

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

MINUTES

October 7, 2015

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

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

MINUTES:

Commissioner Hyde moved and Commissioner Fisher seconded to approve the minutes of the September 30, 2015 Board meeting and September 30, 2015 Staff meeting. The motion carried unanimously.

VISITOR COMMENTS:

Nancy Whitney, St. Helens: The O&C was established in 1937 and originally granted by the federal government to encourage growth in western Oregon. Her reason for bringing this up is because Commissioner Hyde has worked with timber corporations for many years and is currently President of the O&C Board. Therefore, she would ask that he recuse himself from any land use decisions involving Weyerhaeuser.

Commissioner Hyde responded. He is dumbfounded that she could tie those two together and the assumption is absolutely ludicrous. O&C timber lands are deeded lands to the O&C Act from the federal government formerly owned by the O&C Railroad. They were supposed to be deeded to the public. This has nothing whatsoever to do with Weyerhaeuser.

Robin noted that this is time for public comment, for things not on the agenda but this comment would be related to the public hearing.

LONNY WELTER - RECIPIENT OF THE OEMA PARTNER AWARD:

Commissioner Heimuller asked Lonny Welter to come forward to recognize him as the recipient of the Oregon Emergency Management Association Partner Award. The OEMA annually solicits nominations to recognize their peers in 3 different categories, innovation, coordination and service, based on ones accomplishments over the past fiscal year. Lonny was nominated and awarded the OEMA Partner Award for his service in 2015. The Board wanted to publicly thank Lonny for all of his hard work on emergency preparedness for Columbia County.

HEARING: WEYERHAEUSER PROPERTY LINE ADJUSTMENT APPEAL:

Robin McIntyre stated that this is the time set for the public hearing, "In the Matter of the Application Submitted by Weyerhaeuser NR for (21) Property Line Adjustments in the Primary Forest (PF-80) Zone". Commissioner Heimuller stated no conflicts of interest or ex parte contact. Commissioner Fisher declared ex parte contact by driving out to the subject area and he had a short conversation with Ann Mathers about the hearing process when she dropped a letter off at the Board office. Commissioner Hyde talked briefly about O&C and that it has absolutely nothing to do with Weyerhaeuser. Robin then read the pre-hearing statement in full. She entered County Counsel's hearing file into the record as **Exhibit "1"**; a letter received Ann Mathers as **Exhibit "2"**; and a letter from Kim O'Dea as **Exhibit "3"**.

Glen Higgins, LDS Planner, came before the Board to give the staff report. Weyerhaeuser has applied for 21 property line adjustments to reconfigure parcel lines (all four corners), effectively moving the entire parcels into an area closer to Robinette Road. The purpose of the property line adjustments is to prepare the reconfigured parcels for sale as acreage residential homesites. Including the parcels they do not move, there will be a total of 26 new lots for sale. Weyerhaeuser has constructed a new road to serve the development from Robinette Road, just north of the water tank, going east past a couple of farms into the commercially owned forest lands. The applicant has configured the location of these new parcels so that they each would qualify for a dwelling.

The Planning Commission denied this application (PLA 15-33 thru PLA 15-53) based on incorrect information supplied by DLCD. The applicant's attorney immediately appealed, and supplied information by showing the cited LUBA case and it was overturned. The State and the County have not adopted any rules or criteria for regulating the use of PLAs for extensive parcel re-configurations such as has been proposed by the applicants. The reconfiguration of parcels using the property line adjustment process results in a development pattern similar to a 26 lot subdivision in the PF 80 acre zone.

After review of the report and based on the findings contained in the Staff Report, staff is recommending denial of the appeal and the applications PLA 15-33 through PLA 15-53, based on lack of compliance with county policies: 1) requiring a proven source of water for the development, either by individual well or by the extension of a Community Water System; 2) against the extension of a Community Water System into forest resource lands; and 3) protecting big game habitat by preserving larger resource parcels.

The hearing was opened for public testimony.

