

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

November 13, 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 Jewel Japs, County Counsel Staff.

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 November 6, 2013 Board meeting and November 6, 2013 Staff meeting. The motion carried unanimously.

VISITOR COMMENTS:

Commissioner Heimuller informed the public that no testimony will be taken as it pertains to deliberations in the matter of the Port of St. Helens application.

Tracy Prescott MacGregor, 79490 Erickson Dike Road, Clatskanie: Tracy started to read a prepared statement to the Board, representing the farmers of Port Westward. Commissioner Heimuller stopped her and explained again that public testimony will not be allowed regarding the POSH zone change application as the record has been closed.

Robin explained the set prescribed procedure as outlined in the state statutes. The testimony on the Port of St. Helens application has been received, the record is closed and no further testimony can be taken.

Brady Preheim, 50607 Columbia River Hwy, Scappoose: Brady was present to address the failed Jail Levy. It proved that the County was not paying attention to the voters. He understands there will be a meeting on the outcome of the levy on November 25th and would hope that is open to the public. The key to getting a Jail levy passed is communication with the people. Commissioner Hyde explained that the meeting on 11/25 is a stakeholder meeting and will be open to the public,

Annie Christenson, 35234 Hazel Street, St. Helens: She has lived in this county for 24 years. Her husband is disabled and 2 years ago they bought their dream house that is approximately 1/3 mile from the railroad tracks behind the high school. She just came from the Port of St. Helens meeting where they approved an increase in rail traffic. Annie was told directly by a Port Commissioners that if she didn't like it, she could move. Annie loves her home and doesn't want to move - she asked the Commissioners to please listen to the people because moving is not an option.

Darrell Whipple, 76439 Alston Mayger Road, Rainier: He attended the Coastal Summit in Cathlamet last Saturday. The person sitting next to him is a oyster farmer in Wilapa Bay and he has seen the changes to the ocean due to global warming. Ocean acidification is preventing the development of the oyster larvae. It is caused by the absorption of carbon dioxide by the ocean, which is caused by the burning of fossil fuel. This is what the County and Port is setting up by allowing a coal and petroleum industryCommissioner Heimuller stated that he is happy to hear his concerns but not as it pertains to the POSH zone change application.

Jasmine Zimmermucking, 5918 NE 13th Avenue, Portland: She works for Columbia Riverkeepers and here today to remind the Board that the entire Columbia River is impacted by the decision this county makes. AGAIN, the Board cannot take any testimony on this. Jasmine stated that she is not giving testimony, simply reminding the

Board that the entire river system is connected and that entire system is watching what this county does here today.

Tabitha Harris, 51701 SE 6th Street, Scappoose: She is a lifelong resident of Columbia County and comments were stopped.

2ND READING: ORDINANCE 2013-4 - ADOPT RABIES VACCINATION ORDINANCE:

This is the time set for the second reading of Ordinance No. 2013-4, "In the Matter of the Adoption of the Columbia County Rabies Vaccination Reporting Ordinance". With no objections, Robin gave the second reading of Ordinance No. 2013-4, by title only. This ordinance does not include an emergency clause and will become effective in 90 days. With that, Commissioner Hyde moved and Commissioner Fisher seconded to adopt Ordinance No. 2013-4, "In the Matter of the Adoption of the Columbia County Rabies Vaccination Reporting Ordinance". The motion carried unanimously.

2ND READING: ORDINANCE 2013-5 - AMEND KENNEL ORDINANCE:

This is the time set for the second reading of Ordinance No. 2013-5, "In the Matter of Amending the Columbia County Kennel Ordinance to Comply with Senate Bill 6 and to Clarify and Modify Standards and Procedures". With no objections, Robin gave the second reading of Ordinance No. 2013-5, by title only. This ordinance includes an emergency clause and, with a unanimous vote, will become effective upon adoption. With that, Commissioner Fisher moved and Commissioner Hyde seconded to adoption Ordinance No. 2013-5, "In th Matter of Amending the Columbia County Kennel Ordinance to Comply with Senate Bill 6 and to Clarify and Modify Standards and Procedures". The motion carried unanimously.

DELIBERATIONS: PORT OF ST HELENS ZONE CHANGE APPLICATION:

This is the time set for deliberations, “In the Matter of an Application by the Port of St. Helens for a Comprehensive Plan Amendment, Zone Change and Goal 2 Exceptions to Statewide Planning Goals 3 and 4 to Change the Zoning of 957 Acres from Primary Agriculture (PA-80) to Rural Industrial (RIPD) to Allow for the Expansion of Industrial Land at Port Westward (PA 13-02; ZC 13-01)”.

