

Morrow County Court
July 27, 2016
Heppner, Oregon
Bartholomew Building Upper Conference Room

Present

Judge Terry Tallman
Commissioner Leann Rea
Commissioner Don Russell
Jerry Sorte, Administrative Officer
Justin Nelson, County Counsel/District Attorney
Karen Wolff, Human Resources Director
Roberta Lutcher, Court Executive Assistant
Kate Knop, Finance Department Director
Burke O'Brien, Public Works Director
Melissa Lindsay, Judge-Elect
Jim Doherty, Commissioner-Elect
Carla McLane, Planning Department Director
Hank Pieper, GIS Technician

Called to Order: 9:02 a.m., followed by pledge of allegiance.

City and Citizen Comments: No comments

Open Agenda Requests: Asphalt Contract; Surplus Property Sale; Personnel Request from Assessment & Tax; Public Works Permits.

New Business

Permits

Burke O'Brien, Public Works Director

On the recommendation of Public Works, Commissioner Rea moved to approve Permit Application #208 from Tracey and Doug Johnson for an approach road on Piper Canyon Road. Commissioner Russell seconded. Unanimous approval.

On the recommendation of Public Works, Commissioner Rea moved to approve Permit Application #OKY from Thompson Bros. Excavating, Inc., for fiber optic boring on Columbia Boulevard at the intersection with Rippee Road. (After learning the work will be done for Windwave Communications, Commissioner Russell stated he serves as president of Windwave on a volunteer basis and chose to abstain.) Judge Tallman seconded. Aye: Judge Tallman and Commissioner Rea. Abstained: Commissioner Russell. Motion carried.

Asphalt Contract

Commissioner Russell moved to approve the Morrow County Personal/Professional Services Contract with Pioneer Construction, Inc. to perform asphalt paving work outlined in the contract. Commissioner Rea seconded. Unanimous approval.

Old Business

Comment Letter to Oregon Department of Agriculture (ODA) on the Proposed Confined Animal Feeding Operation (CAFO), Lost Valley Ranch, Boardman

Carla McLane, Planning Department Director

Hank Pieper, GIS Technician

The Commissioners agreed by consensus to sign the letter drafted by Ms. McLane on their behalf. She said she would deliver it to ODA during its Public Hearing on July 28th.

Second Reading and Adoption – Ordinance Number ORD-2016-5, Zoning Ordinance Update, Article 7, Dimensional Adjustments, Variances, Special or Temporary Use Permits and Non-Conforming Uses

Mr. Pieper provided the Second Reading:

- An Ordinance Amending the Morrow County Zoning Ordinance, Updating Article 7 and Other Provisions Relating to Dimensional Adjustments, Variances, Special or Temporary Uses, and Non-Conforming Uses.

Commissioner Rea moved to approve An Ordinance Amending the Morrow County Zoning Ordinance, Updating Article 7 and Other Provisions Relating to Dimensional Adjustments, Variances, Special or Temporary Uses, and Non-Conforming Uses, including the Emergency Clause making the effective date August 1, 2016. Commissioner Russell seconded. Unanimous approval.

New Business

Public Hearing – Comprehensive Plan, Zoning Ordinance and Zoning Map Amendments AC-102-16, AZ-103-16, and AZM-104-16: Threemile Canyon Farms (TCF) Farmworker Housing

Marty Myers, TCF, General Manager

Michael Robinson, Perkins Coie

Ted Sanders, Fargo, North Dakota

Rose Corral, TCF

Raymond Akers, Boardman

Shelley Latin, Legal Aid, Pendleton

George Plaven, East Oregonian

Bruce Kirkendall, Boardman

Pat Suter, Boardman

Gayle Gutierrez, Treasurer

David Sykes, Gazette-Times

Jack Walty, Boardman

Helen Walty, Boardman

Kelly Doherty, Boardman

Bobbi Childers, Clerk

Greg Sweek, Heppner

(The Public Hearing portion of the minutes was jointly compiled by County Court and Planning Department Staff.)

