

**Union County Board of Commissioners**  
**May 18, 2011**

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

Call to Order

Chairman McClure called the meeting to order at 9:03 a.m. with all three members present.

Public Comments & Concerns

County-Wide Flooding

JB Brock, Emergency Services Director, updated the Commissioners on the county-wide flooding situation. The current snow level for the Upper Grande Ronde Basin, which includes Beaver Creek Reservoir, Taylor Green, Wolf Creek, and Moss Springs is 407% above average, with Beaver Creek being the highest at 993% above average. Essentially the areas at the same elevation as Beaver Creek Reservoir average about 1.4 inches of snow. At the beginning of May this year that elevation still had 28 inches of snow. Beginning May 11<sup>th</sup> the snow began to decrease by several inches per day, until on May 17<sup>th</sup> there was no snow left at this elevation. From May 15<sup>th</sup> to May 17<sup>th</sup> this area also received 2.4 inches of rain and experienced an increase in temperatures preceding the rain. These three factors combined to cause the Grande Ronde River and its tributaries to flood. The lowest snowtel located at approximately 4,800 feet shows that snow at this elevation drained out, while the mid-elevation snow has drained significantly. The Wolf Creek snowtel raises concern because there have already been significant issues with Wolf Creek flooding and there is still a large amount of snow that has not drained. Wolf Creek could still potentially flood if we receive warm weather and/or a significant amount of rain. There is no capacity in Wolf Creek Reservoir; therefore flooding will likely be an issue until the snowmelt has passed through the drainage.

In other areas of the county, Taylor Green, which is located in the Catherine Creek area and Moss Springs are still showing a significant amount of snow. Depending on the weather and temperature, these two areas could experience flooding.

The Grande Ronde River set a new high river record on May 16<sup>th</sup> of 7.7 feet. The previous record was set in 1997 at 7.1 feet. The secondary and tertiary drainages did not see such a large increase in water, which was very beneficial. If these drainages had seen the amount of water that the Grande Ronde River drainages saw, the flooding situation would have been a lot worse than it already is.

The 6 to 10 day forecast shows that temperatures should be essentially lower than average, continuing our current trend, but we are right on the border, which means it could normalize and warm up. Precipitation should continue to be above average. The 8 to 14 day forecast shows that temperatures should normalize, which is concerning because it could speed up the snow melt. The precipitation forecast has us right on the border, so we could either see more rain or we could normalize and the rain could decrease.

J.B. reported that so far the County has given out approximately 4,000 sandbags and guess they probably give out an additional 1,000 to 2,000 before the flooding is over. Initially they were concentrating on homes, but have also given sandbags to the City of Union to put around Little Creek, which is an ongoing issue. The problem has now transitioned to the valley where the river between Imbler and Island City has started to stack up due to the record flow of water not being able to go through channels that are set up by dikes. The road department is running out of road closed and high water signs because so many county roads are underneath water. ODOT reported they have some significant damage to their roads and are collecting data for the county to use if an emergency is declared.

Richard Comstock, Public Works Director, informed the commissioners that this flood is posing problems in different places than previous floods. Just about every road in the Grande Ronde Valley running east to west is covered with water, with some roads running north to south being covered. Rhinehart Lane is approximately 3 feet under water. The extent of the damage is unknown because the water has not completely receded. The number of county roads under water is 17 at this time with that number expected to grow.

Darrin Walenta, OSU Extension Service, said that it's still too early to tell extent of the damage, but they are starting to see some impact on crops in the County. This recent weather event comes on the heels of a very cold and wet year. We're seeing anywhere from 142% to 186% above normal precipitation, which means the soil profiles are full and have been all year. Every crop that is harvested in the Grande Ronde Valley is affected, and the impact will depend on how long the water stands on these production fields. This event happened at a time when growers were trying to finish up their spring planting with some crops not getting planted this year. Last week farmers were finally able to seed some of their spring crops and these newly planted fields are now under water. Darrin figures that anywhere from 10 to 30% of the spring crops have not been planted.

