

**Morrow County Board of Commissioners Meeting Minutes
December 11, 2019
Irrigon Branch of the Oregon Trail Library District, Community Room
Irrigon, Oregon**

Present

Chair Jim Doherty

Commissioner Don Russell

Commissioner Melissa Lindsay

Darrell J. Green, Administrator

Kate Knop, Finance Director

Justin Nelson, County Counsel

Richard Tovey, County Counsel

Karmen Carlson, Human Resources Director

Roberta Lutchter, Executive Assistant

Call to Order & Pledge of Allegiance: 9:00 a.m.

City & Citizen Comments:

Irrigon City Manager, Aaron Palmquist, welcomed everyone to Irrigon and provided a brief update on changes to some of the City's projects.

Former Morrow County Commissioner and Irrigon resident, John Wenzholz, said he was at the meeting to support the zone change movement from Pole Line Road to Paterson Ferry Road.

Open Agenda: No items

Consent Calendar

Commissioner Russell moved to approve the following items in the Consent Calendar:

- 1. Two Accounts Payable, December 12th, \$70,032.77 & Visa \$12,468.71; Manual Check Run, December 5th, \$6,437.92; Retirement Taxes, December 5th, \$21,492.80*
- 2. Oregon Health Authority (OHA) Intergovernmental Agreement (IGA) #159175, Amendment 4, Financing of Mental Health, Addiction Treatment, Recovery & Prevention and Problem Gambling Services; and authorize Chair Doherty to sign on behalf of the County*
- 3. Oregon Health & Science University Subaward #1015198, Amendment 1, CaCoon Home Visiting Services; and authorize Chair Doherty to sign on behalf of the County*
- 4. OHA IGA #159824, Amendment 5, Public Health Emergency Preparedness & Response Funding; and authorize Chair Doherty to sign on behalf of the County*

Commissioner Lindsay seconded. Unanimous approval.

9:03 a.m. Public Hearing

Chair Doherty asked everyone to sign-in and called for abstentions or conflicts of interest. He said he met with the applicants (Ryan Neal, Port of Morrow Executive Director) at a regular quarterly meeting and there was some discussion about some ground they were looking at. He said it won't weigh on his decision here but he wanted to be out front.

Commissioner Lindsay said she also met a few times briefly with Mr. Neal for input on the application. She said she also had a conversation about the application with POM Commissioner Rick Stokoe and with staff in the Planning Department.

Commissioner Russell said he attended the first Planning Commission hearing on this request and heard the testimony offered there, other than that, he did not have a conflict.

Commissioner Lindsay said to Commissioner Russell that with all due respect, he set the stage to conflict each other out when he said she shouldn't serve on the Green Energy Corridor. She said she believed he had a conflict that rises to the occasion of not voting and removing himself from the dais, as well.

He asked, "For what?"

Commissioner Lindsay said his company was mentioned numerous times in the application. The statement was made that you've committed to serve the ultimate end-user of this project, on more than one occasion. She said she believed the conflict was clear.

Commissioner Russell said he would ask County Counsel. He explained he sits on the board of directors of a fiber company that may have an opportunity to bid on this, along with other companies. "Is that a conflict?" he asked.

Commissioner Lindsay said Commissioner Russell was an owner, as well as sitting on the board.

Commissioner Russell said they did not have a contract and if they bid on it, there would be other bidders.

County Counsel Justin Nelson said he did not know all the business connections. There is a very fine line with government ethics, and he recommended a break for a phone call to reach out to the Oregon Government Ethics Commission for feedback.

Commissioner Russell said he was confident he did not have a conflict.

Commissioner Lindsay said, for the record, Windwave is named specifically in the application on numerous occasions. The meeting that is referenced in the application discussing the services area states, "The commitment to serve this project has been made by Windwave." She said Windwave is the only one already on both sides of the property and she thought the Ethics Commission would have the final decision how we move forward.

Commissioner Russell said this was a bid process with the contractor and he knew of three or four other companies that work on similar things.

Commissioner Lindsay said you are the only provider to the Port. She suggested he call the Oregon Government Ethics Commission for an opinion.

Commissioner Russell said he'd be willing to take a break and call the Ethics Commission.

Break: 9:09-9:25 a.m.

Commissioner Russell said the outcome of the conversation was he had a “potential” conflict serving on the Board of Directors of Windwave, and he is a minor shareholder in Windwave. It doesn’t preclude him from voting, he said, because it’s not an “actual” conflict. Continuing, he said he also had a potential conflict as a retail business owner in Morrow County that this could increase population to my businesses at the carwash and laundry in Boardman. Not an “actual” conflict, again it’s a “potential” conflict, he explained.

Chair Doherty said: An actual conflict being it’s a foregone conclusion you’re going to profit. It’s not if, but when and how much. In the utilities hearing, and this is something you can take back with you, Blake Lawrence (Windwave General Manager) spelled out clearly that he was going to have a 36-run block of whatever they do, to take care of this customer. It wasn’t like he potentially could, so I’m not going to step in this. If Commissioner Russell felt it was a potential conflict, I’m happy to move forward.

Chair Doherty read how to offer testimony and then officially opened the Public Hearing. He again called for abstentions or conflicts but said he was satisfied with what was already stated. The Staff Report was requested.

Stephanie Case, Interim Planning Director, said the request by the applicant was to rezone approximately 89.6 acres of land from General Industrial to Exclusive Farm Use, which is located near Bombing Range Road, and to rezone another 89.6 acres of land from Exclusive Farm Use to Port Industrial, located along Paterson Ferry Road, resulting in no net change to the Industrial Land inventory. The conversion of land from Exclusive Farm Use to Port Industrial requires an exception to Statewide Planning Goals 3, 11 and 14 thereby converting the land from resource uses to industrial uses and allowing development at an urban scale.

She said the applicant was the Port of Morrow and the landowner for the property along Bombing Range Road should be indicated as Windy River, and the landowner along Paterson Ferry Road was Kaizen Holdings, LLC.

She discussed the attachments: Planning Commission Final Findings of Fact and multiple comment letters in support and opposition.

County Counsel Justin Nelson explained the timeline for receipt of the letter from 1000 Friends of Oregon relative to the October 29th Planning Commission meeting. The letter was received via email after Ms. Case left the office at 5:15 p.m. for the 7:00 p.m. Planning Commission meeting in Boardman. That is why their letter was not added for consideration, because it hadn’t been received in time, he said. It was added for consideration by the Board of Commissioners on November 13th, as well as another received November 12th. The November 13th BOC hearing was continued to today to be better prepared, due to staff transitions, etc., he said.

Ms. Case said this amendment comes to the Board with a “do adopt” recommendation from the Planning Commission supported by the Findings in the packet.

Chair Doherty had a process question regarding the three different landowners referenced. He asked Ms. Case if there was a signed correspondence from Windy River requesting to move forward.