Judge Tallman opened the hearing at 9:27 a.m. and called for abstentions or conflicts of interest:

- Commissioner Rea stated she had no personal contact with anyone involved and did not have a conflict of interest.
- Commissioner Russell said he's been contacted by interested citizens in Boardman and also did not have a conflict of interest.
- Judge Tallman said people from both ends of the County have contacted him. He also said former Judge Louis Carlson encouraged "a good vote." Mr. Akers asked him to clarify that comment. Judge Tallman said former Judge Carlson didn't say anything more than that; he didn't take the comment to mean vote yea or nay, just "vote right." Mr. Akers indicated he was satisfied with the clarification.

Judge Tallman called for the Staff Report, which Ms. McLane provided. A summary of the action to date was provided, including both what is within the Planning Commission record as well as new information received prior to sending the County Court packet. An explanation of the current actions (zone change and Goal 11 exception) was provided, as well as information about the two additional actions that will need to be completed (land partition and farmworker housing application) prior to initiation of development. She noted additional written comments were received last night, this morning, and at the start of this meeting and provided some insight into many of those documents. Commissioner Russell inquired of the Planning Commission deliberation, and the difference in opinion between Planning Commissioner Jeff Wenholz and the written testimony of previous County Commissioner John Wenholz. Jeff Wenholz did vote in favor of the request and also, in his role as Vice-Chair, ran the Planning Commission public hearing in Chair David Sykes' absence. The Court conversed about the various exhibits and asked clarifying questions. Commissioner Russell commented that there is a lot of misinformation in the community and he hopes that this public hearing will clarify the application and proposal. Ms. McLane did share that an agency meeting was held concerning the eventual farmworker housing proposal with attendance from a number of affected agencies. Judge Tallman then called for proponents to speak.

- Mr. Myers explained TCF began organic farming in 2002 with 200 acres. It has since grown to 7,500 acres with plans to convert another 3,000-4,000 acres over the next three to four years. This means a larger workforce is needed for these labor-intensive crops. To meet that need, TCF is looking to the H-2A Visa Program to bring in up to 800 workers, potentially. Commissioner Russell asked Mr. Myers where the workers will be from. He said Mexico and Central America. He discussed concerns with boarder security and how this program works within federal requirements for foreign workers. Commissioner Russell inquired further whether refugees from countries from either Somalia or Syria would be consider. Mr. Myers shared a previous program that did bring in Somali refugees that was successful, but shared that this is not what is being considered now. He also clarified, based on a reading of some of the letters received today, that the workers coming to the region under the H2A program are not eligible for work at the dairies on the farm. Commissioner Russell asked for some clarity about how the housing would look – apartments, dorm type facilities, meal service options. Mr. Myers shared that not all of those decisions have been finalized, but they are considering apartments with small kitchens along with a community commissary for meals. Commissioner Rea asked if the farm would be using federal funds for this program, or if the farm pays the bill. He indicated that there is not funding. That triggered discussion about the wages which will be \$12.69 an hour with a requirement that it keep pace with inflation, plus meals, housing and health insurance. The plan has been to have the housing visible to the community to alleviate any anxiety the public may have about it being inadequate or that they are not being treated with respect, he said. Feedback from other users of this program has been if the workers are treated well they will do a good job and come back for the remainder of the program.
- The land use attorney for TCF, Michael Robinson, reminded the Court the decision before them is the Goal 11 exception request and a Zoning Map Amendment from Space Age Industrial to Exclusive Farm Use, both of which have affirmative recommendations from the Planning Commission. Mr. Robinson's testimony provided the following preliminary items: 1) the entire Planning Commission record is before the County Court; 2) the applicant will use their rebuttal to answer the questions of the Court and those testifying; 3) procedural issues that may be brought forward from the Planning Commission action are cured at this hearing; 4) the applicant agrees with the staff report and recommendation from the Planning Department; and 5) the

