

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

January 26, 2005

The Columbia County Board of Commissioners met in scheduled session with Commissioner Anthony Hyde, Commissioner Joe Corsiglia and Commissioner Rita Bernhard, together with Sarah Tyson, Assistant County Counsel and Jan Greenhalgh, Board Secretary.

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

**MINUTES:**

The minutes will be held over one week.

**VISITOR COMMENTS:**

None.

**BATES & ROTH PAPA/ZONE CHANGE/VARIANCE TO SMO & CCZO:**

This is the time set for Board deliberations, "In the Matter of the Application of Bates & Roth for a Comprehensive Plan Amendment (PAPA) and Zone Change from Primary Agriculture (PA-38) to Surface Mining (SM) and for a Variance to the 200 Foot Operating Setbacks of the Surface Mining Ordinance and Zoning Ordinance".

Sarah Tyson - The Board held a hearing on this matter last Wednesday and deliberations were set for today. She submitted a supplemental summary from the Road Department that the Board has indicated they want put into the record of the decision. This was marked "*Exhibit 5*". There was not any new evidence contained in the summary and she had not heard any objections to the summary. Regarding exparte contact, Commissioner Hyde spoke with Mr. Roth, although they did not talk about any relevant material but did inform Mr. Roth that the Board would be holding an Executive Session yesterday and be deliberating, however there was not any new material. Commissioner Bernhard and Commissioner Corsiglia had no exparte contact to declare. Todd Dugdale has nothing further to add but is present to answer any questions.

Commissioner Hyde asked why two of the conditions were deleted from the current list of conditions of approval. Sarah stated that one of the conditions was that the applicant provide a legal description of the site, which they have done already and therefore no condition is required. The other one is that there were two conditions relating to operating hours and she simply combined the two into one condition. The conditions are essentially the same as was presented last week, with the exception of #34. Sarah went through the suggested changes that the applicant submitted in their packet and made most of those changes. She does have some questions that she will need to discuss with staff, but that can be done prior to the final orders are approved. The Board will need to make three separate tentative decisions today.

Commissioner Corsiglia wanted time to review the updated list of conditions. Commissioner Hyde feels that the only substantive change is in condition #32. The change is that the County is not considering the \$60,000 up front from depletion fees and also not considering foregoing any further assessment of impact over the life of the 25 year application. Commissioner Corsiglia asked if the language in condition #32 is clear enough. Sarah is comfortable with the language and it is the same that was used in the Glacier application.

**PAPA Application:** Commissioner Bernhard moved and Commissioner Corsiglia seconded to tentatively approve PA 05-01 for a Comprehensive Plan Amendment from Agricultural Resource to Mineral and Aggregate Resource and a Zone Change from Primary Agriculture (PA-38) to Surface Mining (SM), subject to the conditions of approval recommended by staff. The motion carried unanimously.

**CCZO Setback Variance** - This is on the 80 foot common boundary abutting the RR-5 zone. Commissioner Bernhard has a problem with the 200 foot setback on this and discussions with staff. She is not in favor of this variance. Commissioner Corsiglia is also not in favor of this variance. He believes there are other opportunities that would most likely arrive at the same solution. With that, Commissioner Corsiglia moved and Commissioner Bernhard seconded to tentatively deny V 05-05 in the Matter of a Variance to Operating Setback Requirements of the Columbia County Zoning Ordinance, Section 1044.4". The motion carried unanimously.

