

Board of Commissioners Meeting
February 6, 2013

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

Chairman Davidson opened the meeting with all three Commissioners present.

Public Comments

Irene Gilbert, 2310 Adams Avenue, La Grande, gave the Commissioners some information about her concerns. She explained that she previously wrote a letter to the Commissioners concerned because the site certificate for the Elkhorn Wind Farm had indicated that following the elk and deer survey the Technical Advisory Committee was directed to make recommendations to the Commissioners regarding additional mitigation that would be needed. She stated that because the Commissioners are the licensing authority for the Elkhorn Wind Farm they are legally bound to assure that the ongoing compliance is taking place. When Elkhorn Wind Farm was constructed they mitigated for just the footprint of the facility and not the damage to the habitat as far as reducing the quality and value of it to wildlife. The Technical Advisory Committee should also be constructed of balance representation between the people that have a vested interest in the facility and others. Irene went over the documents that she gave the Commissioners. She is asking that the Commissioners follow up on their obligation to monitor the facility and provide for the public value of wildlife by ensuring that the mitigation is occurring.

Charles Gillis, 601 N Ave., La Grande, asked if there are any efforts in getting a new courthouse. He feels that a new courthouse would greatly benefit the citizens of Union County.

Commissioner Rosholt explained that the County has been working with the State Legislature to try and receive some funds to support a new courthouse. Commissioner Rosholt suggested that Charles talk to Judge Russ West who is heading up the charge and can give him more information.

Vehicle Purchase Recommendation

Doug Wright, Public Works Director, brought a vehicle purchase recommendation to the Commissioners for recommendation. He explained that the recommendation is to purchase one used 2007 Chevrolet Silverado 1 ton crew cab pickup from Goss Motors for the Public Works Department. The asking price is \$28,500. This vehicle would replace a Dodge 1977 1 ton pickup.
Commissioner Rosholt moved approval of the vehicle purchase as presented. Commissioner McClure seconded. Motion carried unanimously.

Consent Agenda

The January 7, 10, 17, 18 and 24 claims journals; the January 9, 17 and 23 Public Works claims journals; and December 19 Board of Commissioner minutes were approved as presented on the consent agenda.

GIS Services Agreement

Shelley Burgess, Administrative Officer, brought the GIS Services Agreement to the Commissioners for consideration. She explained that this agreement would allow Union County to use Wallowa counties GIS staff to train staff in the Assessor/Tax Collector office. **Commissioner McClure moved approval of the GIS Services Agreement as presented. Commissioner Rosholt seconded. Motion carried unanimously.**

Appointment to NEOEDD Board of Directors

Court Order 2013-10, In the Matter of Appointment to the Northeast Oregon Economic Development District Board of Directors, was presented for consideration. Shelley Burgess explained that there were some term expirations on this committee and there is a change in the Commissioner appointed to serve. This Court Order would appoint Robert Strope, Don Waldrop, Commissioner Bill Rosholt and Commissioner Steve McClure as the alternate for the County. **Commissioner McClure moved approval of Court Order 2013-10 as presented. Commissioner Rosholt seconded. Motion carried unanimously.**

Appointment to Grande Ronde Model Watershed Board of Directors

Court Order 2013-11, In the Matter of Appointment to the Grande Ronde Model Watershed Board of Directors, was presented for consideration. Shelley Burgess explained that this Court Order would shift the primary appointment for the County to Commissioner Mark Davidson. **Commissioner Rosholt moved approval of Court Order 2013-11 as presented. Commissioner McClure seconded. Roll Call: Commissioner Rosholt: Yes, Commissioner McClure: Yes, Commissioner Davidson: No. Motion carried.**

TCM Agreement (CHD)

Shelley Burgess brought a Targeted Case Management Agreement to the Commissioners for consideration. Shelley explained that this agreement is between Union County and the Center for Human Development for Targeted Case Management services. The funds for the TCM services are Medicaid funds and those funds can only be received by government entities. So, CHD is not eligible to be a direct recipient of the funds any longer. The agreement would allow for Union County to be the primary recipient of the funds. The agreement outlines the services to be provided and makes CHD responsible for those services as well as all of the requirements for the funding which allows the County to receive the money and then pay CHD for the services they do. **Commissioner Rosholt moved approval of the Targeted Case Management**

Services as presented. Commissioner McClure seconded. Motion carried unanimously.

