

COLUMBIA COUNTY BOARD OF COMMISSIONERS  
BOARD MEETING

MINUTES

September 15, 2010

The Columbia County Board of Commissioners met in scheduled session with Commissioner Anthony Hyde, Commissioner Earl Fisher and Commissioner Rita Bernhard, together with Sarah Hanson, County Counsel, Robin McIntyre, Assistant County Counsel and Cynthia Zemaitis, Acting Board Secretary.

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

**MINUTES:**

Commissioner Fisher moved and Commissioner Bernard seconded to approve the minutes of the September, 8, 2010, regular Board meeting. The motion carried unanimously.

**VISITOR COMMENTS:**

None.

**HEARING: TODD & LIANA VIKEN CONDITIONAL USE PERMIT.**

This is the time set for hearing on the application of Todd and Liana Viken for a Conditional Use Permit for a Type II Home Occupation to operate a dog boarding kennel in a Rural Residential (RR-5) Zone.

Robin McIntyre, Assistant County Counsel, gave a brief explanation on the purpose for this hearing and the procedures to be followed. She asked the Board if there were any ex parte contacts of any conflicts of interest to declare. Commissioner Fisher wanted to declare an ex parte contact, and indicated that, at a meeting, Ms. Viken asked if it was alright to have folks come to the hearing to support her; he confirmed that was fine. This brief contact will not affect his impartial ability to reach a decision. Robin asked if anyone objected to either the context of the contact or the contact itself; there were no objections. The Board declared no conflicts of interest. Robin then read the pre-hearing statement into the record as required by ORS 197.763. She entered County Counsel's hearing file into the record, marked Exhibit 1, and listed all the contents therein. Robin also advised the Board that she has just received this morning written comments from Scott Pollard, which were added to the record as Exhibit 2.

Erika Owen, Planner, came before the Board to give the staff report as outlined in the Board Communication dated September 8, 2010. She explained that the site is located on Hwy 30, and has electronic visuals of maps, diagrams and pictures

to assist in understanding the lay out. This all may look familiar to the Board, as Mr. and Mrs. Viken submitted an application for a full service pet camp and care facility (boarding, training and grooming) for up to 30 dogs from the same site. Although approved by the Planning Commission it was appealed by neighbors and brought before the Board in 2009. The Board denied that request, feeling that the size and scale of the facility would interfere with other uses in the area.

The applicants took the concerns expressed at the last hearing seriously, and revised the request to make it more suitable and compatible with the Home Occupation Type II criteria. This application is

for a dog boarding facility for up to 12 dogs, involves no new construction; the dogs would be housed in the basement of the residence on the property. The application includes two outside exercise yards, as shown on the diagram. Staff has proposed that the exercise yard to the west of the dwelling be eliminated to avoid any conflicts with neighbors. No regular customer visitation is planned.

Commissioner Hyde asked who owned the property up to the trees that buffer the subdivision. Erika stated that it was not the applicants, but she will find out.

Commissioner Hyde also wanted to know who owned the property to the south. A Mrs. Wilson volunteered that she and her husband owned the property to the south.

Erika explained that the application was submitted prior to the new zoning ordinance amendments, so the criteria applied is from the old ordinance.

Based on the changes the applicants have made, staff finds that all of the criteria have been met, and recommends approval with 12 conditions.

Commissioner Bernhard stated that there was concern at one point about expansion of the services, and asks if the applicants would have to come back for approval for any expansion. Erika indicates that the proposed conditions would limit the applicants to the number of dogs being boarded and the time they are allowed outside. Todd Dugdale confirms that, if the Vikens wanted to go beyond that, they would have to come back for approval. Erika clarified that the conditions allow the applicants to board 12 dogs; there are currently 4 dogs which are the owners' pets. Commissioner Bernhard wondered if additional conditions should be placed limiting expansion. Erika explained that any future applications would fall under the new ordinance.

Commissioner Bernhard wanted an explanation for the turn-out area. Erika indicated that it is located between the exercise yard and the dwelling and is just enough space for vehicles to turn around. In answer to another of Commissioner Bernhard's question, Erika stated that the exercise yard that was eliminated was the one closest to Shamrock Way residences.

The hearing was opened for testimony.