PROPONENTS:

Tim Sherer, Operations Manager for Weyerhaeuser, PO Box 9777-CH2C26, Federal Way, WA 98063: He is not going to belabor his comments, the Planning Commission record is in the Board's file and those comments are the same and are in the record. He appreciates the flag salute at the beginning of this meeting because it represents our rights. We all have our property rights, on both sides of the issues. He believes that Weyerhaeuser should be able to exercise their rights as property owners. Weyerhaeuser has always been up front with the county on what their intentions are with this property. Tim talked with the road department a couple of years ago so Weyerhaeuser would know what would be expected of them. However, many of the concerns being brought up are for any applications down the road, and nothing to do with this hearing for a property line adjustment. Glen had made the point that, as of now, there is currently 31 legal lots. In reality, Weyerhaeuser could sell each property individually and then each of them would have to apply for a PLA. As for wells, again that has nothing to do with this PLA discussion, however they have worked with McNulty Water to address their concerns. Tim stated that it is legal for Weyerhaeuser to apply for these property line adjustments. Whatever happens after the fact, will be addressed at that time, but this is a legal application. If this application is denied, Weyerhaeuser will most likely sell the 31 parcels and those owners could decide what they want to do with their property, possibly converting it out of forest land. Lastly, Tim stated that, at the Planning Commission hearing, the commission asked staff if they wanted more time to amend the staff report to consider the letter received by DLCD because it was received after the original staff report was already done. The minutes will show that the staff determined there was no need for additional time to amend the staff report because the commission had the letter in front of them and enough information to make a decision. Staff could have asked for a continuance but they didn't and now their saying they needed more time. Tim didn't receive a copy of that letter until he walked into the Planning Commission that night.

Don Wallace, 1224 Alder Street, Vernonia: He is Weyerhaeuser's open land surveyor and has been working in Columbia County for over 25 years. This is the process that has been used in this county for years and he has done 100's of property line adjustments. Over the past 10 years he has done a lot of serial PLA's, sometimes involving 3, 4, even 7 lots. Glen made the comment that the County recognizes serial PLA's as developments. In all of the PLA's that Don has done, not one was considered a development until this one. He was never asked about big game, road improvements, or water, because that would be unlawful because they are not a development by themselves. The development comes later. Using the maps posted, Don explained that, between the lots that will pass the template test and the large lot option, all could be developed. Weyerhaeuser didn't want to spread homes over 800 acres, so they chose to bring them in to 150 acres. Lastly, there was a recommendation in the staff report that talked about recording sequential deeds and a

survey for each lot line adjustment, which would mean 21 different surveys. He talked with the County Surveyor who doesn't think it's in the best interest of the public to have 21 different surveys filed. He would rather just see one survey that shows the end product.

Kimberly O'Dea, 375 W. 4th St., Suite 204, Eugene, Or: She is a Land Use attorney for the applicant. As an attorney and she has never had a staff base a decision on their opinion, instead of what has been established as law. Regarding tax deferrals on forest property, a person would only have to pay the back taxes on the deferred amount, which typically isn't much. Moving on to the application itself, there is not one single request for water, roads, a house, no request for any sort of development whatsoever. Why?, because this is an application for property line adjustments. The Board must wait until a development application is applied for and that is when those concerns and issues will be addressed. She heard a comment about extending McNulty Water into the forest zone, however it already exists in a forest zone. Glen did a good job of describing serial PLA's, which are not developments. Any criteria in the code points to big game, roads, etc., are for development, not PLA. With regards to PLA criteria, there are only about 5 criteria and in the staff report, each of those criteria have been met. In summary, this is an application for a PLA only, not a development.

Richard Lager, 57915 N. Morse Road, Warren: He is with McNulty Water and their engineer states that McNulty has more than enough water for years. Even with the lack of rain this past summer, there are no issues with water. He has conveyed to Weyerhaeuser about concerns will any wells, because if wells are dug, they could go through McNulty's aquifer and drain it. Although they have nothing in writing as this point, Weyerhaeuser has agreed there will be no wells. As long as they keep to that, McNulty will have plenty of water to serve this area and would have no concerns with this PLA.

Robert Nicklaus, 61004 Gensman Road, St. Helens: He is Vice President of McNulty Water PUD. For the record, the elk in his area don't read reports, they just come and go. Referring to the posted maps, he pointed out where the aquifer storage and recovery facility areas. This has been about a five year project, working with water resources and DEQ to development this aquifer storage. They drilled it as a well, but didn't recover much so they use it as storage. So if Weyerhaeuser comes in to do this development, as Richard Lager said, a private well could perforate their aquifer and drain their storage. McNulty's primary concern is to protect their customers. He has worked with Tim Sherer over time and trusts him on this. That said, he understands that these issues will be addressed through any development applications. He also mentioned that they currently have to boost water up Robinette Road. With this development, it will be updated and improved and will benefit existing customers in that area.