**SMO Setback Variance** - Commissioner Corsiglia does not have as much of a concern with the variance, however he feels there are other alternatives available. There is an opportunity for abutting property owners to waive the setback requirement that is available in the zoning ordinance. Sarah read that portion of the ordinance: "*No extraction or removal of minerals is permitted within 50 feet of another property or within 200 feet of a residence for a zoning district which allows a residence as a permitted or conditional use without the prior written consent of the effected property owners*". Commissioner Hyde pointed out that, in the application for a variance, there was some allusion to economic blight as a result of the 200 foot setback. When in fact, it is in the ordinance that, if the Roth's were to meet with the neighbors and they had no problem with the 50 foot setback and they signed a letter to that fact, then the 50 foot setback would be fine anyway without the variance. That has not been pursued and, in fact, there was a neighbor who testified at the hearing that they also intend to mine and that they have no problem with the mining as a neighbor. That means that it could still be a 50 foot setback even if the Board denies the variance. Commissioner Hyde feels that removes any kind of economic impact that may be derived from the 200 foot requirement in the SMO. Therefore, the Board does not agree with the economic blight argument. Commissioner Corsiglia stated that, typically, variances are only considered or granted if there are no other viable alternatives. He considers a waiver from the neighboring property owners a viable alternative and sees no reason for a variance. With that, Commissioner Corsiglia moved and Commissioner Bernhard seconded to tentatively deny V 05-06 in the Matter of a Variance to Operating Setback Requirements of the Surface Mining Ordinance, Section 8.3". The motion carried unanimously.

After finding an error in the numbers indicated in the motions, Commissioner Bernhard moved and Commissioner Corsiglia seconded to amend the motion to change the number from V 05-05 to V 05-06 in the CCZO variance. The motion carried unanimously.

Further, Commissioner Corsiglia moved and Commissioner Bernhard seconded to amend the motion to change the number from V 05-06 to V 05-05 in the SMO variance. The motion carried unanimously.

Commissioner Hyde wanted to comment on the \$60,000 for road impact fee. The point was made from the applicant that the \$60,000 was essentially a fee for impact and they are already being assessed a fee for impacts through the depletion fees. This has been tried in a court of law already and the depletion fee has been clearly described as a tax, not a fee. When there are significant impacts, the County needs to hold those companies that have those significant impacts accountable. Personally, he feels that \$60,000 is light, however that is what was recommended by the Road Department. Commissioner Hyde stated that he does not agree with the consultant (Kittleman) that said there is no net impact. There will be impacts and that is why he agrees with adding that condition. Commissioner Corsiglia agreed. He feels that Dave Hill is well aware of the impacts on the roads and understands the needs. He believes the \$60,000 to be very fair. Commissioner Bernhard agrees. Considering the costs of road improvements, \$60,000 is a very minimal amount.

Commissioner Hyde also wanted to say that the Board has approved a PAPA amendment and look forward to the economic advantages that this mining operation will bring to the county. He salutes the applicant in the way they have handled this application, it was a stellar application and it shows in the lack of opposition. Commissioner Corsiglia and Commissioner Bernhard agreed.

**CONSENT AGENDA:**

Commissioner Hyde read the consent agenda in full. With that, Commissioner Bernhard moved and Commissioner Corsiglia seconded to approve the consent agenda as follows:

- (A) Ratify Select-to-Pay for 1/25/05.
- (B) Order No. 3-2005, "In the Matter of Authorizing the County Road Official to Perform Road Maintenance on Theis Drive, a Local Access Road in Columbia County".
- (C) Approve 2005 Liquor License for Scipio's Goble Landing.
- (D) Authorize Todd Dugdale to fill one vacant Planner II position in Land Development Services.
- (E) Authorize Jean Ripa to enter into a Memorandum of Agreement with the Columbia County Deputy Sheriffs' Association to resolve the Bonds/Hald grievances.

- (F) Approve increasing the vacation accrual limit to 500 hours available for use for exempt employees with 20 or more years of regular service with the County. However, the County will still only pay off a maximum of 400 accrued hours at retirement.

**AGREEMENTS/CONTRACTS/AMENDMENTS:**

- (G) Ratify Sheriff Phil Derby's signature on the Safety Net Agreement #104-2004080306 with Hitech Systems, Inc.
- (H) Grant Agreement #22101 with ODOT, Public Transit Division.

The motion carried unanimously.

**COMMISSIONER HYDE COMMENTS:**

Commissioner Hyde commented on the large volume of calls the Board has received this past week for support of candidates for the appointment of the Representative position that will be made today at 2:00 p.m.