**PROPONENTS:**

*Alta Lynch*, 32961 Scappoose-Vernonia Hwy, PO Box 369, Scappoose, OR. Ms. Lynch handed out a document, which was marked as Exhibit 3, which she reads from. She is here to lend her support to the Vikens for this home occupation permit. She has visited their facility on Canyon Road and knows it to be well run. It is close to businesses and houses, but has turned out to be an asset for the neighborhood.

She has attended gatherings at the Viken property. They always bring out their dogs to play, and there has never been a complaint. They supervise and control both the people and the animals. Many people have taken the time to investigate whether this facility would be good or bad for the county, and are now in full support of this application.

Ms. Lyn feels that Mr. Benz' petition, which went before the Planning Commission, was inaccurate in many respects, and that is what they based their decision on. There are 7 people with dog licenses on Shamrock Way, and the Benz' admit they could not tell whether the dogs they heard barking were the Vikens. She takes issue with the statement of Scott Pollard. She wholeheartedly supports this petition and asks the Board to approve it.

*Michael Langford*, 32991 Rodney, Warren. Mr. Langford is a kennel owner and has known the Vikens for a long time now, and believes this kennel would be an asset to the community.

*Richard Melton*, 55141 Columbia River Hwy, Scappoose. Mr. Melton is here in support of the kennel, which is along Hwy 30 and about 3 or 4 doors down. He has been to the Vikens on several occasions, and has never heard the dogs barking from the house. He supports bringing more businesses into the County, and it makes sense to locate them along Hwy. 30 and not in the rural areas.

*Barbara Aulbach*, 27428 Gibbs Road, Scappoose. Ms. Aulbach is in favor of the application. She would like to point out to the Board that Midway Veterinary Clinic is just a 1/4 mile down the street and, until recently, was zoned RR-2. They are a boarding facility, and there have been no issues.

*Christa Thompson*, 54732 Mox Lane, Post Office Box 1064, Scappoose. Ms. Thompson supports the application. She has been at the Vikens' BBQ's while multiple dogs were there and there have never been any problems with the dogs. Ms. Aulbach has been at the Midway vet clinic on numerous occasions; when you walk in the door, you hear the dogs, but once outside, you don't hear anything.

*Larry Meres*, 51704 SW Forest Street, Scappoose. Mr. Meres met Ms. Viken about 8 months ago and told her that he wanted to see the facility in Beaverton before he did any championing of her application. He visited the facility and was very impressed, and now supports this application. With all the traffic on Hwy 30, he cannot imagine how dogs barking could disturb anyone.

*Bill Eagle*, 151 Allendale, St. Helens. Mr. Eagle read Mike Sheehan's editorial about this kennel, then approached Ms. Viken who said the article wasn't true. Ms. Viken took him on a tour of the site. There are absolutely no neighbors nearby; this is

an innocuous spot for a kennel. Mr. Eagle did not hear any dogs within the house, and cannot possibly understand how someone who lives hundreds of feet away could object. This facility would be a great asset for the county.

***Nan Mitsunaga***, 32991 Rodney Street, Warren. Ms. Mitsunaga stated that she operates a breeding kennel and has a conditional use permit. She is in support of the Viken's application for one big reason – she has known them for 2 years and now that they run a very clean facility in Beaverton located in a business area. With this site, they are on a 5 acre parcel, where the dogs will be in the basement or play area. She urged the Board to approve this application.

***Diane Dillard***, 124 North 2<sup>nd</sup>, St. Helens. Ms. Dillard met the Vikens through the Chamber of Commerce and knows them to be honest and hardworking, and will live by the rules the Board sets forth. She is concerned about what they have had to go through and, right in the middle of all of it, the rules changed on them. This County needs doggie daycare and she hopes the Vikens' endeavors are supported.

***Kristie Kramer***, 1945 First Street, Columbia City. Ms. Kramer is director of the Caples House museum. She supports the applicants wholeheartedly. Doggie day care is needed and this would be a great asset to community.

