

MINUTES
UMATILLA COUNTY BOARD OF COMMISSIONERS

Meeting of July 15, 2020
9:00 a.m., Room 130, Umatilla County Courthouse
Pendleton, Oregon
Public Call in #: 541-728-0275

Commissioner Present: Chair John Shafer
Commissioners calling in: Vice-Chair George Murdock and Commissioner Bill Elfering
County Counsel: Doug Olsen
Attendance: Chris Holdman (Holdman Ranches Inc.); Bob Sorey (S/7 Farms); Larry Williams (Barnett & Rugg); Jim Williams (North Country Growers Inc.); Jeff Newton (Newton Farms); Terry Simpson (Simpson Land Co.); Penelope French, Pendleton; Anne Livingston, Pendleton; Mike Thorne, Pendleton
Calling in: Bob Waldher, Planning Director; Tom Peterson; Dave Demaris

Room 114: Alex Castle (EO); Wil Phinney (CUJ)

CALL TO ORDER: Chair Shafer called the meeting to order at 9:00 a.m. He reminded those present that the meeting is a public forum and there is a call-in option provided. The meeting is being video and audio recorded and minutes will be taken. Comments will become part of the meeting record. If persons wish to speak before the Board, please come to the podium (if present), and identify yourself and state where you live in order to be heard on the record – also note if you are speaking on behalf of others. He noted there is a point for public input before business items for other than agenda items.

Pledge of Allegiance

Awards/Correspondence/Recognition. Chair Shafer first read a letter placed on a deputy’s patrol car – thank you for service of law enforcement – appreciation for always being ready to step up. Second, a letter to Sheriff Rowan from Good Shepherd Health Care support and appreciation for local law enforcement services to communities and for partnerships. Thank you for doing all you do. We have your back.

Minutes – none.

Additions to Agenda – none.

Public Comments – for other than agenda items. None were heard.

Business Items

1. **Proposed North County Livestock District – Public Hearing.** Chair Shafer called the hearing to order at 9:05 a.m. He also noted Commissioners Murdock and Elfering are calling in to participate.

Staff Report. Doug Olsen presented the staff report. A petition was presented by Jeff Newton. The area covers from the North county line South to the outskirts of Pendleton and to Helix through Juniper Canyon. Others also signed the petition. He referred to the map of the proposed area and a map of current livestock districts in the county. All statutory requirements are met including the 2,000-acre minimum area. Notices of the hearing went out to all affected property owners -- about 512 property owners. With recent law changes, a livestock district is up to the Board rather than previously when an election was held with majority vote. Other documents are part of record (i.e. email, letters). Of those that submitted written documentation, three are in opposition: Mr. McCormmach – opposing because his

property is part in and part out of the area. Also opposing, Mr. Simpson – his property is at the edge of the area. Ms. Livingston filed a written testimony letter but is also present today.

First, the petitioner(s) will present, then those in support, then those opposed.

Jeff Newton, petitioner, 82106 S. Juniper Canyon Rd., Helix. He explained his petition in more detail. The main reason to form a district is that cattle come on property (with no fences) when spraying chemicals. What is liability if cattle get sick upon spraying? An Oregon Department of Ag expert advises the wheat owner is required to keep cattle off property -- not the cattle owner. There are insurance and liability questions – some coverage is not provided.

The area is so big as more and more property owners wanted to be included – that is how the area came to the size it is now. His main goal is to shift liability from the wheat farmer to have cattle ranchers liable for their animals. There is a definite need to explore all information. Upon Chair Shafer's question to expand on that, Mr. Newton advised he has spoken with Mike Thorne, as well as others. It seems all feel it would be good to keep the conversation open for another month. He agrees with that idea.

Chair Shafer asked Commissioner Murdock to add to the topic. Commissioner Murdock noted his concerns – at the outset this was a simple conversation, however, a lot more emerging dialog has been heard. People want in, some want out, there are questions about territory, etc. He feels it is a big matter and wants the community to be able to address concerns. Therefore, he is concerned about making a decision on the part of the commissioners today.

