

Union County Board of Commissioners
February 7, 2018

Present: Commissioner Steve McClure
Commissioner Jack Howard
Commissioner Donna Beverage

Commissioner Beverage opened the meeting at 9:00 a.m. and the pledge of allegiance was given with all three commissioners present.

Public Comments

Blue Mt. Translator District Public Comment

Alex McHaddad, Blue Mt. Translator District (BMTD) Administrator, 1655 First Street, Baker City provided an update to the Commissioners (see attached).

Commissioner Howard asked if the BMTD had a business plan. Mr. McHaddad stated that the business plan was reworked prior to his employment with BMTD. Commissioner Howard asked if BMTD would make a funding request from the County; Mr. McHaddad stated that a request would be made for repacking channels. Commissioner Howard stated that it may be useful to have a joint work group between Union and Baker Counties; Mr. McHaddad agreed that would be helpful.

Commissioner Beverage acknowledged BMTD's value and added that she would be interested in seeing Baker County accepting scrambling.

Candidates Forum Public Comment

Bob Kavanaugh, Union County Chamber of Commerce Director, 207 Depot Street, stated that there will be a Union County Commissioners Candidates forum on April 12. This forum will be presented in cooperation with local media outlets and political parties. He invited Commissioner McClure and Commissioner Howard to attend so that they could be honored and thanked for their service to the County.

Elected Official, Department Head & Employee Comments

Wolf Creek Dock Replacement RFQ

Sean Chambers, Union County Parks Director, stated that the Wolf Creek Dock had ongoing maintenance issues. The Oregon State Marine Board felt it was in need of replacement and offered a grant to the County for 80% of replacement cost, with the Parks Department picking up the remainder. After posting a Request for Quotes (RFQ), only one was received and the quoted price was well over the project budget. The Marine Board specified cedar materials for the project, which increased the project cost. The project cost range was not appropriately set. The Marine Board recommended rejecting the quote and releasing a new RFQ for the project with alternate materials to reduce the project cost. Mr. Chambers recommended rejecting the quote and releasing a new RFQ.

Commissioner McClure asked if the design included removing the ramp and rail or dock only. Mr. Chambers stated that the design would include the dock only as other components were

still in good shape. He added that the design was an improvement over the old design considering the harsh environment of the location.

Commissioner McClure moved approval to reject the Wolf Creek Dock Replacement quote from Wellens Farwell, Inc. Commissioner Howard seconded.

Commissioner Howard asked about the current condition of the dock and the construction timeframe. Mr. Chambers stated that the dock required a great deal of maintenance last season and they have been nursing it along until it can be replaced. He estimated that it would take at least two weeks to replace the dock. Mr. Chambers added that it is used frequently enough to warrant the added maintenance. Commissioner Howard asked if there was a risk of injury by leaving the old dock in place, and if so, how quickly could it be closed. Mr. Chambers stated that the dock could be removed immediately if needed.

Commissioner McClure stated that the dock is in a tough location and the water rises so quickly that it causes the rollers on the dock to be pinched, which creates the maintenance issues. The County does not charge for use of the park, which limits liability, but he would not want anyone to get hurt.

Roll call on rejecting the Wolf Creek Dock Replacement quote from Wellens Farwell, Inc.: Commissioner Howard, yes. Commissioner McClure, yes. Commissioner Beverage: yes. Motion carried unanimously.

Article 52

Scott Hartell, Union County Planning Director, stated that a group of citizens submitted a document with recommended changes to Article 52. Union County adopted Article 52 to clarify and provide guidance for those that were not in state statute. Since that time, the Land Conservation and Development Commission established review committees on how wind farms can be sited. Union County adopted those rules about three years ago, which are not in conflict with Article 52. His preliminary review of the citizen-submitted document indicates that there is an issue intertwining local conditional use review standards with the ORS of the Energy Facilities Siting Council. The document also recommends set back standards that would virtually preclude Union County from siting wind farms of any size. Mr. Hartell asked for guidance from the Commissioners on how to respond to the citizens' request to update Article 52.

