

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

April 5, 2006

The Columbia County Board of Commissioners met in scheduled session with Commissioner Joe Corsiglia and Commissioner Anthony Hyde, together with John Knight, County Counsel and Jan Greenhalgh, Board Secretary. Commissioner Bernhard was not present.

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

**MINUTES:**

Commissioner Hyde moved and Commissioner Corsiglia seconded to approve the minutes of the March 28, 2006 Work Session; March 29, 2006 Board meeting; and March 29, 2006 Staff meeting. The motion carried unanimously.

**PROCLAMATION: "CHILD ABUSE PREVENTION MONTH":**

Commissioner Corsiglia read a statement submitted by Victims' Assistance pertaining to this proclamation. He then read the proclamation into the record. Commissioner Hyde moved and Commissioner Corsiglia seconded to approve the proclamation, proclaiming the month of April as "Child Abuse Prevention Month". The motion carried unanimously.

**PROCLAMATION: "SEXUAL ASSAULT AWARENESS MONTH":**

Commissioner Corsiglia read the proclamation into the record. With that, Commissioner Hyde moved and Commissioner Corsiglia seconded to proclaim the month of April as "Sexual Assault Awareness Month". The motion carried unanimously.

Jan Kenna, CCCCCF Director, approached the Board along with Deborah Holton, Director of Women's Resource Center. Jan wanted to thank the Board for reading both of these proclamations and taking a stand on these issues. She had a basket of information to show the Board that will be distributed to all the libraries in the County. Deborah also wanted to thank the Board for recognizing both of these issues. It is very important to have the Commission recognize and voice these issues out loud. She informed the Board that, on April 18<sup>th</sup> at Creekside Center, they will be presenting a "walking the walk" to show the experience of both the survivors and those who have not. She invited the Board to attend this very important event.

**DELIBERATION: RECHT/NELSON/RUSSELL ZONE CHANGE:**

This is the time set for deliberations, "In the Matter of the Application of Dick Recht, Chris Nelson and Scott and Sue Russell for a Comprehensive Plan Amendment and Zone Change from FA-19 to PF-76 and from FA-19 to RR-5".

John Knight handed the Board a near final draft of Ordinance No. 2006-3. He has received a couple more requests for some changes in the language, dealing with the number of dwellings and a request to require the loop road to be 18 feet instead of 40 feet. John has not heard back from Dave Hill on the road issue yet. Both of these suggested changes are not included in the ordinance at this time. They can be discussed further prior to final approval of the ordinance.

John then read all changes to the ordinance into the record that have been done since the original version. John wanted to compliment the applicants, Mike Sheehan and Scott Russell on working with him on this ordinance. He believes that, with their help, we now have a good document.

John then read the ordinance once by title only. The two proposed changes will be discussed with staff, then with the Board individually. Any final changes will be read into the record before the second reading. Because there is no emergency clause included, a second reading will need to take place in 14 days. At that point, the Board can approve the ordinance. For the record, Commissioner Corsiglia and Commissioner Hyde noted that they received an e-mail on this issue, but did not open it.

**PUBLIC HEARING: MEASURE 37 CLAIM CL 06-05 FILED BY STEPHEN EDNEY:**

This is the time set for the public hearing, "In the Matter of Claim No. CL 06-05 for Compensation under Measure 37 submitted by Stephen M. Edney and Sally Edney, Trustees for the Edney Family Living Trust".

Todd Dugdale, LDS Director, came before the Board to give the staff report on the Measure 37 Claim CL 06-05 filed by Stephen and Sally Edney, trustees of the Edney Family Living Trust. As required, notice was sent out to adjacent property owners within 500 feet providing a 14 day period in which to submit comments or to request a hearing. A hearing was requested, which is being held today. The claim is for a 79 acre property on Mountain View Road in the Scappoose area. The property is zoned PF-76. Claimant is claiming a reduction in fair market value in the amount of \$2,430,700 due to land use regulations which restrict the proposed development of 30 two acre lots for residential development.

