

COLUMBIA COUNTY BOARD OF COMMISSIONERS

WORK SESSION

MINUTES

January 14, 2003

The Columbia County Board of Commissioners met in scheduled session with Commissioner Joe Corsiglia, Commissioner Rita Bernhard and Commissioner Anthony Hyde, together with John Knight, County Counsel, Sarah Tyson, Assistant County Counsel, and Cynthia Zemaitis, Recording Secretary.

Commissioner Corsiglia called the meeting to order.

DAVE HILL, PUBLIC WORKS DIRECTOR:

Proposal for Feasibility Study for Rural SDC's: Dave Hill and Todd Dugdale came before the Board to discuss the direction to take with regards to rural SDC's. They have received a proposal from Cogan Owens Cogan, which includes a preliminary feasibility study for rural SDC's for roads and parks, and identifies other potential funding for these items. Paul Koch, working with Dave Hill, has identified other funding sources for parks, so parks may not need to be included extensively in the study. The primary objective of the feasibility study is to determine whether it would be cost effective to move forward. Commissioner Bernhard questioned whether the former SDC system that was repealed could be compared to what is being looked at now. Todd assumes that most money collected under the former SDC came from the unincorporated UGB areas. This current plan would include *only* the rural areas, not UGB's. They could look at the UGB's outside of St. Helens and Scappoose, both of which are the subject of a different study. Dave indicated it is the intent that the model being developed for St. Helens and Scappoose will eventually be applied to the other UGB's in the County.

Dave stated that with regard to financing this program, there is approximately \$80,000 to \$90,000 from the previous program and, in discussions with John Knight, it has been determined that these funds can be used. Discussion was had on the feasibility of moving forward.

Commissioner Hyde stated that he believes that even to have a meaningful discussion on whether to proceed, the ground work needs to be developed. Todd requested that the Board provide direction on whether to move forward with an RFP. Commissioner Bernhard stated that she feels the County studies things too much, and that avoiding the cost of a study and using the money to accomplish the objective would be better. She believes they have enough information to proceed without a study. Dave agreed the feasibility study could be avoided if the decision has actually been made to move forward. Commissioner Hyde disagreed; this information is needed before the final decision can be made. Todd stated that the study needs to be done by someone well schooled in SDC's.

Commissioner Bernhard stated that the previous objections and reason for repeal of the former SDC system was because the monies that were collected were not being spent on improvements in the same area, not with SDC's in general, and they should try to avoid this happening again. The Board gave its unanimous consent to move forward with an RFP.

Beaver Falls Guardrail Replacement Project: Dave Hill stated that the County has been awarded a Transportation Enhancement Grant of \$684,000, with the grant paying \$582,000 and the County paying \$102,000. The grant is for improvements to be made in the area of Beaver Falls, including installation of a historic-style guardrail and adding paved shoulders, parking areas and protective fencing at the Falls' viewing area. Dave feels this is a very good deal for the County. ODOT has forwarded several blue-backed originals of the Local Agency Agreement, which Assistant County Counsel has reviewed and approved. Dave is asking the Board to approve the contract so this project can move forward. With little discussion, the Board was in agreement and added approval to the consent agenda.

Port Westward Open House: Dave Hill stated that the plan is for Parametrix to attend the January 28, 2003, work session to discuss Phase I road improvements at Port Westward. It has been decided that this plan will be shared with the public at an open house-type forum, which has tentatively been planned for February 4, 2003, from 5:00 to 7:00 p.m. Approximately 500 invitations will be sent out to people along the road corridor announcing the open house and inviting the public to attend and discuss the planned road improvements, etc. at Port Westward. A presentation is planned, after which the public's input, including any questions or comments, will be sought. After some discussed, the Board indicated there was a conflict with this date, asked that a date sometime during the following week be chosen for the open house.

JEAN RIPA - GYM MEMBERSHIP:

Jean indicated that a couple of years ago the Board approved a system whereby an employee could pay his/her monthly membership dues in The Jungle Gym through automatic payroll deductions. There have been some ongoing problems with the third-party contractor being used by The Jungle Gym contacting member employees claiming that they have not been paid and threatening collection action. Jean stated that there currently are no employees on this program and requested that the program be withdrawn. The Board was in agreement and added approval to the consent agenda.

