

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

April 5, 2017

The Columbia County Board of Commissioners met in scheduled session with Commissioner Henry Heimuller, Commissioner Margaret Magruder and Commissioner Alex Tardif, 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 Magruder moved and Commissioner Tardif seconded to approve the minutes of the March 22, 2017 Board meeting and March 22, 2017 Staff meeting. The motion carried unanimously.

**VISITOR COMMENTS:**

***Bing Theobale, 76412 Ege Road, Rainier:*** Bing owns property in Columbia County and is planning to put in an industrial park and has been in contact with the Chinese Consulate who oversees this area. She is looking to put in a free trade zone, which is a special class of zoning and is looking for direction on how to start this process. Commissioner Heimuller suggested Bing present a written proposal and get in contact with Chuck Daughtry, with the Columbia County Economic Team.

***Don Campbell, 75735 Price Road, Rainier:*** He is having issues with a neighbor at Deer Pointe Meadows trailer park. There have been disputes over his driveway however, he has a letter that states this is not a public road or a county road. This is bringing up some old issues with trespassing, drug users, etc. He has been dealing with cars speeding in front of his home so he took it upon himself to install speed bumps and is now being talked to by the police for trespassing. He is just trying to make his neighborhood safe. Something needs to be done by the county on this.

**HEARING: APPEAL OF KIGHTLINGER FOR MARIJUANA GROWING OPERATION:**

This is the time set for the public hearing, "In the Matter of the Application of Kirk and Chantel Kightlinger to Conduct an Indoor and Outdoor Marijuana Growing Operation in the Primary Forest (PF-80) Zone".

Robin McIntyre summarized the purpose of this hearing. When asked, the Board declared no exparte contact or conflicts of interest. Robin then reviewed the applicable criteria and read the pre-hearing statement into the record. County Counsel's hearing file was entered into the record, marked Exhibit "1" including a list of contents as of March 18,

2017. Robin also submitted an email from Phillip Hamilton, dated 4.4.17, into the record marked Exhibit "2".

Glen Higgins, Chief Planner, came before the Board to present the staff report. The applicants, Kirk and Chantel Kightlinger, are requesting approval to establish and operate a future mixed OLCC Recreational Marijuana and OHA Medical Marijuana production operation on the subject property - 21.48 acres. The applicants intend to grow marijuana both indoors and outdoors. The indoor grow will take place in (4) separate 30x40 structures that are clustered together and the outdoor grow will take place in a 19,000 sf area to the north of the proposed indoor structures. The whole area will be surrounded by an 8 foot cyclone fence and will be approximately 2 acres in size. The site is already developed, located at 27163 Old Rainier Road, with the applicant's residence, a detached garage, a storage barn, a septic system and a well. The property is surrounded by forest zoned properties on the North, East and West and is bordered by Rural Residential zone properties to the South. The applicants currently have an existing medical marijuana grow that is being conducted in their storage barn and will be demolished to make room for the new recreational/medical grow. This is a legal medical grow and both growers are licensed by the OHA for the subject site. This application for administrative review was deemed complete on November 28, 2016 and referred to the Planning Commission. The Planning Commission held a public hearing on 2.6.17 and approved the application with conditions as noted in their final order. Based on review and findings, staff also recommends approval of this application, with the 10 conditions as listed in the Staff Report dated 3.29.17 and to deny the appeal.

The hearing was opened for public testimony.

### **PROPONENTS:**

***Kirk Kightlinger, 27163 Old Rainier Road, Rainier:*** He doesn't have a lot to add from what is already in the record but is here to answer any questions the Board may have. For clarification, the existing ag building will be along side the new building, with plans to eliminate the old building. Once the application is approved, they can move forward with meeting all conditions. Although not a written condition, Kirk clarified that the existing building will in fact be removed. Commissioner Magruder asked if the outdoor grow will require irrigation. Yes, Kirk explained that they will have four 2,500 gallon holding tanks behind the existing structure and they will be collecting rain water. They are in the process of obtaining water rights to obtain water from the spring that's on the property. Because of topography of the land and the abundant amount of rainfall we've had, he is not sure he will even have to water. Kirk asked for a copy of the letter from Mr. Hamilton to review and was given a copy.

***Erin Kightlinger, 27163 Old Rainier Road, Rainier:*** He added that they have already gone through a very long list of requirements/conditions by the county, along with the pages of regulations through the State OLCC, so this operation will be heavily regulated.

**Kelly Blume, 6421 SE 80<sup>th</sup> Avenue, Portland:** She has been working with the Kightlingers since September 2016. She moved back here from Colorado where she was a licensed cannabis grower for 5 years. She got her masters degree at Colorado State University in agricultural extension education. She wanted to address how this business is regulated through the Department of Agriculture, i.e. the types of fertilizers and pesticides they are allowed to use, everything is tracked and recorded and she would expect regular visits from the State.

### **OPPONENTS:**

**Phillip Hamilton, 27117 Old Rainier Road, Rainier:** He appealed this application so that he could take a closer look at this business. He first addressed the water rights. The Kightlingers have been growing marijuana on this property since 2015, and have pulled water out of Beaver Creek, storing it in a 250 gallon tank, to water their crop. There was no water permit issued to allow the Kightlingers to pull water from the creek. In his research, the Kightlingers did not have a legal permit to grow marijuana until July 2016. He also has concerns if any permits were issued for the electrical work, etc. How does the county even know that they have a legal license to grow marijuana and has the property even been inspected? Phillip believes they are breaking a lot of land use laws and he has concerns that the Kightlingers won't be held to the same standards as say a mint farm. His biggest concern is that they are going to break the law and who's going to do anything about it? No one.