Unanticipated Funds Court Order

Court Order 2013-12, In the Matter of Appropriating Unanticipated Funds, was presented for consideration. Shelley Burgess explained that this Court Order would accept the revenues and allocate the expenditures for the funds that will be needed for the Targeted Case Management Services grant. **Commissioner Rosholt moved approval of Court Order 2013-12 as presented. Commissioner McClure seconded. Motion carried unanimously.**

FY 2011-12 Audit Report

Mike Poe, Seydel, Lewis, Poe, Moeller and Gunderson LLC, reviewed the audit report for the Commissioners. He explained that they do not look at every transaction but a sampling of items and it is based on judgments and risk analysis. He explained that when looking at controls they are supposed to start with the control environment. He feels good about the environment at the County.

Mike explained that as far as findings there were four budget violations. The list seems to go down every year and the dollar amounts go down every year. He knows that the County is working hard to prevent them. Two of the four violations are entities that aren't accounted for at the County. The one finding is related to the grant files. There were errors in the Federal Grant schedule that made them go back and do some more risk analysis. He explained that they have to see if the County has adequate controls in place to catch and correct errors. He stated that the grant files are done well and there are back ups for the grant and they have no problems with the files themselves. There is a disconnect in reconciling the grant file work sheets to the general ledger and it needs to be reported properly at the end of the fiscal year.

Commissioner McClure asked if the error was that the County reported the funds in the wrong fiscal year. Mike stated that is correct. It is important to have the expenses reported in the correct year. Commissioner McClure stated that he does find the notes useful. They provide a lot of information to make it clear to the reader.

Mike stated that he is already looking at some possible improvements for next year.

Plan Amendment – Aggregate Site – ODOT

Commissioner Davidson explained that this is a public hearing. There will be a staff report followed by a statement from the applicant and support and rebuttal testimony received. The applicant will have an opportunity to comment on any rebuttal testimony received.

Scott Hartell, Planning Department, explained that the Oregon Department of Transportation submitted an application to the Planning Department to include about 20 acres of property they own that is in an A-4 Timber Grazing Zone to be placed as a significant aggregate site and change the zoning to a surface mining zone. There was a 45 day notice for the first Planning Commission hearing. The Planning Commission held their hearing on January 28th. The Planning Commission recommended approval to the Commissioners with conditions. The Planning Commission reduced the size to 8 acres to be placed in a surface mining zone.

Commissioner Davidson asked if the volume within that recommended area is great enough that it would qualify for a significant site. Scott stated that it does.

Scott explained that there was testimony during the Planning Commission that the recommended reduction does meet the requirements.

Commissioner McClure asked if the question in front of the Commissioners is whether it is a significant site. Scott stated yes. Commissioner McClure asked where all of the restrictions on hours of operation and other things apply to this process. He sees testimony that talks about those things. He asked if those are being considered now or if the Commissioners are just looking at the site. Scott explained that the Commissioners are looking at doing the plan amendment and putting the site on the plan as a significant aggregate site. As a part of the requirements in the Administrative Rules if the Planning Commission deems the site significant they also have to do a site plan. That site plan resides with the Planning Commission and was not forwarded to the Commissioners. That portion of the application is contingent on this step being completed and granted approval. Once the Plan amendment is granted approval the site plan will be completed at the same time at the Planning Commission level.

Commissioner McClure asked what the criteria are that the Commissioners need to use to deem it a significant site. Scott explained that the Commissioners are reviewing on the Union County Zoning Partition and Subdivision Ordinance Section 2305 a,b,c and d apply to this hearing. And the Oregon Administrative Rules 623.180(3)(a) says there needs to be a representative sample of aggregate materials and deposit meet applicable ODOT specification for base rock. There is a result from the ODOT lab that tested the quality of the rock.

Commissioner Davidson opened the public hearing for testimony.

Patrick Knight, Ken Patterson and Gary VanHouten, 3012 Island Ave., La Grande, came to testify for the applicant which is ODOT. Patrick stated that he felt Scott did a good job laying the facts out and asked if the Commissioners had any questions. The Commissioners had no questions.

Commissioner Davidson opened the testimony for opposition.

Danny Webster, 62018 Fox Hill Rd., La Grande, explained that the rock quarry boundary would be 50 feet from his house. He has a well that is on the property and he is concerned that the well will be impacted from the blasting that will be done. He feels that the property value will decrease because of this rock quarry. They were going to put a crusher over the edge to have it the same level as the highway. Once it is put there it will impact him even more. With one of the ways proposed to do the job it will open up a wind tunnel. If they do that the wind will impact the whole side of town. There are five rock quarries in the area already. He feels like ODOT doesn't need this rock quarry and they can get the rock somewhere else. If there is any blasting done it will impact his well. If the Commissioners grant this he wants his well checked after they blast. He is getting impacted by the State on two sides of his property and the County on one side. He is tired of the impacts. The whole hillside is being impacted. He stated that he doesn't feel the Commissioners would like it if someone put a rock pit behind their house either.

