

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

November 23, 2011

The Columbia County Board of Commissioners met in scheduled session with Commissioner Anthony Hyde and Commissioner Henry Heimuller, together with Robin McIntyre, Assistant County Counsel and Cynthia Zemaitis, Acting Board Secretary. Commissioner Earl Fisher was not present

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

MINUTES:

Commissioner Heimuller moved and Commissioner Hyde seconded to approve the minutes of the November 9, 2011 Board meeting and November 9, 2011 Staff meeting. The motion carried unanimously.

VISITOR COMMENTS:

Charles Beaston 54330 Freeman Road, Scappoose, OR 97056. He is here about a telephone easement on his property and doesn't feel that the Commission should have done what it did. He gave a letter from his attorney to Erika Owen about this injustice and would like some action.

Robin McIntyre says there seems to be some confusion. She stated that it seems Mr. Beaston is here to testify in the NW Aggregates hearing, but also has a complaint with an easement. Mr. Beaston said he did get a copy of the minutes of the Planning Commission meeting, but they were inadequate. He stated, just before leaving the meeting, that somebody needs to do something.

Commissioner Heimuller says they will look into this and get back to him.

Bob Short, Cal-Portland. The issue Mr. Beaston raised regarding the easement was raised in conjunction with his appeal of NW Aggregates' application for extended hours. He will address Mr. Beaston's concerns in testimony for the hearing. Mr. Beaston appears to have a problem that he doesn't quite understand. Someone else owns property all around Mr. Beaston's property,

and Mr. Short says there is no recorded easement against Mr. Beaston's property.

Commissioner Heimuller asked Mr. Short to summarize that briefly in a letter for the Board's files. Mr. Short agreed to do that.

HEARING – NW AGGREGATES OPERATING HOURS:

This is the time set for the public hearing, "In the Matter of an Appeal of the Application of Northwest Aggregates for a Temporary Permit to Extend Operating Hours at the Bates Roth Surface Mine, for a Two Week Period of Time".

Robin McIntyre advised that this hearing is generally a result of an administrative decision. This application was referred to the Planning Commission by Mr. Beaston, who approved a final order subject to conditions. Mr. Beaston appealed that order and it is now properly before the Board.

Because this is a land use public hearing, Robin makes the statutory statements required. She reads the pre-hearing statement as required by ORS 197.763 and entered County Counsel's hearing file into the record marked *Exhibit 1*.

Glen Higgins, Planning Manager, with Erika Owen, who is the project manager. Erika noted that the applicant submitted the application almost 5 months ago. They have been operating under Section 1044.5 of the Zoning Ordinance which limits surface mining operating hours from 7:00 a.m. to 7:00 p.m., but allows for a temporary extension of those hours for a period of two weeks. The applicant has a couple of large jobs in the Portland area and needs to run two separate shifts between 6:00 a.m. until 12:00 a.m. The impacts should be minimal – they will only be extracting the material in the extended hours, but it will be processed at the Santosh facility during the day. Notice was sent out to neighbors within 1,000' of the site, and one of them did submit a request to move the decision to the Planning Commission. Mr. Beaston indicated that he had concerns that there might be an increase in arsenic in the ground water from extended operations. At the Planning Commission hearing, NW Aggregates addressed those concerns, which is in the report before the Board. They dug wells to test for arsenic and found them to be within EPA standards. Commissioner Hyde remarked that these are new EPA standards.

Robin McIntyre admits the 150-day waiver as *Exhibit 2* and the EPA standards as *Exhibit 3*.

Erika stated the Planning Commission approved the application with six conditions, all of which are contained within the staff report. The 6th condition requires the applicant to conduct arsenic testing in the two test wells near the end of the 2-week extended extraction period.

The hearing was opened for public testimony.

PROPONENTS:

Bob Short, Cal-Portland, 1050 N. River Street, Portland. Mr. Short has brought copies of the report from the test wells, which was entered into the record as Exhibit 4. Mr. Short does not have much to add to what Ms. Owen said; she covered the matter quite thoroughly. The bottleneck in this business is mining the rock; they can process it much faster. Due to an extraordinary demand last summer, NW Aggregate needed to operate a second shift.

He does not believe there would be any impact to the neighbors by these extended hours. All they are doing is moving rock around in the mine and sending it by conveyor to the Santosh facility. The operating hours at Santosh would not change. Mr. Short explained that, in September, the time of the Planning Commissioner hearing, there was still a pressing need to add this second shift. However, because the process has taken so long, they used their inventory to meet the demand, and they are now into the wet season, so it probably is not as urgent. Mr. Short indicated that, since they are so far into this process, they would like to have the application approved now so that when the need arises in the future they can just extend the hours.

As far as Mr. Beaston's easement issue is concerned, the property in question has nothing to do with the Bates Roth site. Cal-Portland does own the property adjacent to Mr. Beaston's, but it is zoned RR-5 and has nothing to do with the mining at Bates Roth. NW Aggregate does not feel Mr. Beaston's easement complaint is germane to this application.