There was more discussion about some animals are on areas of the district, some neighbors have cattle there year round, different practices, etc. Regarding a suggested timeframe, while keeping in mind limited meeting size and with the magnitude, Commissioner Murdock wanted all who wished to be part of the conversation – he didn't want exclusions. He wanted larger opportunity to visit after Mr. Newton and others in support of the petition have visited. He asked what are their thoughts about time? Mr. Newton noted a call-in option to this hearing was published. However, he didn't want to put the discussion a long way out – he feels an open forum for a month feels like a good option. Mr. Olsen added one month is typical for Board action. However, Commissioner Murdock added he felt a little more time – say the September 2nd Board meeting -- would be good. Mr. Olsen agreed as did Mr. Newton.

Chair Shafer asked Mike Thorne, who resides (or has property) in the proposed district North of Pendleton to speak to the subject. Mr. Thorne advised he is not necessarily a proponent, however, he asked to provide some alternatives that would focus on a possible solution. As to Mr. Newton's comments, the area created would be shift of liability. He has asked his insurance person and can't get clear answers. In addition, since his attorney is not available to ask, it seems clear that more time to discuss is needed. He encouraged the Board to consider the extra time.

Commissioner Shafer asked for Proponents:

Chris Holdman, Holdman Ranches, 81641 Hwy 37, Pendleton. As Mr. Newton noted, his farm was concerned about liability of cattle on his property and having them get sick upon spraying. Being a farmer holds a lot of responsibility and cattle must be pushed off and kept off their property to keep them from grazing. That is one of big issues. He provided historical information about spraying, possible damages of about \$50,000 for damaged wheat due to cattle. Years differ about cattle numbers, time of year and farm practices – each year is different. Cattle also graze different time periods – and cause damage. He gave examples of acreage, acres of damage, comparison of bad drought years, late grazed crop would not produce crop, etc. There is also financial aspect (property prep, chemicals, poor crop with bad weeds) as well as liability. Cattle cause a lot of damage – weeds off their hides and also manure (rye weed problems

cause a huge cost). Lost revenue, extra expenses, rye control – mounts up sizable damages where cattle are coming onto their property. He does have some fence on his property and is used to repairs and maintenance. Open range policy is disincentive for cattleman to be stewards of their land, which is different than farmers, who are ground stewards. Cattle liability is provided for if they get on highways vs. going onto farm ground. He talked about risks of the driver (vehicles, commercial, motorcycles).

In response to Commissioner Elfering's question about issues of rye, mitigation cost -- could he say it was where cattle roamed or does he believe it was wind-blown? Mr. Holdman talked about lost revenue of wheat loss = \$40,000. Extra expense of \$10,000-\$12,000 for a 10-member crew for 3 days to pull rye. Rye in this CRP property, manage comes with it. His ground is surrounded by CRP and is full of rye – this has caused additional expense to handle it. He still feels cattle transferring rye onto his property is very expensive or has been a total loss. He believes the most rye issue is cattle carried in.

Jim Williams, 43229 Holdman Rd., Helix. 1980 was first year of wheat farming. His family is well versed in cattle (they have had about 500 head). Interesting is that cattle have been present for some time, but seems like over time ag has evolved to more dryland wheat farming and fences became a nuisance so they were taken down. Now not much fence is left – it was barrier. But, with more cattle in some places, he needs to address changes in practice. It is more wheat growing than cattle country. He was raised to be responsible for neighbors' livelihood. Good fences need to be managed. For him, with evolution of cattle coming onto his property, stubble and spraying need to be done responsibly. He is also concerned about farmers' liability based on ODA guidelines. He is trying to be proactive from his standpoint – that is why he is a proponent of the district.