PHIL DERBY AND JIM GIBSON - REQUEST TO FILL SERGEANT POSITION(S):

Sheriff Derby and Lt. Gibson came before the Board to request authorization to replace Marine patrol sergeant position vacated by Ken Withers' retirement. In response to question from Commissioner Hyde, the Sheriff stated that he doesn't believe the Marine Board has cut much, if anything, from the County's funding. He stated that the Marine Board recently performed an audit to make sure that everything was in order, but made no cuts. John Knight indicated he saw a letter from the Marine Board questioning whether a sergeant position was justified for this role. The Sheriff stated that they are in the process of investigating that. Commissioner Bernhard mentioned she has received complaints from citizens about the marine patrol, which have been discussed with the Sheriff and that the individual who fills this position should be aware of these complaints. Sheriff Derby indicated he has talked with the Marine Board about his deputies taking over the game work. Although he doesn't advise his deputies to ignore anyone breaking the law, they should not be actively pursuing the game work monitored by the State.

Lt. Gibson stated he was also seeking authority to fill the sergeant's position in the jail. They're down four officers.

Kathleen Worman, visitor, stated she has frequently seen the sheriff's deputies on the docks on the weekend essentially doing a boat check of every boat docking, and indicated she thought this was excessive. She has talked with Tom Turk, who will not relax his position.

Thelma Bonar stated she believes it's a good idea for the marine patrol to conduct such checks, but on the land rather than water. They check to make sure that all safety equipment is on board, which she thinks is a good thing.

With that, the Board authorized recruitment for the sergeant marine position and filling the correction sergeant's position and moved this item to the consent agenda.

PAT ANDERSON: DOMESTIC VIOLENCE GRANT:

Deputy Pat Anderson came before the the Board seeking approval to continue the Domestic Violence grant through the U.S. Department of Justice for the third year. These grant monies essentially allow the County to fill the needed positions in the domestic violence area. John Knight indicated that the grant "assurances" require that a resolution, motion or other action be formally adopted identifying the official representative for this grant. Deputy Anderson indicated that Sheriff Derby has filled this role.

After further discussion, the Board was in agreement to continue this grant and added approval of the grant application to the consent agenda.

JANET WRIGHT - TRANSPORTATION ENHANCEMENT GRANT:

Janet Wright indicated that the County is in the process of looking at the acquisition of the Linear Trail from Scappoose – the old Crown-Zellerbach logging road to Vernonia. However, the requirements of the State application for a Lands and Water Grant are too in-depth and the County would be unable to meet the deadline. Janet, Dave Hill and Lonny Welter were looking at applying for a Transportation Enhancement Grant for acquisition of the trail. This grant is specifically for the acquisition of trails. Janet seeks Board approval to move forward in applying for this grant. They are looking at \$296,000, which is the appraised value, plus the County's portion of closing costs. The due date for hand-delivered applications is February 7, so they have to move quickly. Janet stated that there would be state-wide competition for these grant monies, rather than District. Janet believes we have a good chance of being awarded this grant, although there are no guarantees. Commissioner Hyde stated that this is only one piece of the whole project, which is likely to cost several million dollars. He will be talking to the State Director of Parks on Friday about this project. There is a June deadline date for the next round of trail grants, and we need to stay on top of it. The Board agreed to move forward with the grant and added approval of the application to the consent agenda.

PLANNING COMMISSION APPOINTMENTS:

Todd Dugdale indicated that three Commission member terms are expiring on January 31st: Nelson; Pierce and Shellhase. Lona Pierce has indicated she would like to be reappointed; Candice Shellhase indicated she does not want to be reappointed. Dennis Nelson originally said no but, at the urging of his colleagues, indicated he will stay on until a suitable candidate is found to replace him.

Kathleen Worman, visitor, stated that, in connection with the Andreotti matter, she saw a check for the appeal fee from the Columbia County Citizens for Orderly Growth which was signed by both Pat Zimmerman and Lona Pierce. Ms. Worman thought this spoke to bias on Lona Pierce's part. She does not feel it was appropriate for Lona to hear a case that was being appealed by CCCOG. Ms. Worman felt Lona should have declared ex parte, as she is a member of CCCOG.

