

MINUTES
UMATILLA COUNTY BOARD OF COMMISSIONERS
Administrative Meeting of May 7, 2013
10:00 a.m., Doherty Conference Room, Stafford Hansell Government Center
Hermiston, Oregon

COMMISSIONERS PRESENT: Larry Givens, Chair; Bill Elfering, Vice Chair;
Dennis D. Doherty, Commissioner

COUNTY COUNSEL: Doug Olsen

MEMBERS & GUESTS PRESENT: Connie Caplinger, Umatilla County Executive Assistant; Tom Fellows, Umatilla County Public Works Director; Gary Roberts, Umatilla County Surveyor Foreman; Gay Newman, Ott Road resident; Alice Newman, Ott Road resident; Dan Lonai, Umatilla County Administrative Services Director; Stewart Harp, Umatilla County Jail Administrator; Rick Shankle, ODOT Rail Crossing Safety Manager; Phil Wright, East Oregonian Reporter; Jack Esp, Candidate for Umatilla County Commissioner; Sami Taylor, Ott Road resident; Matt Kenny, Umatilla County Survey Technician; Edie Longfellow, Ott Road resident; Ralph Hullet, Ott Road resident; David Hadley, Avril Lane property owner; Jeremy Bolen, Ott Road resident; Tamra Mabbott, Umatilla County Land Use Planning Director; John England, Ott Road resident

CALL TO ORDER

The meeting was called to order at 10:01 a.m. Chair Givens reminded all present that the meeting was a public forum.

BUSINESS ON AGENDA

Approval of Minutes: The minutes of the previous meeting were in process at the time of the meeting.

Consent Agenda:

1. Authorization for fingerprinting machine repair - \$2263.95
2. Authorize payment to Livestock Sale Committee

Commissioner Elfering moved approval of the consent agenda as presented. Commissioner Doherty seconded and the motion carried 3-0.

Agenda Items:

1. **S. Ott Road Closure Public Hearing - Public Hearing at 10:00 a.m.:** Commissioner Givens opened the public hearing at 10:03 a.m.

Tom Fellows presented the staff report, beginning with a brief history of the proposal's origins and the staff

and agency discussions leading up to the hearing. The discussions determined that the immediate concern were the railroad crossings on Ott and Canal Roads.

The board was previously presented with a proposal from ODOT Rail to develop a mini-corridor on Canal Road, setting crossing arms and signals there. ODOT Rail's proposal for Ott was to closing the crossing entirely. Rick Shankle from ODOT Rail explained that the agency had federal funding for both projects. Tom Fellows reported that the design work was done at the Board of Commissioners' direction, then the hearing was scheduled.

Gary Roberts had no additional information to add other than to recommend that the crossing on Ott should be closed. He would also recommend that the Ott intersection with Loop should be closed as well due to the limited visibility there. In response to an observation that the train count had increased in the past few years, Tom Fellows added that most of the property on the south side of the railroad crossing belonged to the Union Pacific, extending almost to the Loop Road intersection.

Commissioner Elfering asked if there was to be any cost to the county. Tom Fellows responded that if there was a cost, it would be very slight and no known match was required for the project. Rick Shankle confirmed that no match was required for this grant.

Commissioner Elfering asked Rick Shankle what the cost was expected to be. He responded that it was not known currently. The signal and arm installation on Canal was estimated to be about \$500,000, but there were no estimated costs for the Ott Road closure project.

Commissioner Doherty suggested that for the purposes of the discussion the board should address each crossing separately. Commissioner Givens agreed.

Commissioner Doherty wanted to check with the land use planning department before checking with public safety regarding the impacts of the closure on Ott. Tom Fellows commented that ODOT's timeline was unknown. Rick Shankle responded that ODOT's timeline required commitment to the project "fairly soon." Commissioner Givens asked if the City of Hermiston was provided notice for the public hearing. Gary Roberts replied that it wasn't noticed directly. Commissioner Givens directed that the fire district, irrigation district and EOTEC Authority Boards should be notified and expressed zoning questions on the property. Tom Fellows stated that the only proposal on the table was the closure of Ott and, if development occurred, an overpass would be necessary, regardless.

Commissioner Doherty asked for the dimensions of the right of way on Ott. Gary Roberts reported that as sixty feet. Commissioner Doherty commented that knowing that removed his concerns.