applicant understands that everyone wants to discuss farmworker housing, but the application before you is for a Goal 11 Exception and a rezone from SAI to EFU. Given that basis the following are the legal considerations: the applicant is PLP LLC and the request is to approve a Goal 11 Exception and rezone the property. Future applications will divide the property and seek approval of the farmworker housing. Mr. Robinson explained the subject property, its relationship to adjacent property and its zoning, and the statutory requirements around farmworker housing. The applicant has offered for the farmworker housing application to be heard in a public hearing environment, which is outside of the legal requirements based on the Brentmar v Jackson County land use case. The applicant does request three conditions of approval be attached to the two ordinances: 1) that these approvals are not in force until the farmworker housing is approved; 2) that the Goal 11 Exception is only applicable for farmworker housing; and 3) that the farmworker housing application come to the Planning Commission for a public hearing. The applicant believes that the Legal Aid opposition does not fully understand the land use requirements and the application before the County Court.

Break

Judge Tallman called for testimony from opponents and the following spoke: Helen Walty, Boardman; Ray Akers, Boardman; Pat Suter, Boardman; Kelly Doherty, Boardman; Bruce Kirkendall, Boardman; Shelley Latin, Legal Aid Services.

- Ms. Walty's testimony focused on her concerns about the men who would be filling the positions and living in the farmworker housing. Her questions were: What happens after their time here and they like this country, what stops them from staying here and not going home? Will they be paying taxes? What will they do in their spare time? They won't be so tired as to stay home. Would other employees working at Threemile Canyon Farms be willing to live next to these men?
- Ray Akers testimony focused on his concerns about the public notice, conflict of interest of certain planning commissioners and staff, and the men who would be living in the farmworker housing. He charged that the public notice was not adequate otherwise more people would have attended the Planning Commission public hearing. When Judge Tallman inquired further about his concerns with Planning Commissioners and the notice he asked for a continuance of the public hearing. He asked for the County Court to postpone their decision until landowners could be provided notice. He argued that he believes he will be affected and therefore should be entitled to notice. Both Commissioner Russell and Judge Tallman made reference to statutory requirements for notice, Commissioner Russell indicating that he also did not receive notice and lives in the vicinity. He then read from a prepared statement which was not submitted. As a union member he is opposed to the farm using labor from outside of the country and has heard that these types of workers are unruly, disorderly and disruptive. He fears for his family. Mr. Akers inquired why the agency meeting held concerning the farmworker housing was not a public meeting and why the outcomes from that meeting were not in this public record. He has concerns about Tower Road and the assumptions about the impacts. He believes that the community should have a complete traffic study. These workers, if they need to get to town, will walk to town down Kunze Lane, which will be unsafe. He then asked a number of questions: Will the workers have transportation available? How many hours a week will the average worker work? Will alcohol be permitted on the premises? Will the workers have access to healthcare? Will the workers be screened for health issues before arriving? Will turn lanes be added to Tower

Road? Will the road into the complex be a road or a driveway? Will law enforcement be allowed on the property? He believes that there would not be any problem filling these jobs locally with the wages identified today. Judge Tallman asked if that concluded his testimony. In closing he asked the County Court to not make a decision until they had all of the facts. Commissioner Rea asked Ray Akers to provide in more specificity how this action will adversely affect him. He shared there were a number of reasons. First the traffic impacts on Kunze Lane from these folks walking to town. He then shared that he has two very pretty girls, and that he doesn't have confidence in his elected officials, to allow his girls to walk to town. He is concerned about public safety. He believes there is a 'proper place' to put a facility like this to better serve the workforce and other safety issues. Judge Tallman did share that Kunze Lane does have a bicycle path. Ray Akers then asserted that this Court has already been coerced into a decision. Judge Tallman pushed back indicating that no decision has been made.

- Pat Suter's testimony focused on the wages proposed versus wages currently paid and concerns about traffic along Kunze Lane.
- Kelly Doherty provided a number of written items to the County Court for consideration. She asked for a continuance of the hearing, preferably in Boardman in the evening, and asserted that she is aware of a lot of people who would like to participate, but could not make today's public hearing. Part of the written testimony presented by Ms. Doherty was prepared by land use consultant Leslie Ann Hauer (representing both Mr. and Mrs. Doherty). Ms. Doherty is requesting that the County Court remand the decision back to the Planning Commission and they should be able to review the 'entire' application, including the farmworker housing. She asserted that certain Planning Commissioners were biased and should have recused themselves from the Planning Commission. She does not feel that the public should respond to questions concerning a Planning Commissioners ability to act without bias. She also questions the affected agency meeting and wonders why that information is not in the record.