Commissioner McClure stated that it should be taken to the Planning Commission. After that time, it may be presented to the Commissioners for consideration after following the public process and allowing input from property owners and other citizens.

Commissioner Beverage concurred with Commissioner McClure that it should be forwarded to the Planning Commission. There may be some updates needed in Article 52.

Commissioner McClure stated that the setback is an issue; they need to be moved back but not in a way that would preclude windfarms altogether. If the purpose is to eliminate windfarms, then it should be done through an ordinance not through land use.

Commissioner Howard was concerned about preclusive zoning; it makes good sense to have the Planning Commission review it first. He would like to see mapping of the setbacks so that it is more clear.

Commissioner McClure stated that he read the document submitted by citizens and felt it was too restrictive when it comes to Exclusive Farm Use lands, but the proximity to dwellings is important as it could affect the quality of life. There may be some updates needed considering changes in technology. He would like to see a reasonable set of regulations.

Commissioner Howard stated that he would be interested in discussing this at the next work session prior to sending it to the Planning Commission.

Commissioner Comments – Business Summit

Commissioner Beverage stated that an Economic Development Business Summit would take place in February at the Blue Mountain Conference Center; she is coordinating the summit with county mayors and the Chamber of Commerce. This summit is intended to inform new and growing businesses about opportunities for financing, counseling, and workforce support.

Consent Agenda

Commissioner McClure moved approval of the Consent Agenda, which included claims journals from January 17, 18, 24, and 25. Commissioner Howard seconded. Motion carried unanimously.

Administrative Matters

Court Order 2018-06, Appointment to the Northeast Oregon Housing Authority (NEOHA) Board

Shelley Burgess, Administrative Officer, stated that NEOHA Board member and La Grande City Council representative Nicole Howard is unable to serve due to timing of meetings. Mary Ann Miesner has volunteered to serve and Steve Clements has agreed to continue as the alternate. Approval of this court order would replace Nicole Howard with Mary Ann Miesner and maintain Steve Clements as the alternate. Board Members must be elected officials within Union County; Nicole Howard and Steve Clements qualify to serve.

Commissioner Howard moved approval of Court Order 2018-16. Commissioner McClure seconded. Motion carried unanimously.

Wolf Depredation Grant Recommendation

Mrs. Burgess stated that County received a grant from Oregon Department of Agriculture to assist producers that are experiencing loss of livestock due to wolf predation. Since Union County did not previously have any confirmed wolf kills, the only category of funding that Union County could apply for was the Management Techniques. Livestock owners can apply for assistance in management techniques to prevent loss. An advisory committee reviews applications and funds are distributed according to an established plan. The committee recommendation is to award funding of \$3,090 to Krebs Livestock and \$1,910 to Mike Becker.

Commissioner McClure stated that the producers are trying in good faith to deter wolves in nonlethal ways. He suspects that wolf depredation will become more common in this area.

Commissioner McClure moved approval of the Wolf Depredation Grant Recommendation as presented. Commissioner Howard seconded.

Commissioner Howard was interested to see recipients of future grant awards and if there is any improvement in preventing wolf depredation.

Roll call on approving the Wolf Depredation grant recommendation: Commissioner Howard, yes. Commissioner McClure, yes. Commissioner Beverage, yes. Motion carried unanimously.

Mrs. Burgess stated that the advisory committee was asked to discuss the County's application for new funding; she was seeking a consensus from the Commissioners to submit the application due to the requested amount. She stated that there were confirmed wolf depredation kills in Union County since submitting the last grant application, making the County eligible to apply for the loss of livestock and reimbursement for missing livestock. The advisory committee requested to increase the grant request to \$25,000 for management techniques, for a total of \$29,650. The same process would be followed to award funds, with the advisory committee reviewing the applications and making a recommendation before being considered for approval by the Commissioners.

Commissioner McClure recalled that during the last budget process the government trapper stated that there is a wolf presence in Union County and there is a risk to local producers. It is appropriate to increase funding.