Sarah Tyson indicated there are options in this type of situation: Lona needs to declare ex parte contact if there is some; or bias, which has come up recently with some of the Planning Commission members. In her experience, Lona Pierce takes a close look at the criteria. Commissioner Hyde stated he wants both sides represented on the Planning Commission. Kathleen Worman asked whether there was a balance on the Planning Commission and whether the County really wanted someone connected to 1,000 Friends on the Planning Commission. The Commissioners felt Lona Pierce was doing a fine job.

Commissioner Hyde stated that, since six positions are either up now or will be in the future, he believed it was time to do another round of applications. The Commissioners agreed that having two alternates has worked very well. The Board agreed to move one of the alternates up and open applications. Commissioner Bernhard suggested moving Diana Boom into Candice's position, since she's from the same area.

Chair Corsiglia stated he felt it was important to change the expiration dates of some of the appointments so that many vacancies do not occur at the same time. Sarah Tyson stated she believed the ordinance would have to be amended to make such a change. Commissioner Corsiglia would like to see a three-member rotation and the January 31 expiration date gotten rid of.

The Board agreed to open the application process and to appoint Diana Boom to take Candice's position and to reappoint Dennis Nelson for a four-year term. The appointments were moved to the consent agenda.

FAIR BOARD APPOINTMENT:

Chair Corsiglia stated that Jeff VanNatta has applied for the Fair Board position. Chair Corsiglia told him it may be difficult to have him on both the Planning Commission and the Fair Board, and he may have to choose one. Commissioner Bernhard stated she has had some discussions with the Fair Board, who has looked at the applications and made a recommendation. She would like to stick with their recommendation; they have chosen a good candidate. Commissioner Hyde stated he felt it was important to have someone on the Fair Board who understood the budget process, and would like to

interview the recommended candidate. Commissioner Bernhard recommended that the Commissioners meet with the entire Fair Board to discuss the budget problems and not expect just one person to carry the load of fixing the budget problems. Commissioner Hyde discussed budget issues.

Commissioner Hyde agreed that he wanted to stick with the traditional procedure by looking at the Fair Board's recommendation for the Board position; if the individual doesn't seem to be the right person for this appointment, another list would be submitted to the Fair Board for their consideration. It was agreed that the Board would schedule an interview with the candidate being recommended by the Fair Board.

TRANSIT STUDY/TECHNICAL ADVISORY COMMITTEE MEMBERS:

John Knight indicated that pursuant to last week's meeting he sent approximately nine letters to individuals inviting them to be on the Technical Advisory Committee. Nancy Harwood responded that she would like to participate; Dave Hablewitz has declined. He has not heard from any of the others.

John has also talked to Al Sonneker at Riverside, who indicated he would like to be involved along with Cindy Stockton. Further discussion was held on the various individuals nominated to be on this committee.

John stated that he knows the Commissioners have some objections with Sunset Empire, but they could be very valuable on this committee. Commissioner Bernhard agreed that Sunset is valuable as they are directly involved in the brokerage. Both Commissioners Bernhard and Hyde believe Cindy Howe would be a good addition to the Committee. John also reminded the Board that the committee will only be giving inspiration to the consultant, not making recommendations to the Board.

The Board directed John to invite the following individuals to participate in this committee: Al Sonneker, Riverside Training Center, St. Helens; Cindy Howe, Sunset Empire Transportation District; Carolyn Little, First Student, St. Helens; Bonnie Thomas, First Student, Scappoose; Steve Matteson, St. Helens Taxi, St. Helens; Bill Yoe, Vernonia Senior Center, Vernonia; Joanne Beamish, Curl Transportation, Vernonia; Bob Girt, Rainier; Bob Burmeister, Rainier; Mike Sykes, Scappoose; Dan Garrison, St. Helens; and Diana Pohl, Clatskanie/

PAT ZIMMERMAN: REQUEST FOR WAIVER OF COSTS:

Pat Zimmerman came before the Board to discuss a bill which has been presented to Ball Janik. She doesn't know if the Board was aware of it, but the County billed the cooperative attorney representing CCCOG in the Matiaco case, for copying. The law firm works for nothing, but the sponsoring organization is responsible for any out-of-pocket costs. Ball Janik does not charge for any copying they might do. The bill was for a total of \$566.75 for photocopying 2,267 pages at 25¢ per page. Pat asked the Board if they were aware that CCCOG would end up paying for these costs.