***Ken Gates***, 2750 7<sup>th</sup> Street, Columbia City. Mr. Gates visited the Viken facility on Canyon Road and found it to be amazing. Mr. Gates stated there were 25 dogs there and not a lot of noise; it was very well supervised. There are a lot of apartments around and, as the Vikens' application shows, the neighbors are fully supportive of this new facility. He feels if its legal, property owners' rights should prevail. This County has one of the highest unemployment rates and most of the community commuting to Portland for jobs; we need to support businesses coming to our County.

***R.J. Brown***, 484 South 11<sup>th</sup>, St. Helens, OR. Mr. Brown is in support of this operation. He has heard over the last 10 years how strongly the County feels about economic development, and here is an opportunity. Mr. Brown has a heard time understanding someone complaining about dogs barking out in the country. In addition, he believes the County can take the permit away if there is a real problem.

***Geordie Duckler***, 9397 SW Locust Street, Tigard, OR 97223. Mr. Duckler is the attorney for the applicants. Mr. Duckler offers into the record Exhibits 4 through 8: Exhibit 4 are further letters in support of the application; Exhibit 5 is the application's admission statement; Exhibit 6 is a petition by neighbors in support; Exhibit 7 is a letter from the applicants to neighbors; and Exhibit 8 is a letter from the applicants to the Board. Erika Owen believes most of those are included in the Board packet.

Mr. Duckler stated that the applicants have made drastic changes to this new application, and pointed out that since this all began, there have never been any problems or complaints with the property. He believes the criteria the staff employed is correct, and the current proposal meets all the criteria.

Mr. Duckler stated that he wants to preserve their right to keep the record open for 7 days. Robin clarifies that the applicant can submit final argument, but no new evidence. The record will be closed today.

**OPPONENTS:**

*David Wilson*, 55540 Shamrock Way, Scappoose. Mr. Wilson owns property to the west of the property in question. He finds it notable that all but 1 of the people speaking today do not live near this proposed facility. Mr. Wilson stated, on the face of things, it sounds great having dogs in the basement. He does not believe that Midway Vet has a large, outside dog run, and does not feel you can draw a comparison with this facility. This is a residential area; no one wants to live next to 16 barking dogs. He doesn't know how much economic impact this could have on the County, but doesn't feel like it could be great. He doesn't feel this is a great idea to put in the middle of a residential neighborhood, and it will become more residential in the future. Also, with a cash-strapped county, with only one animal control officer, there is not enough resources to manage it properly. There is no one to call if there is a problem. Mr. Wilson encourages the Board to deny this application.

Commissioner Bernhard had question for staff about future use and development of this facility. Todd Dugdale indicated that the home occupation permit is particular to the applicant, and could not be transferred.

*Shelley Harley*, 55560 Shamrock Way, Warren. Ms. Harley has lived in this neighborhood for 12 years and is probably the closest in proximity to the site. Shamrock Way consists of 24 homes and 51 residents, which are closer than 1000 feet to the property. The northwest corner of the Viken property and the southwest corner of her property are only 480' apart. Ms. Harley is concerned that she did not hear there would be any conditions or limitations on the play area being moved to another location. Erika reads a condition that covers that. She is concerned about the precedent by allowing a kennel in an RR-5 area; the area is becoming more residential. Ms. Harley does not doubt the Vikens' integrity, she just has some concerns.

Commissioner Hyde queried Todd Dugdale about the last time there was a residential lot developed in this area, but Todd did not know. Mr. Wilson indicated it was probably his, which was approved in June. Commissioner Hyde asked Todd to find an answer to that.

*Debbie Benz*, 55580 Shamrock Way. Ms. Benz addressed Aleta Lynch's comments. She did

resubmit the survey that she submitted a year ago, but was cut off with the 5 minute limit and would like to clarify some things. Ms. Benz has drawn a diagram showing the residents which surround the Viken's property. All of these residents are opposed to this application; they wish to maintain the residential quality of this neighborhood. Ms. Benz disagrees that the highway noise mitigates barking dogs; it is very easy to hear the dogs. The diagram was marked as Exhibit 9. Commissioner Bernhard asked Ms. Benz if she thinks she could hear the dogs when they are in the house. Ms. Benz is not sure. Commissioner Bernhard also asked how many of the neighbors have a dog. Ms. Benz replied that several do, there are perhaps 5 or 6 dogs.

