

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

March 21, 2012

The Columbia County Board of Commissioners met in scheduled session with Commissioner Anthony Hyde, Commissioner Earl Fisher and Commissioner Henry Heimuller, together with Robin McIntyre, Assistant County Counsel and Jan Greenhalgh, Board Secretary.

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

**MINUTES:**

Commissioner Heimuller moved and Commissioner Fisher seconded to approve the minutes of the March 14, 2012 Board meeting and March 14, 2012 Staff meeting. The motion carried unanimously.

**VISITOR COMMENTS:**

None.

**DELIBERATIONS ON RABIES VACCINATION REPORTING ORDINANCE:**

This is the time set for deliberations on proposed Ordinance No. 2012-1, "In the Matter of the Adoption of the Columbia County Rabies Vaccination Reporting Ordinance". Commissioner Heimuller moved and Commissioner Fisher seconded to reopen the hearing on proposed Ordinance No. 2012-1.

Roger Kadell, Animal Control Officer. At the last hearing, he presented the staff report showing the benefits of this ordinance to the public, shelter operations and the vets. Commissioner Hyde stated that the Board has heard from a number of vets that were not even aware of this ordinance and expressed some concerns. Roger stated that he sent notice to the Vet Board who shared the information with the local vets. There was some concern about their confidentiality obligations and have applied to the Attorney General's office for an opinion on what those obligations are.

Sheriff Jeff Dickerson feels there are obviously some pros and cons here, but the main goal is establish some efficiencies. He understands there are some concerns on how this is will work, but we really need to consider this ordinance.

***Lisa Rand-Thibeau***, is here representing the Board of Directors for the St. Helens Humane Society. They share the Holshiemer Memorial HS with Animal Control. She read a letter of support into the record from the Board of Director. Rabies vaccines are required and dogs are required to be licensed so this ordinance simply provides protection to all, the public and the dogs.

***Chuck Ruppert, Warren***: His wife is the Humane Society Board President and he volunteers his time at both the Humane Society and Animal Control. He sees first hand how this program is struggling and believes this ordinance will help by increasing revenue. He also spoke with Dr. Fowler also supports this program.

Sheriff Dickerson just spoke with the County Clerk this morning and, although she cannot attend this hearing, he believes she appears to be very neutral on the issue.

With no further testimony coming before the Board, the hearing was closed for deliberation. Commissioner Fisher spoke with a veterinarian yesterday and she said she won't do it. Fisher is concerned that the people that are supposed to be enforcing this are not even aware of it or supporting it. This particular vet is also concerned that she will lose clients because they will go across the river for their vet services.

Commissioner Fisher doesn't feel this ordinance is ready for action.

Commissioner Heimuller is in support of this ordinance but has to agree with Commissioner Fisher's comments. If the people that are supposed to be enforcing this are not in agreement, then there are some concerns. Personally he would support it today, but again, disappointed that the veterinarians feel this is being forced upon them.

Commissioner Hyde feels it far fetched to believe that people will take their dogs out of the county just to save a \$15 license fee. Also, this is the first he is hearing about the possibility of the veterinarians issuing the licenses - which is a great idea. He would suggest that the Board hold off action and schedule a round table meeting with the veterinarians to discuss these issues. The Board agreed and, with that, Commissioner Fisher moved and Commissioner Heimuller seconded to carry over deliberations to Wednesday, April 4, 2012, at or after 10:00 a.m. The motion carried unanimously.

**HEARING: APPEAL OF LUCS 12-13 FOR DEER POINTE MEADOWS MHP:**

This is the time set for the public hearing, "In the Matter of an Appeal of the Administrative Decision by the Land Development Services Director for the Issuance of the Oregon DEQ Land Use Compatibility Statement (LUCS 12-13) for Deer Pointe Meadows Mobile Home Park".