Commissioner Hyde indicated he wasn't aware that CCCOG was responsible for this bill, but that didn't change his position that the bill needed to be paid. Ms. Zimmerman stated that CCCOG is the only public-interest land use group in this County, and she felt the organization was being targeted. They were never informed what the copying costs were going to be, even though the County's policy states that people are to be informed if the cost is expected to be over \$20.

John Knight explained that the Board is a quasi-judicial body and has to remain neutral; to subsidize one side and not the other puts the Board in a difficult role. Other non-profit organizations could make the same claim.

Pat stated that the fact that Matiaco was given a copy of the record and not charged \$566 makes her feel as if CCCOG is being mistreated. John Knight indicated that the difference is that the administrative rule requires the County to give the record to the appellant, but not to the intervenor. In the new appeal, CCCOG is the appellant and will get the record for free; but, if Matiaco chooses to intervene, they will be charged. Pat stated that the rules say nothing about not charging the appellant.

Pat indicated that because they were intervening on behalf of the County in this case, they had saved the County thousands and thousands and thousands of dollars in attorney's fees. Because the County chose not to defend it, they went in as an intervenor and was arguing the County's case for them. John Knight again pointed out that the Board is in a quasi-judicial role much like a judge; a judge makes a decision, but doesn't get involved in defending that decision if it is appealed.

Sarah Tyson stated she personally delivered the record to Ball Janik. The bill was right on top and the firm did not refuse the record.

Pat stated that another thing that has gone on about this issue is Sarah's repeated threat to sue a major, downtown law firm, even though she has been advised that Ball Janik is not responsible for this bill, which, given the County's general position about not doing legal work, strikes her as a little strange. Sarah apparently told CCCOG's lawyer that the County **never** defends LUBA cases, which is simply untrue. Around a year ago Sarah herself was defending the County's decision on Policy 3F in the Port Westward case.

Pat also stated that, further, just a few weeks ago just before Christmas Eve, Sarah also refused to fax a list of the parties to be notified in the second Matiaco appeal to a paralegal at Ball Janik, and didn't even mention she could email it to her. There was absolutely no way the paralegal could get it except driving out here from Portland a day or two before Christmas and giving Sarah 50¢ for the document. This strikes her as just a little petty. She doesn't think this is the way the Board would want the County to be presented to major downtown, serious law firms.

Sarah confirmed that Ball Janik requested the record and Commissioner Hyde stated that they are the ones liable. If Sarah is going after them for that bill which is yet unpaid, he doesn't have a problem with that.

Pat feels it's in the County's interest to support the kind of activity undertaken by CCCOG, and again request that the bill be waived.

Commissioner Bernhard indicated that CCCOG, when requesting the record, had to know the record in *Matiaco* was a huge record. Pat stated she had no idea that it would be several thousand pages or she would have requested that she be allowed to take the copies to Paulsens and get them copied for 3¢ or so a page. There has been a lot of staff time expended on this issue, and on copying the record for the appeal and these costs need to be recouped. To waive them for CCCOG would mean waiving them for everyone else. Commissioner Bernhard is sorry it happened this way and, in the future, we probably do need to let people know if it's a large copy job.

Pat again indicated that the Board's order makes it crystal clear that people making a request are to be notified if the cost will exceed \$20. Sarah stated that the record does not fall under this public record request policy, it is an administrative rule set by LUBA that any party besides the petitioner shall pay the reasonable costs for copies.

After little discussion, the Board reached a consensus that the bill would need to be paid.

EXECUTIVE SESSION UNDER ORS 192.660(1)(d) & (i):

The Board recessed the regular session to go into Executive Session as allowed under ORS 192.660(1)(d) & (i). Upon coming out of Executive Session, no action was taken by the Board.


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

Dated at St. Helens, Oregon this 14th day of January, 2003.

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: 
Joe Corsiglia, Chair

By: 
Rita Bernhard, Commissioner

By: 
Anthony Hyde, Commissioner

By: 
Cynthia Zemaitis, Recording Secretary