Commissioner Givens requested input from Tamra Mabbott. Tamra Mabbott reported that Commissioner Givens and Commissioner Doherty asked for information of the effects of the proposal on land use planning applications. She stated that the road was listed as a rural connector and the increase in traffic was what resulted in that classification.

Commissioner Elfering asked for the zoning standards in that area. Tamra Mabbott replied that the zoning was primarily rural residential and added that the area was listed in the county's transportation safety plan as a location that would require future improvement. The effect closure of Ott would have, would be that the road would be de-listed. Tom Fellows asked that if the road was closed was that a guarantee that it could, at some

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point, be re-opened. Rick Shankle replied that would require an application and then, all entities involved would need to agree.

Commissioner Givens asked how difficult it would be to re-open the road. Rick Shankle responded that to re-open it at grade would be difficult, but as an overpass, not impossible.

Commissioner Givens asked whether ODOT Rail funding would be available. Rick Shankle replied that it would take up to 10 years to determine that and that federal funds would not go toward an overpass project.

Commissioner Elfering announced that he felt he had a conflict of interest on the subject.

Commissioner Givens opened the floor to public comment at 10:31 a.m.

Dan Taylor, 175 North Ott Road, stated that he observed really close calls and, also, noted that numerous vehicles using that crossing did not stop as required. He added that people transited the canal bridge at high speeds also. He felt that the biggest concern affecting whether to close the road should be the safety factor, although the possibility of helping to eliminate the illegal dumping should be a consideration also.

Gay Newman, 503 North Ott Road, stated that he felt the bigger issue was that one must be 10 yards from the bridge before oncoming traffic was visible. When at the railroad crossing, the angle was such that visibility was affected. Then at the intersection of Ott and Loop, the corner must be cut wide which created a hazard because there are many kids and horseback riders using the road, not to mention the high school track team.

Sami Taylor added that the intersection caused almost more problems than the crossing. Sami Taylor, Gay Newman and Alice Newman all stated that they supported the closure.

Jeremy Bolen, an Ott Road resident who lived below the tracks, stated that he was against the closure because he would be most impacted. He used the crossing every day and, if it were closed, would need to move farm equipment down Diagonal Road. He suggested that improvements would be better than the closure. Jeremy Bolen added that he witnessed no near misses in the 14 years he had lived there and did not feel that the area was any worse than the Highland and Loop intersection. He also expressed concern over property values and commented that, as an irrigation district representative, the district's access to the canal and equipment would be limited.

Eddie Longfellow, 80781 South Ott Road, stated that she traveled the road daily and experienced no near misses. She also suggested that other options should be considered. Jeremy Bolen pointed out that the Union Pacific closed the crossing off when it was working on the track in the area. Commissioner Givens replied that the county was criticized for having spotters available for the heavy equipment operators when working on the road there.

David Hadley, 1990 Averil Lane off South Ott Road, stated that he understood that the closure would create a cul-de-sac with 8 to 9 homes on it. His initial reaction was that the concept was overregulation. An above grade crossing would be a dream at best due to the surrounding topography which would require a long, gradual approach. He talked to a railroad engineer, who reported that the visibility in that location is next to zero and rated the crossings at both Ott and Canal Roads as "the lousiest" in his experience. That engineer suggested that Hooker Road would be a better alternate route, although in an emergency, it could be

problematic. David Hadley suggested that the east side of the right of way could be worth considering for an emergency access lane. John England suggested that a trade could be made for road paving a quarter mile south of Hooker.

Gay Newman asked whether a semi could turn around on the cul-de-sac with the current design. Tom Fellows replied that it would be designed to handle ten wheeled rigs, but not semis. David Hadley added that signage would make sense at the Hooker intersection.

Rick Shankle asked David Hadley to explain his comments. David Hadley replied that, from a safety point of view, the visibility was bad and the intersection with Loop was made more miserable by that. The people who used it vary between the local residents to those using the road as a short cut. He felt that the area would be better off with a closure, but for the emergency access. Commissioner Givens closed the floor to public comment at 11:05

Commissioner Doherty asked for some input on the Canal Road proposal and Tom Fellows reported that the information received, using a traffic counter there established an average of 60 cars in a 24 hour period were crossing there. He also noted that many of those vehicles did not stop at the sign on Canal.