Jennifer Isley, Farm Service Agency, reported that she looks for a significant amount of prevented planting in field acres. She also asked that when the Commissioners are considering a disaster declaration they take into consideration that FSA ties their disasters to an event and it is her hope that

when making this declaration two events may be tied together. The first event being the cold, wet spring that has had a tremendous impact on some prevented

planted acres with some farmers still not able to plant crops as a result of this. The second event is the rain and flooding which obviously has flooded crop fields.

J.B. summarized that we aren't encroaching upon a timeline to declare an emergency. He encouraged the commissioners to hold off on the declaration until he has met with Darrin and Jennifer and they have gathered and compiled all their information. The other counties affected by this have postponed declaring an emergency until they can gather more information concerning how much damage the floodwaters have created. Darrin commented that the majority of the growers he has talked to are in favor of the emergency declaration but are concerned with what will happen with the floodwaters and melting snowpack in the next two weeks.

Commissioner McClure agreed that it would be beneficial to hold off on declaring an emergency until all the data has been collected. He encouraged J.B. and Rich to keep track of their costs. J.B. stated he has been encouraging the cities to track their costs also.

Rich expressed his appreciation to the Commissioners for allowing J.B. to respond to this emergency, his assistance has helped tremendously. Response has been great because of J.B.

#### Elected Official, Department Head & Employee Comments

##### Chip Rock Bid Award

Bob Kelly, Assistant Director of Public Works, stated that the Public Works department requested bid quotes for ½+ ¼+chip rock for their 2011 chip seal project. The approximate quantity is 5,000 tons with a cost per ton per mile for hauling included. Seven quotes were sent out with four submitted. Harney Rock quoted \$11.90/ton; K. McFarlane Contracting quoted \$14.00/ton; Royal Rock Company quoted \$7.90/ton; and R.D. Mac had the lowest quote at \$6.00/ton. With the haul cost figured in it didn't really make any change because of the spread, so it is recommended that R.D. Mack be awarded the bid for providing approximately 5,000 tons of ½+ ¼+chip rock for the 2011 chip seal project. Commissioner Davidson questioned whether only loaded miles were figured in. Bob stated that yes they only figured in loaded cost after talking to ODOT who stated that they figure in \$0.15 per loaded mile. **Commissioner Davidson moved to award the Chip Rock Contract to R.D. Mack for \$6.00/ton for the 2011 season. Commissioner Rosholt seconded. Motion carried unanimously.**

Consent Agenda

**The April 28, April 29, May 5, May 10 and May 12 claims journal; and April 28, May 4, and May 12 Public Works claims journal were approved as presented on the consent agenda.**

Administrative Matters

DEQ Monitoring Agreement

Shelley Burgess, Administrative Officer, presented Intergovernmental Agreement #R008-11. This is an ongoing agreement between Union County and the Oregon Department of Environmental Quality (DEQ) for DEQ to provide technical assistance to Union County in the operation of the smoke monitor and meteorological system in the community of Cove from June through September each year. This agreement states that DEQ will also provide training, calibration, setup, quality assurance and data management. Previously this contract was renewed annually, but since this is a small contract it is proposed that it be changed to a five year contract, beginning this burning season and terminating December 31, 2016. This contract does include a 30 day termination clause, should Union County decide to terminate the agreement prior to the end of the contract. Maximum amount billed under this contract for the five years is \$11,250, which is just over \$2,000 a year. Commissioner McClure explained that a few years ago Union County received a grant to purchase a nephelometer that was originally proposed to go in Island City. Because of the close proximity to the City of La Grande's nephelometer it was agreed that they should place this one in Cove. He explained that he has used it numerous times. **Commissioner Davidson moved approval of the Intergovernmental Agreement between Union County and the Oregon State Department of Environmental Quality to renew the county monitoring system. Commissioner Rosholt seconded. Motion carried unanimously.**

Appointment to the Northeast Oregon Housing Authority Board of Directors

Court Order 2011-32, In the Matter of Appointment to the Northeast Oregon Housing Authority Board of Directors, was presented for consideration. This order would appoint Marianne Meisner as the Representative for the City of La Grande and Jerry Sebestyn as City of La Grande alternate on the Northeast Oregon Housing Authority Board of Directors for a term to begin immediately and expire May 20, 2016. **Commissioner Davidson moved approval of Court Order 2011-32, appointing Marianne Meisner as representative and Jerry Sebestyn as alternate for the City of La Grande for the Northeast Oregon Housing Authority Board of Directors for a term to end May 20, 2016. Commissioner Rosholt seconded. Motion carried unanimously.**