Ginger Webster, 62018 Fox Hill Rd., La Grande, explained that she is worried about their well. They run cattle on the land and she hopes it won't change their land zoning.

Commissioner Davidson asked if the applicant would like to rebut any of the testimony.

Patrick Knight explained that they have not heard how this would affect wind. Also, he is not sure how the site would lower the resale value of Danny Webster's home when there is an old garbage dump further up the road. There is a condition that ODOT would monitor the well throughout the blasting, 6 months after and 12 months after the blasting to make sure there is no reduction in well quality or quantity.

Commissioner Rosholt asked ODOT what they do if there is an impact to the well. Ken Patterson explained that it would be handled similar to a right of way acquisition because the well is on ODOT property by prior easement so it would be the same as extinguishing or damaging someones easement rights. In that case ODOT would appraise the damage and make the owner whole. It was a condition in the site plan.

Ken Patterson stated that there are five other active quarries in this area so they don't think an additional source would be out of character for the neighborhood. Some of the advantages of having it at this location is that the haul is reduced. The plan was put together to try and minimize any visual impacts. The processing will occur on the old highway. They have dust controls and will stay under noise ordinances.

Commissioner Rosholt asked if the only access onto the site will be off the freeway. Ken stated that is true. Patrick added to keep in mind this is a commercial site.

Commissioner Davidson asked if there is an estimate of the volume of rock that is in the 8 acres that is being recommended to add to the zone. Scott Hartell stated that the request from ODOT was for 258,000 cubic yards. Commissioner Davidson asked if that is what is in this smaller area. He asked if this project will extinguish the allowed volume of rock in this area. Ken Patterson explained that there will be about half as much material as what will be taken out for this project left in the area. The volume that they are using is to do the entire project out of that quarry if the contractor elected to use that source. This is going to be a perspective source and not a mandatory source so it will be up to the contractor. The pavement design that they have utilized is a fifty year design so that at 30 years they will come back and grind off about an inch to resurface the concrete. With the remaining volume that is left in that source it would serve ODOT in the foreseeable future as recommended by the Planning Commission. They will be removing about 500,000 tons now and about half again in the remainder.

Commissioner Davidson asked if the opposition had any further comments to make.

Danny Webster stated that there are alternative accesses to the highway if they use the existing pits in the area. They can come in across from the fairgrounds.

Commissioner Davidson closed the public hearing.

Commissioner Davidson asked Scott Hartell to explain to him the rationale behind the recommendation from the Planning Commission to reduce the size from 20 acres to 8 acres and why did they include the portion to the West edge below the 3000 ft. contour line. If that is in excess to what is needed for the project why would they include it. Scott explained that the area was included because there was some testimony from ODOT that there are some areas that the rock wasn't of great quality when the core drilling was done. Once the Planning Commission heard that they started to think about reducing the requested acreage. ODOT owns the whole piece and wanted to put the whole piece in the zone. The Planning Commission only wanted to put that portion in the zone that they felt under testimony had rock of significance to meet the ODOT lab requirements. Commissioner Davidson asked if the 3000 ft. level is suitable for mining and it was picked to maintain the peak of the mountain. Scott explained that they wanted to stay below the top of the ridge.

Commissioner Davidson asked what the use would be of the left over volume for ODOT in the future. Ken Patterson explained that he doesn't have a lot of use for

the left over material. Commissioner Davidson asked if there is an additional margin of excess material. Ken stated that there will be some waste material that is included in the volume.

Commissioner McClure stated that he is seeing conditions put on a zone change here and he is confused at what the Commissioners are doing. If there is a zone change it implies that the land is put in the zone with all the requirements of that zone but it can't be a zone change with conditions. A conditional use process would allow them to condition things. If the land is added to the surface mining zone it should go in with the understanding of what the requirements of surface mining zones are. He has a confusion on the way this has come to the Commissioners. There needs to be a discussion with Planning staff on how to deal with the zone changes.

Scott explained that the plan amendment portion states that if it is good rock and it has a volume great enough than it is a significant aggregate site. Commissioner McClure stated that when he asked if that was the question or not and Scott answered that it was but he reads the findings and there are conditions in the findings that imply that it is something else. Scott explained that the Planning Commission also had testimony that some of the 20 acres was not good quality therefore, they conditioned the size of the pit.