Robin reviewed the application process to date and, at this time, entered **Exhibit 1B**, which is all written evidence and testimony that was received between 10/9/13 through 10/30/13.

Commissioner Hyde commented that the Board received a great deal of testimony and opinions about this proposed application for a zone change. For him, there was a great deal of confusion as to what his task was here. This is a zone change application, not a conditional use or site design review application. Those applications would follow any normal zone change and, it needs to be clear, that would not happen without public input. The Board has heard that there is no specificity as to what will happen with the property of the zone change is approved. The very nature of a zone change is exactly that - there is specificity as to what it does or doesn't allow but, with regards to the exact use of that land, that would have to go through the public process. Another misunderstanding is with Senate Bill 766. There was testimony that SB766 was a given that rolls with the land use application. Not the case. SB766 takes a separate

application that also has a public input process. Even then, it is not a given that the State would approve it. He noted that SB766 does not waive any land use statutes. He heard a lot about coal - again, this is only a zone change application. He personally believes that we have been talking about Port Westward for a long time and we have some of the best industrial land along the river front left in the state of Oregon, with a deep water port that is self-scouring. Also heard that the Urban Renewal District, overnight, would increase to include this property if rezoned. By State law, Urban Renewal Districts cannot increase more than 20% without starting all over again - so legally not possible.

Commissioner Fisher feels that the question of rezoning the property around Port Westward is really one centered on the vision of what Columbia County would look like in the decades ahead. Will north and south county be divided? Will it be one where growth is based on industrial development and population increase. This application envisions a fully developed industrial area in north county, where a variety of industrial and energy complexes will be located. Many of those who oppose the rezone envision a pastoral environment where small farming and other agricultural activities would prevail. This request is for a zone change only. One that would set the stage for the possible industrial development at Port Westward. It is incumbent upon the Commissioners to ensure that all the appropriate conditions and requirements of any zone change application are met by the law. The decision must be made based on the standards and criteria of the CCZO. The Planning staff has completed a detailed and thorough review of all required conditions, goals and findings necessary to act on this request. In their professional opinion, they find that all of the required conditions for approval have been met. There has been a great deal of factual testimony from all sides of this issue, however, this is a matter of legal standards. He believes that a lot of the testimony received revolved around the needs of different visions of the county and not necessarily around the standards and criteria for change. Many tried to connect their comments to

one standard or another but those arguments seemed weak and were really based more on their vision of the area. Do we stress jobs or protect the current livability status. After reviewing all documents and reading the statutes, he is convinced that the requirements for the zone change have been met and should be allowed. He also supports the conditions as recommended by the Planning staff.

Commissioner Heimuller first wanted to thank everyone who has participated in this land use process. Whether for or against this application, it is nice to see people come forward and make their opinions be known. In 2010, the Port of St. Helens purchased the subject property with the intent of developing that land for industrial use. He has reviewed the 45 pound box of materials submitted in the record, but keeps coming back to the fact that the Port purchased this property with the intent to develop. Things that should not be ignored are our friends in the farming community out there. Most don't know that he grew up on a small family farm and also worked in a peppermint plantation for several years. He has friends who farm in eastern Oregon and sees industry co-existing with agriculture and knows that we have the capability of doing that here in Columbia County as well. He does not take lightly those discussions brought forward by Bill Eagle about the Thompson property and how that is environmentally sensitive. He also doesn't take lightly the historic siening grounds and believes we need to preserve those pieces of heritage the best we can and have those things co-exist with our agriculture and industry to make Columbia County well rounded for all of us to exist and survive. It becomes clear that when we attempt to pass a Jail levy that people don't have much tolerance for more taxes. To help with that burden, we need to create opportunities for people to come to this county and pay taxes - more jobs, more business, more growth, so we need to vision forward. The testimony from the Zen Monastery was very compelling and there were arguments that were far reaching on both sides and can appreciate the impacts. He has lived here all of his life and has always waited for trains

but he also sees that as bringing commerce to our county. We have better rail and better highways and we always need to move forward with making them safer. He would say that, irregardless of people leaving here today happy or upset, this Board has never taken their eye off the ball of the overall good of Columbia County. The bottom line is that the Board will be looking at every opportunity to create jobs and improve the livability standards for our citizens.