Robin explained that this hearing was carried over to this date from the original hearing date of January 25, 2012. She gave a brief background of this application for the benefit of the public. Regarding exparte contact, Commissioner Heimuller received a call from Don Campbell a couple of weeks ago regarding a pump truck at the property but the conversation was very brief. No other exparte contact by the Board. Robin then read the pre-hearing statement into the record as required by ORS 197.763 and entered County Counsel's hearing file into the record, marked **Exhibit "1"**. The

following additional items were entered into the record: Letter from DEQ, Gary Artman, dated 2/17/12 as **Exhibit "2"**; Email from DEQ Michael Kucinski, dated 3/1/12 as **Exhibit "3"**; Board Communication with Supplemental Staff Report and Revised Recommendations dated March 6, 2012 as **Exhibit "4"**; Letter from Timothy Ramis asking for continuance dated 3/6/12 as **Exhibit "5"**; and Letter from Timothy Ramis and supporting exhibits dated 3/20/12 as **Exhibit "6"**.

Erica Owens, LDS Planner, gave some background on the property and then reviewed the staff report. Staff recommends that the Board deny the appeal and approve LUCS 12-13 with conditions as outlined in the 3/1/12 staff report.

Todd Dugdale, LDS Director, briefly reviewed the supplemental staff report which provides a listing of comments and correspondence received as well as supplemental findings and conclusions relating to ongoing modification to the approved WPCF on-site sewage treatment plan and additional conditions of approval. Staff recommends approval with conditions as noted in the supplemental staff report.

The hearing was opened for public testimony.

#### PROPONENTS:

***Timothy Ramis, Two Centerpointe Drive #6, Lake Oswego:*** He is here on behalf of the property owner Michael & Denise Werner. John Smits, Engineer on the project, is also present should the Board have any questions. Timothy wanted to make three points. 1) The system has been repaired and is being monitored; 2) The system is under the jurisdiction of DEQ; and 3) This dispute is over the LUCS - whether the proposal is compatible with local code. This is not an expansion of the number of units, or the

area of the park or of the system itself - it's just a repair. Even if it were an expansion, which it isn't, ORS 215.130 addresses and allows it. Further, no LUCS was required because the DEQ regulations do not require a LUCS for repair, as stated in the 11/16/11 letter from DEQ. The challenge here is to DEQ's process - the county should not have issued a LUCS and DEQ should not have issued a permit. He noted that TL 2400 was part of earlier land use approvals and pre-dates adoption of the County Zoning Ordinance. This is a large policy issue because if the county agrees with the appellant, any drainfield repair opens the door to land use review before the Board. He emphasized some of the legal issues and why the county staff is correct.

**OPPONENTS:**

*Andrew Stamp, 4248 Galewood St., Lake Oswego:* He is here today representing the appellant Don Campbell. He would first like to request that this hearing be kept open to allow him time to review all recent submittals. To begin, he takes issue with the statement that the two tax lots are not part of the mobile home park. As of 1975, when septic was permitted, statewide planning goal 14 required urban uses to be in the Urban Growth Boundary. He asks, was the MHP even lawfully permitted in 1975? In 1975, a land use permit would have been required - not a Non-Conforming Use (NCU). The septic system is part of the use that it serves and must be on the same lot as the NCU. In LUBA Case - Wetherell v. Douglas County, a septic system is part of the dwelling and could not be on land designated for farm use. Whatever expansion occurred in 1975, the permit only identified TL 2400, not 1900 and was not lawful because a land use permit would have been required. TL 2400 cannot be used for the park or the drainfield. The OAR's implementing Goal 11 states that septic systems cannot expand from one rural use onto another piece of land. All expansion must be limited to TL 1900. This repair is not an alteration because it involves an expansion onto another lot.

The only reason the LUCS is required here is because it's a NCU. Mr. Ramis said that the 1996 NCU decision cannot be attacked now, but TL 2400 was not part of the 1996 NCU decision. When 13 units were allowed in 1996, it should have triggered a new DEQ review, but it didn't because it was considered a repair. The system continues to fail because it wasn't designed for the 46 units in the park now. The only real solution is to unhook trailers.

**Bob Sweeney, Environmental Health Specialist, Milwaukie:** By way of background, he has experience as a County Sanitarian for over 20 years. He was been hired by Don Campbell to review the issues with the said septic system. In 1996, DEQ recommended a 250 gallon flow per day peak minimum flow, but ultimately reduced that number to 175 gallons. The system in question is not functioning properly and water is at the surface because of natural conditions and ground water interceptor. This system was designed for 175 gallons, so the 250 gallon flow is an expansion because it is more than the system was designed for. DEQ finally agreed that the park was due for an upgrade and permits were issued but without requiring an upgrade to meet current code. He went over the criteria which he believes has not been met.

