

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

September 12, 2012

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 Jan Greenhalgh, Board Secretary. Commissioner 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 August 29, 2012 Staff meeting; September 5, 2012 Board meeting; and September 12, 2012 Staff meeting. The motion carried unanimously.

VISITOR COMMENTS:

Richard Melton, 55141 Columbia River Hwy, Scappoose: Richard informed the Board that was admitted to the hospital a few months back and has therefore been out of commission for awhile. However, since he has been home, there have been two incidents with someone banging on his door in the middle of the night because they were having a medical emergency. He is upset with the ongoing issues pertaining to his electrical permit requirements for his property.

Jeff Lawrence, 34221 E. Kappler Road, St. Helens: Jeff commented on the recent chip sealing project on E. Kappler Road. The Road Department put a chip seal over some bad

spots without fixing them first. It's like putting a coat of paint on a building that's falling apart.

Commissioner Hyde stated that the Board has received other calls on the same issue, however after doing some research, he found that E. Kappler has never been a paved road - it has always been chip sealed. Understanding that there are some damaged roads out there, the county is trying to save and/or repair roads as funding allows.

Jeff also asked why the county would stripe the roads two months before chip sealing it. The Board will ask that question of the Road Department.

HEARING: KRISTEN DREYER VARIANCE TO KENNEL SETBACK STANDARDS:

This is the time set for the public hearing, "In the Matter of the Application of Kristen Dreyer for a Major Variance to Kennel Setback Standard (V 12-01) and for a Conditionally Permitted Home Occupation in the Primary Forest (PF-80) Zone".

Robin stated that this is a land use hearing and noted the procedural process. The Planning Commission held a hearing on this matter, it was denied and the applicant then appealed that decision to the Board.

The Board declared no ex parte contact or conflicts of interest. Robin read the pre-hearing statement into the record as required by ORS 197.763. She then entered County Counsel's hearing file into the record, marked **Exhibit "1"** including a list of all contents.

Glen Higgins, Chief Planner, came before the Board to present the staff report. On July 16, 2012, the Planning Commission held a public hearing for Kristen Dreyer's Conditional Use Type II Home Occupation Permit (CU 12-09) application that would, if approved, allow him to continue operating an existing dog kennel from his residence in the PF-80 zone. This kennel has been operating for over 10 years. The applicant lives on a 10.79 acre site on Apiary Road. Simultaneously, the applicant requested the Planning Commission

approve his Major Variance (V 12-01) Permit application to vary the provisions in Section 1802.2 of the CCZO that requires all kennel facilities be at least 100 feet from all property lines. None of the existing kennel facilities are at least 100' from any property line; the 5,000 sq ft structure is 30' from the north property line containing a residence and the kennel's fences are between 5-10 feet of the west and south property lines. Glen presented overhead pictures showing the layout of the property, the fence lines, kennel areas and the dogs being allowed within 20 feet of the fence lines.

The Planning Commission heard testimony from the adjacent property owners/residents stating that the existing kennel has been operating in ways that have interfered with the quiet enjoyment of their rural properties and substantially impaired their quality of life because the kennel dogs are a public nuisance as defined in ORS 609.095(1).

The kennel operator, Kristen Dreyer, has appealed the Planning Commission's denial of V 12-01 to the Board of Commissioners because he was unable to attend the Planning Commission meeting due to a medical emergency and it was therefore denied.

Staff recommends that the Board uphold the Planning Commission's decision to deny V 12-01 and the related CU 12-09, based on the findings contained in the Staff Report dated 9/5/12.

At this time, the hearing was opened for public testimony.

PROPONENTS:

Kristen Dreyer, 71614 Apiary Road, Rainier: He is the owner of the property and has lived there for 14 years. The neighbor that is complaining about this kennel has been

complaining for years. Even though that same neighbor had dogs that came on to his property (Dreyer) and killed his goats and rabbits. He never complained to authorities and the neighbor paid for the kills without getting anyone else involved. The same neighbor also tried calling the Humane Society who, when they came out to inspect, found no problems. There is another neighbor that has dogs that bark all night. Mr. Dreyer stated that this is not a puppy mill but he does sell dogs for a living. He is disabled and depends on this business for his livelihood. If not approved, he will lose his property. He has tried a number of times to work with his neighbor, but he's very belligerent and won't work with him. He is already into this process \$2,500 and still doesn't know if he will be able to keep his property. All dogs bark, but his dogs are inside the kennel at night and don't bark unless someone comes onto the property. This is a clean operation.

Commissioner Heimuller asked about the lack of gutters on the building, fence repairs and the muddy area. Kristen responded he continually maintains the fences. Regarding the gutters, the snow would take them out anyway so he hasn't installed any gutters. However, he could possibly put in a concrete gutter on the ground to divert the water but again, that takes money.