Commissioner Hyde moved and Commissioner Fisher seconded to deny the application of the Port of St. Helens as to the two southern tax lots adjacent to the river (tax lot 100 in Section 20 and Tax Lot 100 in Section 29, both in Township 8 North, Range 4 West) and to tentative approve the application as to the remaining property, subject to the conditions in the staff report, which shall be modified as follows:

1) Prior to an application for development of a new use, the applicant/developer shall submit a Site Design Review and an RIPD Use Under Prescribed Conditions as required by the Columbia County Zoning Ordinance.

2) To ensure adequate transportation operation, future developments and expansions requiring site design review that are proposed for the subject property shall not produce more that 332 PM peak-hour trips without conducting a new Traffic Impact Analysis with recommendations for operational or safety mitigation;

3) A traffic study be prepared for each proposed future development within the subject property to determine the number of trips generated, likely travel routes, impacts on both passenger car and heavy truck traffic. These TIA reports would also be used to ensure that the number of trips generated and accumulative trips do not exceed the trip cap.

4) To ensure compatibility with adjoining agricultural uses the applicant/developer of new industrial uses shall comply with the following:

A) The habitat of threatened and endangered species shall be evaluated and protected as required by law.

B) Alterations of important natural features, including placement of structures shall maintain the overall values of the feature.

C) All development adjacent to land zoned PA-80 shall include buffers that are established and maintained between the industrial uses and adjacent land uses, including natural vegetation and where appropriate, fences, landscaped areas and other similar types of buffers.

D) When possible the area of the site that is not developed for industrial uses or support shall be left in a natural condition or in resource (farm) production.

E) Controls, including dust, suppression and requiring hard surfaces, shall be employed to mitigate dust caused by industrial uses that may emanate from the site and traffic to the site.

F) Site run-off shall be controlled and any harmful sediment shall be contained or otherwise treated before being released to ensure potential impacts to irrigation equipment and area water quality (both ground and surface) are controlled.

G) The industrial use impact on the water table shall be monitored to ensure that the water table can be maintained and managed as it historically is done.

H) Railroad crossings shall be managed consistently with federal law regulating

crossing to reduce crossing delays. Any proposed use that includes transport to or from the subject property by rail shall submit a rail plan identifying the number and frequency of trains to the subject property, the impact on the County's transportation system, and proposed mitigation.

l) Development applications shall include an agricultural impact assessment report that shall analyze adjacent agricultural uses and practices and demonstrate that impacts from the proposed use are mitigated. The report shall include a description of the type and nature of the agricultural uses and farming practices,

if

any, which presently occur on adjacent lands zoned for farm use, type of agricultural equipment customarily used on the property, and wind pattern information. The report shall include a mitigation plan for any negative impacts identified.

5) The types of industrial uses for the subject Plan Amendment shall be limited to the uses, density, public facilities & services and activities to, only those that are justified in the exception.

6) The storage, loading and unloading of coal is specifically not justified in this exception. Such uses shall not be allowed on the subject property without a separately approved exception to Goal 3.

Robin explained that the Ordinance is not considered final until the it is put in writing and adopted. Therefore, she would recommend that the Board avoid any exparte contact until that time.

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 11/11/13.

The motion carried unanimously.

CHANGE ORDER #4 TO EOC PROJECT:

Renata Garrison, Emergency Management Director, came before the Board to review and discuss Change Orders #4, #6, #7. She noted that #5 was an error and therefore voided. After review and discussion, Commissioner Hyde moved and Commissioner Fisher seconded to approve Change Orders #4, #6, #7 to the contract with Modern Building Systems for the EOC Facility Project. The motion carried unanimously.

REVOLVING FUND ADMINISTRATION CONTACT WITH CAT:

Sarah Hanson addressed the Revolving Fund Administration contract with Community Action Team. In 1996, Columbia County was the recipient of grant funds that helped re-establish the Vernonia flooded properties. Those funds were administered by Community Action Team through loans to property owners. At this point, those loan funds have been repaid to the county, the CDBG grant is closed out and there is no further obligation through CDBG to do anything specific with those funds. Sarah has been contacted by CAT who would like to continue to use those funds to continue to provide loans to people in Columbia County who need loans to upgrade their homes. She has provided the Board with a proposed agreement with CAT along with the scope of work prepared by Beverly Danner of CAT. Sarah ran this by the Jennifer Cuellar and she

has no concerns with the use of those funds for this purpose. The County would first draw down any administration costs incurred. If no concerns, Sarah will send the agreement to CAT for signature and then bring it back before the Board for approval.