Nate McGilvra, 35000 Kissel Camp Road: His property borders Weyerhaeuser on the north. He and some of his neighbors have done PLA's over time to organize space. As far as Weyerhaeuser, if they follow the law, he sees no problem with it. He grew up out here in the country and it was a great childhood. If you get kids growing up like this, there tends to be less crime. Again, as long as they follow the law, all is good. He gets real tired of being told by the State what he can and cannot do with his property.

OPPONENTS:

Jeanne Becker, 34186 Hankey Road, St. Helens: She had submitted a letter to the Planning Commission which is already included in the record and states most of her objections. There is a lot of talk about this application and that it's just about a property line adjustment. However, once the property is divided up, what is going to happen to the land. We need to keep our timberlands intact. If Weyerhaeuser wants to sell the current larger parcels and people can build on them, then we protect our timber land and she is all in favor of that.

Ann Mathers, 60460 Robinette Road, St. Helens: Tim Sherer had mentioned that he's glad to be an American and that we can all speak our minds. She agrees with that, but she also believes that we have responsibilities. She read her letter into the record, detailing her opposition to this application. Her home is going to be effected by this. It is erroneous that Weyerhaeuser says this is only a PLA, not a development. They have shown no concern for the fragile watershed, the big game habitat or the neighbors that will be effected. Weyerhaeuser will take their profits and just walk away.

Denise Jones, 34040 Hankey Road, St. Helens: She has lived at the corner of Hankey and Robinette Road past 15 years. In that time, the road has been resurfaced (chip sealed) one time. There has been a considerable amount of development up Robinette that results in increased traffic and wear and tear on the road. The sides of the road are crumbling away. When she heard that Weyerhaeuser was cutting in an access road up Robinette, she walked up the old logging road see if it connected to the new road, and it does. For them to say this is simply a PLA and not for development, is insulting to the neighbors. To call this anything other than a development application is ludicrous. She is going to be doubly impacted by the increased traffic. To develop this property and leave the burden with the neighbors is simply wrong.

Paula Lichatowich, PO Box 439, Columbia City: She is a member of the Planning Commission and is one of the members that heard these applications. She clarified that Mr. Sherer mis-spoke when he said that staff recommended denial. She referred to page 22 of the PC staff report dated 8/7/15, that states staff could not recommend either approval or denial. Further, she wanted to point out that there are no Planning Commission minutes in record because they have not yet been prepared for approval. Regarding Mr. Sherer's statement that the Planning Commission asked staff if they

needed additional time to amend the staff report due to the DLCDC letter, they did not ask that question. Moving on with her comments, the first purpose of the PF-80 zone is for forest management and other activities in that zone that have the potential to supplant forest uses and forest management. The County needs to be careful on what is being allowed in a forestry zone because it does impact our forest industry.

For the record, she is testifying as an individual, not on behalf of the Planning Commission.

Back to her comments, she believes that the State is running into problems because of local governments approving applications piece-meal and we end up with something that was not the original intent. In this instance, if the county approves Weyerhaeuser's applications, it will be the first step in creating 26 lots intended for new homes in the PF-80 zone, which will definitely impact forest industry. She would recommend denial of this application because to approve it means loss of wildlife habitat, compromising clean water, carbon sequestration, increasing damage to homes and other properties from forest fires and increasing safety concerns. She believes it is important for all to work together for what's best for Columbia County.

Lona Pierce, 56498 Crest Drive, Warren: She agrees with a lot of comments already made and won't repeat a lot of it. However, she wanted to add that the PLA's being requested will make it possible to convert a large area of prime forest lands into a subdivision. This is not the intent of the lot line adjustments to change a forest zone into subdivision. The existing parcels would be perfect for small woodland owners because this is prime forest land. If Weyerhaeuser doesn't want this property anymore, then sell it to small woodland owners. She would recommend denial of this application.

Joe McGilvra, 34076 Hankey Road, St. Helens: In 1978, his parents converted their farm land into timber. He is here because he lives in the flood zone. Every bit of water that comes down Robinette Road or anywhere else from up land that is not captured by a trees, comes down the creek. He gave some history on past flooding problems. Trees drink approximately 300 gallons per day. He trusts that the Board of Commissioners, the Planning Department and our neighbors to do what's right here and, if Weyerhaeuser does develop this property (and he believes they have the right to do that), that they follow all the safe guards for water management, run off and siltation.