Mrs. Burgess stated that in order to be eligible for this program, the applicant must be in an area of known wolf activity. Those areas in Union County have grown quite a bit. Union County consults with the Oregon Department of Fish and Wildlife (ODFW) in regards to applications for funds.

Commissioner McClure stated that it is difficult to track wolf depredation in a meaningful way, but ODFW makes an honest attempt.

There was a consensus to approve a Wolf Depredation grant application in the amount of \$29,650.

U.S. Forest Service Rappel Base Lease Update

Mrs. Burgess stated that the County had been negotiating a lease with the U.S. Forest Service for a newly constructed building at the airport; initial construction bids came in well above budget and Doug Wright, Public Works Director, worked with architects and engineers to redesign the building for a new cost estimate. The County now has a lease from the USFS for a redesigned building. Approving the lease would allow the building to move to a final design and bid.

Mrs. Burgess stated that when financing was previously discussed, there were no variables. The lease payments from the USFS would have more than covered the County's debt service for the building. A grant from ConnectOregon would provide \$1million and the County would borrow up to \$4million from Business Oregon; this loan had a rate of 2.7%, guaranteed for one year with a deadline of December 2017. The County no longer has the guaranteed rate, but the loan money would be put into a bond bank for financing. Potential financing options include amounts for the construction estimate, as well as 10% and 15% above the construction estimate. Mrs. Burgess also provided potential annual payments based on those estimates and multiple interest rates. The Bond bank is showing interest rates through the fall of 2019.

Commissioner McClure stated that if everything works out according to estimates, the County would make \$73,892 a year. The County would not have to pay back funds from the ConnectOregon grant. The risk is in potential changes to building cost or the interest rate. He did not think there was much risk of the interest rate increasing, but if it did, it would be minimal. He felt comfortable with these risks. Material costs were driven up over the last year due to hurricanes and fires in the other parts of the States.

Commissioner Howard stated that he appreciated all that was done to get to this point. The risk is consistent with how the package was built to make it acceptable.

Commissioner McClure stated that the Rappel Base would create more summer jobs and opportunities for helicopter operators. This creates more revenue for the County and is economic development. This could be a major economic impact for the community, but the risks need to be known.

Doug Wright, Public Works Director, stated that he worked with Steele and Associates, Precision Approach, and Anderson Perry Associates. He is trying to speed up the process for bids to go out in May and to potentially begin construction in June. The lease stipulates that the County will be reimbursed \$423,286 for prior design costs; 50% will be paid within 30 days of the lease award and the remaining 50% within one year.

Derrick Olson, Steele and Associates, joined the meeting via speaker phone. Mr. Olson stated that estimates were created in the fall of 2017. A professional cost estimator from Portland created a cost estimate and from that they were able to extrapolate the cost per square foot and added an escalation for time, which ended up somewhere in the 5% to 6% range. The new building cost used those amounts in addition to the reduced square footage, and change in materials. The cost estimate is broken into two parts: the shell cost and the tenant improvements (TI) cost. They started with the overall cost, and then backed out the TI as a separate estimate. He is very confident with the square footage used and the overall cost. He is quite confident with the numbers based on the current construction market. They bid a 41,000 square foot school in Vale the prior day; the bids came in very favorable and the market does not seem to be quite so volatile as it was a year ago.

Commissioner McClure asked Mr. Olson if he was saying that the bid in Vale came in close to their estimate. Mr. Olson stated that was correct and the bids came in about \$25,000 below estimate for a \$9.7million project. Mr. Olson added that there were good contingencies

and he feels confident that the rappel base project is one they can build with the estimate given.

Mr. Wright stated that he and Mr. Olson worked hard to meet all the specifications in the lease to give the USFS what they wanted in a building; it meets the needs of the USFS but is still bare bones. If the USFS wants more than that, they are responsible to pay for it. The lot and heli-pads will be bid separately to provide some assurance that they can be delivered separately if needed.

Commissioner McClure stated that Mr. Wright should be complimented for negotiating the lease and reducing the overall cost by \$1million. Mr. Wright stated that it was a team effort; the end result will be something to be proud of.

