

COLUMBIA COUNTY BOARD OF COMMISSIONERS
BOARD MEETING

MINUTES

August 31, 2016

The Columbia County Board of Commissioners met in scheduled session with Commissioner Anthony Hyde, Commissioner Henry Heimuller and Commissioner Earl Fisher, together with Robin McIntyre, Assistant County Counsel and Jan Greenhalgh, Board Office Administrator.

Commissioner Hyde called the meeting to order and led the flag salute.

MINUTES:

Commissioner Heimuller moved and Commissioner Fisher seconded to approve the minutes of the August 17, 2016 Board meeting; August 24, 2016 Board meeting; and August 24, 2016 Staff meeting. The motion carried unanimously.

VISITOR COMMENTS:

None.

1ST READING OF ORDINANCE 2016-4 - ADOPT COUNTY REWARD ORDINANCE:

This is the time set for the first reading of proposed Ordinance No. 2016-4, "In the Matter of Adopting the Columbia County Reward Ordinance and Repealing Ordinance No. 201".

Robin gave a brief explanation on this ordinance, which would authorize the Sheriff to offer an award to persons who provide information leading to the arrest and conviction of those who commit crimes. This will update the existing outdated ordinance. With no objections, Robin gave the first reading of Ordinance No. 2016-4, , "In the Matter of Adopting the Columbia County Reward Ordinance and Repealing Ordinance No. 201". The second reading will be held in 2 weeks.

HEARING: HOMESTEAD EXEMPTION FOR SURVIVING SPOUSES:

This is the time set for the public hearing, "In the Matter of Providing a Homestead Exemption for Surviving Spouses of Certain Public Safety Officers".

Sarah Hanson gave a staff report on proposed Resolution 43-2016. In 2016, US legislature adopted Senate Bill 15-13, which states that a county may adopt a resolution exempting up to \$250,000 of the homestead of a surviving spouse . After prior discussions, the Board has agreed to allow this exemption and schedule this public hearing as required.

The hearing was opened for public testimony.

Rory Hammond 66350 Bishop Creek Road, Rainier: He supports and respects our public service officers, however, this proposal suggests that opposition to this is disrespectful to certain public service officers. He opposes this not out of disrespect, but out of common sense that the plan is ill conceived. He believes that agencies should carry adequate insurance to compensate these heroes and their families. Rory is not against these people, he just thinks this is the wrong way to do it.

With no further testimony coming before the Board, the hearing was closed for deliberation. Commissioner Fisher appreciates the comments by Mr. Hammond and he has his concerns too. The Board has been looking at this for the past few months. He questions why just for fire safety or police officers, those who work on road crews and others that put their lives in danger due to their jobs, why not include them? This is going to spur other working groups to seek the same types of benefits and expand the definition of who would be eligible. The Board has struggled with this and it is a difficult decision. It is not as clear and simple as we would like it to be. Commissioner Heimuller also appreciates Mr. Hammond's comments. He spent most of his adult life as a paramedic - so his concern is what about the many others who put their life on the line for their jobs? His hope is that there will be such an insignificant number that it shouldn't be much of an issue. He is going to support this because he believes this is such a low impact issue right now but feels this just barely opens the door for others. Commissioner Hyde agrees with his colleagues. The county needs to be very pensive in regards to public employees and make sure that they have adequate coverage. There currently is a preexisting state law that allows for veterans to have special tax breaks on properties. He supports this but only in its context. This is a way to provide for those who serve our county.

After deliberation, Commissioner Fisher moved and Commissioner Heimuller seconded to approve Resolution No. 43-2016, "In the Matter of Providing a Homestead Exemption for Surviving Spouses of Certain Public Safety Officers". The motion carried unanimously.

HEARING: APPEAL OF RAD NURSERY FOR INDOOR MARIJUANA GROW:

This is the time set for the public hearing, "In the Matter of an Application Submitted by RAD Nursery to Conduct an Indoor Marijuana Grow Operation in the Primary Forest PF-80 Zone on Old Rainier Road near the Intersection of Larson Road".