Cora Dreyer, 71614 Apiary Road, Rainier: She is Kristen's wife and just wanted to point out they have been continually putting money and effort into the fencing, the drainage issues and several other improvements. Now, they stand in the balance and cannot afford to put any additional money into this business until they find out if they can continue with the operation. Roger has been out to the property a number of times and commented that the operation continues to get better every time he comes out.

OPPONENTS:

Dan Hendrickson, 71710 Apiary Road, Rainier: There are number of things he takes issues with it. The barking has been going on for years, but Roger informed him that there was nothing he could do because the Dreyer's have a kennel license. Dan did note that since the original hearing, Kristen has been taking the dogs in at night and that's helped a lot. Dan said that the property is for sale and Mr. Dreyer is moving anyway so not sure the need for this application. He explained that the position of the kennel trumpets the barking sound right up to his property. He has to listen to barking 5,6,7 hours a day. He explained the chicken attack and Kristen settled with him. His dogs did get out before and attacked some of Kristen's animal, which Dan paid for. Kristen's dogs continue to get out and Dan submitted a picture of Kristen's dog in their driveway. Dan does not feel that a kennel business is suited for this location. If it remains, then the buildings should be moved. He just cannot say enough about the constant barking that he and his wife have to endure on a daily basis.

Commissioner Heimuller asked if Mr. Dreyer put a building on another part of his property, would that stop the complaints. Dogs bark and will always bark. Dan felt if the building was an updated structure with concrete or something to help minimize the noise, that would help. He understands that Mr. Dreyer wants to make a living, but should have to comply with the rules. Dan entered his photo into the record, marked **Exhibit "2"**.

Rita Hendrickson, 71710 Apiary Road, Rainier: She addressed a couple of errors in the staff report. The kennel has not been there since 1977. The dogs come directly up to the fence - they bark, growl, and charge the fence. No one comes out to retrieve the dogs. When her Shepard gets out and barks, she can call him back but Mr. Dreyer does not have control over his dogs.

REBUTTAL:

Kristen responded to the dogs barking and charging the fence. Ms. Hendrickson failed to mention that her dogs do the same things. When he calls his dogs, they will usually come back. Their dogs are not guiltless in this whole thing. In fact, the Hendrickson's dog bit him, but he didn't report it. It's just too bad that neighbors can't just work these things out. His dogs do not bark 24 hours per day! He did confirm that the photo submitted shows his dog in Dan's driveway.

With no further testimony coming before the Board, the hearing was closed. The record will be left open to allow the applicant 7 days for final rebuttal. With that, Commissioner Heimuller moved and Commissioner Hyde seconded to carry over deliberations to October 3, 2012 at or after 10:00 a.m. 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 9/10/12.
- (B) Approve the Energy Incentives Program Application with the Oregon Department of Energy for Transit Services, with \$200 application fee and authorize Janet Wright to sign.

AGREEMENTS/CONTRACTS/AMENDMENTS:

(C) Agreement with Clatsop County for Use of Juvenile Detention Facility.

The motion carried unanimously.

COMMISSIONER HYDE COMMENTS:

Commissioner Hyde stated that the EOC group is continuing to work quickly on the \$500,000 grant for the new EOC facility. They have until March 2013 to have the building up and operating.

On Monday, he was in Salem for an AOC meeting. Afterwards, he attended a team meeting on the Governor's budget for economic development and again yesterday.

He reported on the O&C meeting held Thursday.

COMMISSIONER FISHER COMMENTS:

Not present.

COMMISSIONER HEIMULLER COMMENTS:

Commissioner Heimuller is very grateful for Commissioner Hyde's participation on the many executive groups that help represent Columbia County.

Last Thursday he was in Tillamook for the NOHA meeting.

He spent Sunday, Monday, Tuesday at the Oregon Transit Association conference in Seaside. He had the opportunity to have dinner with some representatives of ODOT, Public Transit on Monday evening and was pleased to find out that he has been appointed as the AOC representative to ODOT's Public Transportation Advisory Commission. There are a number of projects that are in their final stages and he suggested that better coordination for veterans transportation in the rural areas be added to the agenda for next year. He is glad to have Columbia County represented on this committee.

EXECUTIVE SESSION UNDER ORS 192.660(2)(I) - EVALUATION:

The Board recessed the regular session to go Executive Session as allowed under ORS 192.660(20(i). Upon coming out of Executive Session, no action was taken by the Board.

The Board recessed the at 12:15 p. and reconvened on Tuesday, September 18, 2012 at 10:00 a.m. at the Clatskanie PUD for the AOC District 7 meeting.

Various issues were discussed relating to the cities and the County. No action was taken by the Board.

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

Dated at St. Helens, Oregon this 12th of September, 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: _____ Not Present

Earl Fisher, Commissioner

Recording Secretary:

By: _____

By: _____

Henry Heimuller, Commissioner

Jan Greenhalgh