

MINUTES
UMATILLA COUNTY BOARD OF COMMISSIONERS
Meeting of April 13, 2016
9:00 a.m., Room 130, Umatilla County Courthouse
Pendleton, Oregon

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Commissioners Present: Chair George Murdock, Vice-Chair Larry Givens and Commissioner Bill Elfering

County Counsel: Doug Olsen

Members and Guests Present: Jesse & Granella Thompson, Micah Engum, Norm Kralman, Susan McHenry, Jerry Baker, Richard Jolly, Patrick Gregg, Steve Corey, Dave Price, Richard Nerzig, Joerg Beland, Jimmy Doherty, Tom Fellows (Public Works Director), Paul Chalmers (Assessment & Taxation Director), Robert Pahl (Chief Finance Officer), Meghan DeBolt (UCo Health Director), Gina Miller (Planning-Code Enforcement).

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CALL TO ORDER

The meeting was called to order at 9:00 a.m. Chair George Murdock welcomed all.

Pledge of Allegiance. Led by Commissioner Givens.

Chair Murdock reminded those present that the meeting is a public forum. It 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, identify yourself and state where you live for the record.

Awards/Recognitions/Correspondence. Chair Murdock read a letter addressed to Meghan DeBolt at UCo Health from Susan Keys at OSU on behalf of the Oregon Health Authority regarding progress of the Caring Connections Suicide Prevention project. She recognized the good work of Alisha Southwick in the suicide prevention project; she is a great asset to the County in building collaborative relationships. Well done, Alisha!

Acknowledgment of Minutes of Previous Meeting. None.

Additions to Agenda. None.

Public Comments. None.

Agenda – Business Items

1. **Public Land Use Hearing – Chopin Wind Project Appeal – Deliberation.** Chair Murdock turned over the gavel to Commissioner Elfering as liaison to Planning. Commissioner Elfering called the hearing to order at 9:04 a.m. He read the required land use statement and outlined process – staff report, testimony, and etc. This is a continued hearing from the appeal land use hearing of 3/28/16. Public testimony was concluded at that time. Additional documents were received within time allotted including a series of correspondence -- he set out those items and when they were received. Documents need to be entered as Exhibit #61. **Commissioner Givens moved to**

approve the memo from County Senior Planner with appeal of Chopin Wind LLC. Seconded by Chair Murdock, which included all of the documents, as Exhibit #61. Carol Johnson, Planning Department, noted additional correspondence hand-delivered on 4/12/16 by attorney Steve Corey (Commissioner Elfering advised it would be entered separately). **Motion Carried, 3-0. Commissioner Givens moved to enter as Exhibit #62 correspondence from Mr. Corey. Seconded by Chair Murdock. Carried, 3-0.**

Deliberation. Commissioner Elfering asked for comments by any commissioners. Commissioner Givens noted his concerns about the road selected. He feels the haul route used should be Ferguson Road vs. Staggs Road. At some time, he would like Public Works Director Tom Fellows to take another look at the two roads. Commissioner Elfering clarified -- access of project should be changed to the use of Ferguson Road. Commissioner Givens agreed that was correct. Chair Murdock tended to agree with Commissioner Givens. He asked Mr. Olsen if the Board has authority to make the road change. Mr. Olsen clarified, as presented, if only Ferguson Road could be used, that would require upholding the appeal and denying the permit. If the applicant would be willing to change its proposal to use Ferguson Road, then it could be a "condition subsequent". Mr. Olsen noted as presented, Staggs Road is the selected haul road. That would be Board denial of what is requested. Unless the applicant is willing to consider a change, it would be a new proposal and a new hearing. Commissioner Elfering noted as an after permitted discussion, it would not be compelling. Mr. Olsen added it would be denying the permit if Staggs Road was not the choice for hauling. Commissioner Givens elaborated about roads involved and felt there would be less impact to area landowners if Ferguson Road was used. Chair Murdock wants to be sure of the Board's authority -- to Mr. Olsen, are there provisions for Board direction to use Ferguson Road? Mr. Olsen responded, yes, the impacts to farming practices are a standard of the permit, and would be less if Ferguson Road is used. And, as part of the project, the Board can deny use of Staggs Road. This is a land use application for a Conditional Use Permit; standards allow Board authority to say there would be less impact to landowners if Ferguson Road is used. Chair Murdock noted at the end of the 3/28/16 hearing, it was implied Fergusons are the only ones using it, but there may be just a few others. Still, there would not nearly be as much impact for Staggs Road users. In reading through the material, Commissioner Elfering noted roads are addressed -- use, time of year, contradicting testimony about negative impact of use of that road and farming thereon. Impact would be primarily during construction period (relatively short duration) where more trucks would use the road. He did not feel it was a major issue based on the documents; he was not hung up on the road. Regarding high value land, there are uses permitted. The Planning Commission notes uses are permitted. Regarding noise modeling, conditions are laid out with limitations by state law and county code. The 2-mile set back rule further limited noise issue. Bonding amount is adequate and salvage value is adequate. Regarding the birds and bats report, he felt that was covered.