Commissioner McClure stated that the \$1 million grant was very important and he would not consider the project without it. The project needs to be completed for economic development.

Mr. Wright stated that this would be a 20 year firm term lease, so the revenue from the lease is guaranteed.

Commissioner McClure moved approval of the USFS Rappel Base Lease with authorization for Commissioner McClure to sign the lease. Commissioner Howard seconded.

Commissioner McClure stated that this has been a long process but the rappel base will be a positive addition to the community. It will provide opportunities to bring in more jobs and will financially benefit the County.

Commissioner Howard asked if County counsel had reviewed the lease agreement. Mrs. Burgess stated that County counsel reviewed the last lease agreement and the only changes were in regards to financials. Commissioner Howard stated that he was comfortable with that.

Roll call on approval of the USFS Rappel Base Lease with authorization for Commissioner McClure to sign the lease: Commissioner Howard, yes. Commissioner McClure, yes. Commissioner Beverage, yes. Motion carried unanimously.

Land Use Appeal Continuation – LJH Construction

Staff Report

Scott Hartell, Planning Director, stated that the County was restarting the time clock for a local jurisdiction to make a final decision on the LJH Construction appeal of a Planning Commission land use decision. Mr. Hartell presented a staff report (see attached) including standards followed by other jurisdictions and those set by Union County in the Union County Zoning, Partition, and Subdivision Ordinance, Baum Industrial Park Development, Performance and Maintenance Standards. After research and review of those standards, he was not proposing to revisit Union County's standards with the Planning Commission unless

instructed to do so by the Union County Board of Commissioners. Union County does not have an opportunity to grant curb cuts or access approaches greater than 50 feet wide.

Commissioner McClure asked if correct procedure would include reopening a public hearing. Mr. Hartell stated that he did not believe the Commissioners closed the public hearing portion of the appeal. Commissioner Howard thought the public hearing was closed when the meeting recessed. Commissioner Howard thought that the Commissioners would have to reopen the public hearing. Mrs. Burgess stated that the Commission did not indicate that it would not accept additional testimony at a later hearing; usually this process would include a statement that no further testimony would be accepted, but that did not happen. Commissioner McClure noted that LJH Construction was present and suggested that the Commission invite testimony; it would be better to take more testimony than legally required than to err in not following proper procedures.

Public Comment – LJH Construction Land Use Appeal

Luke Hines, 62235 Landmark Lane, La Grande, stated that the Baum Industrial Park standards do not specify the number of curb cuts allowed. His opposition to the restricted number of curb cuts was due to his need for parking. If a 20-foot ditch is required in between curb cuts, then he would like to review what his business would need to accommodate 50 foot culverts. He stated that he was unsure how many curb cuts he would be allowed, but remembered Mr. Hartell telling him he could only have three curb cuts.

Commissioner McClure stated that he would like to see the issue resolved and if more curb cuts are desired then Mr. Hines should make an application to the Planning Department outside of this appeal. Although he understands Mr. Hines is requesting more curb cuts, the issue cannot be confused with the land use appeal. Mr. Hines can appeal through the Land Use Board of Appeals (LUBA) or apply with the Planning Commission for new requests.

Mr. Hines stated that the appeal did not request more than 50 foot curb cuts, although he would like to have wider than 50 feet. The appeal was due to being limited to only three curb cuts.

Scott Hartell stated that he provided a letter to Mr. Hines offering three 50 foot culverts, but there is no standard limiting the number allowed. The number of culverts is not his call; Public Works has the discretion to determine the length and location of culverts. The County has a 50 foot standard for maximum length, but the number allowed is the Public Works' discretion.

Commissioner McClure noted that the land use appeal was to allow for curb cuts wider than 50 feet.

Public Comment – LJH Construction Land Use Appeal

Lori Hines, 62235 Landmark Lane, La Grande, stated that Doug Wright, Public Works Director, told them that they could have two 80 foot culverts. The standards were not presented to them when they were constructing their building and answers from the County have gone back and forth. There are no ditches in the park, except in front of their property. There is no access to their property in the back. She asked how the County expects to attract

more businesses to the park with these types of limitations. She owned the first business to locate in the park and there were no culverts or ditches. She thinks the best thing would be to go back to those 1995 standards to provide larger access. Bigger equipment cannot be brought into those properties and businesses cannot create more jobs if there is not adequate access.

