

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

MINUTES

November 4, 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 October 28, 2015 Board meeting and October 28, 2015 Staff meeting. The motion carried unanimously.

**VISITOR COMMENTS:**

None.

**HEARING: ESTABLISH REGULATIONS FOR MARIJUANA LAND USES:**

This is the time set for the public hearing on proposed Ordinance No. 2015-4, "In the Matter of Amending the Columbia County Zoning Ordinance to Establish Regulations for Marijuana Related Land Uses".

Robin noted this is a legislative hearing and went through the hearing procedures. She then entered County Counsel's hearing file into the record containing a list of all items received to date as **Exhibit "1"**; email from Steve Ontiveros as **Exhibit "2"**; letter from Ray Johnson as **Exhibit "3"**; and letter from Judy Doving as **Exhibit "4"**.

Todd Dugdale, LDS Director, came before the Board to give the staff report. When asked, he explained that if a specific county didn't pass the marijuana measure, that county has the option to opt out, however, Columbia County did pass the measure. Robin also noted that a county that opts out, does not benefit from any applicable taxes. Todd then continued with a summary of the very detailed staff report dated 10/16/15. He referred to the overhead to show a detail of the proposed Columbia County Marijuana Use Zoning Amendments and which zones will or will not be prohibited. He then reviewed the recommendation from the Planning Commission. At this time, staff is recommending the adoption of Ordinance No. 2015-4 as amended and discussed.

The hearing was opened for public testimony. Commissioner Heimuller noted that testimony is limited to 3 minutes per person.

**James Owens, 74391 Columbia River Hwy, Rainier:** He asked if his petition is in this record and does it weight with the Board? Yes. James stated that 65 people signed that petition who don't want any type of marijuana sold or grown anywhere in the Lindberg area, specifically the old Lindberg store. He understands there will be cameras and security, but that's for the store, not his property. He has been robbed a number of times already and feels that will just get worst.

**William Etter, Scappoose:** He asked if the Board appealed the LUBA ruling on the moratorium and, if not, why not? Commissioner Hyde explained that this is a hearing to take testimony, not questions for the Board. The question is not relevant to this hearing.

**Judy Doving, 73572 Cedar Drive, Rainier:** She lives in an RR-5 zone and is taking issue with the recommendation to allow marijuana grows in the RR-2 and RR-5 zones. She believes that both are inappropriate for a commercial crop of marijuana. These areas are inhabited by people who want to raise cows, horses, kids and plant gardens and not have a marijuana field across the fence that can possibly effect their property values and definitely their lifestyle they had envisioned. She understands that the State is trying to make sure that the people have a right grow marijuana because the law allows it, but there is a place for that, and it's not in these small areas. The difference between pot and any other crops that have been allowed in these zones, is that they didn't cause intoxication.

**Cynthia Anderson,** she has property in Rainier and Clatskanie. If she wanted to start a co-op and go from place to place, could she do that? Another question, she understands that the county decided not to tax marijuana at 3% and wonders why. She knows that the Sheriff Dickerson has a problem with finances. The people voted in a levy for operations of the Jail but he doesn't have enough manpower. A tax on pot could go to more deputies. The Sheriff had stated that last year there were 40 arrests for DUII's, compared to 117 the previous year. Why? Because there is a lack of deputies. We need more support and safety in the rural communities.

**David Harley Sr., Deer Island:** He lives on 5 acres and his concerns are with the odor and use of water and the narrowness of the properties on Olson Road, most of which are only 165 feet wide. He feels that the set backs should be increased considerably so any grows are further away from the homes. Again, water, odor and set backs are his big concerns.

**Robert Bristow, 32204 Sam Blem Road, Scappoose:** His concern is that whatever is approved, is compliant with the constitution. As he understands it, the discussion has

only been on commercial use, not personal use, which should be addressed. We have to remember that man is exempt from all law except for that which is prescribed by nature. Further, no government body can pass law which controls the behavior of we the people. He believes that setbacks does that very thing. Also, in any law where a part of it is unconstitutional, the whole thing has to be considered null and void. There may be some concerns about the odor, but that is about plants being grown outside. If the plants are grown inside a greenhouse, that shouldn't be an odor problem and setbacks should not be necessary.

**Mike Sheehan, 33126 Callahan, Scappoose:** Mike submitted into the record, marked **Exhibit "5"**. He generally supports this ordinance, but would recommend that there be no outdoor grows allowed in the RR-2 and RR-5 zones. Both of those zones can be actually smaller, more dense and close to residential areas in the cities. He would also support no indoor grows in those areas too. As for the agricultural and forest zones, there should be a provisions if they abut a residential area. With respect to enforcement, if possible there should be a sales tax from grow operations, processing operations and the retailers. If that doesn't happen, then perhaps there could be an annual inspection fee, perhaps at random, to cover the cost of enforcement.

**Kit Clausen, 73501 Cedar Drive, Rainier:** These amendments seem to deal with commercial properties only, not for personal grows. He lives in an RR-5 zone and he can see a potential grow site from his own bed and is not happy about that. He expressed his concerns with pesticides and chemicals into the soils. He moved here 11 years ago to get away from this type of problem. He is totally against this and feels the county needs to tighten up the rules. As for the tax, if we can't opt out, then consider increasing the tax. He wants the Board to look at what's best for the community.