Discussion continued about denying the appeal but with a statement of preference to use Ferguson Road exclusively. Chair Murdock asked what if they chose to use other roads in addition to but not mainly Staggs Road? Commissioner Givens preferred construction equipment and trucks use Ferguson Road vs. Staggs Road. Hopefully, the road would be used during a time when farming and harvest activities will not be adversely affected. **Commissioner Givens moved to deny the appeal with the subsequent condition that Ferguson Road be used for construction purposes.** Mr. Olsen advised the action should not be recommendation against

subsequent condition. Would the action instead be to deny the application because of the issue of Ferguson Road? It was felt “recommendation” would not bind anybody.

A question was posed by Steve Corey, attorney for Chopin Wind, LLC, with respect to Staggs Road and the area of underground lines to be buried. He and applicant parties requested to talk outside the room for clarification and to come back for comments/questions. Commissioner Elfering called for recess at 9:24 a.m. for 4 minutes. The meeting was called back to order at 9:30 a.m.

Mr. Corey stated what he believes is correct. When planned, there is the Ferguson home – they have access to 2 public roads, Staggs and Ferguson. It would be fine with them for best efforts to use Ferguson Road as much as possible. But, at time of agreement with Ms. Ferguson, the condition was that Ferguson Road would not be used. Commissioner Elfering clarified that the change of road puts the project in jeopardy. Joerg Beland, BayWa project manager, advised 3-4 days would be used for burying conduit. Construction on roads and impacts of farming would be very minimal. Other landowners would be affected somewhat. Mr. Corey added the agreement with Ms. Ferguson is that she does not want to have Ferguson Road used; Staggs Road has no residences on it. Ferguson Road is 1 mile, Staggs Road is 2 miles frontage. Commissioner Givens asked if there are more operators on Staggs Road vs. Ferguson Road? Mr. Corey referred to map in the packet (prepared by Micah Engum). Chair Murdock clarified as matter of record that Commissioner Givens motion was based on using Ferguson Road not Staggs Road. Correct. There was no second.

Chair Murdock moved to uphold the Planning Commission decision including permitting the burying of the cable along Staggs Road but based on assurances from the project people, every effort will be made to work with farmers and to use Ferguson Road whenever feasibly possible. Seconded by Commissioner Elfering. Commissioner Givens opposed. Carried, 2-0. The appeal is denied.

Commissioner Elfering closed the public hearing at 9:36 a.m. He passed the gavel back to Chairman Murdock.

2. Emergency Drill Report. Meghan DeBolt, Public Health Director, requested this item be moved to the next (or future) meeting agenda as Undersheriff Littlefield is in Hermiston today.
3. Solid Waste Committee Annual Report. Susan McHenry, SWAC Chair, presented the annual report per Umatilla County Ordinance Chapter 50.087(C). She summarized by quarter. She noted new member Arne Swanson was added in the first quarter; he has been a good addition to the Committee. Second quarter: included work on emergency waste management plan for solid waste (worked with Jack Remillard, then Emergency Manager). They put together a document with contact information of franchisees, city staff, etc. parties responsible as well as a list of equipment from each franchisee. Each franchisee held a clean-up event in the spring – she noted types of events. Third quarter: DEQ had pending legislation – waste reduction plan part of 2050 vision regarding volume of waste to reduce and recover. The recovery portion Umatilla County declined to do. Despite objections from Umatilla and Klamath Counties, the fees associated with that went into effect 4/1. Fifty-eight cents is added to every ton to go to DEQ. Senate Bill regarding rulemaking waste reduction is being worked on. She mentioned Mark Morgan from

