into the property. He is totally in favor of John obtaining this permit.

OPPONENTS:

None.

With no further testimony coming before the Board, the hearing was closed for deliberation. Todd addressed the comments from the applicant. Regarding the condition for the access permit and the request to allow time to make application with ODOT for modification to the access permit, Todd would agree with allowing 6 months, with a review at that time to see if any progress has been made and a possible extension.

Regarding the reclamation bond, DOGAMI has a formula in place for reclamation and that is applied across the board. Todd could ask Bob Brinkman to look at the request by the applicant to see if reducing the bond is permissible. Spencer stated that the formula used by Bob Brinkman also considered the language in the Surface Mining Ordinance. Todd states that there is language in the SMO that allows for a reduction if certain conditions are met. Todd will also talk with DOGAMI regarding the reduction in the amount of soil required to be brought in.

Finally, regarding the 50 foot setback, Todd feels that the language is flexible enough to incorporate DLS's requirement of 25 feet. He would also agree with

allowing time for John to work with ODOT on the access issue. At this point, Todd would ask that the Board defer their decision until he has met with DOGAMI.

Commissioner Hyde just wanted to say that it is so refreshing to see no opposition to a surface mining permit.

After discussion, Commissioner Hyde moved and Commissioner Fisher seconded to continue deliberations to Wednesday, August 19, 2009 at or after 10:00 a.m. 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 7/28/09 and 8/4/09.
- (B) Cancel the August 11, 2009 Work Session.
- (C) Order No. 49-2009, "In the Matter of Conveying Certain Real Property to Columbia Hills Development Company [Tax Map ID No. 3N2W22-AD-11100]".
- (D) Order No. 50-2009, "In the Matter of Granting Permission to Andrea White to Serve Alcohol at her Wedding to take place at Camp Wilkerson on August 22, 2009".
- (E) Approve the request of Hardy Cave for a refund on his conditional use permit fee of \$1,038.00.
- (F) Approve the request by David Vaughn for a waiver of \$121 of the Septic Permit Reinstatement fee.
- (G) Approve the request by Louise Galloway for a waiver of the \$230 annual medical care of a relative temporary use permit renewal fee.
- (H) Authorize the Human Resources Director to fill a part time Office Specialist vacancy in the Human Resources Department.
- (I) 2009-2010 Special Transportation Fund Formula Program Application.

- (J) Approve Personnel Action for Vicki Harguth.
- (K) Approval to submit a grant application to the State Energy Program for \$80,000 in ARRA funding to provide energy efficient upgrades to the Transit Administration Office on Deer Island Road and authorize the Chair to sign.
- (L) Approve the Special Warranty Deed from John Hancock Life Insurance Company to Columbia County for parcels inadvertently omitted during initial transaction.

**AGREEMENTS/CONTRACTS/AMENDMENTS:**

- (M) Intergovernmental Cooperative Agreement between the Columbia County Sheriff's Office and the Rainier School District No. 13 for Patrol Deputy.
- (N) Public Procurement Contract (ORS Chapter 279B) with Western Shelter Mobility Systems, LLC, for emergency Gatekeeper Shelter System.
- (O) Ratify Hold Harmless Agreement with David Hopt for use of Hudson Parcher Park on July 31, 2009.
- (P) Ratify Hold Harmless Agreement with Sunset High School for use of Camp Wilkerson on July 31 - August 1, 2009.
- (Q) Hold Harmless Agreement with Clatskanie United Methodist Church for use of Hudson-Parcher Park on August 22, 2009.
- (R) Hold Harmless Agreement with Forest Grove Assembly of God for use of Big Eddy Park from September 11, 2009 to September 13, 2009.
- (S) Hold Harmless Agreement with Darrell Sexton for use of Camp Wilkerson on August 9, 2009.
- (T) Hold Harmless Agreement with North Portland Alano Association for use of Camp Wilkerson from August 21, 2009 to August 23, 2009.
- (U) Hold Harmless Agreement with Andrea White for Wedding and Alcohol Use at Camp Wilkerson on August 22, 2009.
- (V) Intergovernmental Agreement with the City of Scappoose for Building Inspection and Plan Review Services.

- (W) Intergovernmental Agreement by and between Columbia County and the City of Scappoose for Trailer purchase.
- (X) Hold Harmless Agree with Tom and MaryAnn Rogers for use of Camp Wilkerson on September 29, 2009.
- (Y) Hold Harmless Agreement with Nicole Shattuck and Robert Brodala for use of Big Eddy Park on August 22, 2009.
- (Z) Ratify Quitclaim Deed from Columbia County to Bryan R. and Roberta J. Luper on Tax Map ID No. 4N2W00-00100.
- (AA) Ratify Quitclaim Deed from Bryan R. And Roberta J. Luper to Columbia County on Tax Map ID No. 4N2W18-D0-01600.
- (BB) GIS Data License Agreement with U.S. Fish and Wildlife Service.

The motion carried unanimously.

**CONTRACT FOR SCAPPOOSE-VERNONIA PAVING PROJECT:**

Glen Crinklaw, Assistant Public Works Director, stated that bids were opened for the Scappoose-Vernonia Road Overlay project. Dave Hill has recommended that the Board award the contract for this project to TFT as the low bidder. Spencer stated that the Board can approve the awarding of the contract, however he has a couple of changes to the contract before that is ready for approval. With that, Commissioner Hyde moved and Commissioner Fisher seconded to award the contract for the Scappoose Vernonia Road overlay project to TFT for \$937,789.50. The motion carried unanimously.