### Title III Resolution

Resolution 2011-04, In the Matter of the FFY 2011 Elections for National Forest Related Safety-Net Payments was presented. This resolution is required under the Secure Rural Schools Self-Determination Act of 2000, amended and reauthorized as SRS2008 to be renewed annually. This resolution states that 8% of the full county payment under this program will be allocated for expenditure on Title II projects and an additional 7% of the full county payment will be allocated for expenditure on Title III projects. **Commissioner Davidson moved approval of Resolution 2011-04, In the Matter of the Fiscal Year 2011 Elections for National Forest Related Safety-Net Payments, otherwise known as SRS2008. Commissioner Rosholt seconded. Motion carried unanimously.**

### Declaration of Surplus Property

Resolution 2011-31, In the Matter of a Resolution Declaring Property Surplus, was read aloud by Shelley, which declares the Yarrington Rock Pit property surplus. Upon passing this Resolution, the property will be inspected and a minimum bid will be decided upon. Commissioner McClure explained that this is an old rock pit that the adjacent property owner has expressed concerns regarding the fencing. There is an encumbrance on it in regards to a water right that was filed, but because it has been grandfathered in, the county does not need to reclaim it. The adjoining property owner has expressed an interest in it and the county no longer has a need for it. **Commissioner Davidson moved approval of Resolution 2011-31, In the Matter of a Resolution Declaring Property Surplus. Commissioner Rosholt seconded. Motion carried unanimously.** Shelley informed the Commissioners that this property may qualify for a lot of record dwelling. If that is the case the County would have to secure a permit prior to selling it or the dwelling opportunity will be lost. Commissioner McClure said that he would like to see this option investigated because it would increase the value of the property. He also suggested that this property, along with an adjacent property that has previously been declared, be auctioned concurrently.

### WURA Project Funding

Shelley presented a status report on the Wallowa-Union Railroad Authority Connect Oregon III grant that will fund a multi-module transportation hub in Elgin. This grant is reimbursable which presents a cash-flow question, because expenses will be incurred, which WURA will need to pay and then submit for reimbursement. Because WURA will have to front the cost they've been exploring a line of credit through Community Bank, which will allow WURA to draw funds from this account to pay expenses and then deposit the reimbursement into this credit line once received. Because WURA is a joint county organization, both Union and Wallowa County Commissioners must grant permission to do this. Commissioner Davidson explained that the indebtedness on the railroad from the Oregon Economic Department will be paid off in July and

this line of credit will in no way put an encumbrance on either county. The railroad will service the debt and use it in administration of this grant.

#### MERA Forest Plan MOU

Sean Chambers, MERA Coordinator, submitted a MERA Forest Management Plan Memorandum of Understanding between the Blue Mountain Chapter Oregon Society of American Foresters and Union County. The county received a grant to develop a forest management plan for the Mt. Emily Recreation Area. The Blue Mountain Chapter, Oregon Society of American Foresters will develop the plan for the full amount of the grant, \$4,898, to be completed no later than November 30, 2011. **Commissioner Davidson moved approval of the Memorandum of Understanding between Union County and the Oregon Society of American Foresters. Commissioner Rosholt seconded.**

Commissioner McClure stated that the MERA subcommittees have been cooperating to develop a sign plan, a trail maintenance plan, grazing management through NRCS, and weed control. Beginning June, 2011 new trails will be laid out. **Motion carried unanimously.**

#### Road Vacation . Portion of McKenzie Lane

Hanley Jenkins II, Planning Director, explained that on April 14, 2011 the planning department received a formal petition to vacate a segment of McKenzie Lane from Bill Howell, President of the Oregon Agricultural Foundation. The segment petitioned to vacate was re-routed as a result of placement of a bridge. Rick Robinson discovered that this segment of the road right-of-way was not vacated at the time that the road was rerouted and the new bridge was built. Procedures were followed as per ORS 368.366(1)(d), for a non farm and non farm dwelling application. On April 18<sup>th</sup> notice was sent to Rick Robinson and April 28<sup>th</sup> and May 10<sup>th</sup> notice was ran in the newspaper. Richard Comstock submitted a memorandum, dated May 11, 2011, stating that this segment of McKenzie Lane has not been used since approximately 1980 and should be vacated. Hanley presented Court Order 2011-30, In the Matter of Vacating a Portion of McKenzie Lane, to be considered after public testimony.