Commissioner Davidson stated that he doesn't see anything in the attachment that talks about the well. Scott explained that the well was identified as a conflicting use. Commissioner Davidson stated that the well was not in the attachment. Commissioner McClure stated that it was in the suggested findings of fact. He asked if the Commissioners approve this if they are approving the condition on the well. Commissioner Davidson stated that he feels the conditioning on the well has to be done in the site plan. Commissioner McClure stated that it is put in as part of the findings of fact which is a document that supports what the Commissioners are approving. He would like to know why there is testimony about the well. He asked if it is a requirement. Commissioner Davidson stated that it is not a requirement as he reads the Ordinance. He explained that there is testimony about the well because the neighbor is concerned about the well for his home. Commissioner McClure asked why it is included in the findings of fact. He feels that if the Ordinance is approved someone expects that finding of fact to be part of this document. Scott explained that this application was run as two pieces. Commissioner Davidson stated that site plan has the findings of fact with it. Scott explained that the reason why it was tentatively approved the site plan because it can't gain final approval unless the aggregate site is on the basalt aggregate inventory which is the plan amendment process. Commissioner Davidson explained that his point is that the well finding of fact is not on the plan amendment it is on the site plan. Scott said that is correct. Commissioner McClure asked if the Commissioners are adopting the site plan. Scott explained that the Planning Commission tentatively approved

the site plan but it is tentative based on the plan amendment being approved. Commissioner Davidson explained that if the site is not added to the inventory the site plan has no holding. Commissioner McClure asked if the land is added to the inventory that would be when the well is added as a condition. Scott explained that when the land is added to the inventory than the site plan request that was a part of the application becomes final. That condition on the well was part of the site plan requirement that is required to be submitted to operate within the aggregate site. Scott explained that these two applications were run simultaneously. Scott stated that a site plan cannot be denied but it can be conditioned. Commissioner Davidson stated that the only findings that the Commissioners are basing their decision on are the findings in attachment D which don't include any conditions. Commissioner McClure stated that if they already approved the site plan and the Commissioners approve this they essentially approve the site plan too. Commissioner Davidson stated no that is not correct, the Commissioners do not approve the site plan. The Planning Commission approves the site plan. If the neighbors have an objection they can appeal the site plan to the Commissioners. Commissioner McClure feels that the people that testified on the site plan thought that they were being heard for that and it creates some confusion of the whole process. Commissioner Davidson feels that it was clear that what was being considered was the comprehensive plan amendment and an addition to the zone. Commissioner McClure doesn't feel that it is fair on the opponents to have the two processes run at the same time. He stated that if someone comes in thinking they are testifying on something that has meaning on the decision and it doesn't they should know that. Commissioner Davidson stated that he wouldn't presume to know what anyone who testified today thought they were testifying on but he knows that in his mind the Commissioners made it as clear as possible that the issue that the Commissioners were making a decision on today was zoning and a comprehensive plan amendment not a site plan. It is virtually impossible to limit someone's testimony to the subject at hand.

Commissioner Davidson explained that there was testimony given by the neighboring land owner about his concern that this devalued his property and that after this project was done he would have to disclose to potential buyers that there is an active quarry adjacent to his property. ODOT has surplus volume that isn't needed for the project at hand and doesn't seem to have a need for it in the foreseeable future. He would lean toward reducing the footprint of the zone change to the area that is needed to produce the volume for this project. It would still be a significant site because the tonnage would meet the minimum threshold. When he questioned ODOT about if they had any additional volume in there they said they had some to account for reject. He asked if the processing area on this parcel or the adjacent parcel. Ken Patterson explained that the processing area is to the West of the ridge that is on this parcel within the 8 acres. Commissioner Davidson explained that the Commissioners can craft language that allows room for the processing but only allows the removal from the area.

Commissioner McClure explained that he understood what Commissioner Davidson is suggesting but by the time you cut the acres again it is splitting hairs. He is not sure it is going to minimize the concerns that the neighbors have. It would terminate the site but it can be argued that it should be in the next process. It would be on ODOT to make the assumptions that the rock is the way it was drilled. He feels it is asking quite a bit to limit the area any more but he will go with it if it is the wish of the other commissioners. Commissioner Davidson asked if that leaves ODOT with enough rock. Ken Patterson explained that it leaves them with one entry into the site. For the long term the surface mining zone leaves the door open to come back in with another site plan and pull additional material out. If the site was reduced it would just make it a one shot quarry. Commissioner Davidson explained that he supports the addition of that land to the zone. He would like to minimize the future conflicts and impacts when the Commissioners are making a decision of zone something like this in an area where there are residences if possible, but if the change is deemed insignificant and doesn't satisfy anyone's concerns than it doesn't need to be made.