Edie Longfellow asked how long it would take to pave the road from the crossing to Loop Road on Canal. Commissioner Givens replied that would be dependent upon available funding.

Gay Newman asked when the Board intended to make a decision. Commissioner Givens answered that it could be at the present meeting or could be deferred.

Commissioner Elfering asked if the proposed Canal Road crossing arms would be like those at Highland Avenue and Loop Road. Rick Shankle confirmed they would. The board entered into deliberation and Commissioner Elfering commented that the decision seemed to be between safety and convenience.

Commissioner Doherty stated that he was a little vague on the timing of the proposed project which seemed to be related to funding cycles. He would like to ensure some time for the agencies that had not yet weighed in to do so. Rick Shankle answered that there was new legislation that would require the funds to be obligated by September.

Commissioner Givens commented that it seemed there was time available to hold another meeting on the subject. Rick Shankle added that he would not want to lose the funds, but also encouraged agency input.

Commissioner Doherty added that the other issue was that there were many crossings on the railroad's route through the county and he would not want to close the door to future options. He suggested that a decision could be made before June 1 because otherwise the new commissioner would need to be briefed on the proposal and input.

Commissioner Givens was not prepared to come to a decision at the present meeting. He preferred to solicit input from the affected agencies and information on adjacent road impact. He noted that the visibility was poor at both the intersection and the crossing. **Commissioner Elfering** agreed that the county needed agency input and **moved to table the discussion on the South Ott Road and Canal Road proposals to the Board of Commissioners' meeting of May 15, 2013. Commissioner Doherty seconded and the motion carried**

3-0.

2. **Water Commission IGA amendment:** JR Cook reported that what began as a straightforward process eighteen months previously to develop a list of amendments to revise the Umatilla Basin Water Commission's IGA had become work toward a comprehensive document with expanding territory and representation. With no unanimous consent among the members of the commission as to how to reach a compromise, the members began to reconsider its purpose.

While the varying entities involved continued to work on a hub, the IGA amendment would limit the commission's responsibility and control to the stage 1 project as the testing operations agreement. He noted that the primary addition to the IGA appeared on page 9, which allowed for an administrative agent for the grant. That would be completed as an internal agreement with Westland Irrigation District. That was to be complete about May 31st. The cost on the project was about \$100,000 and Morrow County, the Tribes and Westland had already approved and signed the amendment.

Commissioner Givens asked if the agreement meant that Westland was running the project. JR confirmed and stated that Westland was the only customer of the commission project at the moment. As the project expanded it was expected to attract additional customers, the depot being the most likely, but to do so also required cheaper water. There was also some concern about how much water could be drawn off for the aquifer storage site without affecting other users. In order to gain a sense of that effect, testing was necessary and the current scope of the commission's project was limited.

Commissioner Givens commented that he understood that the current cost to the clients for moving the water was about \$70 to \$80 per acre foot. JR Cook responded that there was not a lot of room to play with based on market factors, but with the addition of the CRUST, the Columbia River Treaty group and their focus on the dams, the basin would need to coordinate its options.

Commissioner Elfering commented that he was satisfied that the alternatives would be explored and was supportive of the change of direction for the commission. Commissioner Doherty added that the changes were planned to ensure that commission remained true to the grant requirements.

Commissioner Givens viewed the change as part of a process of evolution. JR Cook added that the project achieved its goals. Commissioner Givens asked if the county was the last entity to approve the amendment. JR Cook confirmed that.

Commissioner Doherty pointed out that the amendments required unanimous approval and he could not think of a reason not to approve it. **Commissioner Doherty moved that the Board of Commissioners approve the amendment and re-stated IGA as presented. Commissioner Elfering seconded and the motion carried 3-0.**

3. **Authorization for on-call CO to take bi-lingual test:** Stewart Harp reported that the CO for whom the authorization was sought had been doing translation work for some time. Although the bi-lingual pay did not apply to the on-calls, he was hopeful that the board would also consider that as well since the deputy did provide the service.