She asserted that the Planning Department is treating applicants differently bringing up a recent approval for Neal Dow for an accessory dwelling, claiming that this current application is being treated differently. She also questioned why the request could not be reviewed as a Conditional Use with the ability to apply conditions of approval.

Ms. Doherty also argued that the County is being inconsistent is how we treat industrial and resource land based on soil types, citing the recent action across Tower Road at the Boardman Airport. She argued that if the County is going to remove the Space Age Industrial use zone it should all be removed, not just a portion. She also argued that the variety of uses at Tower Road are all incompatible and that this action continues that practice – restaurant, potato storages, manure processing as examples.

Judge Tallman inquired if the new items would be given Exhibit numbers or be otherwise identified. Planning staff indicated that we are tracking the submittals and will identify them for purposes of managing the record.

- Bruce Kirkendall would hope that the County Court would look at the negative impacts this type of development would have on the neighborhood. He's not convinced that there won't be government money involved in this project. He wanted to know if these workers would be paying taxes as others workers would – social security as an example. What type of insurance will be provided? He asserted it should not be Obamacare as that is not fair. He wanted to know if

anyone else in the room had experience with a man-camp or a labor-camp. Asserting personal experience he claimed they cause problems. He lived in one for three months that didn't allow booze, drugs or hookers, but they were all there anyway which caused crime to escalate. He asserted that would happen here as well with 800 men. Property values will be decreased in that area of the county. He inquired if this housing would only house men, or if women would be allowed. If only men, without companionship, it WILL cause problems. Other facilities around the country have been shut down because of the crime. This should be placed someplace else where it would not affect the community. He asked that this not go forward until a well-advertised meeting can take place that others can attend. He asserts that if 100 people in Boardman were asked about this only five would be in favor. He adamantly stated that "this is our country" and we have rights that the County Court needs to represent.

- Shelly Latin, Legal Aid of Oregon, believes their letter addresses adequately their concerns. She would like to discuss more specifically the H2A program that Threemile Farms is proposing to use. She wants to be sure everyone knows that domestic workers have to be considered equally and first, and must also be provided housing and other benefits under fair housing law.

Judge Tallman called for anyone who wanted to express concerns, not necessarily in support or opposition.

- Commission-Elect Jim Doherty agrees with much of what his wife has said. During his campaign he encountered a number of folks who indicated that housing is needed for workers throughout the County. Particularly Threemile Canyon Farm employees, as well as a significant number of people employed at the Port of Morrow, already face difficulties in finding housing in the Boardman area. He urged various government entities to seek solutions and mentioned the Caldwell (Idaho) Housing Authority's Farmway Village as an example to explore.

County Council Justin Nelson initiated discussion about aspects to be considered during deliberation. Judge Tallman reminded him that rebuttal was still needed. He indicated that both parties can provide rebuttal testimony, with the applicant getting the last word. He then called for that rebuttal testimony. Mr. Robinson requested a short recess followed by a short rebuttal.

Recess: 11:40 a.m.

Resumed: 11:52 a.m.

Mr. Meyers said he would like to respectfully remove TCF's application from consideration. He said he listened to the community members and does not want to jeopardize the company's stature within the community. He said TCF will work through the labor issues and if they decide to move forward with a farmworker housing project, it would be on Exclusive Farm Use land where they would provide sanitary services according to code. He also said TCF is building housing that is available to all members of the community and he hopes it will be an "encouraging lightning rod" to the City of Boardman that housing can be developed. Michael Robinson indicated that a letter formally withdrawing the application would be provided to the Planning Department. He thanked the Planning staff and indicated that they had acted professionally throughout this action and even answered the phones (something that is unique and rare from his perspective). After brief discussions, Commissioner Rea said the lack of housing is not unique to Boardman, it is regional, and efforts are being made to address it.

Closed Public Hearing: 11:58 a.m.