**Olin Younger, Fishhawk Road, Birkenfeld.** He lives in a very rural area. He believes this needs to be taxed or impose some type of revenue from this to be used for non-profits in our communities, i.e., Public Health, the Vernonia Health Clinic, etc. He also asked for clarification on growing vs processing and that you can't do both? Todd clarified that the County is using the State's definition of processing as it applies to marijuana but agrees that it is somewhat confusing. Olin feels that needs to be more defined in the ordinance.

**Ed Burgmans, Alternative Medical Consulting, PO Box 1442, Clatskanie:** He has heard a lot of concerns addressed here today. He thinks people may be feeling that this will create a huge wave of crime. We must remember that marijuana has been legal for 20 years now. What these new rules will do is bring some order, regulate it and tax it. He would like to see the drugs out of the hands of the black market.

**Nancy Seeler, 3365 Bennet Road, Warren:** She asked why RR-2 and RR-5 outdoor grows require a resident on the property? Commissioner Hyde noted that this

ordinance doesn't allow outdoor grows in those zones. She asked again why is there a requirement for a residence on the property for this crop but that isn't required for any other type of crop such as wheat, corn, etc. Why did that even come up? Todd responded. This is more of a perceived danger to others and needs some oversight.

With no further testimony coming before the Board, the hearing was closed for deliberations.

Commissioner Fisher noted that 56% of the people in this county voted for this measure but now no one wants it in their backyard. All that said, the people voted for this. The recommendation from staff to make it the suggested changes in the RR-2 and RR-5 zones are reasonable along with the requirement to have a residence on the property. As for the tax, there will be a stream of funding but that amount is unknown at this time.

Commissioner Hyde he agrees that the RR-2 and RR-5 zones should require a Conditional Use Permit process instead of just an administrative review. We should tax this as much as we can and to whatever extent we can because there will be consequences. For the most part, the Planning Commission has been very pensive on this issue. He agrees with no more than 1 State issued grow on each property. That said, he wants more time to review the comments made here today and recommendations by staff.

Commissioner Heimuller first wanted to thank the committee that worked very hard on this ordinance. It is important to note that there are counties and cities in this State that have chosen to take no action on this matter. There are those who would have liked to see Columbia County do that. However, there are those who are commercial growers in the industry who applaud the fact that the county to working to put some sideboards on this measure to negate the impacts as best they can so that appropriate business models can be developed. As for the LUBA ruling against the County, it's fine because it gave them what they were looking for, which was more time to put an ordinance together that will regulate this in a clear manner. He talked briefly about the specific issue of the Lindberg Store. He asked Todd to clarify outright permitted uses. Drug stores, by reference, are an outright permitted use in the commercial zone. Commissioner Heimuller stated that he and his colleagues now know more about marijuana and the industry than they ever thought they would need to know. He appreciates the work of staff and the comments made by all involved.

At this time, Commissioner Hyde moved and Commissioner Fisher seconded to carry over deliberations to Wednesday, November 25, 2015 at or after 10:00 a.m. The motion carried unanimously.

**CONSENT AGENDA:**

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

- (A) Ratify the Select to Pay for week of 11/2/15.
- (B) Cancel the 11/11/15 and 11/18/15 Board and Staff meetings.
- (C) Order No. 53-2015, "In the Matter of the Application Submitted by Weyerhaeuser NR for 21 Property Line Adjustments in the Primary Forest (PF-80) Zone".

**AGREEMENTS/CONTRACTS/AMENDMENTS:**

- (D) Amendment #2 to the 2015-2017 IGA #148004 with the Oregon Health Authority and the Public Health Foundation of Columbia County and authorize the Chair to sign.
- (E) Oregon State Service Corps 2015-2016 Placement Site Contract for Full-time Member Positions and authorize the Chair to sign.

The motion carried unanimously.

**COMMISSIONER HEIMULLER COMMENTS:**

Commissioner Heimuller will be attending the NOHA meeting tomorrow in Tillamook.

He explained the reason for the cancellation of the next two Board meetings. November 11<sup>th</sup> is Veterans' Day and November 18<sup>th</sup>, the Board will be attending a week long AOC conference in Eugene.

There are a number of events taking place around the county and he encouraged people to take the time to honor our Veterans. He will have the privilege of speaking at the Veterans Day event at McCormick Park on the 11<sup>th</sup>.

**COMMISSIONER HYDE COMMENTS:**

Commissioner Hyde was invited to attend the Multnomah County Board of Commissioners meeting yesterday to talk about the relevance of the timber industry to

Multnomah County and as a whole. This is not just an Oregon issue, this is a national issue.

**COMMISSIONER FISHER COMMENTS:**

Commissioner Fisher attended the Traffic Safety Committee meeting this morning. A study was done in Clackamas County and, looking at why accidents happen, 70+ accidents are caused by people, not the outline of the highways. We all need to pay attention while driving.

He heard a lot today about the constitution. He would hope that people take the time to actually read the constitution and not just listen to others interpretation. There was an election in Coos county yesterday that states the Sheriff of that county will not have to enforce any laws that he personally does not feel is constitutional. How can that even happen! People need to pay attention to what is happening out there.

There was no Executive Session held.

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

Dated at St. Helens, Oregon this 4<sup>th</sup> day of November, 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