She said Farmland Reserve was identified in the initial findings but she could not find a reason why - it was simply a staff error. In everything else, she said, it was listed as Windy River. From the beginning, it's been accurate and was incorrectly identified only in the Findings, which didn't come to her attention until after the Planning Commission hearings. She said this information has been provided in the memo.

Commissioner Lindsay asked when Windy River came to know their land was being changed.

Ms. Case said they knew from the beginning. She said she had an email conversation last week verifying everyone has known about this whole process but apparently no one caught the fact it was listed as Farmland Reserve in the Findings.

Commissioner Lindsay said this is the second one that's come through with the applicant not being the same as the owner. Is that common? she asked.

Ms. Case said it was common, even on minor actions, particularly if there is going to be project or a sale of the property. Then the person purchasing or doing the project will come in as the applicant and the landowner asks them to handle it.

As Commissioner Lindsay attempted to ask another question about Windy River and when it became aware of the zone change request, Chair Doherty said he believed Commissioner Lindsay was requesting to see the correspondence with Windy River.

Ms. Case said they were aware and currently use it for agricultural purposes and continue to do so. In the agreement in purchasing it from the Port, they agreed they'd release that zoning at the point the Port wanted.

Mr. Nelson asked the process to verify a request is legitimate when an applicant comes in on behalf of an owner. Ms. Case outlined the Planning Department processes.

Chair Doherty asked Ms. Case if she was confident prior to the Planning Commission hearing that there was correspondence with the landowner verifying that. She responded, "Correct, they provided the sales agreement."

Commissioner Russell asked if the letter that was received from 1000 Friends of Oregon after the Planning Commission hearing (October 29th) was brought forward to last night's Planning Commission meeting.

Ms. Case said, no, that meeting was for other actions.

Mr. Nelson talked about an email from 1000 Friends that stated they were unable to attend the meeting today and asked for an additional seven days to keep the record open. He said the

applicant would be against that since 1000 Friends has had it for a long time, but he wouldn't get into fairness and recommended following the law. Oregon Revised Statutes (ORS) 197.763(6) talks about a participant at an initial evidentiary hearing can ask for seven days. It's a "shall" and then the applicant can have another seven days to respond, he said. There are timeline considerations for the Board now, said Mr. Nelson.

Chair Doherty called for proponents.

J.R. Cook, Cook's Land and Water Consulting, representing the Port of Morrow
Ryan Neal, Executive Director, Port of Morrow

Mr. Cook said the packet contained Mr. Neal's letter about what the Port does when courting a potential candidate for site selection, which he will speak to. Mr. Cook said he wanted to go through the planning and coordination prior to selecting the site for the zone swap. He offered the following: We have an inclusive community of facilities that are Port-related that provide very significant support services to our agricultural base, and in turn, provide water effluent services to that ag base to create feed stock which then generate industrial and economic growth at the Port, it's a marriage. It also requires the Port look at ways to link their infrastructure up with, not only with the Port-related industrial facilities but with some of the byproducts of those facilities that can serve ag. In addition, there's a very large island of industrial zoning that has already taken an exception to statewide land use law that ultimately is an island, and that is the (Umatilla Army) Depot. We have significant industrial acreage on the southwest corner of the Depot, as well as the southeast corner on the Umatilla County side and that's required a significant level of planning at both the CDA (Columbia Development Authority) level and for the Port to figure out how do you economically and orderly serve the future development on the Depot with water and wastewater services, for example. In the maps, there's a significant run from the existing rural service area, East Beach, and the Depot, which requires some planning. In addition, there are services the Port provides for developers that may impact the ability to identify sites for other needs. In the East Beach area, and in some of the areas that the Port's looking to expand industrial activity east of their existing Port facilities, a lot of it is rail dependent, which means the Port is looking at additional rail service and things of that nature, to serve those industrial needs, and rail is, in fact, a hinderance in some cases to what the Port is looking at this site for, which is data center development, which requires a buffer from rail due to some of those site selection criteria. When you factor all these things together, and I'll add one final one because of the work I do with Northeast Oregon Water Association (NOWA), we're trying to figure out how to serve our critical groundwater areas and minimize economic development of our industrial parks on the backs of groundwater which ultimately impacts the underlying senior groundwater rights users. Lastly, anyone who's read the papers knows our dairies that are south of Interstate 84 require potable water supply for cattle operations that historically hasn't been needed for either trees or potato production and that's created some conflicts within Oregon water law in terms of using an irrigation water right that's a groundwater right that's considered potable for cows year-round. So, there's the need to look at ways to serve some of our dairy operations with potable water supply needs but it requires a hefty run of pipe to do that. Factoring all that in, the site selection is really one of the reasons why this site was selected. One – how do we find a location that fits in well with the future industrial park that will be the Depot, and allows the Port to extend the services to that region in an orderly manner that minimizes impact to agriculture and surrounding lands. The second piece of this is finding a

location that's suitable for this kind of tenant that does not have the impacts associated with the East Beach area, primarily the rail and the buffer for air quality purposes that Mr. Neal will discuss with the methane digester he's looking at developing. The third and foremost is the blessing and the curse that is the Port of Morrow's facility and their land use zoning. As you all know, the blessing is that Morrow County was blessed with significant amounts of industrial ground back when we had Space Age Industrial ideas for areas south of I-84 and southwest of the City of Boardman. Knowing that's never going to come and it's actually the grow-out of the land use patterns, primarily irrigated agriculture, that's what the Port of Morrow wants to reconvey, that industrial zoning, to the appropriate location for industrial purposes and that's on the north side of I-84 primarily. The first zone swap...was the first chunk of ground off of this farm was used to establish the East Beach Industrial Park and now we've got slivers of these islands of industrial zoning around that Mr. Neal and the Port of Morrow are trying to get located to serve the orderly build-out, hopefully, of the Port's industrial engine that is the Morrow miracle really. So, getting into the Findings, there's a few things that came up I want to touch on – a couple of legal issues associated with the continuation of the hearings, landownership. Seth King with Perkins Coie is the Port's attorney for this matter and he can bring those up so I won't touch on those but I will say the ownership piece of the land, the Port has retained ownership of the zoning of that farm parcel that this ground is coming off of and it's in the deed in your record. The underlying landowner has authorized the Port to move that zoning when and if they see fit and that's all within the deed. But to make sure the record is complete regardless of what the typo was in the Findings, we did get the underlying owner, Windy River, the chairman is Bob Levy, to confirm that is the deal they struck with the Port of Morrow and that continues to be the deal today. The other piece that has been brought up is a significant interest in identifying alternatives and lack of suitable alternatives to this site. Mr. Neal can explain a little more to you on how they receive these requests for land the parameters of which they're supposed to look for and how they try to accommodate that and that's really why this site was landed on, meeting those parameters but also doing it in a way that facilitated this extension of services to enable us to potentially meet the Depot and as Mr. Neal can tell you, potentially provide an economical way to get potable water out to our dairies. Third and final one, that is big to me, that as you all know is the compatibility with the surrounding land uses. The aerial photo speaks 1,000 words. Anywhere we're close to the Columbia River that we can farm, we do. And so, any of the industrial zoned land in the Port that's undeveloped has a pivot on it or is irrigated and most of the facilities we locate we use their reuse water out in our critical groundwater areas where we're so water starved. That reuse project, that pipeline heads under I-84 right about that location at Paterson Ferry and heads south to serve Madison Ranches and eventually a couple other farms with water and nutrient value for irrigated ag. In terms of compatibility, this intended site and intended use is compatible with ag. Because the same time they need irrigation water is the same time we need cooling water, so it's a good marriage. In terms of the wastewater disposal and having that reuse zone and that waterline along Paterson Ferry ensures that water is going to get reused for ag. The last one which is a big one to me, is that getting the raw water and the potable water system out that far to Paterson Ferry allows us to then get the services extended to the Depot and right now unless the Port provides water to the Depot, the only water supply option that Depot has are its groundwater rights, which are rights they conveyed to the CDA by the federal government, and their basalt groundwater rights which is in the Ordinance Basalt Critical groundwater area. Should those rights be developed by the industrial (inaudible) on the Depot, there will be allocation issues with irrigated agriculture around it and we want to prevent that by