*George Benz*, 55580 Shamrock Way. Mr. Benz appealed the Vikens' first application. His biggest concern is the kenneled dogs, not the pets. Without their owners, and with so much stimuli near the site, it is likely to cause a visiting dog to bark. These dogs will be kept in the basement 23 hours a day; when they are out, they will be so happy, they are going to be barking and running around, which is also of concern.

Mr. Benz indicated that he has problems with the staff report. He thinks that 4.5 hours is a substantial amount of time for dogs to be outside the home. Home occupations are mostly to be conducted inside the home. The Vikens are, essentially, asking the neighbors to put up with a big party through most of the day. This is a residential piece of property; the subdivision has been there since 1943, with strict covenants. The site is on the high ground with nothing to buffer the noise, which is a huge concern.

Mr. Benz stated that he is often out in his backyard, and hears dogs every night. This does not create a problem, as they bark for a couple minutes and then stop. His concern is having a bunch of strange dogs outside barking between 5:00 and 8:00, which is not relaxing.

Commissioner Bernhard asked how far Midway Vet is from him, and Mr. Benz estimated about a mile. Midway had to quit exercising their dogs outside because of complaints. Mr. Benz pointed out that Midway offers boarding and has a staff of veterinarians, and asked whether another boarding kennel is needed just down the road.

Mr. Benz indicated that another concern is that a kennel operates 7 days a week, 365 days a year. All other home occupations are conducted during normal business hours. He uses Saturday and Sunday to recharge, and is likely to be outside all day long. Dogs coming out all day will be a problem.

Mr. Benz also stated that the Vikens are basically housing dogs in 3' x 6' kennels, which is not a good environment for dogs. The only way to control water vapor when

the dogs are wet is to open windows, which raises additional concerns.

Finally, Mr. Benz takes exception to the staff report because it indicates that this kennel represents economic development and will give LDS wages. He works outside the county, but spends a lot of his disposable income in the county. He asks the Board to consider the type of people who are out there supporting the County.

Commissioner Bernhard asked whether Mr. Wilson was aware that anyone could have 9 personal dogs in their household right now. Mr. Wilson is aware of that, but those would be residents' dogs, not visiting kennel dogs.

Commissioner Bernhard stated that some people would disagree that it is alright to have to commute out of the area for jobs, that people want to have jobs here. Commissioner Hyde agreed, and stated that the reason they both take exception to Mr. Benz' statement is because their desire and mission is to turn the 70% commute rate around. Commissioner Hyde indicated that we go backward every time a house is built in this county; there's much more return on businesses.

**REBUTTAL:**

*Geordie Duckler.* Mr. Duckler would like to rebut one or two statements made by Mr. Wilson. He agrees that no one wants to live next to barking dogs, but no one will be living next to barking dogs, which is clear in the application.

Mrs. Harley's concern was whether there was a limitation on expansion, and there is.

Mrs. Benz admitted she doesn't know if she could hear the dogs if kept in the basement.

Mr. Benz' statement was that this was a strictly residential zone, but it is a farm zone. Commissioner Hyde clarified that this area is zoned Rural Residential.

With regard to the fear that there will be dogs from different environments, Mr. Duckler stated that there will be many dogs boarded from this locality. Mr. Benz' statement that strange dogs coming into the area will respond differently than pets is merely his opinion, there is no evidence to back that up. Mr. Duckler indicated that Mr. Wilson has personal preferences, which is his right, but he doesn't feel that personal preferences are a zoning criteria that needs to be met.

Commissioner Hyde asked staff if one of the conditions is to have no adverse effect on neighbors. Erika Owens agreed, indicating that the home occupation is not to alter the character of the surrounding area, etc. Commissioner Hyde indicated that it is up to the Board to decide whether this application meets that criteria.



Commissioner Bernhard asked for the average amount of time a dog is usually being boarded.

*Liana Viken*, 55501 Columbia River Hwy, Scappoose, OR. She responded to Commissioner Bernhard's query, indicating that the time varies - some are there just for the weekend, some for 15 days. She feels that the majority of the dogs are there for 5 or 6 days. Ms. Viken indicated that she has 4 personal dogs that stay in the house, one of which is old and doesn't bark. There will only be 12 dogs in the basement and there is plenty of space.