Robin McIntyre gave a brief staff report. This application was referred to the Planning Commission who held a hearing and approved the application. The Rainier School District then appealed the application, which is the purpose of this hearing. With regards to exparte contact, Commissioner Heimuller discussed her written testimony with Ms. Judy Doving, which is in the record. Commissioner Fisher spoke with Dr. Carter on the merits of this case and some general discussion about federal and state statute. Commissioner Hyde has none. Robin then read the pre-hearing statement into the record and explained the hearing process. She entered County Counsel's hearing packet into

the record containing a list of all contents, marked Exhibit "1". The Board is up against a deadline of 9.17.16.

Glen Higgins, Chief Planner, came before the Board to give the Staff Report. RAD Nursery Products, LLC applied to use an existing 24,000 sq. ft. Industrial building to grow marijuana for sale to dispensaries. The property and building is owned by Dan and Josephine Leno. The large building, located at 27627 Old Rainier Road, was originally built as an indoor soccer arena for local kids activities; later it was substantially retrofitted for an industrial tree bark packaging facility. This portion of the 83.3 acre parcel with the large building has been through a couple of zone changes in the last twenty years; it is now back to being zoned Primary Forest PF-80. The subject property is located to the west and north of the Old Rainier Road and Larson Road intersection. The property borders Hwy 30 to the north and other forest zoned parcels to the west consisting of large parcel sizes with small farms and forestry uses. Immediately to the south is Hudson County Park, opposite corner, diagonally across the street intersection is the Rainier School facilities. This greater area to the east is zoned for Community Service uses where the Beaver Valley Grange, Rainier Cemetery District, Rainier School District, Hudson County Park and several churches are located in the vicinity. The Rainier School District appealed the decision of the Planning Commission because the marijuana growing site property is located within 1,000 feet from the school campus property, against Federal law. They have serious objections to having a cannabis growing and producing enterprise so close to the educational facility.

The Planning Commission held a public hearing on June 20, 2016 and approved the application MO 16-08 by RAD Nursery Products. At this time, staff is recommending that the appeal be denied and the application be approved, with the listed conditions in the staff report.

The hearing was opened for public testimony.

PROPOSERS:

Raj Punjabi, 75982 Joshua Lane, Rainier: There are no laws at the state or county level with regards to "smell". Even though, he has gone to great lengths to install fans. The 1,000 feet rule is for sale, not manufacturing. What people are missing is that the people of Oregon voted to approve the sale and manufacturing of marijuana. He wanted to be as transparent as possible with this project and has done everything required of him and more. Because of the appeal process, he is losing over \$200,000 per month. He is confused because his application meets all required criteria.

OPPOSERS:

Michael Carter, Superintendent for the Rainier School District, 28168 Old Rainier Road, Rainier: He is here to represent the Rainier School District. Testimony was that

this application meets all criteria. However, Federal Law trumps State Law. If this is allowed, this will be the largest marijuana growing site in the county. The morally and right thing to do is to deny this because of its proximity to the school and parks.

Tara Sorenson, 29303 Thistlehill Road, Rainier: She has a child that goes to this school and she is strongly opposed to this operation. She is concerned about the smells that will emit from the marijuana. There are too many unknowns that it makes her nervous to have this so close to the school and park.

Pastor Steve Berry, 74285 Fernhill Road, Rainier: Pastor Berry entered the following written testimony into the record, marked Exhibit "2". "The proposed Marijuana growing/producing facility on Old Rainier Road is not located at a suitable location, It is in a location that is too near to the Rainier Schools. Students will be exposed to it on a daily basis as they go to and from school. At a time when these minors are at an impressionable stage in their lives, it sends a wrong message to them. There are already two retail and at least one other grow operations in the Rainier area and to have another one is not in the best interest of the residents. We ask that you deny the application for the permit. He is also a grandfather to five students there".