Connie Caplinger added that the item on the agenda only addressed authorization to take the test and that if

the commissioners wished to add authorization for the pay, that would need to be part of the motion. Commissioner Doherty commented that the board could opt to authorize the testing and pay in one motion. Commissioner Elfering asked how much potential use would be made of the certification on the on call. Stewart Harp responded that would increase the jail's certified translators to 3 and that more were needed. Commissioner Elfering commented that he thought that more certifications were expected. Stewart Harp replied that they were and that the search for those to be certified needed to target specific skills.

Commissioner Doherty noted that there was not a large number of deputies who took the test to date, also noting that in the 2010 census, the Hispanic population comprised 20% of the county residents although Hermiston and Milton-Freewater had 58% and 62% Hispanic students.

Commissioner Elfering noted that there was no limitation to the number of certified translators and pondered whether that might affect the budget at some point. Doug Olsen commented that would trigger a re-negotiation of the contract. Connie Caplinger thought it unlikely that the number of certified translators would adversely affect the budget because the requirements to pass the certification test were so rigorous.

Commissioner Elfering moved to approve the authorization for on-call employee to take the bi-lingual test and, if qualified, to receive bilingual pay. Commissioner Doherty seconded. The motion carried 3-0.

4. **Discuss HB3521:** Dan Lonai reported that the house bill originally started out with the designation, HB2198, and became HB 3521 once the language and other particulars were tightened up. The current format still did not address the public information clause causing concern that any agency that collects personal information would be an outlet to register an individual to vote, making that information public without the individual's express consent.

The proponents of the bill claimed that elections would send a card to be returned to the Secretary of State within 30 days of receipt to allow the individuals to opt out after the fact. That could result in those who failed to return the card, but who did not vote, creating a larger pool of ballots to be sent by each county.

The expected additional cost to Umatilla County could range from \$10,000 to \$14,000.

Those who were registered to vote before they attained voting age would be eligible on their 18th birthday, also creating a need to monitor the balloting materials sent. In addition to the costs for the balloting materials and postage, the change could result in the need to add regular staff as well as additional elections workers when the county would need to handle an additional 12,000 to 15,000 ballots per election. The total cost to run the elections division per year would increase about \$32,000 to \$45,000 per year.

Dan Lonai also expressed concern that the database integrity could be compromised due to those who would be renewing their licenses later without citizenship identification. Dan Lonai had sample letters in opposition from Jefferson and Crook Counties available.

Commissioner Givens asked if the clerks association had taken a position on the bill. Dan Lonai noted that a vote was taken with a final tally of 16-13 with 7 counties absent in favor of the bill. The main concerns expressed by the association were the cost factor and special elections. Commissioner Givens stated that he felt there were two concerns, the added cost of sending voting materials to the non-voting population and their

rationale for not registering, namely the privacy issue. Dan Lonai pointed out that the DMV already must ask customers if they wish to register when doing business with them.

Commissioner Elfering asked if there was a record of the voter percentage turnout between the former process of going to polling places and mail voting. Dan Lonai replied that, statewide, the turnout increased with the introduction of mail balloting, although Umatilla County held relatively steady. Commissioner Elfering asked if there was an increase in the number of voters. Dan stated that it was difficult to tell, but that it seemed the reason why people did not register to vote was their desire to protect their personal information.

Commissioner Elfering asked what would happen to those doing DMV business who were under the voting age. Dan Lonai stated that the Secretary of State would receive that information and hold it until the individuals' 18th birthdays.

Commissioner Elfering commented that although he supported the effort to increase voter registration, shifting the cost to the counties was not acceptable. Commissioner Doherty added that he believed the current system was operating well and that the change was not advisable under the current economic conditions.

Commissioner Givens stated that it seemed that there was yet another unfunded mandate and was, therefore, not supportive of the bill. It seemed that the question was whether the board wished to go on the record as not supporting the bill. **Commissioner Elfering moved that the Board of Commissioners take a position against the bill. Commissioner Doherty seconded**, adding that he would like to include a statement to the effect that the position was due to the financial impact at a time when costs were restrictive. Commissioner Givens asked that Commissioner Doherty and county counsel work on a proposed letter in opposition. **Question was called and the motion carried 3-0.**

Other Discussion: None.

Public Comment: None.

Scheduling of Next Meeting: The next meeting will be held May 15, 2013.

ADJOURNMENT

The meeting was adjourned at 12:06 p.m.

Respectfully submitted,

Laura Headley
Executive Secretary
Umatilla County
Board of Commissioners