Based on the staff report, staff has determined that the claimant has met the threshold requirements of a Measure 37 claim and recommend that the Board take action to determine the amount, if any, by which the cited regulations reduced the value of the claimants property and act accordingly to pay just compensation in that amount, or, in the alternative, to not apply CCZO Section 5061.

The hearing was opened for public testimony.

**PROPONENTS:**

***James Dias, 2504 Sykes Road, St. Helens:*** He is present representing Mr. Stephen Edney, who could not be here today. The claim is basically to be able to divide their property and feel they

qualify for a Measure 37 claim due to the Edney's owning the property prior to zoning.

**OPPONENTS:**

***Carol Schaffer, 31618 Leafy Lane, Scappoose:*** She believes there was a zoning ordinance in place at the time the Edney's purchased the property and that ordinance will be presented today by someone else.

***Pat Zimmerman, 52057 Rabinsky Road, Scappoose:*** Pat presented her written testimony into the record and went through it. She agrees that the Edney's purchased the property on July 23, 1984 and have continuously owned it since that date. However, the date when the county adopted a county-wide comprehensive plan and zoning ordinance was June 29, 1983, not 1984. The zoning maps for the 1983 ordinance may have been lost, but the zoning maps do exist dated June 1984. These maps predate the applicants purchase of the property and clearly show the property was zoned Forest Land and subject to the restrictions in force at that time. The August 1, 1984 dated used by staff to establish zoning on the subject property is the date of one of several versions of the county Zoning Ordinance. Previous versions were in 1980 (Ordinance 80-8) and 1983 (Ordinance 83-7). This version of the Zoning and Comp Plan was simply one of three attempts by the county to comply with state law and reverse DLCD's Enforcement Order, which prohibited the county from many land use actions. At the time the Edney's acquired the property, there were a number of land use regulations in effect. The net result of these regulations is that the property could not be divided, subdivided, built upon or otherwise developed at the time of acquisition. Therefore, releasing Edney from land use law in effect today and returning the property to the legal status it had on July 23, 1984, allows him to do absolutely nothing with the property because he could not have built on the property in July 23, 1984. In her testimony, Pat has listed four reasons why this property cannot be developed.

1) On August 20, 1982, LCDC passed an Enforcement Order against Columbia County because the county had not complied with state law requiring a Comprehensive Plan and Zoning Ordinance that complied with state law. Because the County did not comply with these requirements, the Enforcement Order Exhibit "1" was put into effect. Under this order, which remained in effect until June 1985, Edney could not have divided his property at all, much less into 2 acre parcels, nor could he have built so much as a single house on it, since all building permits were prohibited.

2) Exhibit "B" referenced in the Enforcement Order is a map produced by Columbia County showing exception areas which did not fall under the prohibition on development, entered as Exhibit "2". The Edney property is clearly not in an exception area. Subsequent to this submission, the county submitted maps showing the county zoning in force at that time - they are labeled "Adopted June 1984", prior to Edney buying his land. These were entered as Exhibit "3". The Edney property is clearly shown as "Forest Resource" land. As such, even without the Enforcement Order, Edney would have been subject to the then-applied zoning and restrictions on development.

3) Regardless of the Enforcement Order, at the time Edney acquired the property, there was a Zoning Ordinance in effect in Columbia County. This Ordinance, 80-8, Exhibit "4" was the subject of extensive discussion between the county and DLCD/LCDC from 1980 through 1985. Nowhere did the county assert that Ordinance 80-8 was not in effect.

4) Edney acquired the property on July 23, 1984, after the statewide Planning Goals were adopted in 1975, but before LCDC's acknowledgment of Columbia County Comprehensive Plan on June 5, 1985. Because of this, the Statewide Planning Goal 4 applied directly to properties on the date of acquisition and because of the land use regulations in effect when Edney purchased the property, he couldn't even build one dwelling on it and therefore, the property value has not decreased, but rather increased.