getting these non-critical groundwater sources out to the Depot to service that development rather than having the CDA rely on development with deep wells. This was a roundabout way of telling you the significant amount of time that went into figuring out a way to accommodate this use, find the right piece of property, and do so in a manner that meets the statewide planning goals for both site analysis, orderly extension of public services, and compatibility with existing farm uses.

Mr. Neal said as Mr. Cook pointed out, the Port submitted what site selection looks like on this process. Rail is a significant deterrent in the Findings and we're adding another 27,000 feet of rail in the East Beach area that will make a lot of that ground unavailable, which is noted on the map here. As well as the anaerobic digester, we're in the process of getting a DEQ (Department of Environmental Quality) air permit which also restricts some of the availability of land in East Beach, but we don't know the extent yet because we're still in that process. We also looked at the airport and from an infrastructure standpoint, we don't have anything with the ability to get the power, water, wastewater, and the ground composition is very tough to develop on there, as well. Those are some of the reasons this site fits all of those things and like we said, we had a pre-meeting just to say we can get all the services to this site so we could make sure that we're not putting in something in a place where it's going to be isolated and not be able to accommodate what we intended to do.

Chair Doherty asked about the services, not so much utilities, but public services side of things. This is something Amazon does as opposed to the Port. He said the reason he asked, because as a government entity, he assumed the Port has to go out for bid on various and sundry things. Whereas, a private owner can do whatever.

Mr. Neal said yes, the end-user has complete control of what services come to their site. We, as properly the provider of water and wastewater systems that will be what we provide just like we do within our industrial parks.

Chair Doherty asked if the wastewater line that goes all the way out to Madison's was installed in-house by the Port.

Mr. Neal replied, "Yes, that's correct."

Chair Doherty said the water coming out of the data center, it doesn't have to be treated, it's not going to have to bounce back, it goes one direction.

Mr. Neal: It goes right to Madison's and we have made an agreement to extend further from Madison's down to Mader Rust for additional agricultural ground so this will add to that ability. I'd ask Port Commissioner Jerry Healy to talk about the planning process for the Depot and the Port's long-term strategy and how can we get this done and the ability to get water to the dairies and some other things that are critical and important to the Port.

Mr. Healy: Mr. Cook touched on some of the utilities. The planning process by the Port regarding the Depot property has been going on for 30 or 35 years and it's always been a goal to get some of that property transferred to the Port for industrial purposes but it's a big hurdle and

we're getting close. We keep thinking each month that next month it will be transferred but it looks like that transfer is reasonably close to taking place. It's a very isolated spot out at the Depot and the infrastructure costs to get water, wastewater, electrical, fiber to the Depot are astronomical figures. This project is a mid-way point and an anchor tenant to bring to fruition some of that long-term strategic plan that we've had to get services out to the Depot. If we don't have an anchor tenant to assist in getting water and wastewater to Paterson Ferry, which will be a good jump off point to go on to the Depot, Umatilla Electric Coop will certainly have to upgrade electrical to facilities in the neighborhood and fiber facilities will have to be upgraded too. There are multiple fiber lines in that vicinity. Zayo has fiber on Highway 730, Windwave has fiber on Hwy. 730, the Port has fiber with the pipeline going out to Madison's, that would not be a bandwidth.

Chair Doherty: Is it Windwave fiber line that goes out to Madison's?

Mr. Healy: No, that's the Port's fiber line. It's for management of the water system. I seriously doubt there's fiber in that line.

Chair Doherty: Who installed it?

Mr. Neal: I don't know. I'd have to go back and look.

Chair Doherty: I assume it was put out for bid?

Mr. Healy and Mr. Neal: Yes.

Chair Doherty: It will transfer to the CDA, correct?

Mr. Healy: The Depot property will eventually transfer to the Port.

Mr. Neal: It transfers to CDA for seven years. There's a management agreement with CDA for seven years. We'll work hand-in-hand for economic development on that property to site business in the industrial zone.

Commissioner Russell: During my involvement with the CDA for the last four years, the question comes down to do we own the property yet. Nobody is willing to make a commitment until the property is owned.

Mr. Neal: All indications are it should happen this year.

Mr. Healy: There are some issues regarding the Oregon Trail, it should be getting close but we've heard that before. Hopefully it will transfer in a few months.

Commissioner Lindsay: Mr. Cook referenced zoning ownership was retained in the deed of record by the Port, which is different than Planning staff explained. He also said it was "of record." Is there something in our packet?

Mr. Cook: The previous Planning Director asked the Port for the deed that conveyed that property to the underlying owner. In that deed it explains the Port retained ownership of the industrial zoning to do with what they chose. It should be in your record.

Commissioner Lindsay: It's a deed restriction that the zoning is taken off and held somewhere else?

Mr. Cook: Basically, the zoning stayed but the Port has the discretion on when they want to move that zoning, or do the zone swap.

Commissioner Lindsay: That should be in our file?

Mr. Cook: Yes.

Chair Doherty again called for proponents to speak.

Seth King, Land Use Attorney, Perkins Coie Law Firm, representing the Port of Morrow
Mr. King: I'm happy to answer any legal questions regarding the application and the applicant's position. I wanted to specifically address the request for the open record. Two points – first you heard the discussion in reference to ORS 197.763 and it does require at the initial evidentiary hearing that a local government either grant a continuance or hold the record open that's requested. I agree with that but I think that does not apply here because this is not an initial evidentiary hearing. That was held by the Planning Commission and that was the opportunity where that provision of the statute would have applied. So, that is not applicable here. You're not required to hold the record open or grant a continuance. I think you have the discretion to do so if you want. In this case, I don't think it's warranted. The applicant submitted information that was responsive to 1000 Friends and I think it was entirely foreseeable to 1000 Friends and there's also a rep from 1000 Friends here so they may be able to clarify the nature of their request. I think from the Board's perspective, an open record period would not be warranted. If you did decide you wanted to grant a seven-day open record period, from the Port's standpoint, we'd ask for an additional seven days to submit our final response of written record.