Lunch Recess: 12:00 p.m.

Resumed: 1:10 p.m.

New Business

Request to Advertise & Fill Two Positions in Assessor's Office

Mike Gorman, Assessor/Tax Collector

Mr. Gorman explained a current Appraiser applied for and was offered the Data Analyst position, and Lead Appraiser Cyde Estes provided notice she will retire by March 31, 2017. He said he would like to advertise for two positions in order to allow time to train.

Commissioner Rea moved to approve advertising and filling two positions – either Appraiser Trainee, Appraiser I, or Lead Appraiser. Commissioner Russell seconded. Unanimous approval.

Sign Contract Designating Community Counseling Solutions as Provider of Mental Health Services

Commissioner Rea moved to approve the contract with Community Counseling Solutions, Inc., designating them as the provider of Mental Health, Developmental Disability and Alcohol and Drug Abuse Treatment Services, for the time period July 1, 2015 through June 30, 2017

Auditing Services – Award Bid and Delegate Authority to Execute Contract

Kate Knop, Finance Director

Ms. Knop explained six firms were chosen to receive the Request for Proposals and two responded –

1. Barnett & Moro – estimated cost per year is \$31,500 and could increase annually by the June Consumer Price Index.
2. Oster Professional Group – estimated cost per year is \$30,850 which would remain the same for all three fiscal years specified in the contract.

Commissioner Rea stated she preferred Oster's lower, stable bid. Commissioner Russell commented he would prefer to stay with the County's current audit firm of Barnett & Moro since it's Ms. Knop's first year as Finance Director. Brief discussion.

Commissioner Rea moved to award the contract for auditing services to Oster Professional Group in the amount of \$30,850 per year for three fiscal years ending June 30, 2016, 2017 and 2018. Commissioner Russell seconded. Aye: Commissioner Rea. Nay: Judge Tallman and Commissioner Russell. Motion failed.

Commissioner Russell moved to award the contract for auditing services to Barnett & Moro in the amount of \$31,500 per year for three fiscal years ending June 30, 2016, 2017 and 2018, noting the cost could increase annually by the June Consumer Price Index. Judge Tallman seconded. Unanimous approval.

Commissioner Rea moved to approve granting Judge Tallman the authority to sign the contract with Barnett & Moro for Auditing Services on the County's behalf, after it has been reviewed by County Counsel. Commissioner Russell seconded. Unanimous approval.

Discussion – Board and Committee Meetings for Incoming Commissioner/Judge

Judge-Elect Lindsay and Commissioner-Elect Doherty opted to send the preferences for meeting assignments to Mr. Sorte via email.

Discussion – Initiative Petition 28

Since the Court would like to hear both sides of this issue, they asked Mr. Sorte to invite a proponent of the petition to make a presentation at a future County Court meeting.

Fee Schedule Update

Karen Wolff, Human Resources Director

Ms. Wolff presented the draft document for review. Discussion centered on keeping fees to a minimum, particularly electronic document requests. Commissioner Russell requested Department Heads conduct a comparison of fees within their departments to those of Umatilla and Grant Counties. Ms. Wolff said fees can be reviewed every six months and having that information for the next review would be more feasible.

Commissioner Rea moved to approve the updated Fee Schedule, as presented. Commissioner Russell seconded. Aye: Commissioners Rea and Russell. Nay: Judge Tallman. Motion carried.

Surplus Property Sale

Ms. Wolff reviewed the history of the property at 78576 Parkside Road, Boardman, and discussed the options available to surplus the property.

Commissioner Russell moved to declare the Real Property at 78576 Parkside Road, Boardman, Oregon, Account #4580 and Personal Property of a Manufactured Structure, Serial No. N59105038, Account #60069 as surplus, and that it be offered at Public Auction as one lot as soon as possible. Minimum bid to be \$1,000 with terms of sale to be cash, cashier's check, money order or current letter of credit from a bank or lending institution in full on the day of the sale. Commissioner Rea seconded. Unanimous approval.