***Claudette Teifke, 51680 Mountain View Road, Scappoose:*** Claudette is here representing herself and her husband Fred. She submitted written testimony into the record from Alice Pulse who could not be present today, entered as Exhibit "5". Claudette then read her written testimony into the record and submitted it to the Board, marked Exhibit "6". Ms. Teifke is opposed to this Measure 37 claim and asked to be informed on any future hearing on this claim.

***Thelma Bonar, 56734 Way Lane, Warren:*** She is concerned over county land issues and sits on the Scappoose CPAC because of this. She has done some research on this property and found that it is under a forest deferral but can't get information on how far back that goes. She would assume the property would have to have certain soil types to be in deferral. She feels this property should remain in a forest zone.

Commissioner Hyde felt an interesting point Thelma brought up is what happens when a property is in forest deferral and a Measure 37 claim is approved. John believes that the Assessor would most likely remove it from forest deferral and charge full taxes for the prior 5 years.

***Margie Hendricks, 51931 Mountain View Road, Scappoose:*** There is a dwelling on this property and, although it is in bad shape, it is being rented out and Edney's are collecting rent.

***Sandy Krieger, 51876 Mountain View Road, Scappoose:*** She just wanted to question if part of this is that they're claiming that the land is not good forest land? John stated that is not part of this.

#### **REBUTTAL:**

Todd Dugdale wanted to address a couple of the issues brought up today. He wanted to reiterate that the Measure 37 process provides for seeking compensation from local and state governments. Because of the nature of the measure, and in many cases, there are two claims that are required to be filed. One claim on State law and one claim on local law. In our cases where resource land zoning is involved, which is in this case, one must get a waiver of state law in effect at the time of acquisition. They must also get a waiver of local law at the time of acquisition. That point relates to a couple of issues in Pat Zimmerman's testimony. The Enforcement Order on the County did occur prior to the acquisition of property by Edney, but it

is arguable that that is a state regulation that was imposed on the County. He will look into this to see if there was anything the county adopted pursuant to that order. If there was a related local ordinance then there might be a point to be taken on that issue. If it was simply a state regulation Enforcement Order, then that would be taken up at the State claims process. Realizing that both waivers have to be granted before the County can approve development action pursuant to its waiver. The county acts on the claim based on what local ordinance was in effect at the time of acquisition, not on the basis of what state rules, etc. was in effect at time of acquisition. The second issue is on Ordinance 84-8 - he believes the effective date of this ordinance was August 1, 1984. There was a time frame between the time it was adopted and when it became effective. In his research on Ordinance 80-8, he could not find the maps that were referenced as attached in that ordinance. He called DLCD to obtain copies of those maps and was told they were unable to locate them. However, he will be looking at the text of that ordinance. If the text leads us to the conclusion that this property was designated in a certain way and limited in a certain way, then we could go by the text of the ordinance. Todd would like to have time to review the information submitted prior to any Board action. John Knight suggested that Anne Briggs also be given this information for review. He felt two weeks should be sufficient.

Jim Dias stated that he would also like to get copies of the information that was submitted today so that he can review it.

With no further testimony coming before the Board, Commissioner Hyde moved and Commissioner Corsiglia seconded to close the hearing but leave the record open for written testimony only until April 18, 2006 at 5:00 pm. Deliberations with then be held on April 26, 2006 at or after 10:00 am. The motion carried unanimously.

**VISITOR COMMENTS:**

None.

*The Board recessed the meeting at 11:40 a.m. and reconvened at 1:10 p.m.*

Commissioner Corsiglia called the meeting back to order.

**CONSENT AGENDA:**

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

- (A) Ratify Select-to-Pay for 4/4/06.
- (B) Order No. 20-2006, "In the Matter of Transferring Certain Access Approach Deposits from the County Treasurer's Deposit Fund to the County Road Fund".

