

Board of Commissioners Meeting
April 20, 2011

Present: Commissioner Steve McClure
Commissioner Mark D. Davidson
Commissioner William D. Rosholt

Call To Order

Chairman McClure called the meeting to order at 9:00 a.m. with all three Commission members present.

Fireworks Committee

Bruce Weimer, 1605 Foley St. La Grande, Steve Combs, 505 Jefferson Ave. La Grande, came to the Commissioners with a request from the Fireworks Committee. They explained that the Commissioners have helped with funding for the fireworks show on July 4th in the past. They are requesting that the Commissioners give the same funding as in the past which is \$2500. The fireworks show is a free event and for a one day event they feel it is one of the largest attended events in Union County. It is not just a City of La Grande event but it is a countywide event. They put on not only the fireworks show but they also have some musical entertainment, games, fire truck rides and other family events on the EOU campus. **Commissioner Davidson moved approval to sponsor the Union County Fireworks Show in the amount of \$2500. Commissioner Rosholt seconded. Motion carried unanimously.**

Weed Control

Commissioner McClure stated that he talked to Jeff Spier this morning and he had some concerns so he invited Brandon Eyre, County counsel, to provide advice to the Commissioners on how to proceed. Commissioner McClure explained that the purpose of the meeting is for the Commissioners to hear the concerns and take them under advisement and take the appropriate action to respond to what their concerns are.

Sandra Moilanen, 71445 Palmer Junction Rd. Elgin, Jeff Spier 71445 Palmer Junction Rd, Elgin, came to the Commissioners to address some concerns about the spraying on weeds around their property. Sandra explained that she first moved to the County in 2006. She began dealing with the Public Works Department on alternatives to spray in the Palmer Junction area. It is mainly the area about two miles out of Elgin where Palmer Junction drops down to Gordon Creek, which is a Federal Salmon recovery creek. She talked to the State about current herbicide and pesticide regulations. There have been recent changes to distances from water. She has very severe health risks associated with any kind of chemical or pesticide exposure which is why she approached the County when she moved here. She told them that she is chemically sensitive to the extreme that it is life threatening for her. Sometimes even a wind drift could put her in a life threatening situation. She provided medical information to the Public Works

Department to show that she has this condition but it was refused. By 2007 she went in person and discussed the situation privately with Bob Kelly and provided documentation of the seriousness. She stated that the road department sprayed adjacent to her property anyway because she didn't have the official County signs which apparently do not exist at the time. Since she has attempted several times to work with Bob Kelly but he continuously makes it difficult for her to access the signs. There are two other neighbors that have requested the no spray signs. The girl who lives across from them has severe asthma and has life threatening consequences. The ambulance was at their house early in the morning because Matt Martin sprayed right in front of her property even though she has a sign that states that the owner will maintain the property. Sandra explained that she had called Bob Kelly at least three times the previous week. She spoke with Lyn, Debra, Bob and left voice messages. She explained that this year because of the unusually high water table there is standing water all over and it is leading to her domestic water supply from which her dogs, cats, chickens, and horses which she cannot keep from drinking the water. The water comes off Palmer Junction Road. All of the water is draining into her domestic water supply. Bob Kelly assured her as recently as last Thursday that they do not spray in water. She had called Commissioner McClure starting in 2007 and she wrote a letter to the Board of Commissioners. She read a statement that said that she orders Matt Martin who is an employee with the Public Works Department to cease and desist all County operated herbicide, pesticide and other chemical applications on lower Palmer Junction Road near her domestic water and ground water supplies. This is inclusive from the South end of Palmer Junction Road to the North of her property approximately one mile North to the junction of Palmer and Gordon Creek Road. She is alleging that Matt Martin while representing the Union County Public Works Department on April 18, 2011 did willfully, unlawfully and with intent to inflict harm on her or her livestock and damage to her domestic water supply applied a roadside herbicide into and adjacent to creeks, feeder springs and surface runoff waters leading to her domestic water. She stated that Matt Martin did so in violation of Federal and State laws, rules and regulations.