Chair Doherty: Is it fair to say you want that option? We may grant seven days and whatever comes in, the applicant may say we don't want or need the seven days, we're happy to have it. So you just want that option? I'm getting at, if we grant it are we looking at 14 days or potentially 14 days. I'm assuming in seven days when it comes in, the applicant could say we're happy with not going any further, go ahead and deliberate to a decision.

Mr. King: That could be the case. I'm happy to answer questions, but that concludes my comments.

Chair Doherty: In your letter you reference the site they were looking at was midway between the Port Industrial Park and the East Beach Park, so I think maybe you wanted to reference midway between the East Beach and the Army Depot.

Mr. King: That is what I meant to say, thank you.

Port Commissioner Rick Stokoe: You have a lot of information before you. I've reviewed some of those documents. As you can tell by reviewing those, the effect of the proposed change would be net zero. So, having that in mind, our partnerships, everything we're trying to do with our customers, our business, along with our partnership with the County and the region, we'd ask you entertain and approve the request on the zone change since it's a net zero effect, thank you.

Jeff Wenholz: For the record, I'm Chairman of the Morrow County Planning Commission and I'm here to recommend the County Court do adopt as forwarded by the Planning Commission. This action is similar to something that the Planning Commission did a few years ago, a zone swap of some zoning out on Bombing Range Road, just like now, but it was applied to the East Beach area, probably in the last five years. As a previous witness testified, it is a net sum zero thing. It keeps to the same number EFU acres and the same number of industrial ground so it's just applying from one area to another area. To address a concern brought up of the ownership, yes, it is important the underlying landowner is aware of it but it would not have affected the Planning Commission's decision. We looked at applying the zoning from one to another, but as long as the County does have somewhere in its record at the office that the underlying owners are comfortable with it, the Planning Commission is fine with it going forward.

Commissioner Lindsay asked as a point of clarification, "If I applied to change the zoning on Chair Doherty's property and he doesn't know about it, the Planning Commission would approve that?"

Mr. Wenolz said the Planning Commission never sees the application where the landowner signs off on it. That is handled in the office. The office will have that in there. You've been on the Planning Commission and you've seen those...(inaudible)"

Chair Doherty said it's taken on faith that staff has done its due diligence.

Mr. Wenholz said it's never been the Planning Commission's responsibility before to go independently verify who that underlying landowner is. It's the County's responsibility not the Planning Commission's.

Commission Lindsay: If you knew, you wouldn't approve it.

Mr. Wenholz: If the underlying landowner was not in favor of it, no, we wouldn't. I have confidence staff would not have brought it forward if that was the case.

Chair Doherty called for proponents. Hearing none, he called for opponents.

Andrew Mulkey, 1000 Friends of Oregon, Rural Lands Staff Attorney
(Mr. Mulkey distributed copies of new written material in addition to what had already been provided.)

Mr. Mulkey: I'm not here to advocate against the data center but I'm here to advocate following the proper planning process and following Oregon's land use laws. This project is not fully cooked. I'd ask you to send it back, let it marinate a little longer for the applicant to get its house in order and provide adequate justification for a Goal Exception in this case. For example,

Exhibit #1 of why this is not fully cooked is that the Planning Commission didn't know what the project was. It's pretty apparent, the Port, the applicant, clearly knew what the project was from the get-go but didn't direct any findings that are required to the proposed findings to what the actual use would be. The Planning Commission in that sense, was flying a little blind. This should be put back and given more time and consideration. I provided some exhibits which show GIS data of existing transmission lines in the area on existing Port Industrial zoned land. The Port said they need proximity to high voltage transmission lines but cannot have it cross, go over, the middle of the data center site. And they've talked about proximity to rail lines, which are highlighted on these maps. Even with all of that, with some of the land where a transmission line crosses over land in Port Industrial zone, there's plenty of available space that appears large enough to host a data center. I did some digging online and it looks like the Port already hosts a number of data centers. I found a news article in the East Oregonian where a Port representative said they have 700 or 800 acres within the East Beach that is shovel ready. That includes connections for power, sewer, water and fiber. I believe that's what my exhibits show, there's a lot of available land in the Port Industrial zoned areas that could accommodate a data center of this size. The article mentions there's a data center on Lewis & Clark Drive and also on Rippee Road and I've been able to locate those using Google Maps. That shows the proximity of these data centers not only to high voltage transmission lines but also rail lines. It shows they can be sited within some distance of a rail line. In the applicant's testimony, I have not heard any reason why a data center can't be sited near a rail line, or what the impact actually is between the rail line and the data center. As an example – a family that practices medicine, they have a surgery right next to a rail line. Their office does very precise surgical procedures and they're sited right next to a rail line. I'm not sure what the conflict is with a data center, whether computers are sensitive to trains or not, I'm not sure why that's the case, but there hasn't been an explanation why. The point being, there's a lot of available land and the applicant hasn't done an alternatives analysis to show why that land can't be used for a data center. The second part, this has been called a land swap, but that's not really the case. It's a swap of zone, but not a swap of use. It's clear the existing agricultural land that will be swapped out of Port Industrial zone, it's being used for agriculture, and there's never been any intent not to use it for agriculture. It's not a case where you're taking industrial land that's been industrial and converting it back to farmland. You're taking farmland that for whatever reason, has been zoned industrial and just taking the zone off it. But that land will always have been used as bottom land, so this isn't an equal exchange, in that sense, and I think that this will have impacts to farmland. Finally, the Goal Exception process is not meant to provide a beach head for future or ever-expanding exception uses. You're supposed to look at what you need, look at the exception and convert the appropriate amount of land. That's not what the Port is proposing. The Port has, apparently, other plans to extend a lot of services out and they haven't clarified what those plans are and haven't been truly accurate about what the impacts of this project could be because it's admitting once we get this project, we're going to keep expanding. So again, if data centers need to be next to high voltage transmission lines, this is kind of the expansion of that. If they need sewer and water, this is the expansion of that. They're putting all the other agricultural land along that corridor, making it subject to future Goal Exceptions and future industrial uses. So, it's the County's job to sit and take the big picture look at all of this. If it's going to take extensions of sewer, wastewater, utilities, etc., what are those extensions and how long will they be in this case? If you're going to require x miles of extension of these utilities or services, what if we put it somewhere that's already zoned for it? How many miles of extensions and services

would we need in that case? I don't think there's been a truly accurate comparison of the alternatives in this case. Finally, again, the County has the job of having the big picture planning process in this case. If there's a lot of industrial land not ever going to be used for industrial land because of no services out to it and it's actually agriculture, the County should convert it back to agriculture both in zone and in reality. It would change how this process goes forward. Right now, it looks like there are plenty of alternatives to site this location and this is a misuse of the Goal Exception process which is really meant to increase the ability to get future Goal Exceptions.