- (C) Order No. 21-2006, "In the Matter of Adopting New Rules and Regulations for the Use of Columbia County Forest, Parks, Beaches Docks, and Other Recreational Facilities, Including Boat Launch Fees, Wedding Packages, and Horse Use at Camp Wilkerson".
- (D) Reappoint Rick Waters to the Building Codes - Board of Appeals for a 4 year term.
- (E) Appoint Mike Stone to the Building Codes - Board of Appeals for a 3 year term; Lonnie Richards for a 2 year term; and Andrew Neimi for a 1 year term.

**AGREEMENTS/CONTRACTS/AMENDMENTS:**

- (F) Amendment #3 to the Professional Engineering Services Contract with Parametrix, Inc.
- (G) Amendment #4 to the Professional Engineering Services Contract with Parametrix, Inc.
- (H) Construction Contract with Centrex Construction, Inc. for the Columbia County Transitional Housing Project.
- (I) NW Aggregate Tunnel Maintenance Agreement.
- (J) Amendment No. 7 to the Elderly and Disabled and Public Transportation Contract **and authorize the Chair to sign.**
- (K) Rental Agreement with Lamar and Donna Walker for Scappoose RV Park.

The motion carried unanimously.

**CHANGE NAME OF EMERGENCY MANAGEMENT OFFICE:**

Commissioner Hyde explained that Emergency Management is doing a lot of work on Homeland Security and it has been suggested that the department name be changed. With that, Commissioner Hyde moved and Commissioner Corsiglia seconded to change the name of Emergency Management to Emergency Management/Homeland Security. The motion carried unanimously.

**MEASURE 37 CLAIM CL 06-12 FILED BY COX & BUCHHOLZ:**

Todd Dugdale, LDS Director, gave the staff report on the Measure 37 claim filed by Doris Buchholz, Robert Buchholz, Dayle Cox and Gonzales Cox for a 32.76 acre property on Nehalem Hwy N in the Vernonia area. The property is zoned PF-76 and has been in the family since 1979. Claimants are claiming a reduction in fair market value in the amount of \$400,000 due to

land use regulations which restrict the proposed development of 2 to 3 parcels for residential development. A notice was sent to adjacent property owners within 500 feet providing for a 14 day period in which to submit comments on the claim or to request a public hearing. One comment was received, after the 14 day comment period, from Larry Noakes, who stated that he believes the claim should be denied to develop the property into more than 2 parcels. No request for a hearing was received. Based on the staff report, staff has determined that the claimant has met the threshold requirements of a Measure 37 claim. Staff recommends that the Board take action to determine the amount, if any, by which the cited regulations reduced the value of the claimant's property, and act accordingly to pay just compensation in that amount, or, in the alternative, to not apply CCZO Section 506.1. Todd has prepared a Board order for consideration. After little discussion, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve Order No. 25-2006, "In the Matter of Claim No. CL 06-12 for Compensation under Measure 37 submitted by Dayle Cox, Gonzales Cox, Doris M. Buchholz and Robert Buchholz". The motion carried unanimously.

**(5) MEASURE 37 CLAIMS FILED BY FRANCIS MARTIN:**

Todd Dugdale gave the staff report on the (4) Measure 37 claims filed by Francis Martin on 4 separate parcels. The claimant is claiming a reduction in fair market value of the parcels due to land use regulations which restrict the proposed division of the properties into 2 acre parcels for residential development. A notice was sent to adjacent property owners providing a 14 day period in which to submit comments on the claim or to request a public hearing. Comments were received from Robert Everett offering support of the claims. Comments were received from John Basco and Frank & Roswitha Adams, expressing concerns about the adequacy of Turley Road and water supply, suitability of the terrain and construction impacts on neighboring properties; and a comments was received from Louis Bote questioning how two acre development will affect area property values. No request for a hearing was received.