Commissioner Davidson asked Sandra what the source of her domestic water is. She explained that she has different sources. She has a well for her house but the domestic source she is referring to provides water for her garden, pasture, and her livestock. He asked her the depth of her well that she uses for her house. She stated that her well is about 60 feet. Commissioner Davidson asked if the well is cased. She stated that it is. They do provide other sources of water for their animals but they can't stop them from drinking the water from the creeks. She added that since she spoke with Bob Kelly last Thursday she drove up and walked up several times both South and North of her property and she took photographs of different changes that she observed. When the County normally does the road side it is a soil sterilant. She has asked Mr. Kelly for an MSDS sheet of the chemical that was applied in the water so she could see if it is allowed to be applied in water. He has refused to give her the information. This

information should have been made available to her the same day of exposure. If she has a medical emergency she needs to know what chemical she was exposed to. She holds Mr. Kelly liable as well for any harm that comes to her or her animals because of the spraying.

Jeff Spier agrees with Sandra about Bob Kelly and Matt Martin. They have both been deceptive and uncooperative in dealing with Sandra in this matter. Bob Kelly has not made all the signs available and Matt Martin sprayed even though there were signs posted. Matt Martin has a personal vendetta against them and they have already had many civil issues with him. The courts answered and told him to stop harassing them. He is now using public equipment to further harass them. Mr. Spier stated he is working hard to get this zone excluded because he is an organic farmer and he is trying to get certified. Every time he gets sprayed it is a 3-6 year wait to get certified. Matt Martin has intentionally sprayed their property even though they have signs saying that there should be no spraying. He maintains his frontage very well. His weed reduction has been better than two-thirds and he is sure that every year they will continue to get smaller and smaller. He hopes that the Commissioners will take a moment to think about what Matt Martin is doing and exclude him from doing any public business around them at all. He has spoken with the doctors and Sandra has a disease that does not allow her to process toxins in a way that anyone else can. He explained that they are not saying that the County can't be sprayed but they want to know when, where and what so she can avoid the chemicals. He doesn't believe it is an outrageous request.

Commissioner McClure asked Brandon Eyre, County Counsel, to talk to the Commissioners from a legal perspective.

Brandon Eyre explained that the County needs to look into the issue and talk to Bob and Matt and see what is going on. He needs to make sure that he has all the facts. They have raised some very serious concerns and the County takes them seriously. He hasn't heard the other side so he can't advise the Commissioners on an action. He can schedule a meeting with Rich Comstock and Bob Kelly. Commissioner McClure suggested that Brandon take the lead on the investigation and work with the Public Works Department and give the Commissioners some kind of written summary of what he finds. After the investigation the Moilenan's can be invited back for further discussion. Brandon suggested continuing an investigation and then to respond as to what the County's position is.

Vehicle Bid

Boyd Rasmussen, Sheriff, explained that he went out to bid for four wheel drive vehicles. The Commissioners gave prior approval to go out for bid for two vehicles this fiscal year. They put the bids out to two or three companies and they received bids back from one company which was Goss Motors. There is an

SUV bid for \$35,977.37 and two truck bids for \$29,817 and \$30,000. He visited with the deputies in terms of four wheel drive vehicles. He is recommending leasing the SUV and the less expensive of the two pickups.

Commissioner Davidson asked if there was already a vehicle purchased this fiscal year. Boyd stated that vehicle was purchased through the ATV grant.

Commissioner Rosholt moved approval of the two vehicles that are recommended for approval. Commissioner Davidson seconded. Motion carried unanimously.

Consent Agenda

The March 31 and April 6 claims journals; the March 30 and April 7 Public Works claims journals; and the March 17 Board of Commissioners Minutes were approved as presented on the consent agenda

Connect Oregon III Rural Airport Grant Application

Shelley Burgess, Administrative Officer, explained that this item needs to be removed from the agenda.

