

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

May 1, 2013

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

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

MINUTES:

Commissioner Hyde moved and Commissioner Fisher seconded to approve the minutes of the April 20, 2013 Board meeting; April 20, 2013 Staff meeting; April 17, 2013 Board meeting; April 17, 2013 Staff meeting; April 24, 2013 Board meeting; and April 24, 2013 Staff meeting. The motion carried unanimously.

VISITOR COMMENTS:

None.

CONSENT AGENDA:

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

- (A) Ratify the Select to Pay for week of 4/29/13.

- (B) Approve Personnel Action for Dave Hill.
- (C) Order No. 15-2013, "In the Matter of Amending Policies and Procedures for Compliance with Title II of the Americans with Disabilities Act".
- (D) Resolution No. 16-2013, "In the Matter of Acquiring a Permanent Easement for Slopes and Drainage from William L. And Michelle A. Morrill for Slide Repair on Nick Thomas Road".
- (E) Accept Permanent Easement for Slopes and Drainage from William and Michelle Morrill, Nick Thomas Road.

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (F) Agreement with the Oregon Judicial Department for Access to Limited, Confidential and Other Protected Case Information in the Oregon Judicial Information System (OJIS).
- (G) Ratify Amendment #1 to the Intergovernmental Agreement between Columbia County, 911 Communications District and the Columbia River Fire & Rescue and authorizing Commissioner Heimuller to sign.

The motion carried unanimously.

HEARING: TIDE CREEK ROCK ZONE CHANGE:

This is the time set for the public hearing, "In the Matter of an Application by John Petersen of Tide Creek Rock for a Major Map Amendment and Zone Change from Forest Agriculture (FA-80) to Surface Mining (SM) and a Variance to Allow Development Within the 50' Riparian Corridor".

Robin asked if the Board had any ex parte contact. Commissioner Heimuller stated that he and Glen Higgins met with Al Petersen at the subject site and discussed points of concern by all parties. There were no rebuttal comments. Robin stated that this hearing is being held on the record of the Planning Commission so if the Board wants to allow additional testimony, it must open the record. With that, *Commissioner Hyde*

moved and Commissioner Fisher seconded to open this hearing to additional testimony. The motion carried unanimously.

Robin then 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"** and listed all contents.

Glen Higgins, Chief Planner, came before the Board to give the very lengthy staff report. The applicant is requesting a comprehensive plan amendment designating an expansion site (56 acres) as a significant mineral and aggregate resource. This request will amend the Columbia County Comprehensive Plan Map and Zoning Ordinance Map for the identified site. The request includes a variance to road and riparian setbacks in two areas and to operating hours. The Planning Commission held a public hearing on the matter and their conclusion and recommendation is that the Plan Amendment and Zone Change application be approved with 16 conditions. On the Variance, the Planning Commission found that the applicant has met a majority of the applicable criteria with some exceptions. If the Board approves the variance, there are conditions that the Planning Commission would recommend.

Robin then entered a letter dated April 30, 2013 to Glen Higgins from Phillip Grillo, of Davis Wright Tremaine LLC, into the record as **Exhibit "2"**.

The hearing was opened for public testimony.

PROPONENTS:

Al Petersen, 101 St. Helens Street, St. Helens: He is the applicant and will give a brief presentation. He first addressed the conditions presented by the Planning Commission. One being the 6 foot high fence around the mining area for protection as the mining progresses. He explained to the Planning Commission that in order for someone to get to the mining area, they would have to be trespassing on the Petersen's property and then up a steep 1/4 mile hill to get there. To put up a 6 foot high fence in the middle of someone's property to protect trespassers, is a bit ridiculous. The Planning Commission agreed with the suggestion instead for a 4 foot barbed wire fence. In reality, that 6 foot fence condition comes from the CCZO that talks about visual screening, not for the protection of trespassers.

Then moving to the condition for Site Design Review. This condition would mean presenting a lot information, maps and plans that they have already provided. In Section 4 & 5 of the information he submitted, there are many various maps, pre and post mine plans, a post mine reclamation plan so this requirement would just be redundant. He has prepared for staff, as requested, two additional drawings that basically outline the encroachment areas. However, once this application is approved, the applicant will have to provide a survey to DOGAMI with a lot of other required information. Commissioner Heimuller asked why the survey wasn't done up front. Al explained what happened about 15 years ago when his father, John Petersen, filed an application. He presented drawings of the site and had it surveyed. Then because of someone asking a question at the public hearing, John had to have it re-surveyed. It went back to another hearing and someone else asked a question so John had it surveyed again. Paying for 3 surveys for the same property when a decision hasn't even been made, is expensive. Once a decision is made, then it makes sense to have it surveyed.