Tracy Barker, 36045 Liberty Hill Road, St. Helens: Tracy submitted a letter into the record on behalf of the wildlife habitat, which was entered as **Exhibit "4"**.

REBUTTAL:

Kim O'Dea responded to some of the comments made. She first wanted to thank everyone who testified for their civility because something this can get very heated. On

the issues raised, she noted again that water concerns is a develop issue and that goes largely for most of the comments made here today. This is a big process and there can be no development until it's applied for and the concerns brought up today would be addressed during any development permit process. There were some legitimate concerns about road conditions, but again, those concerns would be addressed through another land use application.

Tim Sherer considered himself as a neighbor but is not going to take some of the comments made personally. He wanted to give his phone number 360-581-2048 on the record and encouraged anyone who wants to talk, to call him. He likes to be able to address concerns and work to mitigate them. Weyerhaeuser has been working with the McNulty Water PUD Board on a draft agreement that includes no wells being allowed. This is not a big multi-million dollar project for Weyerhaeuser. He also wanted to comment that there is no disrespect intended to any of the neighbors. The roads that were tentatively included are not set in stone and were only added to be up-front about this. As for doing a subdivision, that's not what Weyerhaeuser is into. By keeping the larger lots, they can manage it and that's a good thing. He tried to talk to every property owner that abuts Weyerhaeuser land and that was his goal. If someone was missed, please feel free to give him a call. When asked about conduit and lines going up at the property, Tim is not aware of that. Weyerhaeuser had talked with the phone company, CRPUD, and other about 2-3 years ago for planning purposes only. They are not going to spend any money on this until the PLA's are approved. Because if not approved, then it would be a waste of money.

With no further testimony coming before the Board, the hearing was closed. Commissioner Hyde stated that he would like additional time to review the record. Robin stated that the final decision deadline is November 5, 2015. Commissioner Fisher feels it is totally unnecessary to keep the record open because it would be just more of what the Board has already heard. Commissioner Hyde would still like to see this application fully vetted.

With that, Commissioner Hyde moved and Commissioner Heimuller seconded to close the hearing to oral testimony and leave the record open for 1 week (10/14/15), applicant to have 1 additional week to rebut (10/21/15) and deliberations to be held on 10/28/15. Commissioner Fisher opposed. The motion carried.

CONSENT AGENDA:

Commissioner Heimuller read the consent agenda in full. Commissioner Hyde commented on Item (E) which will now allow the development of Dibblee Beach. With no changes/additions, Commissioner Hyde moved and Commissioner Fisher seconded to approve the consent agenda as follows:

- (A) Ratify the Select to Pay for week of 10/5/15.
- (B) Approve Personnel Actions for Steve Pegram, Jan Kenna and Jan Greenhalgh.
- (C) Order No. 47-2015, "In the Matter of Reimbursing Public Agencies in Columbia County for the Cost Impacts of the Hood-to-Coast Relay and Returning Remaining Deposit".

AGREEMENTS/CONTRACTS/AMENDMENTS:

- (D) Non Emergent Transportation Services Agreement with Sunset Empire Transportation District, doing business as Ride Care, for Medicaid Rides.
- (E) State of Oregon Department of State Lands Upland Lease Agreement (56901-SU) for Dibblee Beach and Authorize Chair to sign.

The motion carried unanimously.

COMMISSIONER HEIMULLER COMMENTS:

No comments today.

COMMISSIONER HYDE COMMENTS:

Commissioner Hyde attended an O&C meeting in Eugene last Thursday and Friday and just commented that there was no discussion about big timber.

Yesterday, he attended the CEPA meeting and believes it to be one of the biggest in attendance so far.

Last Wednesday he was in Salem to testify on the county's level of emergency preparedness.

LETTER OF SUPPORT FOR MUSEUM GRANT APPLICATION:

Commissioner Hyde moved and Commissioner Fisher seconded to approve the letter of support for the County Museum application for a lighting and preservation grant application . The motion carried unanimously.

COMMISSIONER FISHER COMMENTS:

He just wanted to comment that he also appreciates the civility of the crowd today during the hearing.

There was no Executive Session held.

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

Dated at St. Helens, Oregon this 7th day of October, 2015.

NOTE: A tape of this meeting is available for purchase by the public or interested parties.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: _____
Henry Heimuller, Chair

By: _____
Anthony Hyde, Commissioner

By: _____
Jan Greenhalgh
Board Office Administrator

By: _____
Earl Fisher, Commissioner