Intermountain ESD Lease Agreement

Shelley explained that the Commissioners were provided with a draft of a commercial lease. Commissioner Rosholt has been negotiating with the Intermountain ESD for some vacant office space in the Joseph Building. She is seeking approval in concept of the basics so that the lease can be finalized after working with legal counsel. She explained that she would like to have this expedited to take care of some renovations that would be necessary before they would start moving in the building July 1st. She stated that the County is reluctant to invest too much money into those renovations without a signed lease. The document the Commissioners have is not completely ready but the parameters are that it would be a five year lease. They are seeking to lease 7,692 sq. ft. The lease would start on July 1, 2011. The lease amount would be \$762.79 per month.

Commissioner McClure asked if they have rented all of the space that is left in the Joseph building. Commissioner Rosholt explained that it is all of the space available.

Shelley explained that there are a few provisions in the draft lease that she would like to work with legal counsel on.

Commissioner Davidson moved to give a tentative approval of a lease to Intermountain ESD pending a final document. Commissioner Rosholt seconded. Motion carried unanimously.

Renewable Energy Advisory Committee

Court Order 2011-26, In the Matter of Appointment to the Renewable Energy Advisory Committee, was presented for consideration. This Court Order would appoint Palmer Dobbs to the Renewable Energy Committee. **Commissioner Davidson moved approval of Court Order 2011-26 as presented. Commissioner Rosholt seconded. Motion carried unanimously.**

ETOB Compliance Plan

Shelley brought Union County's Equal to or Better Compliance Plan to the Commissioners for consideration. ORS 237.620 requires that public employers either offer PERS retirement to their police officers and firefighters or insure that the plan that is offered is equal to or better than PERS. In order to maintain an exemption there are periodic testing and reviews that are done of the plans that are not PERS. Since Union County is not a PERS employer and there are law enforcement officers, the County falls under the Statutes that require testing and compliance with the equal to or better standards. The last test that was conducted showed some adjustments that needed to be made in order to stay in compliance and continue under the exemption.

Commissioner Davidson moved approval of the Equal to or Better Compliance Plan as presented. Commissioner Rosholt seconded. Motion carried unanimously.

MERA Archery Lease

Shelley brought the lease between Grande Ronde Bowman Inc. and Union County MERA to the Commissioners for consideration. This is a twenty year lease of 100 acres within MERA. The lease payment will be \$500 a year. There is an annual review of the lease to make sure that there is compliance with regard to fencing and other requirements. It has been approved and signed by the Bowman. **Commissioner Davidson moved approval of the Grande Ronde Bowman Archery Lease. Commissioner Rosholt seconded. Motion carried unanimously.**

Igo Lane Legalization

Court Order 2011-24, In the Matter of Legalizing & Vacating Portions of Igo Lane, was presented for consideration. Hanley Jenkins, Planning Director, explained that the County has been pursuing legalization of Igo Lane from Lester Lane, west. The road as it was originally petitioned was not built in that location. The road is essentially a straight line west as it was petitioned but the road was actually built up the draw. Anderson, Perry and Associates volunteered to do the survey work from the lower Igo Lane trailhead up to the gate that is part of the MERA property. That survey identified the center line of the existing road. This Court Order would establish the existing road as the right of way for Igo Lane and vacate the portion that the road was petitioned for but never built on. The distance that is being legalized is about 1680 feet and it would go to the existing

gate that accesses the MERA property. **Commissioner Davidson moved approval of Court Order 2010-24 as presented. Commissioner Rosholt seconded. Motion carried unanimously.**

Appeal Hearing – Fregulia Conditional Use (Stevens) Continuation

Commissioner Davidson stated that he has been contacted by three individuals that wanted to lobby him on this case. He has reviewed the record and the additional evidence that was submitted by the appellant. The decisions are difficult to make and it is the more unpleasant part of the job. He finds it difficult since he is pro business but personal bias and personal beliefs cannot be put in the process. When he reviews the section on home occupation he does not see where they can make it fit as an occupation. It is clearly a commercial use. It doesn't fit the standards for home occupation permit in the Island City development code.

Commissioners Rosholt stated that he is also pro business and wants to see growth as much as he can. He agrees that this is a situation that there is a business in a residential zoned area. He has a tough time not agreeing with the Stevens on this issue.