*Alta Lynch*. Ms. Lynch pointed out that Animal Control would know where this facility is and would have the right to inspect and shut the Vikens down. Ms. Lynch pointed out that, not too far from Shamrock Lane is a dog grooming place and she knows of no problems with it. She disagrees with Mr. Wilson that moving a dog from one environment to another makes any difference and, besides, many of them will be local dogs. Ms. Lynch also asked if every business wanting to come into the county will be judged on "what if", which is just foolish.

*Liana Viken*. Ms. Viken stated that she has 2 close neighbors. The Gresham's, who live just to the south, bring their dogs over to the Vikens' to let them run. Another close neighbor, the Oglers, who live 2 doors to the north, inspected the facility and have submitted a letter in support. The property just to the north belongs to the Pollards, who rent it out to people with dogs.

*Nan Mitsunaga*. People who board dogs, are boarding pets, not kennel dogs. People who love their pets look for a qualified place, someone who will care for them.

*Krista Thompson*. Ms. Thompson has been in the dog business since she was 12; her parents have boarded for 40 years. She believes dogs bark for 4 reasons: to say Hi; to alert that someone is there; out of boredom, which can last several hours; and to communicate. Most barking lasts a very short time. She indicated that Midway's dogs are in a 4x4 cage for 12 hours a day. The Vikens have a much better setup, with a long run. She doesn't believe the dogs will be kept in the kennels long, there is a big run area in the basement.

With no further testimony coming before the Board, the hearing was closed for oral testimony. Commissioner Hyde asked the Board if they should keep the record open, or close it today. Commissioner Fisher sees no reason to leave the record open, a lot of material has been received, much of which is redundant. Commissioner Fisher believes they need to set a time for deliberation. With that, the Board reach a consensus to close the record.

Commissioner Fisher stated that he will be absent next week, and there is no meeting on the 29<sup>th</sup>.

Robin McIntyre confirmed that the applicant has the statutory right to have 7 days to submit final argument.

Commissioner Fisher moved to hold the deliberations on October 6, 2010, and Commissioner Bernhard seconded. The motion carried unanimously.

**CONSENT AGENDA:**

Commissioner Hyde read the consent agenda in full. With no changes/additions, Commissioner Fisher moved and Commissioner Bernard seconded to approve the consent agenda as follows:

- (A) Ratify the Select to Pay for 9/14/10.
- (B) Amended Resolution No. 36-2010, "In the Matter of a Resolution Approving Deferral of an Enterprise Zone Exemption for Cascade Kelly Holdings, LLC Under House Bill 3609".
- (C) Resolution No. 56-2010, "In the Matter of a Resolution Supporting Assisted Housing Programs".
- (D) Resolution No. 57-2010, "In the Matter of a Resolution Appointing David Stocker as the Zone Manager for the Lower Columbia Maritime Enterprise Zone".

**AGREEMENTS/CONTRACTS/AMENDMENTS:**

- (E) Amendment #32 to the Intergovernmental Agreement #12791 with DHS and authorize the Chair to sign.
- (F) First Amendment to Personal Services Contract with Jeannette Launer.
- (G) Award the contract for Construction Management/General Contract (CM/GC) for the St. Helens Transit Facility to P&C Construction Company, and direct staff to negotiate the contract.

The motion carried unanimously.

**COMMISSIONER HYDE COMMENTS:**

None.

**COMMISSIONER FISHER COMMENTS:**

None.

**COMMISSIONER BERNHARD COMMENTS:**

Commissioner Bernhard stated that there is going to be a River Clean-up and shared the details. At the Transit meeting yesterday, they discussed all the goods and services we are providing; there have been a lot of improvements and that needs to be out to the public. She has agreed to be on the ongoing task force with the Hwy 30 program; Commissioner Fisher has agreed to sit as well, as Commissioner Bernhard will be retiring.

There was no Executive Session held.

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

Dated at St. Helens, Oregon, this 15<sup>th</sup> day of September, 2010.

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: \_\_\_\_\_  
Earl Fisher, Commissioner

Recording Secretary

By: \_\_\_\_\_  
\_\_\_\_\_  
Rita Bernhard, Commissioner

By: \_\_\_\_\_  
Cynthia Zemaitis