Doug Wright, Public Works Director, 10153 McAllister, La Grande, stated that he met with Mr. Hines and indicated that an 80 foot curb cut could be installed but the standards would have to be changed through the Planning Department. His concern is about consistency throughout the entire park; if it was evident that the change was needed and it was applied consistently then that would be fine. Maps can be made to show truck turning radiuses and to illustrate capabilities; that is why other industrial parks and Oregon Department of Transportation do not have 50 foot curb cuts. Most roads in Union County are 24 feet wide and trucks maneuver on them. He thinks that LJH Construction could use three 50 foot curb cuts and it would not limit access to the property.

Commissioner Howard stated that three curb cuts were in the original design and asked if it presented any problems with what they thought they were getting in the original application. Mr. Wright could not respond to that specific question, but stated that in looking for a workable solution, it was determined that the property owner could have a 50 foot access in front of the building but would need to park parallel to the building due to lack of pull-in parking.

Public Comment – LJH Construction Land Use Appeal

Lori Hines stated that heavy industrial businesses with semi-trucks create highway taxes that come back to the county to help rebuild roads. These companies need to make sure we provide that regulation for them. Making those accesses available is providing highway use taxes for the county to provide better road surfaces; fulfilling the needs is really important.

Commissioner Beverage closed the public hearing.

Commissioner McClure stated that the Commissioners would vote to accept or deny LJH Construction appeal of the Planning Commission decision. He stated that the County wants businesses at the Industrial Park, but it is not relevant to the Commissioners' decision regarding the appeal.

Commissioner McClure stated that the real problem is that the road is not paved and there are currently no curb cuts. The Industrial Park standards allow for 50 foot curb cuts. It is more convenient for the businesses to have no curb cuts. If the County receives funding to pave the road, then it will impact all existing businesses in the park. He thinks that the Tribes in Umatilla County are approaching the issue the right way by making decisions on a case-by-case basis. He was not willing to change the standards haphazardly; the Commissioners need to either accept the 50 feet curb cut standard or instruct the Planning Department to come back. The Commissioners can vote to deny the appeal and instruct review by the Planning Commission to see if it's being done correctly. It looks like a lot of industrial sites are using 50 foot curb cuts.

Commissioner McClure moved to reject the appeal by LJH Construction and instruct the Planning Director to review current standards in the Baum Industrial Park to make sure they are reasonable. Commissioner Howard seconded.

Commissioner Howard liked how the Umatilla Tribes are set up to deal with this type of situation, and Union County needs to do the same but it is not there yet. He stated that he did not like this case because it deals with a provision for use that was not adequately planned for. The decision has to be made on facts presented. He will support a denial based on the intention of the original planning documents for the Baum Industrial Park.

Commissioner McClure concurred with Commissioner Howard. Mr. Hines was caught between an old standard and the County building the road. LJH Construction has the right to appeal the County's decision.

Commissioner Beverage stated that she was elected to follow the law and based on Mr. Hartell's research she would vote to deny the appeal.

Roll Call on denying the land use appeal from LJH Construction: Commissioner Howard, yes. Commissioner McClure, yes. Commissioner Beverage, yes. Motion carried unanimously.

Commissioner McClure stated that the Commissioners' decision is subject to appeal to the Land Use Board of Appeals; Mr. Hartell can provide details to Mr. Hines on how to do that. The Commissioners' decision is based on information provided by the Planning Commission. If Mr. Hines believes this is an unfair decision, it will not offend anyone for him to appeal the decision to LUBA.

Next Meeting and Location

The next regular Commission meeting is scheduled to take place at the Joseph Annex Building on February 21, 2018 at 9:00 a.m.

Adjournment

Commissioner Beverage adjourned the meeting at 10:42 a.m.

Respectfully Submitted,

Lorcinda Johnston
Sr. Dept. Specialist II