Chairman McClure opened the hearing to public testimony.

William Howell, President of Oregon Agricultural Foundation, stated he is here to approve this request but has one question for clarity. Does this abandonment revert the property back to the Glen McKenzie estate? Chairman McClure explained that whoever made the contribution of the right-of-way will receive the property. Because this right-of-way goes through a piece of property it will go back to the property owner, which in this case is the Glen McKenzie estate. If it was to go along multiple property lines it would go to the contributing party. Mr. Howell stated he approves this vacation.

Don Sands, La Grande, Oregon, testified that he is vice-chairman of the Oregon Agricultural Foundation and he approves this vacation. He jokingly asked Richard if he was going to go and get the little pile of rock that is still located on the site. He explained the last tenant of that property plowed up a portion of the road and attempted to plant barley.

No one else in attendance wanted to testify. There were no opponents to the vacation. Chairman McClure closed the public hearing to testimony.

**Commissioner Davidson moved approval of Court Order 2011-30, In the Matter of Vacating a Portion of McKenzie Lane. Commissioner Rosholt seconded. Motion carried unanimously.**

Appeal Hearing . Fregulia Conditional Use (Stevens) continued

Chairman McClure, Commissioner Davidson, and Commissioner Rosholt declared at the start of the hearing that they had ex-parte contact with Kevin Hampton, who called and talked to each of them Sunday night concerning this matter. All three stated that after discussions with Mr. Hampton their decision remained unchanged.

Hanley explained that on March 17<sup>th</sup> the Commissioners made a tentative decision and instructed staff to prepare findings to support that tentative decision to overturn Island City's decision and ultimately deny the original application from John and Tracy Fregulia. Hanley prepared findings along with background information that states where the application came from, criteria which identifies land use regulations that apply, and the basic findings and conclusions which explains the reasons why Union County found the application did not meet a number of the criteria for a home occupation application. The conclusion is that Union County is overturning Island City's decision which was a conditional use approval with conditions. This is the final decision at the local level and that decision can be appealed with the Land Use Board of Appeals (LUBA) within 21 days of the date of the written letter that will be sent to all parties. Commissioner Davidson complimented Hanley on laying out the findings. **Commissioner Davidson moved to reverse the decision of Island City in this matter and adopt the decision and findings as presented. Commissioner Rosholt seconded. Motion carried unanimously.**

Scott Stephens, 62817 Buchanan Lane, Island City, explained that he was the applicant who filed the appeal. He asked who would be verifying and policing the application? He is worried that Island City is going to get the letter and ignore it. Chairman McClure commented that the Commissioners have delegated the responsibility to Island City. It's his understanding that the agreement is still in place and it's his expectation that Island City will be the responsible party for enforcement. If enforcement doesn't happen Union County will still be in the loop because it's in their jurisdiction. He encouraged Mr. Stephens to talk to Island

City and work through that process. Commissioner Davidson remarked that they are bound by the joint management agreement that clearly states that enforcement and administration is Island City's responsibility and he concurs with

Chairman McClure that they would have to let that occur and then have the discussion about how to deal with it. Mr. Stephens questioned if they had a customary timeline. Hanley explained that once the decisions are final and is reduced to writing and is mailed out to the parties that will become the final decision. The joint management agreement delegates responsibility to the city and it will be their obligation to enforce it. Even if the decision is appealed to LUBA, it will not put this decision in stay. Chairman McClure urged Mr. Stephens to do everything in writing and keep a log of contacts and if it does become a problem Mr. Stephens should come to the planning department. The County is making the assumption that Island City will follow the findings. Mr. Stephens questioned what he should do should he see truck traffic 90 days from now. Commissioner Davidson informed him that if that should happen he should take his concerns to planning.

Adjournment

Meeting was adjourned at 10:45 a.m.

Respectfully submitted,

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Kylee J. Ingerson  
Department Specialist