Hermiston has been very helpful in this process. Plan review is to be done in July. As part of added DEQ fees collected, some is earmarked for household waste events. Kudos to Gina Miller for hard work with the committee for this event scheduled at the Pendleton Convention Center on Saturday, April 16. The last event of its type was held in 2004. Regarding recovery rate, there is to be a percentage of increase each year. Commissioner Givens added they tried to get DEQ to stand down, but 20% is the goal and Umatilla County has exceeded that goal every year – kudos to those involved. Ms. McHenry talked about county recovery goals vs. statewide goals. The Board has authority to keep the percentage goal. Chair Murdock noted the County will not be penalized for over-achievement. One thing in the plan not funded is a permanent household hazardous waste facility. Events are sponsored, but it may be something to consider moving forward. There really is not a way to handle it in Umatilla County. There are no additional practices to suggest at this time. Commissioner Givens thanked Ms. McHenry for all her hard work with the SWAC and Commissioner Elfering noted she is also Chair of the Local Public Safety Coordinating Council. **Commissioner Givens moved to adopt the Annual SWAC report. Seconded by Commissioner Elfering. Carried, 3-0.** Regarding abatement, Chair Murdock advised he supports the aggressive stand; it is critical. Ms. McHenry added this is a long-time program that has made a huge difference in the County.

4. Solid Waste Franchise Renewals. Ms. McHenry reported. At its April 5, 2016 meeting, the Solid Waste Advisory Committee recommended approval of six applications as all requirements were met. Renewal is an annual requirement. Commissioner Givens asked about the Pilot Rock franchise. Ms. McHenry noted it is the next agenda item. She and Gina Miller noted there has been nothing new (Quality Compost discussion) since the last meeting. **Commissioner Elfering moved to approve Solid Waste Disposal Franchise for Desert Wind, Inc., Order No. BCC2016-027. Seconded by Commissioner Givens. Carried, 3-0. Commissioner Givens moved to approve Solid Waste Disposal Franchise for Humbert Refuse & Recycling, Inc., Order No. BCC2016-028. Seconded by Commissioner Elfering. Carried, 3-0. Commissioner Elfering moved to approve Solid Waste Disposal Franchise for Pendleton Sanitary Service, Inc., Order No. BCC2016-029. Seconded by Commissioner Givens. Carried, 3-0. Commissioner Givens moved to approve Solid Waste Collection Franchise for Humbert Refuse & Recycling, Inc., Order No. BCC2016-030. Seconded by Commissioner Elfering. Carried, 3-0. Commissioner Elfering moved to approve Solid Waste Collection Franchise for Pendleton Sanitary Service, Inc., Order No. BCC2016-031. Seconded by Commissioner Givens. Carried, 3-0. Commissioner Givens moved to approve Solid Waste Collection Franchise for Sanitary Disposal Inc., Order No. BCC2016-032. Seconded by Commissioner Elfering. Carried, 3-0**

5. New Solid Waste Franchise Application – Pilot Rock. Ms. McHenry reported. On 4/5/16 the Solid Waste Advisory Committee approved the application and recommended approval for Jimmy Doherty, a franchise for the Pilot Rock area. Mr. Doherty is purchasing the assets of Pilot Rock Sanitation LLC. The application is complete with items requested, except he still needs required insurance. She handed out current rate schedule for Pilot Rock noting Pilot Rock Sanitation did not apply for renewal. Doherty will take over subject to approval by the Board; The City of Pilot Rock has given approval for inside the city limits. SWAC recommends approval under the same conditions subject to provision of insurance prior to commencement of operations May 1. She introduced Jimmy Doherty, Pilot Rock. He thanked Ms. McHenry and Gina Miller for all their help. He plans to buy out Pilot Rock Sanitation and he will be operating

under a different entity and name. He will use current employees and will use Randy Zigler (previous owner of P R Sanitation) as a consultant. Customers will see a change in ownership, but most operation is the same with the same rates. He has a shop for maintenance of trucks. In response to a question from Commissioner Elfering, he noted he currently works for UPRR but will quit that job. He will be managing a business (Doherty Fence and another) with his father. He has experience with business operations and books. **Commissioner Givens moved to approve the New Franchise Application for Eastern Oregon Waste Management and adopt Order No. BCC2016-033 with additional provision for insurance as noted by Ms. McHenry. Seconded by Commissioner Elfering. Carried, 3-0.**