I should address the open record. It's appropriate to provide an open record period. Had the applicant not submitted basically a changed proposal, I would have been fine. They have their position, we have our position. But what happened is, two days before this hearing, I received a letter showing what I thought had been the proposal all along was now changed. It's now confirmed to be a data center. I would like time to respond to that. I'd ask the record be held open to December 20th and provide the applicant until January 10th to respond, due to the holidays.

Commissioner Lindsay: The justification for the additional seven days is because of the change in the end use?

Mr. Mulkey: Yes, had that use been known at the initial evidentiary hearing, that's fine, but I think there's prejudice in this case, not only to the folks making the decision at the Planning Commission level, but to anyone else wanting to participate, not being able to know what the project really was. That cascades all the way through the alternatives analysis, the (inaudible) analysis and everything that needs to be done under this reasons Goal Exception process.

Commissioner Russell: Really what we're asked to do is the Port of Morrow, when they had what was formerly the south farm and they sold it to Bob Levy, and whatever company Bob Levy has it titled under. It was on industrial ground and they kept that as a placeholder for future industrial. So now we've got an opportunity to transfer that zone to other agricultural ground. It's net zero. It's 89.6 acres zoned industrial to 89.6 acres zoned EFU. Both pieces are farmed now, it's a net zero effect. Because 89.6 acres zoned industrial could be used for industrial without all of the land use hearings we've got. I fail to follow 1000 Friends' protest on this.

Mr. Mulkey: What I'm unclear about is, the Port hasn't done a good job showing where the existing wastewater and sewer lines are. Is that land already served by existing wastewater, sewer and other utilities that could be used to actually house a data center like this? If it isn't actually serviced with the pipes of utilities that would be needed to serve an industrial use, whether it's a data center or other type of industrial use, then I believe it isn't a net zero because basically it's mis-zoned. It's land that will never be used for industrial/commercial use because...

Commissioner Russell: When you say never be used for industrial use, what gives you that impression?

Mr. Mulkey: The impression of what I heard today, which is what the intent was. The landowner purchased it so that it can be farmed and they always intended it be farmed and it sounds like they had some complicated transactions related to wanting to sell or not be able to control the zoning of the land, so that shows that their intent was to buy it to farm it, not to do an industrial use on it. That's why this is not an apples-to-apples comparison. This is an apples-to-oranges comparison. It's actually an expansion of industrial use, it's not a trade.

Commissioner Russell: The Port of Morrow owns a lot of ground zoned industrial. If you look at it, you'd think it was farm ground. Some is used for grazing because of the poor soil, you can't put irrigation on it. But they have a lot of stuff that is irrigated. It's well known it's industrial ground that will be at some point in time potentially used for industrial purposes. I find it a hollow argument to say we reserve this piece of ground and we may use it for industrial purposes and that's what it's zoned for and to come in and say well, gosh, you may grow crops on it right now, you never meant to use it industrially even though it's irrigated with effluent water from industrial processing.

Mr. Mulkey: I think it makes this type of reasons Goal Exception analysis much more complicated, because if you have all this available industrial land and you could extend utilities out to it, maybe it doesn't require that much expansion. Why can't it be used for this proposed project? Because again, this reasons Goal Exception requires a type of alternatives and impact analysis. I don't see the Port really meting its burden in this case to show it meets the criteria for a reasons Goal Exception in this case because there is so much other available land. There is available land within the Port, within East Beach itself next to other data centers with existing high voltage transmission lines that appears to have all the space requirements needed and appears to have the distance from rail lines.

Commissioner Russell: Your assumption that nobody knew it would be a data center, would it change your opinion if local people knew it was potentially going to be a data center?

Mr. Mulkey: Decision makers have to make their decisions based on what's in the record. It didn't appear to me to be in the record. It certainly wasn't in the Port's submissions.

Commissioner Russell: It wasn't in the record but it's a small county. The footprint of 90 acres is what Amazon or Vadata is looking for. I don't think it was a surprise to anybody locally that was the potential client.

Mr. Mulkey: Again, the land use system is meant to be transparent and open to the public process. That means relevant information needs to be in the record. The applicant had the burden of proof in this case. The applicant had the burden of making that clear in the record and they certainly had ample opportunity to do so and did not.

Commissioner Russell: It's in the record now. It's certainly public. I don't think it comes as any surprise to anybody on the Planning Commission that that was the client.

Commissioner Lindsay: That's a big statement about the Planning Commission. I don't think we know that.

Commissioner Russell: The Chair of the Planning Commission is here. He also serves on the Board of Directors of Umatilla Electric Coop. Umatilla Electric Coop probably, I'm making an assumption, was involved in planning for high voltage electricity to see if that was a viable site. So, it's not far for me to connect those dots.

Mr. Mulkey: I think the other problem is, it's not just knowing what the use actually is, but knowing what the use is informs and is really a necessary piece of information for really actually addressing the approval criteria in this case. You have to do all the alternatives analysis and if you don't know what you're doing or you haven't made that explicit up-front, then you haven't been able to meet the alternative criteria in the (inaudible) analysis.

Commissioner Lindsay: Do you see having the ability to address all your concerns in a seven-day timeframe or is this just going to be continuing requests?

Mr. Mulkey: No, land use is set up to be a finite and defined process. You get a window to add the issues and the applicant too if they need to submit more information during the initial seven-day open record period, they can submit new information. There's a response period where someone needs to rebut that with other evidence, they do that and the applicant gets the final rebuttal.

Chair Doherty: Are you suggesting that the traffic impact analysis would have been directly related to a data center as opposed to if you don't know what's going in there then it has to be absolute worst-case scenario for 89 acres of Port Industrial?

Mr. Mulkey: Yes, that's why knowing what you're doing shapes the analysis. So, if you know it's going to be a data center, you know it's not going to be a packing house or something like that, that's going to require a lot of trucking. It's going to be different types of impacts and different types of traffic, different types of utilities, that sort of thing.

Commissioner Russell: Does it change your opinion now you know it's a data center?

Mr. Mulkey: Yes, in the sense that I think the record clearly shows there's lots of alternative space and that this exception isn't needed. There are alternative areas within the existing East Beach Industrial Area that can accommodate this use. It looks like the swapped property that's getting the industrial or NG zone taken off, that can also accommodate the data center in the sense that it's not near a rail line, it's very close to two types of high voltage transmission lines and appears to be, as far as I can tell, next to all the other types of services that wouldn't be required to be extended to this other piece of property. So, I think the impacts of putting the data center on the land that's set to be swapped out would actually be much lower.

Commissioner Russell: So, when you chastise us for not looking globally at the future and looking at the big picture, it seems to me your knowledge of data centers is limited compared to what (inaudible). They don't use much water, they use water, but they don't consume much water. They have a giant swamp cooler system that keeps their circuits cool. It runs through water and lines up really well with the irrigation system. So, to be able to extend a water line out there and then that gets us closer to areas with a lack of water. As you may or may not know,

Morrow County is a really productive agricultural County. We live in the middle of a desert. The difference between highly productive agricultural ground in Morrow County versus low production agricultural ground in Morrow County is strictly water. Seems like this gives us the ability to get more water out to more ag at a less expense.