Jeff McCracken, 75950 Rock Crest Road, Rainier: He is a senior Pastor at the Rainier Assembly of God. He agrees with Mr. Punjabi that he wouldn't employ or encourage students to hang out at this facility. That would be a bad place for students to be. But, if that is the case, then why would he want to put it next to a school or a park? He doesn't think that people do not want this in our county. He just asks, is this the best place for it? As for the smell, there is a marijuana business located next door to his church and he can smell the marijuana. He understands that this is a different business, but he can still smell it even though it is all packaged. He is asking the Commissioner's to honor the citizens of this county and community and ask Mr. Punjabi to put this business somewhere else.

Teri Robinson, Apiary Road, Rainier: She drives by the proposed site and it's right across from the camp sites and the soccer field. The kids are going to be smelling and breathing in everything that comes through the air from this proposed facility. When large events take place at the parks, people are going to be smelling it. Dr. Daniel Patterson wrote "individuals with schizophrenia who use marijuana is like someone playing Russian roulette. More people are going to be having these episodes and the police do not need this. She noted there is flooding in that area and what is that going to do to the fish. She is surprised the ODFW didn't comment on this application because it does flood in this area. She agrees with a lot of the comments made today in opposition.

Lugene Ontiveros, 27271 Old Rainier Road, Rainier: She lives just down the road from the proposed operation. She appreciates Mr. Carter's statement that the Board of Commissioners have the opportunity to do the right thing. She has been a substitute for the Rainier School District and has seen the effects of drug addiction on our children. Mr.

Punjabi stated in the last hearing that he would come into the schools and talk with the students about not using drugs, but that is not going to work. She doesn't see how this operation is going to help the children. Her biggest concern is the example this is going to set for our children.

REBUTTAL:

Raj Punjabi: As for talking to the students, he donates a lot of time talking with students about drugs. He is in the music industry and has spent a lot of time at Winlock School District, he was also the grand marshal at the Ag Days Parade in Winlock. He has already been giving to the community. Weed is also a medicine and people are forgetting that aspect. As for the comment on having armed guards, that is not fact. Everything is monitoring electronically through the State. Further, you can't see the building from the school. This is a land use issue, not a moral issue. Educate your children and don't put it off on him. No one younger than 21 will be allowed in the operation. The only reason people know about this is because of the appeal. He wanted to keep it low key. He's \$200,000 deep into this project already. As for the mold issue, he has humidifiers and everything in this operation is highly controlled. He chose this location because it meets all the criteria for a production facility. The state law about being within a 1,000 feet of the school does not apply for his facility. He would agree with that if the operation was retail, however it is only for production purposes. There is a very stringent operation set up by the State. The retail store that was talked about is because those people are smoking it and of course there is going to be a smell, although again, there is no smell ordinance. The State did 4 times more than what they thought they were going to do in marijuana revenue. He is trying to do everything he needs to do to meet all criteria and will comply with all conditions.

With no further testimony coming before the Board, the hearing was closed for deliberations. Because the deadline is 9.17.16, the record was also closed. Robin noted that because this is a land use case, any decision by the Board will be tentative until the final order is prepared.

Commissioner Fisher feels that the issue of whether pot is good or bad is not the question. The people voted to approve legalization by a large margin and although he doesn't agree with it, he has sworn to abide by the laws and he will do that as best as he understands it. As much as it grieves him, he will most likely approve this with the conditions as recommended by staff.

Commissioner Heimuller wanted to commend Mr. Carter for his presentation and concerns on behalf of the school district. That said, he is a Commissioner for the county that has a park directly across from the proposed facility. When the people of the State of Oregon were asked to pass Measure 91, it passed overwhelmingly. The law is clear that "retail" dispensaries must be 1,000 feet from schools but this is a production facility. He wanted to commend Mr. Punjabi for the simple fact that he has gone through the legal,

required process to obtain his permit because there are many out there that are doing this same thing illegally and with no permits. However, with regards to his comment that the Board needs to be “educated”. This Board is more educated on this subject than they ever thought they would be. The Commissioners also live in this county and those parks are also their parks. He referred to Lugene’s comments about setting a bad example. He agrees with that, but what sets a worse example is driving down Highway 30 and seeing all the signs about marijuana. We need to educate our children about this and that is the big challenge. Mr. Carter’s comments were completely correct on the federal law. Commissioner Heimuller referred to language in federal law...a guidance regarding marijuana enforcement, it states “The federal government will not focus on prosecuting marijuana crimes under federal law if there are strong state regulations in place for the production, processing or selling and enforcement by state law and state and local law enforcement and regulatory bodies shall remain the primary means of addressing marijuana related activities”. Therefore, it states where marijuana is legal, the federal government will rely on those states to enforce their own state marijuana laws. We cannot enforce what is not in our law. This is a land use issue and that site is appropriate for this. He will support this.