6. Development Code Amendment – Park Model Homes. Chair Murdock called the public hearing to order at 10:05 a.m. Carol Johnson, Planning Department, reported. This is a Code Update. This is related to park model homes as temporary hardship homes; it is for documentation of action to adopt what had been previously approved by the Planning Commission and inadvertently left out from the recommendation to the Board. She noted the Planning Commission recommends approval. Mr. Olsen advised this is considered an emergency so the Board can act on it today. Chair Murdock asked for public input. None was heard. He closed the public hearing at 10:06 a.m. **Commissioner Elfering moved to adopt Ordinance No. 2016-05. Seconded by Commissioner Givens. Carried, 3-0.**
7. Public Works – Temporary Employee. Tom Fellows, Public Works Director, reported. He requested approval to hire a temporary employee to grade county roads. An employee retired from his department and two employees have been out for an extended time. Based on that, there is need to request temporary help. A former employee, a retired grader operator, would be willing to come back on part-time basis (at least). Funding in current budget year is available and there are budget savings. **Commissioner Givens moved to authorize hiring a temporary employee at Public Works for the period 4/13/16 to 6/20/16. Seconded by Commissioner Elfering. Carried 3-0.**
8. Purchase of Dura Patcher. Mr. Fellows reported. This equipment was previously an annual lease for about a month (part of the chip seal cold process). It was previously rented. The Board approved sending out a Request for Proposals at the last meeting. A proposal was submitted by Phoenix Asphalt for a used Dura Patcher. This would fit within dollar figure in the Public Works capital outlay budget. He is recommending the purchase from Phoenix Asphalt. **Commissioner Givens moved to approve purchase of a used 2005 Dura Patcher from Phoenix Asphalt in the amount of \$30,000. Seconded by Commissioner Elfering. Carried. 3-0.**
9. Athena Shop Easement. Mr. Olsen presented. Rob McIntyre for the Gem Theater is requesting an access easement behind the Gem Theater on part of the county owned property in Athena used by Public Works. It is primarily for maintenance and back-stage type access. They already have easement for fire escape out the front portion of this side. Mr. Fellows noted it is a minimal area and would not have much impact on current or future use of the property. He referred to a map projected on the monitor that showed the easement area and planned exit. Mr. Olsen advised the general public would not be using it. Mr. Fellows added the Gem Theater has been a good neighbor and vice versa the County. **Commissioner Elfering moved to instruct staff to proceed with discussions about easement. Seconded by Commissioner Givens. Carried, 3-0.**

10. Grant Letter of Support. Mr. Fellows reported. Morrow County has requested a letter of support for a Fastlane Grant of \$8 million. The grant would be to make improvements to Frontage Road between the Depot exit and Paterson Ferry exit, and it takes in Poleline Road, South and County Line Road, more towards the Depot exit, to go back as far as Colonel Jordan Road. Mr. Fellows added this is a “win win” for Umatilla County. **Commissioner Givens moved to approve the letter and authorize approval for signature by Chair Murdock. Seconded by Commissioner Elfering. Carried, 3-0.** Chair Murdock directed Melinda Slatt to add to the letter that the Board voted unanimously to approve support.
11. STF Committee Appointment. Robert Pahl, CFO, noted there has been difficulty in getting quorum for the Special Transportation Fund Advisory Committee. It is hoped to get the committee back to a full complement with terms May 1, 2016 through June 30, 2018. The proposal before the Board is to reappoint three members. **Commissioner Elfering moved to approve the appointments of Virginia M. Beebe, Darren R. Umbarger and Heidi L. Zeigler to the STF Committee and adopt Order No. BCC-2016-034. Seconded by Commissioner Givens. Carried, 3-0.**
12. Foreclosed Property Auction. Mr. Olsen reported. The date of June 7, 2016 is requested for the annual auction for properties foreclosed on for delinquent property taxes. Included will be properties acquired this year as well as property left unsold from previous auctions. **Commissioner Elfering moved to approve Order No. TX2016-01. Seconded by Commissioner Givens. Carried, 3-0.**

Commissioner Reports. Deferred.

Executive session was called pursuant to ORS 192.660. The Board adjourned to Room 121.

No further action taken.

The meeting was adjourned at 10:26 a.m.

Respectfully submitted,

Melinda Slatt

Executive Secretary, Umatilla County Board of Commissioners