Mr. Mulkey: That may be the case, but planning is not supposed to be made piecemeal and with ulterior motives and goals in mind. That is not what the exceptions process is made for. So, if that's the case that water should be extended out to this area, then I think there's some bigger planning processes that the County needs to take on to assess where do we want industrial land. Do we want industrial land out here or do we want it over here? We have all this land zoned over here for industrial land but really it should just be ag. Maybe we want to do some reconfiguration and assess our needs and figure that out. But the Goal Exception process for a discreet project is not the place to make those types of big picture plans. It's not meant to jerry-rig larger planning goals. If the Depot was originally an exception, created through an exception process, then technically in that decision, the decision had to be made oh, there are adequate services to serve the types of industrial uses that we want here. I think this application shows that's not the case. So that was a misstep because now it looks like they're in the position of having to jerry-rig or figure out some alternative way of getting services out there. I think there's other ways to do that and again, this single decision on a particular piece of property is not the way to do that kind of thing.

Chair Doherty asked if the applicant wanted to come forward for rebuttal.

Mr. Cook: A lot of that conversation focused on the alternatives analysis and alternative sites. As anyone who works in economic development in eastern Oregon understands, their impact has been a very extensive alternatives analysis completed for this site and completed for this project and completed for the Depot that we're all trying to drive together in an orderly fashion. In terms of the alternatives analysis, you have two letters in the record from the two other urban service providers, urban growth areas, which is Boardman and the City of Irrigon. The City Manager of Irrigon is in the room and can speak to this that not only can they not accommodate the acres level but the service demands of this type of facility at this point, is not something they can adequately accommodate without impacting the potential for future or current service providing to their existing developments, and they're in the record. In addition to that, I heard jerry-mandering of the infrastructure and this is in fact actually a plan and an alternatives analysis that centralizes the infrastructure plan for the orderly extension of services to an island of industrial zoning that none of us planned for. We didn't put the Depot there, the United States Government did and it's trying to hand it back to us in a way that provides us with some industrial ground but basically doesn't give us any plan on how to serve that industrial ground with services needed to make it industrially marketable. And so, what anyone knows is, running the pipelines for multiple miles that are small pipelines is cost-prohibitive to infrastructure extension to development or even to rural services such as I mentioned before. The dairy issue that's come up with Oregon water law is now preventing some of these dairies from being able to access potable water needs without impacting the critical groundwater areas and some of the work that Mr. Neal and the Port are doing to potentially provide that service. Overhead transmission lines – we have an energy corridor planned that's going on right now in Umatilla and Morrow County to prevent more overhead transmission lines from the very region that we're

taking this industrial zoning off of to move it to an area where we know there will be an industrial energy corridor through to serve the Depot's needs. This is the type of facility, and generally speaking, Port Industrial facilities or the energy load that requires overhead transmission not underground to serve it, and this case we're trying to minimize overhead transmission along the Bombing Range Road, and that's where this industrial zoning is coming off of. If that industrial zoning were to stay there, we'll probably see overhead transmission lines to serve it and that is a direct impact to what we're trying to do on the corridors. In a nut shell, there has been extensive due diligence and alternatives analysis. Some of it, most of it, is in the record on why this site is not only suitable for the industrial need that Mr. King can speak to on the legal side of it, but also how do we get infrastructure to and through that region in an orderly fashion to ensure that minimal impacts are assessed on ag, in addition to meeting the County's goals of an already excepted industrial zone which is the industrial zone, the Depot, that has taken a state exception and we're trying to figure out how we'd serve it once it comes online. This has been thoroughly vetted. In the Findings there are two letters from the other two cities. The Port has explained to you the different needs of the site like this and why this is a suitable location and why they can't accommodate it within the existing zone. In addition to that, long-term this gets services out to a region in a way that is orderly, that is planned, that has been assessed thoroughly in terms of alternative locations, alternative utility corridors and therefore, that site was selected for those reasons and that is in the Findings. With that I'll close my rebuttal.

Mr. King: Mr. Mulkey stated this issue was not fully cooked and the best course would be to send it back to the Planning Commission. We disagree with that. We put forward a very complete and comprehensive proposal. 1000 Friends raised some issues during the process, we responded to those. The land use process is very iterative in that way, and we have responded to those, provide more information and more detail. We think there is no reason for this to go back to the Planning Commission. Regarding the alternatives, I agree with what Mr. Cook has explained to you here. Additionally, you heard testimony from Mr. Neal regarding why existing properties in the Industrial Parks were not suitable for this proposed use and why the potential biodigester, how that factors into the analysis, as well. You heard Mr. Mulkey talk about there would be impacts to farmland but we didn't really hear him specify anything there, it's all purely speculative on his part. You heard him talk about the existing property that is zoned industrial on Bombing Range Road, that that is mis-zoned. But the reality is that is zoned industrial and it has been planned for industrial. It's what the Port and the County had included in their Industrial inventories and I think the Board and County should be commended for determining that site is no longer appropriate and looking to find a more appropriate site, which we have presented here. We do believe that the application is complete and is appropriate to be approved today. As far as the open record is concerned, we had earlier stated we were opposed to that, we have apparently received a new letter from 1000 Friends which we still haven't even read. So, if you were to determine that you did want to hold the record open, we would not object, we would take that opportunity to take consideration of that letter and could respond during that seven days. As needed, we'd reserve the right for an additional seven days for final written argument. We can talk about the holiday schedule, we can try and figure out how to set that in a way that keeps it expedited but takes into account the holidays.

Chair Doherty asked for questions or comments and then said he had a few questions for Mr. Neal and Mr. Cook.

Chair Doherty: Relative to one of the limitations of the applicant or potential client, is not near residential and I'm hopeful that because they recognize how God awful the one that went next to the residential area was, but is that a new requirement?

Mr. Neal: Yes, so that's the last one. We're talking about a different site but there are restrictions on that now.

Chair Doherty: One place I get a little nervous, I'm the "protect the ag" guy and I make no bones about it. I understand any widget factory will make more money than a cattle ranch, I can assure you. But if it's just about that, funds or potential funds, you wouldn't have beaches or parks or cattle ranches or wheat farms. In the application, it talks about the existing industrial port that this would be on that, but as I understand it, there isn't one. Additionally, it talks about the lands between the East Beach and the Army Depot, quite a few lands there, are better suited to industrial than EFU. That makes me pretty nervous. The notion it's a net neutral, there's a valid argument there but I'd contend that back in the day when they made an industrial island, they got it wrong and 10 years ago when it was removed, they got it wrong when they didn't remove all of it. I think that's a valid argument, let's get it off there. Then Mr. Mulkey comes in here and says look, you have industrial stuff that actually fits better, put it there. I'm sympathetic to the notion that whatever remaining 50 acres I'm not hypocritical enough to say leave it there for another 10 years, that's a bad idea. I'd suggest as part and parcel of this, it gets removed in its entirety because a dozen times in the application it says that industrial island is a horrible idea and I agree. So, why wouldn't we do that, just remove it in its entirety?