Larry Williams, 525 E Main, Athena. He is the farm manager for Barnett Rugg. He talked about open and closed range. He agrees with a lot of what's been said. He agrees that there needs to be more time to discuss things. He feels cattle people need more time to get fences taken care of (maybe a year?) and more time is needed to give people opportunity for conversation.

Mike Thorne, lives in Pendleton at this time. He reiterated the insurance /liability piece – there are unintended consequences. Not to criticize, but the question of liability needs to be resolved. He asked if county counsel can summarize the hearing for clarification of questions asked today. There is the subjective question of a district. He suggested the need to prepare a summary, and to try to work with those interested, and to establish a basis of liabilities as mentioned. He suggested the ORS chapter regarding livestock districts be referenced. Then, after all work is done and all feel it is time to move forward, he sees a targeted approach to those cattle-owners in question (if that can be determined) vs. the entire proposed area. He again urged more time be taken to resolve issues and move forward timely.

After the call by Chair Shafer, there were no other proponents in room and also none in the other room (114). By phone: Dave Demarris, 50857 Umapine Road. He has about 1,400 acres in Vansycle Canyon, 9-mile Ranch on the other end. His family has cattle-ranched for 50 years; it is their responsibility to keep cattle in. However, it seems people now don't build fences to keep them in (open range). He feels that better fence is required; one single line doesn't work. If everybody with cattle takes care of their fence, it would be better deal. He is in support of the district.

Tom Peterson, S Juniper Canyon, 84423 Wallula Rd. (via phone). His area is good for some cattle since the property can't be farmed (too rugged). He tries to maintain fences, but he has elk problems breaking down fence. He agreed with Larry Williams that more time should be taken to study the issues. He also agreed with a summary along with more time.

Carrie Luke, 1356 SW 37th St., Pendleton (via phone). She asked about a letter she wrote and if it was the time for the Board to address it? Mr. Olsen advised it is not related to the livestock district, so it isn't

part of this topic. Chair Shafer and Mr. Olsen advised the next meeting is August 5 for public comments in general.

Jim Williams came back for one more thing -- fences and liability of fences. If a cattleman has a fence and there is fire by a wheat farmer, they must have proper insurance to cover. People need to do the right thing and be responsible and advise the cattle rancher if his fence is damaged. He also noted that his property is a long way from the area having issues.

Chair Shafer asked for Opponents.

Terry Simpson, 40895 Despain Gulch Rd. He talked about history of a gravel road from Stanfield to the highway. He clarified that cattle can be kept within an electric fence. Expired CRP is his choice to not to farm – some of his neighbors have cattle who are well fed and are not hard to contain. He understands the north end of the county area in question has problems as mentioned, but it is also about the process and management of cattle neighbors with wheat farmers. He is concerned about highway going through there – Despain Gulch Road - with primary use of vehicles that go way over [the speed limit of] 55. He's in favor of looking at individual insurance – liability, umbrella. He doesn't want to be included in the district.

Anne Livingston, Pendleton. She doesn't reside in the affected area, but does have property on Holdman Route. In addition to the opponents' point of view, she sees the proponents' position too. The basis of her message is rather than jumping to a large area livestock district, she agreed with taking more time in discussion with all neighbors. Talking things out is better way to handle this, if possible. She read her prepared statement (part of the record). She suggested taking some property out of the district (as noted) could be helpful.

After the call from Chair Shafer, there were no others in opposition and none from the other room (114). There were no more questions by the Commissioners.

Back to Mr. Newton, he suggested one thing to look at is case law in Oregon, specifically noted is “negligence” to be considered. Those in this room are not intending for something bad to happen. He encouraged looking at the definition of livestock district. Also there is need to mark county roads as “open range” to perhaps help with vehicle traffic. Importance of liability and negligence were reiterated.