**COMMISSIONER CORSIGLIA COMMENTS:**

Commissioner Corsiglia attended the Governors task force meeting last Friday along with Diane & Ray Pohl to look at how to deal with meth labs in Columbia County. He is concerned that the task force seems to be sliding into other areas and may be losing focus. There is a real need to address the epidemic of meth labs in this county.

He has had some discussions this week on the NASCAR proposal. It appears it still may be a go for Columbia County. He is looking forward to continuing communications on this.

**COMMISSIONER BERNHARD COMMENTS:**

Commissioner Bernhard spent last Thursday and Friday with the Workforce Alliance group to discuss workforce training and the shortage of funding. There is a real need in Oregon because of the high rate of unemployment and the drug problem also plays a big part in this.

She commented on the Chamber banquet awards she attended last weekend.

She attended the St. Helens School Board meeting because she serves on their planning committee. A representative of that planning committee gave a presentation to the School Board. Funding is a major issue and is a continuing battle.

**IGA WITH THE PORT OF ST. HELENS:**

Commissioner Hyde commented on the IGA with the Port of St. Helens and he is hoping they will vote on this today. If approved, the Columbia County Development Agency will need to meet to go over that agreement. He will get a copy of the agreement to the Board to review before the CCDA meeting, which was set for Wednesday, February 2, 2005 at 9:00 a.m.

**BATES & ROTH APPROVAL:**

The date and time set to read the ordinance on the Bates & Roth application will be on Wednesday, February 9, 2005, at or after 10:00 a.m.

*The Board recessed the meeting to 11:30 a.m. to attend the Port of St. Helens meeting. The Port meeting ended at 12:00 p.m. The Board reconvened their regular meeting at 2:00 p.m. with all present.*

Commissioner Hyde called the meeting back to order.

**APPOINTMENT OF STATE REPRESENTATIVE FOR DISTRICT 31:**

The Board met, by conference call, with the following Commissioners: Helen Westbrook, Lylla Gaebel, Richard Lee, Patricia Roberts, and Samuel Patrick of Clatsop County; and Diane Linn, Serena Cruz, Maria Rojo de Steffey, Lisa Naito and Lonnie Roberts of Multnomah County. The counties met to vote on the appointment to the State Representative, District 31 position, vacated by Betsy Johnson. The Secretary of State has submitted three candidates: Brad Witt, Margaret Magruder and Earl Fisher. All candidates were present in Columbia County.

Questions were asked of the candidates and they each gave their responses. The candidates were then given 3 minutes to give a speech on their platform. After hearing from the candidates, the vote was taken. The following voted for Margaret Magruder: Commissioner Richard Lee; Commissioner Helen Westbrook, Commissioner Patricia Roberts; Commissioner Samuel Patrick, and Commissioner Joe Corsiglia. The following voted for Brad Witt: Commissioner Lylla Gaebel, Commissioner Anthony Hyde, Commissioner Rita Bernhard, Commissioner Diane Linn, Commissioner Serena Cruz, Commissioner Maria Rojo De Steffey, Commissioner Lisa Naito and Commissioner Lonnie Roberts. Brad Witt was selected with the majority of the votes.

//  
//  
//  
//  
//  
//  
//  
//  
//  
//

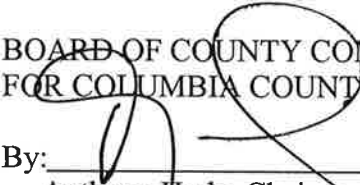
There was no Executive Session held.

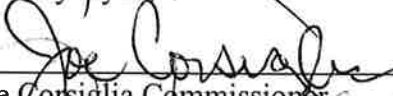
With nothing further coming before the Board, the meeting was adjourned.


Dated at St. Helens, Oregon this 25<sup>th</sup> day of January, 2005.

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:   
Joe Corsiglia Commissioner

By:   
Rita Bernhard, Commissioner

Recording Secretary:

By:   
Jan Greenhalgh