Mr. Cook: I'd defer it to the Port of Morrow who owns the zoning. The acreage size for this site was specifically selected for this need and the decision made was to only remove the acreage or zone swap the acreage needed at this point for that location, correct?

Mr. Neal: As hard as it is to get things changed to Industrial, why would the Port give up any flexibility in the ability to move that additional? We have additional lands we own out by Paterson Ferry, but why wouldn't we do the same? But that isn't why we're here today. We're here because of this specific ask and will we end up taking that off there, yes, but we will move it into another place that makes more sense rather than, I think something to think about here is, the water we're providing is actually adding another 2,800 acres of irrigated agriculture to Mader Rust Farms and that can't be lost here. We're making significant investments in that. Our industrial wastewater line is already in this corridor. It's literally across the street from running along the property edge and this would allow us to get fresh water closer to that industrial island that we talked about. We can't control how we get, we can't fly water into the thing, so somehow we've got to get it and this is the least impactful way because we'll not be taking out agriculture to put in these lines. They'll go to easements and not have any negative impact.

Chair Doherty: Regarding Goal 11, what is the plan for the sewer? Is it an extension from the Port? Is it on-site? Is it 25-100 gallons per day more or less? Does it go through the

Department of Environmental Quality? Does it go through Umatilla County? Can you address that?

Mr. Cook: That's again, another Port decision. As we all grapple with this, we've been trying to get an interagency taskforce to start de-designating our groundwater management area, our nitrate issue. There's very significant requirements on the net zero on nitrogen for commercial facilities and so having the ability to serve that area and potentially the Depot with sewer treatment is probably going to be needed until we get to the point where we've got our nitrogen issue under control because what DEQ is requiring now is a zero septic system, it's advanced treatment technology with zero nitrogen contribution to the alluvial aquifer for some of these commercial facilities which is very, very expensive. I know that because we're trying to work on some.

Chair Doherty: You're not talking a drain field?

Mr. Cook: We're not talking your standard drain field here. With some of these facilities, they're based on loading and about water that you use in an office, could be an office type of dairy, could be anything related to something that's not part of your CAFO permit that you need on-site sewer for. Where they're heading right now under these water quality laws is that is a no-net provider on nitrate and...

Chair Doherty: I'd think with a data center specifically...why would it need to be an elaborate septic system for six employees?

Mr. Cook: That's a great question for DEQ and Oregon State Building Codes. It's all based on what their estimate is for people there at any given time and if it triggers a loading under a mathematical equation, then it's no longer standard (inaudible) and it gets pumped into these commercial septic. I will say, if you look across the county line at PDX 80 for that data center campus there, that is an advanced treatment technology and it's pretty expensive.

Commissioner Lindsay: Will you touch on the zoning and the deed? I want to understand that piece.

Mr. Cook: I actually think it was a stroke of genius. If I'm in rural Oregon, we all know we struggle with this, you do, anybody does. The Port of Morrow and Morrow County are blessed better than anybody in terms of industrial land base the Space Age Industrial Park and your ability to move that around to where you actually needed it once we realized we weren't going to be the Kennedy Space Center, and your industrial zoning was in the wrong spot. I don't think, honestly, very many people would have the foresight like Gary (Neal) did when he started to sell some of this ground that he wanted to retain the zoning on, to add that into the sale agreement, that yes, you can have this but I have control over it if you develop it for industrial zoning or if the Port of Morrow and Morrow County want to move it and so that's actually in the legal agreement. You do not see that very often. That was something that, again, looking back on it now was a stroke of genius because if you would have not had that in there, then the underlying landowner would have had full control like we talked about, about signing off on any type of a zone change where you don't know who the landowner is going to be once you sell it and right

now you're dealing with a landowner that's willing to work with you on moving zoning around to the appropriate locations, get that in there. And then if the landownership changes, you've got the deed record that shows you have control over the zoning and that's what, correct me if I'm wrong, happened with that site.

Mr. Neal (?): Correct.

Commissioner Lindsay: Reserved almost like a mineral right.

Mr. Cook: Yes, and again the zoning would be pertinent to the ground if this wouldn't have been in there. Again, you still have to go through the land use process like you're seeing, the Port just can't up and lift it without the process. But what it gave the Port the ability to do, regardless of who the underlying owner was, was to make that decision at a future date.

Commissioner Russell: As I look at this, tell me if my thought process is wrong. It seems to me like this is a net benefit for agriculture by being able to extend water lines and subsidize the cost of the extension of the water line out to Easterday Farms or Easterday Dairy. If he had to extend water from the river on his own dime, all the way up to where that area is, it may not be affordable, but this gets him a significant part of the way on somebody else's dime it seems like.

Mr. Cook: Mr. Neal could answer this better, but this is our trouble, but ag is not a rate base yet. You have individual water rights spread out over significant mileage so anytime you can get somebody else to pay to get that service closer and closer to you, it makes it cheaper and cheaper for you to come get it. Most of our irrigated ag needs are through the Columbia River farms and south into the Mader Rust area, which is as we all know, as the crow flies, about 12 miles away, even further than that from here, to Paterson Ferry. That ground is a long way away and to try to run your own individual water line that far for irrigated agriculture is just cost-prohibitive. If you, in this case, are looking at the need for a potable line, to serve a specific purpose, which in this case is for the cows to drink water so you're not having to pump water out of a critical groundwater area, you can do deal with Mr. Neal who's got a well or the Columbia River rights. It makes it a lot easier to get through your CAFO permitting and get through the legal requirements you have as a dairyman. So, to answer your question, yes, we see this, this is something I can say with this group, we see this on the Morrow County line way more than we see on the Umatilla County side because you have the rural infrastructure provider in the Port of Morrow. Whereas in Umatilla County, you don't have an active port investing in infrastructure to serve rural areas that can blend the rural industrial needs with irrigated agriculture. So being able to use something like the Port of Morrow system to do both is very cost effective for ag. Unfortunately, we'd like to see it on the east side of the county line as well but we just don't have it.

Commissioner Lindsay: Are all the of economies of that water distribution staying in Morrow County or is some going to Umatilla County?

Mr. Cook: Some of the wastewater is being used on lands in Umatilla County. It's all generated in Morrow County but some of it is on Madison's ground.

Mr. Neal: I don't know the exact acreage of where that line splits.

Chair Doherty: How far does this have to go, there's already a 115 in the neighborhood. There won't be the need for a 230. An article in the paper says UEC won't spread the cost out over the rate payers if there's a specific end-user requiring a large amount of juice, then they pay the cost.

Mr. Neal (?): That's how they work with any client. The client pays for any infrastructure upgrades.

Chair Doherty: How close is the 115?