AMENDMENT #1 TO ODE CONTRACT #9783-A1:

Sarah explained that back in June, the Board received two incomplete IGA's from the Early Learning Council related to the continuation of the Commission on Children & Families programs. Those programs and their funding have been restructured and somewhat confusing. The Board had approved the 2 agreements and sent them back to the State with a request to modify the agreements to include the agreed upon county/state indemnification provision. They did not include that. Now, there is an amendment to Mixed Funds agreement, which has gone back and forth a few times, with Sarah requesting that the State reinsert the indemnification language. The State accepted all of her changes except for that specific provision. Jan Kenna would like to see this approved because the State is holding up the release of funds based on this agreement. Sarah noted that real important parts have been changed but wanted the Board to be aware of her concerns. Commissioner Fisher feels the County doesn't have much choice, because if the amendment isn't approved, there is not funding. After some discussion, Commissioner Fisher moved and Commissioner Heimuller seconded to approve Amendment #1 to COL13-15 Mixed Funds Agreement and authorize the Chair to sign. The motion carried unanimously.

COMMISSIONER HYDE COMMENTS:

Commissioner Hyde attended a Forest Trust Lands Advisory Committee meeting last Friday and they are now a couple of advisory committees formed to talk about the Forest Harvest Management Plan that's being revised and the financial impacts to the counties.

He attended the annual Columbia County Economic Team breakfast meeting last Friday. There was a lot of good interaction amongst those present.

He also attended the Homeland Security Emergency Management meeting. They discussed the hazard mitigation plan that is comprehensive around the county. It was one of the first in the State of Oregon. Because plan was pre-approved by FEMA, it allowed us to access funds that were made available after the declared event in 2008. Columbia County received approximately \$20 million. That plan expires in June and will be working hard to get the new plan approved before June 1, 2014.

COMMISSIONER FISHER COMMENTS:

Commissioner Fisher wanted to thank the staff who were able to attend the funeral service for Rick Katterman at Willamette National last Friday. There was also a pot luck at his home on Saturday.

He also commented that Monday was Veterans Day and there were a number of events and ceremonies throughout the county to honor our local veterans.

Yesterday he talked with the Education Service District about picking up the Safe Kids Program and that used to be part of the CCCC. It's a program for help parents make sure that their kids safety seats are properly installed. ESD may be able to help with that program if funding is made available.

On Friday, he met with Mayor Pohl to talk about policing in the county and what will happen with the jail now that the Operating Levy has failed. There will be a stakeholder meeting on November 25th at the Fairground Pavilion to discuss options. He stressed

that this will not be a town hall or public meeting. Those will come later when the process starts in constructing an actual plan.

COMMISSIONER HEIMULLER COMMENTS:

Commissioner Heimuller attended the NOHA meeting last week and will be attending the NW ACT meeting tomorrow.

He was privileged to attend Rick Katterman's funeral service last Friday at Willamette Memorial. It was a great turnout with a lot of county employees attending. The family was very pleased with the tribute given him. We continue to keep his family in our prayers.

Last Saturday, the County held an auction over at the Transit Center and we able to get rid of a lot of old "stuff" and clean out a lot of storage space.

He attended a couple of Veteran's Day programs, one at the Elks Lodge and the one at McCormick Park. It's inspiring to see our veterans attend these events full of spirit.

He also attended the CCET breakfast event yesterday. There was a great turnout and enjoyed hearing from the speakers and talking about what Columbia County has to offer.

Some time ago, the Warren Grange asked to partner with the Fair Board to renovate the 4-H Building at the Fairgrounds. They committed \$100,000 to that project and there is a grand opening scheduled for December 8th from 1:00 - 4:00 pm. Because they came in under budget, they replaced the old stove with a new commercial grade stove.

The Board will be attending the annual AOC Conference next week. This is a great opportunity to talk with other Commissioners around that State on issues that all of our

counties face. Commissioner Fisher will serve as the President of AOC this next year. The highlight of the conference will be the "Taste of Oregon" event, which is to showcase products from all 36 counties in Oregon. Thanks to our very generous vendors, Columbia County will have 5 products on display.

There was no Executive Session held.

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

Dated at St. Helens, Oregon this 13th day of November, 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

By: _____

Board Office Administrator

Earl Fisher, Commissioner