The tests have shown that the mining has had negligent impact on the movement of water in the area, and they just don't feel that the extra mining is likely to increase arsenic levels.

Commissioner Heimuller stated that he has seen a comment from Mrs. Jackstadt who has expressed some concern about the operation hours at the processing facility. Mr. Short stated that they do

load barges when they come in, so there might be some loading at 1:00 in the morning, however this is far enough away it shouldn't bother Mrs. Jackstadt.

Scott Nicholson, Director of Operations at Cal-Portland, 1050 River Street, Portland, OR. Mr. Nicholson stated that, back when they submitted this application, they were fortunate to have two large projects. However, by the time the hearing came in September, they were interested in moving forward as they had depleted their inventory. They have continued to replenish inventory, but Mr. Nicholson would like to know where they stand in the future if the need to extend hours is there.

He has talked with Mrs. Jackstadt about her complaints and doesn't believe there is any on-going issues with extraordinary noise.

Commissioner Heimuller asked Robin if the temporary permit would expire if approved. Robin stated she believes the temporary permit starts when they start the extended operation, and lasts for two weeks. The applicant would then be unable to apply for further extensions within a six-month period. The only issue she sees is that, in the Planning Commission's recommended conditions of approval, the first condition states that the operation shall take place within six months of approval. Robin doesn't believe the code has that particular requirement. Bob Short indicated that they did agree with the Planning Commission to notify the neighbors before starting extended operations.

Robin also stated that another important question would be whether six months from the final date of the order would be sufficient time. Bob Short respectfully requested that they extend the permit to one year. As it stands, the permit would only be good until June 15, but their busiest season is after the 4th of July. Robin indicated that if the Board wanted to extend the time, they would just need to amend the condition in the Planning Commission's order.

Commissioner Heimuller indicated that Condition No. 6 in the Planning Commission final order seems pretty thorough as to the need for follow-up testing for arsenic and he has no further questions about this issue.

David Earl King, 3990 Collins Way, Lake Oswego, OR. Mr. King is a registered geologist with the

State of Oregon and practices geohydrology in this State. Most of what was done around the mining site is covered in the report. He stated that the shallow wells were the wells that had most of the detectable compounds, and was more turbid. This area has a large amount of gravel on top of which is fine silts, called overburden. Commissioner Hyde indicated that they understand that this is typically where the arsenic resides. Mr. King agreed it is naturally occurring and is from glacier floods during the Ice Age. He pointed out that shallow wells also have other issues and are easily contaminated. Also, they went beyond what the permit required, and followed the Scappoose Bay Watershed's Council guidelines.

OPPONENTS

None. Commissioner Hyde wanted it on the record that Mr. Beaston spoke outside the confines of this hearing.

There was no rebuttal.

Commissioner Heimuller stated he reviewed this at length and was trying to understand Mr. Beaston's easement issue. Commissioner Hyde indicated that they will need to respond to Mr. Beaston's concerns. It is clear to him that the extraction of the aggregate does not extend to the crushing plant.

Commissioner Hyde questioned processes like this that take so long, that the window of opportunity passes. He found nothing that drew any concerns about the Planning Commission's recommendation and suggested they address the time-line addressed in Condition No. 1 in the final order. He asked staff if there was any concern with extending the permit.

Glen Higgins stated that the ordinance says that a permit extending operating hours may be approved for a two-week period once every six months. If NW Aggregate wants to start the commencement date later, they can probably do that. Commissioner Heimuller felt it prudent to allow them a longer time period so that they can use it when the market demands. Commissioner Hyde agreed. Robin says she doesn't see a conflict with the ordinance by extending the permit for 1 year.

Commissioner Heimuller wondered if Cal-Portland intends on seeking this type of permit frequently, in which case the ordinance should probably be changed.

Commissioner Hyde agrees with Michael Jordan, who stated that we have too many rules which impedes progress, and he is embarrassed by how long this process took.

Commissioner Heimuller moved to tentatively approve the Temporary Permit (TP 11-07) for the extension of operating hours at the Bates Roth surface mine for a two week period of time as recommended by Staff and formally approved by the Planning Commission with the only change to the Planning Commission's Final Order being Condition No. 1 making the approval valid for 1 year after approval of the final order. Commissioner Hyde seconded. The motion passed unanimously.

HEARING – AMENDING FEES FOR COUNTY ANIMAL CONTROL SERVICES

This is the time set for the public hearing, "In the Matter of Amending the Fees for Columbia County Animal Control Services". Robin McIntyre indicated that notice of this hearing was published in all of the County's newspapers.