Commissioner Rosholt moved approval of Ordinance 2013-01 as presented. Commissioner McClure seconded. Roll Call: Commissioner Rosholt: yes, Commissioner McClure: yes and Commissioner Davidson: no. Motion carried.

Commissioner McClure moved approval of Ordinance 2013-01 as presented. Commissioner Rosholt seconded. Roll Call: Commissioner Rosholt: yes, Commissioner McClure: yes and Commissioner Davidson: no. Motion carried.

Livestock District Annexation

Court Order 2013-09, In the Matter of Annexing Land into Union County Livestock District #1, was presented for consideration. Scott Hartell, Planning Department, explained Dale and Lisa Eisiminger submitted a request to the Planning Department to have some of their property annexed into the Livestock District #1. The petition is being processed in accordance with ORS 607.010 through ORS 607.015. The County has advertised a hearing for today. Scott received a phone call from Dale Eisiminger this morning to change the application in front of the Commissioners.

Dale Eisiminger, 68473 Hwy 82, Imbler, explained that they have property on both sides of Grays Corner Road. Most of the property on the West side is already in the Union County Livestock District #1 with the exception of a small portion. Most of the property on the East side is not in the Livestock District. The neighbors generally do an excellent job of building fence and keeping track of their livestock. There is one neighbor that does not take care of the issues when they happen. What precipitating the application is that last year at the beginning

of the grazing season the neighbor had cattle in his hay shed and in the yard of the house on the property. They were informed that was an open grazing zone and they had no intentions of coming to retrieve the cattle. From that point on instead of slow and inadequate responses there was no response. When they filed the application they thought about applying only for that area West of the road because that is where their crops are and their home is and most of their issues. They decided to just include all of their property while they were submitting their application. They didn't think it was a big deal one way or the other. He received phone calls and found out that there are some people that were quite concerned about having all of his property in this district. Apparently there are some concerns about extending the Livestock District on the East side of Grays Corner Road. The Cattleman's Association has a lot of concern about this change for the group. He doesn't understand all of their concerns but he has a lot of respect for the people involved in the group and doesn't want to do anything to harm them. Their main concern is the West side of the road and he doesn't believe the group has concerns about that area being in the District. The new proposal is that their property West of the road be annexed into the District and not the property East of the road.

Dennis Murchison, 69599 Hwy 237, Cove, President of Union County Cattlemen's Association, stated that this was brought to his attention at the Cattlemen's meeting. It is a concern when they are taking Timber Grazing land and putting it into a Livestock District. After talking to Dale he understands his concerns. He understands adding the land that is adjacent to the District already but has concerns about adding the portion on the other side of the road. He doesn't want to set a precedence of having a jagged line for the District.

Robert Beck, 64841 Imbler Rd, Cove, stated that on the original proposal it wasn't acceptable because of how it went into the timber and grazing zone. He agrees with his proposal to amend what was originally submitted.

Carrie Bingaman, 430 2nd Street, Imbler, explained that she has adjoining property with Dale and she hoped that this was the solution that would happen. She supports the new proposal completely. She understands his frustrations.

Jim Murchison, 66216 Hwy 237, Cove, stated that he would like to commend Dale for working with the Cattlemen's Association. He thinks this solution proposed is the best solution. He understands his frustrations.

Sharon Tarter, 66828 Indian Creek Road, Elgin, explained that she leases from an elderly lady on the face of Mt. Harris. There is 1100 acres. She is directly East of Mr. Eisiminger. She is the one that he has the problem with. They do have a lot of Elk traveling in that area but also the fences are old. She has already made arrangements with the owner that the pasture will not be used this year and it will have all new fences. There is no other person on her ranch right now to be there

immediately if something gets out. She understands that and she doesn't want the problems that have arisen from what has happened on this leased pasture to affect any of the other neighbors either.

Commissioner McClure asked if all of the land on the West side that is being proposed is owned by Dale Eisiminger. Dale stated that is correct.

Commissioner Rosholt asked what the acreage is of that piece. Dale thought it was around 6-7 acres.

Commissioner Davidson closed the public hearing.

Commissioner McClure stated that he thinks the neighbors have come up with a good solution and he supports the decision.

Commissioner moved to accept the recommendation and amend the Court Order to show the changes. Commissioner Rosholt seconded. Motion carried unanimously.

This hearing will be continued to February 20th at 10 a.m.

Adjournment

The meeting was adjourned at 11:30 a.m.

Respectfully Submitted,

Ashley Wilhelm
Sr. Dept. Specialist II