Mr. Neal: Really close, the substation is right next to this property.

Chair Doherty: That's important.

Mr. Cook: Commissioner Lindsay and Commissioner Russell were both at the meeting, we were trying to figure out the long-term transmission needs for both Umatilla and Morrow Counties, the Green Corridor, and how industrial lands are shaping up in the two counties. The southerly boundary of the Depot will potentially be one of the loop boundaries. It will bring more energy in...the Depot energy demands will be significant when you have a couple thousand acres of potential industrial development. Kudos to UEC for figuring out how to do that without hammering ag too hard.

Discussion took place between the Commissioners and County Counsel as to the process, and options.

Chair Doherty moved to close the Public Hearing, keep the record open until 5:00 p.m. on Friday, December 20, 2019, allowing the applicant time to submit written arguments into evidence until 5:00 p.m. on Friday, December 27, 2019, to be taken back up for deliberation on Thursday, January 2, 2020 at 9:00 a.m. Commissioner Lindsay seconded. Discussion: Commissioner Russell asked if it was satisfactory to both parties. I think it's satisfactory to 1000 Friends, but is it satisfactory to the applicant? Chair Doherty: As I understood from the attorney, he indicated they'd be amenable to the holiday, potentially, but if they say no, change it, that's... Mr. Neal: It's acceptable but this tactic is ridiculous in my opinion. We put in things timely for your review and last minute now, two or three times, you've gotten testimony where you haven't had time to review so we keep pushing this thing down the road. That's the frustrating part. Commissioner Lindsay: The frustrating part to me is you had the ability to object and to state your case and the answer was we don't object. Mr. Neal: No, I don't object, I'm saying it's okay to continue. I'm just saying that it's frustrating because here we are in a hearing and it's just now being submitted as testimony. We had to submit ours by Friday last week to get it in your packet...Chair Doherty: ...This sets a date final, a date certain, right? Opponents have until the 20th and that's it. Mr. Nelson: Both parties have until the 20th. Chair Doherty: If they object beyond that, that's tough, we're making a final decision. Mr. Nelson: Unless you need more time for deliberations. Chair Doherty: Right, if we need more time on our side, but it can't be dictated from that side. Mr. Nelson: Correct...for the record, I want to clarify something I said earlier. When I said this was continued from the November date to

today, due to a transition in the office but the main part, it wasn't because of the letter from 1000 Friends, it was we questioned whether we sent out the proper notice regarding the signed affidavit. Commissioner Russell: I think this ultimately goes to the Land Use Board of Appeals and there's no sense to put it off. Commissioner Lindsay: If there's a question about process, why not get it correctly...I'd rather try to do the process correctly. Vote: Unanimous approval, motion carried.

Break: 11:15-11:24 a.m.

Business Items

Comment Letter: Shepherds Flat North Energy Facility Request for Amendment 2

Stephanie Case, Interim Planning Director

Stephen Wrecsics, GIS Planning Tech

Mr. Wrecsics said this portion of the project is in Gilliam County but the Morrow County road network will be utilized, so our comment would be a fully implemented road use agreement be in place prior to the construction phase. The repower will be done in three phases, first going north, then central and then south, he explained.

Commissioner Lindsay moved to approve the Planning Department letter to Chase McVeigh-Walker with the Oregon Department of Energy concerning the preliminary Request for Amendment 2 for the Shepherds Flat North Energy Facility. Commissioner Russell seconded. Unanimous approval.

Agreement with Morrow County School District to support the CARE Coordinator Position in the Public Health Department

Darrell Green, Administrator

Mr. Green said Public Health Director Sheree Smith could be available by phone, if necessary. In 2014, the County agreed to provide \$10,000 to IMESD to assist in funding the CARE Coordinator nurse position. The agreement expired two years ago but it was not realized until the end of fiscal year 2019 as IMESD did not invoice the County. The parties request to renew the agreement.

Commissioner Russell moved to approve and sign the Morrow County CARE Coordinator Services Agreement, effective July 1, 2019 and terminating on June 30, 2020; amount \$10,000; and authorize Chair Doherty to sign on behalf of the County. Commissioner Lindsay seconded. Unanimous approval.

Compensation Board Appointment Request & Update

Karmen Carlson, Human Resources Director

Ms. Carlson said Debbie Radie submitted the required form requesting appointment to the Compensation Board. If appointed, one vacancy will remain on that Board, she said.

Commissioner Lindsay moved to appoint Debbie Radie to the Compensation Board. Term to be January 1, 2020 through December 31, 2023. Commissioner Russell seconded. Unanimous approval.

Lunch Break: 11:40 a.m. - 1:16 p.m.

Contract Discussion

Commissioner Lindsay said she requested this agenda item because a few contracts have come forward that contain an administration fee.

Points brought up by the Commissioners were:

- Commissioner Lindsay was and has been opposed to admin fees, preferring all funds go to provide services.
- Commissioner Russell said it should be looked at contract by contract, adding we complain we don't have enough money to pay our Public Health nurses but we leave money on the table by not taking admin fees, which every other county opts to do.
- Chair Doherty said staff tell us what it requires to support these services, shouldn't we have a portion of the funds to look after those funds? It's not an invalid argument. At budget time we're told they have to service this million-dollar contract and this is what it takes, and we've got to find the money somewhere. I don't know where it comes from.

The discussion will continue in a future Work Session.

Relative to the CCS contract, Chair Doherty said he spoke to Finance Director Kate Knop and CCS Executive Director Kimberly Lindsay that it would be nice to know the true cost relative to what the County is not taking off the top and passing through to CCS.

Irrigon Building Update

Darrell Green, Administrator

Mr. Green said contract negotiations continue with Fortis. The duties of the County's owner's representative, Hill International, were also discussed.

Department Reports

Planning Department Monthly Report

Stephanie Case, Interim Planning Director

Ms. Case reviewed her written report. She noted staff had processed over 40 administrative and ministerial applications, as well as three Land Partitions and 2 Conditional Use Permits in front of the Planning Commission.

Parole & Probation Quarterly Update

Dan Robbins, Corrections Lieutenant

Lt. Robbins reviewed his report.

Break: 1:56-3:05 p.m. to attend Budget Committee Meeting

Commissioner Reports

- Commissioner Russell discussed his involvement with the upcoming interviews for the Executive Director position at the Association of Oregon Counties.

3:08 p.m. Executive Session: Pursuant to ORS 192.660(2)(d) – To conduct deliberations with persons designated by the governing body to carry on labor negotiations

3:22 p.m. Closed Executive Session

3:23 p.m. Executive Session: Pursuant to ORS 192.660(2)(h) – To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed

3:38 p.m. Closed Executive Session

3:39 p.m. Executive Session: Pursuant to ORS 192.660(2)(i) – To review and evaluate the employment-related performance of the chief executive officer of any public body, a public officer, employee or staff member who does not request an open hearing

3:53 p.m. Closed Executive Session

Signing of documents

Adjourned: 4:00 p.m.