Mr. Olsen advised to keep the record open, the Board action is to continue the hearing. Commissioner Elfering agreed with the continuation to allow opportunity to discuss things. He also commented about insurance liability [from his experience] noting the need for proper coverage. **Commissioner Elfering moved to continue the hearing for 1 months' time. Commissioner Murdock was reluctant to second since he felt that the September 2 Board meeting is best (vs. 1 month). The motion was so amended by Commissioner Elfering. Seconded by Commissioner Murdock. It was also noted the start time is 9 a.m. at the Board's September 2, 2020 meeting. Carried, 3-0.**

(audience left @ 10:31 a.m.)

2. Development Code Amendment – Public Hearing. Chair Shafer called the hearing to order at 10:32 a.m. this is for text amendment #T20-082, adoption of revisions to Umatilla County Development Code.

Staff Report was presented by Bob Waldher, Planning Director (calling in). This area between is Hermiston and Umatilla, light industrial and retail service zones that front the Highway 395 corridor. Last fall, the Board adopted changes to the code with frontage properties. There has been some question regarding some of those new provisions. In particular, auto dealerships were having problems meeting some standards. Challenges were discussed with appropriate parties and arrived at proposed code changes involving eliminating set back requirements for auto dealerships, as well as 15% landscape coverage

requirement. Landscape is better for smaller parcels but not for 10 acres; and this wasn't conducive to saving water in a critical groundwater area. Also, the State has requirements about water; therefore, it was deemed best to adjust to limit the cap of ½ acre for 15% landscaping coverage. At the Planning Commission's 6/25 meeting, they recommended approval with amendments to the ordinance to relax standards for some businesses as noted during discussion.

Commissioner Elfering asked Mr. Waldher to clarify setbacks. He responded it (less landscaping) only applies to auto, truck or motorcycle sales lots on Hwy. 395. However, it would still apply to other types of uses. Also to keep large parking lots to the back of properties. The goal is to encourage development.

There were no proponents, opponents or questions. Chair Shafer closed the public hearing at 10:41 a.m.

Motion was made by Commissioner Murdock to adopt Ordinance No. 2020-05 (amending Umatilla County Development Code for US Highway 395 North Sections). Seconded by Commissioner Elfering. Carried, 3-0.

3. Hermiston Chamber of Commerce Contract. Presented by Mr. Olsen. This is for renewal of a contract for provision of tourism assistance through the Hermiston Chamber of Commerce. It has been in place for a number of years, but has expired. The dollar amount is the same within last year [\$2,400/month plus expenses.] In response to Commissioner Murdock's question about the term, Mr. Olsen advised it runs through 6/30/21. And, there is also a termination provision that allows for immediate termination if funds are not available. **Motion was made by Commissioner Elfering to approve contract. Seconded by Commissioner Murdock. Carried, 3-0.**
4. Hutchinson Case. Presented by Mr. Olsen. This is for a class action lawsuit regarding the method of sale for tax foreclosed property, challenging the method under Oregon Statutes as unconstitutional. Board action would be to approve joining in joint defense representation and payment of expenses. The plan is for an equal amount up to \$10,000/county; if it is more, then fees would be based on population (Umatilla County's portion would be 2% of costs). The case is filed, but no responses have been made as yet. Umatilla County was served last week. **Motion was made by Commissioner Elfering to approve. Seconded by Commissioner Murdock. Carried, 3-0.**

Executive Session – none.

Commissioners' Reports

Commissioner Elfering: The Fair Board met last night and Fair is proceeding with livestock sale, in person and online regulated to adhere to the Governor's restrictions. KUMA will have information tomorrow about the sale.

Commissioner Murdock: There were 22 COVID cases yesterday and 34 today; however, it is not an accurate representation due to two new reporting agencies online today and cases (some) are backlogged. He felt the numbers are pretty much like yesterday. The peak is believed to be 6/24. He is hopeful that is continued trend going down. A big campaign is in the works to be sponsored by the County. The idea of testing should be explored about being made more readily available for those who can't afford it. He urged the County to pursue that.

Commissioner Shafer: nothing.

The meeting adjourned 10:49 a.m.

Respectfully submitted, *Melinda Slatt*, Executive Secretary, Umatilla County Board of Commissioners