Moving on, Al has been negotiating with the Cosgrove's on an agreement to modify the SMIO, which is included in the record. Al then submitted two maps into the record marked **Exhibit "3"** and another map showing an adjustment to the SMIO marked **Exhibit "4"**. Al referred to a map of the expansion area showing that the mining will be taking place behind a hill and 1500 feet away from homes. He is proposing to reduce the impact zone to satisfy all of the homeowners. He then submitted suggested findings into the record, marked **Exhibit "5"**.

Finally, the comments on the bridge. This is the first he has heard any concerns or comments on the bridge and it was not part of the Planning Commission. That should be an MSHA regulation and should not be a land use issue.

John Petersen, 33625 Tide Creek Road, Deer Island: Staff showed a picture of the bridge and the road that goes up the other way. They plan to mine forward - there should be no concerns with rocks falling into the creek because there is already a berm in place. As for the fence requirement, he cannot understand the need for that and explained why.

Agnes Petersen, 33625 Tide Creek Road, Deer Island: The applicant is happy to reduce the boundaries to the neighboring property owners from the impact zone. It's her understandings that the SMIO is to protect the mine and Goal 5, not the other way around. She would hope that the Board approves this as agreed upon by all parties. They have owned and operated this mine since 1974 and has always allowed any agency on the property. Further, Tide Creek is not a fish bearing stream and, even if fish were there, they couldn't get up as far as the mine area.

Dale Witham, 26970 Hammond Road, Rainier: He is a retired teacher after 33 years on the job. He was asked by John Petersen to attend so he came and it is nice to see the

professional process. In 1975 he became a logger, did construction and used a lot of rock. He got that rock from John Petersen who is a great guy, very knowledgeable and provides a fantastic rock at an inexpensive price. Dale wanted to mentioned that there are two safe, straight accesses to the pit from Hwy 30. He can even access Tide Creek Rock on the weekends. He can't say enough good about this pit.

Martin Brandenfels, 33934 Pittsburg Road, St. Helens: This isn't the first time the Petersen's have been questioned on how they do things. The Petersen's are not amateurs, they are not afraid of anyone, but they do follow the rules and does what is right. He supports this application.

Agnes wanted to add that the rock in the previous mine has been exhausted and if this application is not approved, they will have to give notice to their three employees. This is a pressing problem for these workers.

Frank Hall, 33268 Tide Creek Road, Deer Island: His property is close to the mine and, he can hear a lot of things, the highway, other traffic, but he has never heard the mining operations. He would like to see this operation move forward.

The Board took a 5 minute recess and Commissioner Hyde left to attend another meeting in Salem.

OPPONENTS:

Phillip Grillo, 1300 SW Fifth Avenue, Portland: He is here representing the Cosgrove family. The Cosgrove's were opponents earlier in the process but have worked with the applicant on some conditions of approval. As noted in his letter of 4/30/13, he is pleased

to report that the Cosgrove's and the applicant have agreed on conditions of approval. He will not go through the entire letter but wanted briefly commented on two things. First is proposed condition #4 that references the crosshatched area in Phase 4 of the mining expansion site that shall only be used for stockpiling overburden. That would be a restricted area and very important to the client because it keeps the mining activity much further away from their property.

Secondly, Al Petersen just gave him a copy of a conceptual map of what the new SMIO would be. Because this is the first he has seen this map, he would ask that if the Board intends to make a tentative decision today, that they allow him to work with staff to fine tune this map to make sure it's agreeable. He wanted to thank staff and the Petersen's for they work on this and being agreeable to the neighbor's concerns.

REBUTTAL:

Al Petersen just wanted to clarify that the intent of the map Mr Grillo just referred to is to achieve the goal that the Cosgrove's were getting for the rest of the neighbors. Basically to apply to and be fair to all of the neighbors.

With no further testimony coming before the Board at this time, the hearing was closed and the record was left open for written testimony to May 15, 2013 and then one additional week for rebuttal to May 29, 2013, with final argument and deliberations on June 5, 2013 at or after 10:00 a.m.

COMMISSIONER HYDE COMMENTS:

Commisisoner Hyde had left the meeting earlier to attend another meeting in Salem.

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 1st day of May, 2013.

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: _____

Henry Heimuller, Chair

By: _____

Anthony Hyde, Commissioner

By: _____

Jan Greenhalgh

Board Office Administrator

By: _____

Earl Fisher, Commissioner