Roger Kadell, Animal Control. Roger stated that every few years they like to go over the fees and update them to fit present conditions. They want to institute an hourly fee because they are dealing with cows, horses, llamas, etc., all the time, and it is hard to tell the court how much fees should be charged. Commissioner Heimuller is concerned that \$25 an hour does not pay Roger's wages and benefits, wanted to know how that got rectified. Roger answered that they recoup all their materials and supplies as allowed by the statutes, but the County will never recoup the wages paid to employees. If outsiders have to be brought in on a particular case, they will submit an invoice which will be covered as costs. Commissioner Heimuller suggested that the fee schedule state \$25 per man hour. Roger tries to keep his fees reasonable so that people will pay them. Commissioner Heimuller stated that we need to keep the budget in mind.

Commissioner Hyde remarked that this was not a major change, but just added reality into the mix and clarifies things. Roger stated that the last time they addressed fees he thought the County had reduced the senior fee to \$5 for all dogs, but it didn't get written that way. Commissioner

Hyde stated that these changes are to the citizens' advantage, particularly senior citizens; Roger agreed.

Commissioner Heimuller asked, with regard to the horses \$15 maintenance fee, whether it only applied to animals at the shelter. Roger stated that it doesn't matter where the animal is, the fee applies. He thinks that is a reasonable fee. Commissioner Heimuller wants to ensure that we're looking at these fees as being reasonable but also are safeguarding the County.

The hearing was opened for public testimony. With no testimony coming before the Board, the hearing was closed for deliberation. After little discussion, Commissioner Heimuller moved and Commissioner Hyde seconded to approve Order No. 80-2011, "In the Matter of Amending the Fees for Columbia County Animal Control Services". The motion carried unanimously.

CONSENT AGENDA:

Commissioner Hyde read the consent agenda in full. With no changes/additions, Commissioner Heimuller moved and Commissioner Hyde seconded to approve the consent agenda as follows:

- (A) Ratify the Select to Pay for week of 11/14/11 & 11/21/11.
- (B) Order No. 82-2011, "In the Matter of Adding New Members to the Homeland Security and Emergency Management Commission".
- (C) Contractor's Payment Release for 1236 Alder Street, Vernonia (Melody Gray) and authorize the Chair to sign.
- (D) Owner's Certification and Acceptance of Improvements for 1236 Alder Street, Vernonia (Melody Gray) and authorize the Chair to sign.
- (E) Demolition Contract Change Order for Demolition Contract Addendum 8, 1236 Alder Street, Vernonia (Melody Gray) and authorize the Chair to sign.

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (F) Ratify Agreement #27566 with ODOT Public Transit for Scappoose Park n Ride Site Selection Study.
- (G) Art Project Release Agreements with Maeona Urban, Autumn Pendergrass, Dan

Halstead and Kathie Fellows.

- (H) Amendment #1 to ODOT Local Agency Agreement Highway Bridge Project #27285 for S. Fork Scappoose Creek (JP West Road) Bridge No. 013751.
- (I) Agreement with Clatsop County for Use of Juvenile Detention Facility.
- (J) Personal Services Contract with Blue Tree Strategies, Inc., to facilitate the sale of Transit Center Business Energy Tax Credits.

The motion carried unanimously.

COMMISSIONER HYDE COMMENTS:

Commissioner Hyde stated that the Board spent the bulk of last week in Eugene at the AOC Conference. He feels it was one of the most substantive conferences he's been too. Ted Wheeler, several legislative leaders, and others discussed the state of finances. One resounding theme was that we can't tax our way out of this, we're going to have to build our way out of this. This has been this Board's theme for some time, and he was pleased to hear that articulated. Commissioner Hyde gave a classic example: There are CDBG grants, which is how federal funds come down to the County, which we have on the agenda all the time. These grant funds are used to purchase property damaged by flood, and the County or the City ends up owning the property that can never be built on or changed. Because of this, the City of Vernonia is looking at an extra 40 acres that are non-separate chunks of properties. How do they manage that? They decided to lease the property to the adjacent landowners for use as parks. The certified smart guys behind the cubicle say no, they can't do that, they can't change the use.

Also out of the conference, Commissioner Hyde would like to explore changing the prescription drug cards. The County now issues cards in association with NACO, but there is another company offering a 50% reduction.

COMMISSIONER FISHER COMMENTS:

Not present.

COMMISSIONER HEIMULLER COMMENTS:

Commissioner Heimuller stated that he appreciated the opportunity to go to the AOC Conference. He came away with a glimmer of hope on health and human services restructuring in the way funds are funneled to the counties. He also wanted to mention the County's Product Tasting at the AOC. We were fortunate enough to have 6 of our local food and beverage business owners invited to the product tasting to showcase their own products. He thought we had one of the best presentations, and Commissioner Hyde agreed. All of them want to come back next year because they see it as a real marketing boom. Some of the vendors found out that they could help each other.

There was no Executive Session held.

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

Dated at St. Helens, Oregon, this 23rd day of November, 2011.

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: _____

Anthony Hyde, Chair

By: _____

Earl Fisher, Commissioner

Recording Secretary

By: _____

Henry Heimuller, Commissioner

By: _____

Cynthia Zemaitis, Acting Board Secretary