Commissioner McClure stated that he went through the testimony and if you look at the activity it is a commercial operation. The City came in and tried to put conditions on it to make it a home occupation. The code requires that they can have either an office in your home or an accessory structure. The accessory building is limited in size. The City went around that by saying that the accessory building is a garage and they are not running a garage service so it doesn't count. He cannot make it work for a home occupation and try to condition this so it would get through an appeal process. To do that would eliminate the purpose for what it is being used for now.

Commissioner Davidson moved to direct staff to write findings of fact to uphold the appeal. Commissioner Rosholt seconded. Motion carried unanimously.

Aggregate Site Plan Amendments – Hindman

Ordinance 2011-01, In the Matter of Amending the Union County Land Use Plan Aggregate Inventory (Hindman), was presented for consideration. Also, Ordinance 2011-02, In the Matter of Amending the Union County Land Use Plan Aggregate Inventory (Hindman), was presented for consideration. Hanley Jenkins stated that the Planning Department received two separate applications for two separate sites. Neither site was on the County's comprehensive land use plan inventory of aggregate sites. These are two basalt sites. The applicant also submitted a companion application with each site to be able to mine base material from these sites. The applicant is not proposing to site a crusher or an asphalt batch plant. Their conditional use permit is just for removal. They

received applications for the plan amendments and the conditional uses. There was notice given to the adjacent land owners of the Planning Commission meeting. The Planning Commission meeting was held on March 28th and notice was also given to the adjacent land owners of the Commission hearing. This is the Commissioner's opportunity to accept new evidence and testimony from parties that may be present. There is no new evidence and testimony in the record. Both properties are in a timber and grazing land classification and both properties are in an A-4 timber and grazing zone that implements that land classification. The applicant does not propose to mine more than 500,000 tons out of either site. The Planning Commission did approve both sites and conditioned the conditional use approval on the Commissioners granting final approval of the amendments for the two sites.

Commissioner McClure opened the hearing for testimony.

Jonel Ricker explained that there was nothing new to add to the Planning Commission record. There is only one residence that is impacted by the traffic of the area. The one site has been used in the past but the other site is a brand new site but has had some excavation just for the purpose of skimming off soil and stock piling it for reclamation later on. The only other significant thing is that the plans are once the sites are used up to the 500,000 ton level they will be reclaimed and put back to grazing which is what they are in right now.

With no other testimony the hearing was then closed.

Commissioner Davidson moved approval of Ordinance 2011-01 and Ordinance 2011-02 as presented. Commissioner Rosholt seconded. Motion carried unanimously.

Elgin Rural Fire District Annexation – Culver

Court Order 2011-25, In the Matter of Adopting an Amendment to the Elgin Rural Fire Protection District Boundary, was presented for consideration. Hanley explained that the Planning Department received an application from Mr. and Mrs. Culver to include their property in the Elgin Rural Fire Protection District. Their property is on Hallgarth Road. They submitted a letter which is required by Statute from the Elgin Rural Fire Protection District in support of the annexation into their district. There was no written testimony received.

Commissioner McClure opened the hearing. With no testimony, the hearing was then closed.

Commissioner Davidson moved approval of Court Order 2011-25 as presented. Commissioner Rosholt seconded. Motion carried unanimously.

Appeal Hearing – AM Radio Towers Continuation

Hanley Jenkins explained to the Commissioners that this is the Commissioners opportunity to make a final decision. There was a tentative decision made at the April 6th Board of Commissioners meeting. Hanley prepared suggested findings. He has gone back through the process under the background section and identified the applicable law and review requirements. He also went back through the record based on the Commissioners direction and came up with supportive findings and conclusions.

Commissioner McClure stated that the Commissioners received a letter from Bob Jellum. The letter was received after the hearing was closed and he suggested that it not be considered as part of the record.

Commissioner Rosholt moved to adopt the findings as presented and make a final decision to deny the appeal. Commissioner Davidson seconded. Motion carried unanimously.

Adjournment

The meeting was adjourned at 11:35 am.

Respectfully Submitted,

Ashley Wilhelm
Sr. Dept. Specialist