**Don Campbell, 75735 Price Road, Rainier.** Don commented on the interruptions in use and some comments that were made. He purchased his property in 1996 and his septic system has similar NCU issues as the mobile home park, but he is being held to a different standard. It appears that no one, with the exception of this park, has the ability to side step the requirements. He stated that Tax Lot 2400 is a separate property. The initial septic systems went in during the 1960's when TL2400 was under different ownership. He feels that the flows should be based on actual volume and the records are there to show what those actuals are. The only solution to this problem is to remove the homes connected to the system. Finally, he wanted to state that he has

been trying to get the file on his property forever and for whatever reason he can't get it.

**Dawn Burrow, 75735 Price Road, Rainier.** There are alarms on the new system that are going off quite often - a very high pitched sound. There is supposed to be a certified consultant working on this. Whatever it is they're doing, it's not working.

**Nita Turner, 25244 Alderbark, Rainier.** She was told by the installer that when the alarm system goes off, the sewer system isn't working. If that's the case, where is that sewage going. Monday it went off in the middle of the night. She wants to know why this isn't working properly and what is going to be done about it.

Commissioner Heimuller asked if there has been any outreach from the owners to the tenants. Nita stated that she has never received a letter or explanation - absolutely no communication.

**James Chamblee,** is moving onto Price Road. His septic system failed and he has to install a new one, but he can't do that until June when the area is dry. The whole area seems to be wetlands. He doesn't believe that the new system at the park is working and the land seems to be underwater all the time.

**Robert Ramey, Price Road, Rainier.** There is a ditch that goes through his property. The ground water is so high, it's above ground. There is so much it is a wetlands now. A septic system in this area is not working. He bought his 15 acres in 1973 and the ditch was already there for dewatering purposes. He plugged the groundwater drainage system from the mobile home park (TL 1900) because it was coming on to his property. He raised these issues with the Board in 1996 when expansion was being considered.

***Kathy Ramey, Price Road, Rainier:*** As a mother and grandmother, she wants to address the sewage problem. Because of the sewage in her front yard, her grandkids can't even play in the yard. She can't even flush the downstairs toilet because of the water coming from the MHP. No one wants to live with open sewage on their property. Now, with the new system, the problem has increased.

***Leann Hancock, Space 34:*** She lives in the mobile home park and stated that since this system has been worked on, she is getting a septic stench in her house and assuming that it's septic gases. She has lived there for 2 years with no problems until the work on the new system started.

**REBUTTAL:**

***John Smits, 16878 SW Gassner Lane, Lake Oswego:*** As some background, he operates and maintains over 70 systems, including single family and subdivisions, a consultant since 1987 and prior to that, worked for DEQ and counties. He became involved in 1995 and designed the system for this park. Space 34 is on the line and there are coincidental plumbing issues local to that home. He will need to investigate the venting for that sewer pipe. The system in the drainfield failed because Don Campbell plugged up the ground water interceptor. The failure of the system had nothing to do with the expansion because the expanded units are served by a different system. He has monitored the existing usage and found 100 gallon/day - obtained approval by DEQ for 175 gallons. He can monitor the system remotely and it has not exceeded 175 gallons per day. Regarding the alarm system, the flashing light means low level alert for pump safety. The high level alarm means a toilet flap is up and is important because it will overwhelm the flow. The third alarm is pump fail - if one pump fails to



draw current, it will alarm but doesn't necessarily mean it's not working. The alarm is to give warning of potential problem. He wants to be able to use the north system to give the new system a rest periodically with permission from DEQ. The north field is currently off line.

*Timothy Ramis* responded. The arguments about 1975 are new and he would like to review and respond in writing. The 1996 decision reviewed the septic system so it's too late to argue that now. The LCDC rule about sewer systems is to prevent leap frog development. As for the argument that the repair is not an alteration, he will address that in his written rebuttal. Intermittent use - the exception applies when the use itself is intermittent. The goal here is to get the permits in place and correct the issues without having to displace tenants.