Commissioner Tardif appreciates Mr. Hamilton's comments and concerns. This is a new territory for Oregon. We all have concerns about how this is going to be regulated, but the County does have an Ordinance in place and OLCC, who has very strict requirements that must be met, will be tracking this.

Commissioner Heimuller - keep in mind that Columbia County was the first county to create a marijuana ordinance because it was a given that there would be neighborhood impacts. That said, the law is the law and the people in the State of Oregon have spoken.

Commissioner Magruder asked staff about the electrical permits and if those has been issued. Glen stated that a number of permits have been issued, but nothing for the new facility until the Kightlingers have approval and are ready to build.

**Don Campbell, 75735 Price Road, Rainier:** Don addressed his concerns about water rights and pumping water out of the springs. He is very concerned that pumping water out of the creek and springs will affect or damage the riparian areas downstream. Eventually they can be pumped dry. Another issue is the commercial driveway - he drives that road everyday. If made into a commercial drive he assumes that would mean large truck & trailer traffic. Also, he heard no mention of a Home Occupation Permit which, in his opinion, should have been the first step in this process and he didn't hear

that addressed during testimony. He believes that application should be denied for a number of reasons.

Glen explained that marijuana grows do not require a home occupation permit and that is outlined in the ordinance. They are an outright permitted used.

**REBUTTAL:**

***Kirk Kightliner*** addressed the issue of the 2015 grow operation - that was his stepsons, not Kirk's. In response to the letter from Phillip Hamilton that states Kirk was arrested in Longview, Mr. Hamilton doesn't state that those charges were dropped and all his equipment was returned to him. Kirk feels that Mr. Hamilton has gone out of his way to be adversarial about this application and doesn't think there is anything Kirk can do to make him happy. Kirk would add that they have done what the county has requested and would request that this application be approved. As for the water rights, he does have the right to pull water out of the creek, but only 3 months out of the year.

With nothing further coming before the Board, the hearing was closed for deliberations.

Commissioner Magruder personally had concerns about water use and the impact of marijuana growing on agricultural lands, however marijuana is considered an agricultural crop and it needs to comply with all rules and regulations that apply to agriculture. She has concerns about the right to farm issues but since marijuana is an agricultural crop it complies with the right to farm. That said, it appears that the Kightlingers have complied with all land use regulations and requirements.

Commissioner Tardif agreed with Commissioner Magruder and, based on the criteria, compliance with the land use ordinance and requirements of the State, he sees no reason to deny this application. The unfortunate part of this is the neighborhood disputes that will arise from these types of applications. He would hope that they can work through those.

Commissioner Heimuller noted that there are some things the county has no control over, such as the actual license that is issued by the State. Hopefully they will follow through with inspections and address complaints, but this is new to them also. This Board has to follow the law and, as this application meets the applicable criteria, he cannot see a reason to deny this application.

After deliberations, Commissioner Magruder moved and Commissioner Tardif seconded to deny the appeal and tentatively approve application MO 07-17 with all conditions listed in the Staff Report, and the additional condition regarding the commercial driveway and direct staff to prepare the final order for Board action. The motion carried unanimously.

**CONSENT AGENDA:**

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

- (A) Ratify the Select to Pay for week of 3.27.17 & 4.3.17.
- (B) Liquor License Renewals for: Tio's Quincy Market; Rosebud Café; Scappoose Creek Inn.
- (C) Resolution No. 18-2017, "In the Matter of Appointing Diana Shera-Taylor as Justice of the Peace, Pro Tempore, to the Columbia County Justice of the Peace District.
- (D) Infrastructure Contract 4258-DR-OR with the State of Oregon Office of Emergency Management for Disaster Relief Projects for 2015 Winter Storm Events and authorize Chair to sign.
- (E) Amendment #9 to Intergovernmental Agreement No. 720-07 with Portland Community College for CC Rider transportation services and authorize the Chair to sign.
- (F) Public Services Contract with Securus Technologies, Inc. for Jail Inmate Phone and Video Visitation System.
- (G) Intergovernmental Agreement No. 90G000290 with the Oregon Department of Consumer and Business Services, Building Codes Division for the Manufactured Structure Ownership Records Program and authorize the Chair to sign.
- (H) Approve Letter of Agreement between Columbia County, AFSCME Local 1442, AFSCME Local 697 and FOPPO regarding format of Health Benefits Committee.

The motion carried unanimously.

**COMMISSIONER HEIMULLER COMMENTS:**

No comments.

**COMMISSIONER MAGRUDER COMMENTS:**

Commissioner Magruder attended a mass timber summit last week. This is cross laminated timber or other potential mass timber item production. She is looking forward to working with our forest industry and our economic development team to bring this to Columbia County.

The county celebrated the retirement of Millie Wagner from the Sheriff's Office who is moving to Hawaii to enjoy her retirement.

**COMMISSIONER TARDIF 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 5<sup>th</sup> of April, 2017.

NOTE: An audio CD of this meeting is available for purchase by the public or interested parties. A video of the meeting is also posted on our website at [www.co.columbia.or.us](http://www.co.columbia.or.us)

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: \_\_\_\_\_  
Henry Heimuller, Chair

By: \_\_\_\_\_  
Margaret Magruder, Commissioner

By: \_\_\_\_\_  
Jan Greenhalgh,  
Board Office Administrator

By: \_\_\_\_\_  
Alex Tardif, Commissioner