Human Resources Business Items

Additional Sheriff's Office Classification

Ms. Wolff explained when the wage scale for the Sheriff's Office was created, they did not anticipate employing uncertified Parole & Probation Officers, as is now the case. She said the request is to create the new classification which will mirror the existing position of uncertified Patrol Deputy.

Commissioner Rea moved to approve the creation of a new classification within the Parole & Probation Officer Wage Scale of the Teamsters Wage Scale – Uncertified Parole Officer, equal to the Uncertified Patrol Deputy classification, effective immediately. Commissioner Russell seconded. Unanimous approval.

Step Program Exception – General Maintenance Associate

Ms. Wolff said a conditional offer was extended to someone for the General Maintenance Associate position, but he requested to start at Step 2 based on his experience and training. She said Public Works requests the Court grant the exception.

Based on the candidate's experience and training, Commissioner Rea moved to approve the requested exception to start at Step 2 of Pay Range 12 of the General Employee Wage Scale for General Maintenance Associate. Commissioner Russell seconded. Unanimous approval.

County Counsel Report

Justin Nelson, County Counsel/District Attorney

Mr. Nelson reported he and Co-County Counsel, Richard Tovey, remain busy reviewing contracts and replying to research requests.

Administrative Officer Report

Mr. Sorte

- The Court previously declared a van used by The Loop – Morrow County Transportation as surplus. What is the preference for disposition - send to State Surplus or sell locally? Commissioner Russell and Judge Tallman expressed interest in selling locally. Mr. Sorte said there may be other vehicles that could be sold at the same time.
- An earlier Court Discretionary Fund request of \$1,000 to Rick Drake as Music Director for the Heppner Schools to purchase portable stage lighting is being held while he raises additional funds. However, Mr. Drake submitted a letter stating the funds could be used immediately as he plans to purchase basic lighting equipment now. The goal is to procure full stage lighting to fit many needs when more funds are available, the letter stated. The Court agreed to release the funds.

Commissioner Rea moved to approve awarding \$1,000 from the Court Discretionary Fund (Fiscal Year 2015-2016) to the Music Director at the Heppner Public Schools. Commissioner Russell seconded. Unanimous approval.

- Public Works continues to work on leveling the ground between the Bartholomew Building and the Courthouse. Retaining walls will be needed in a few areas and installation of an irrigation system is being explored.
- Work continues with the Planning Department to gather information on facility needs for the north end of the County.

Claims

Commissioner Rea moved to approve the Payroll Payables dated June 6th, July 13th (employee final) and July 20th; Void Check dated July 21st; Morrow County Retirement Trust, Notice CP-504 Payment, Tax Period 2015, Form 945 dated July 20th; and Accounts Payable dated July 28th in the amount of \$398,477.09. Commissioner Russell seconded. Unanimous approval.

Minutes

Commissioner Rea moved to approve the minutes of July 13th, with correction. Commissioner Russell seconded. Unanimous approval.

Commissioner Rea moved to approve the Executive Session minutes of July 13th, as presented. Commissioner Russell seconded. Unanimous approval.

Commissioner Rea moved to approve the minutes of July 20th, as presented. Commissioner Russell seconded. Unanimous approval.

Correspondence Reviewed:

- Packet of letters to and from various congressional delegation members, governors and U.S. Navy personnel concerning the Boardman to Hemingway Transmission Line Project (B2H).
- Letter from Collins Management Corporation notifying the County of the upcoming closure of the Upper Columbia Mill.
- Morrow County 4-H Happenings newsletter.

Commissioner Reports

- Judge Tallman reviewed documents from a recent Mental Health Advisory Board meeting.
- Commissioner Rea said she attended a CAPECO (Community Action Program of East Central Oregon) meeting where it was announced Paula Hall has been hired as Chief Executive Officer.
- Both Commissioners Rea and Russell discussed a tour of the Port of Morrow in which they participated regarding B2H.
- Commissioner Russell said he attended last week's Oregon Department of Land Conservation and Development Commission round table discussions.

3:08 p.m. – Executive Session

ORS 192.660(2)(f) To consider information or records that are exempt by law from public inspection.

3:22 p.m. – Closed Executive Session – No decisions

Adjourned: 3:25 p.m.