*William Blood, 25208 Alderbark, Rainier:* He is on the new system and has not noticed any smells or problems. He earlier heard that Don Campbell was a victim but really the tenants are the real victims. He also heard that water is going over the road, but that's not the case since the system was fixed. He doesn't see the health problem.

With no further testimony coming before the Board, the hearing was closed. There has been a request to hold the record open and, with that, Commissioner Fisher moved and Commissioner Heimuller seconded to leave the written record open until 4/4/12 for any written testimony, then 14 days for rebuttal and 14 additional days to deliberation. The motion carried unanimously.

**CONSENT AGENDA:**

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

- (A) Ratify the Select to Pay for week of 3/19/12.
- (B) Order No. 3-2012, "In the Matter of Adding New Members to the Homeland Security and Emergency Management Commission.
- (C) Approve HMGP funds of \$62,933.62 and CDBG funds of \$11,525.00 for flood elevation project for Client I.D. CF 0505, Carl Holsey, 1136 Washington Avenue, Vernonia, OR.
- (D) Approve HMGP funds of \$62,974.10 and CDBG funds of \$11,525.00 for flood elevation project for Client I.D. CF 0719, Jason Grant, 843 State Street, Vernonia, OR.
- (E) Approve HMGP funds of \$62,245.57 and CDBG funds of \$11,525.00 for flood elevation project for Client I.D. CF 0829, Jeff Parker, 341 C Street, Vernonia, OR.
- (F) Approve HMGP funds of \$66,940.52 and CDBG funds of \$11,525.00 for flood elevation project for Client I.D. CF 1473, Michael Snow, 65586 Nehalem Hwy N, Vernonia, OR.
- (G) Approve HMGP funds of \$67,223.84 and CDBG funds of \$11,525.00 for flood elevation project for Client I.D. CF 1562, Elizabeth Byers, 69005 Hwy 47, Mist, OR 97016.
- (H) Approve HMGP funds of \$74,225.80 and CDBG funds of \$22,775.00 for flood elevation project for Client I.D. VF 0741, Don Holsey, 1136 Washington Avenue, Vernonia, OR.
- (I) Approve HMGP funds of \$63,783.57 and CDBG funds of \$11,525.00 for flood elevation project for Client I.D. VF 0758, Steven Johnson, 1253 Cherry Street, Vernonia, OR.
- (J) Approve HMGP funds of \$58,797.20 for flood elevation project for Client I.D. 0653, Bruce and Christine Cochrane, 1123 Washington Avenue, Vernonia, OR.

- (K) Approve HMGP funds of \$67,466.68 for flood elevation project for Client I.D. 1562, Dave Crawford, 68901 Nehalem Hwy N, Vernonia, OR.
- (L) Approve HMGP funds of \$228,541 for flood acquisition project for Joseph Chestnut, 64975 Nehalem Hwy North, Vernonia, OR.
- (M) Approve HMGP funds of \$154,935 for flood acquisition project for Clint Crowder, 1179 Heather Lane, Vernonia, OR
- (N) Approve HMGP funds of \$207,278 for flood acquisition project for Nancy Schaumburg, 1328 Heather Lane, Vernonia, OR.
- (O) Approve HMGP funds of \$334,833 for flood acquisition project for Vernonia Health Center, 510 Bridge Street, Vernonia, OR.
- (P) 2012 Liquor License Renewals for St. Helens Golf Course, Bing's Restaurant, Alston Pub & Grub, St. Helens Moose Lodge #591 and Island Cove Café & Market.

The motion carried unanimously.

**COMMISSIONER HYDE COMMENTS:**

No comments.

**COMMISSIONER FISHER COMMENTS:**

No comments.

**COMMISSIONER HEIMULLER COMMENTS:**

No comments.

There was no Executive Session held.

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

Dated at St. Helens, Oregon this 21<sup>st</sup> day of March, 2012.

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: \_\_\_\_\_

\_\_\_\_\_

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

Henry Heimuller, Commissioner

Jan Greenhalgh

BOC Minutes

3/21/12

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