**CREATE NEW POSITIONS FOR LDS:**

Todd Dugdale, LDS Director, came before the Board regarding his request to create 3 new classified positions: Plans Examiner I; Plans Examiner II; and Plumbing Inspector. He is not asking to fill these positions at this time. The only purpose of this request is to provide for proper classification of specialty positions with unique training, experience and certifications and position LDS to recruit and retain persons with such qualifications in the future. Because he is not



asking for authorization to fill these positions, there is no impact to the budget.

After discussion, Commissioner Hyde moved and Commissioner Fisher seconded to approve the creation of the positions of Plumbing Inspector and assign to SR 27; Plans Examiner I and assign to SR 25; and Plans Examiner II and assign to SR 27.

The motion carried unanimously.

Todd is also requesting approval of the creation of a Solid Waste Program Manager.

This position would assist the Building Services Manager in coordinating and carrying out basic Solid Waste program functions. The position would also have the primary responsibility of assuring that our program meets all DEQ requirements.

Todd noted that this position has been approved in the current budget. With that, Commissioner Hyde moved and Commissioner Fisher seconded to create the position of Solid Waste Program Coordinator, assign salary range 24 and authorize the Land Development Services Director to fill the position. The motion carried unanimously.

#### OREGON CODE ENFORCEMENT OFFICERS RECOGNITION WEEK:

Commissioner Bernhard read aloud the proclamation signed by Governor Kulongoski, proclaiming August 10-14, 2009 as Oregon Code Enforcement Officers Recognition Week. Todd wanted to recognize Robert Crain, the Code Enforcement Officer for the great job he does in enforcing the many laws and ordinances he is asked to enforce. This position involves one of the most difficult and challenging jobs in local government. Robert has established a sound reputation in the community and with co-workers, as one who can be relied upon to follow through. Todd feels this is one of the toughest jobs in his department. Commissioner Hyde stated that he has been around since Robert Crain was hired and feels there has been a huge difference for the better in code enforcement. Commissioner Bernhard wanted to let Robert know that he has done a great job and appreciates what he does. Commissioner Fisher also wanted to thank Robert for the work he does to enforce the rules of the county.

#### GRANT APPLICATION FOR ARRA STATE ENERGY PROGRAM:

Todd Dugdale, Bill Potter and Janet Wright, approached the Board to request approval

of (4) ARRA grant applications for the following projects: Install direct digital controls on all HVAC systems and lighting in the Courthouse Annex at a cost of \$200,000; Install high efficiency condensing boiler to replace the old cast iron boiler at a cost of \$75,000; and energy conservation upgrades, i.e., new lighting, heating and air-conditioning at Fairgrounds.

Spencer stated some concerns and issues with the Tort Claim language in the application on indemnity clause, which is very broad. In effect, it would indemnify the state at federal level of \$3 million. Some counties are attaching letters to the grant applications stating that this may not be legal and reserving their legal rights and some counties are just saying no. After some discussion and consideration, Commissioner Hyde moved and Commissioner Fisher seconded to authorize LDS and Building Officer to sign the grant applications with the Oregon Department of Energy for the 3 projects listed, with the attachment of a letter questioning the legality of the tort claim language and reserving the county's legal rights. The motion carried unanimously.

Further, Commissioner Hyde moved and Commissioner Fisher seconded to authorize Janet Wright to sign the grant application with the Department of Energy for emergency conservation projects at the Fairgrounds, with the attachment of a letter questioning the legality of the Tort Claim language and reserving the county's legal rights. The motion carried unanimously.

**COMMISSIONER BERNHARD COMMENTS:**

Commissioner Bernhard attended the Black Tie/Blue Jean dinner last Saturday. It was very well attended and, given the economic conditions, she was pleasantly surprised to see that people were still willing to give. It was a very successful event.

The Board hosted a Koffee Klatch last Friday at the Courthouse. She felt it went very well and understands there was a record turnout.

The Board is working on the process of hiring a Rangemaster position for oversight of the Firearms Range.

She continues to work on the housing issue and going to a variety of emergency meetings to find help and funding for those people who have lost their housing vouchers. NOHA is working with a lot of different agencies on this, including HUD and the Portland Housing Authority. She will be attending another NOHA meeting tomorrow in Warrenton. The hope is to get everyone back on by December, if not before.

**COMMISSIONER HYDE COMMENTS:**

Commissioner Hyde was in Nashville last week attending a NACo meeting. There were a lot of issues covered during the meeting. While there, Tim Josi, Lincoln County Commissioner, was appointed Chair of the Public Lands Committee. This will help bring a lot of influence to Oregon, in terms of public lands. This is an important spot for Oregon he appreciates Tim Josi's willingness to serve on this committee. One of the biggest topics of debate was the Clean Water Act and the removal of the word "navigable water" from the language. As it is now, the federal government takes jurisdiction over all waters in the US, including anything that will float a leaf.

After a lot of debate, there was an overwhelming vote by NACo to advise the federal government to take that legislation and add the word "navigable" back in.

He attended the CEPA meeting yesterday where Paul Evans with the Governor's office was the speaker on emergency management. Paul was very impressed with how well versed Columbia County is on emergency management and what a tight organization we have in CEPA.

He missed the Koffee Klatch last Thursday because he was in a meeting in Vernonia regarding the Vernonia School funding and how to fill the gap from the \$13 million proposed bond to the \$37 million of the real costs.

After this meeting, he will be heading to Grants Pass for an O&C meeting.

**COMMISSIONER FISHER COMMENTS:**

Commissioner Fisher met with the President of PCC concerning both GED programs and services they might be providing. He has also worked with ESD to see that we have GED services on some type of regular basis in this county.

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

Dated at St. Helens, Oregon this 5<sup>th</sup> day of August, 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: \_\_\_\_\_

By: \_\_\_\_\_  
Jan Greenhalgh, Board Secretary

Earl Fisher, Commissioner