Commissioner Hyde agrees with his colleagues. However, regarding the smell issue, he can remember a few years back people complaining about a horrendous smell coming from Beaver Bark in Scappoose. They are no longer there because of that. There was also an issue in Rainier with a barkdust smell, although not to the extent as Beaver Bark. His point is that there are State regulations on smell. The county will be monitoring that the condition addressing smell is being complied with. This application can be revoked if any condition applied to the application does not comply, the operation can be shut down.

After deliberations, Commissioner Heimuller moved and Commissioner Fisher seconded to tentatively approve Application MO 16-08 by RAD Nursery Products, LLC., for an Indoor Marijuana Grow Operation in a Primary Forest Zone and direct staff to prepare the final order. The motion carried unanimously.

CONSENT AGENDA:

Commissioner Hyde read the consent agenda in full. With no changes/additions, Commissioner Heimuller moved and Commissioner Fisher seconded to approve the consent agenda as follows:

- (A) Ratify the Select to Pay for week of 8/29/16.
- (B) Authorize the County Assessor to fill (1) promotional Appraiser II Position.
- (C) Appoint Claudia Eagle to the Columbia County Transit Advisory Committee for a 3 year term.

- (D) Approve a 90% waiver of the Medical Hardship application fee requested by Delbert Riggs.
- (E) Order No. 48-2016, "In the Matter of the Petition by Darren & Tania Rahier and Other Property Owners to Name a Private Road off Hazen Road in the RR-5 Zone as "Fairway Lane".
- (F) Resolution No. 49-2016, "In the Matter of the Proposed Vacation of an Unnamed, Platted Right of Way off of Hovland Way, near St. Helens, Oregon".

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (G) Intergovernmental Agreement No. 31488 with the Oregon Department of Transportation for Single Trip Permit Authorization.
- (H) Public Road Event Permit and Indemnity Agreement for the Wings & Wheels 16K Run Event for 9.10.16 and authorize the Chair to sign.

The motion carried unanimously.

FINANCIAL CONDITION OF COLUMBIA COUNTY:

Jennifer Cuellar, Finance Director/Treasurer, came before the Board to respond to the recent article in the local newspaper on the County's debt, the most indebted county in the State of Oregon. That is inaccurate. Jennifer reviewed the recent State Report that looked at county debt and presented the Board with a chart and narrative on Columbia County debt. In a prior report, Columbia County was a concern, so the county made prudent financial decisions. The reason why our metric was high for debt was because we have been paying down significant debt faster and none of it is attached to our general fund. Commissioner Fisher wanted to ensure the citizens that the county is not overly indebted and our debt is being paid off and not by the taxpayers but with the users like the Port Westward site.

COMMISSIONER HYDE COMMENTS:

Commissioner Hyde was in Eugene last week to meet with the Forest Industries, as a member of the O&C Board.

COMMISSIONER HEIMULLER COMMENTS:

Commissioner Heimuller had no comments.

COMMISSIONER FISHER COMMENTS:

Commissioner Fisher had no comments.

There was no Executive Session held.

With nothing further coming before the Board, the meeting was adjourned.

Dated at St. Helens, Oregon this 31st of August, 2016.

NOTE: An audio CD of this meeting is available for purchase by the public or interested parties. A video of the meeting is also posted on our website at www.co.columbia.or.us

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____
Anthony Hyde, Chair

By: _____
Henry Heimuller, Commissioner

By: _____
Jan Greenhalgh
Board Office Administrator

By: _____
Earl Fisher, Commissioner