Based on the findings set out in the staff report, staff concludes that the claimant acquired properties known as Tax Lot Nos. 4223-020-0800 and 4223-030-0300 after the imposition of the five-acre minimum parcel size requirement and is recommending denial of the Measure 37 claims of **CL 05-30 and CL 05-30A.**

Regarding Claim **CL 05-29** on Tax Lot No. 4223-020-0770, staff concludes that the claimant has established that the minimum parcel size regulation has resulted in a diminution in value of his property and would recommend approval of Measure 37 Claim CL 05-29.

Regarding Claim **CL 05-31** on Tax Lot No. 4223-030-00100, staff concludes that the claimant has established that the minimum parcel size regulation has resulted in a diminution in value of his property and would recommend approval of Measure 37 Claim CL 05-31.

Todd noted that the original claim included CL 05-30B but will be dealt with at a later date.

After discussion, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve Order No. 26-2006, "In the Matter of Claim Nos. CL 05-30 and CL 05-30A for Compensation

under Measure 37 submitted by Francis D. Martin. The motion carried unanimously.

Further, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve Order No. 27-2006, "In the Matter of Claim No. CL 05-29 for Compensation under Measure 37 submitted by Francis D. Martin". The motion carried unanimously.

Lastly, Commissioner Hyde moved and Commissioner Corsiglia seconded to approve Order No. 28-2006, "In the Matter of Claim No. CL 05-31 for Compensation under Measure 37 submitted by Francis D. Martin". The motion carried unanimously.

**BOARD TO TAKE JURISDICTION OVER MCEVOY VARIANCE:**

After a brief explanation by Todd Dugdale, Commissioner Hyde moved and Commissioner Corsiglia seconded to have the Board take jurisdiction over the variance application V 05-12 filed by Dwayne McEvoy and Dale Fisher. The motion carried unanimously.

**MAINTAINING FUNDING FOR LAW ENFORCEMENT:**

Commissioner Hyde moved and Commissioner Corsiglia seconded to approve Resolution No. 22-2006, "In the Matter of Maintaining Funding for Law Enforcement Purposes". The motion carried unanimously.

**COMMISSIONER CORSIGLIA COMMENTS:**

Commissioner Corsiglia attended the Traffic Safety Committee this morning where discussion was held on the condition of Gable Road and the need to get it repaired.

**COMMISSIONER BERNHARD COMMENTS:**

Not present.

**COMMISSIONER HYDE COMMENTS:**

Last Friday, Commissioner Hyde attended the grand opening of the Forestry Center in Tillamook County. There is an amazing museum and he was very impressed with whole thing. He would encourage everyone to make the trip.

Commissioner Hyde met with 911 representatives, city officials, police and others to brief them on the "strawman" concept to create an Emergency Management/Homeland Security commission. This should be coming before the Commissioners very soon.

There was no Executive Session held.

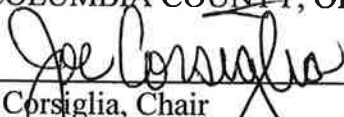
With nothing further coming before the Board, the meeting was adjourned.



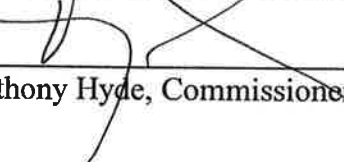
Dated at St. Helens, Oregon this 5<sup>th</sup> day of April, 2006.

NOTE: A tape of this meeting is available for purchase by the public or interested parties.

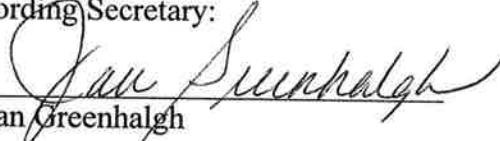
BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By:   
Joe Corsiglia, Chair

By: Not Present  
Rita Bernhard, Commissioner

By:   
Anthony Hyde, Commissioner

Recording Secretary:

By:   
Jan Greenhalgh