

Morrow County Board of Commissioners Meeting Minutes
January 9, 2019
Irrigon Branch of the Oregon Trail Library District, Community Room
Irrigon, Oregon

Present

Chair Jim Doherty
Commissioner Melissa Lindsay
Commissioner Don Russell
Darrell Green, Administrator
Kate Knop, Finance Director
Karmen Carlson, Human Resources Director
Richard Tovey, County Counsel
Roberta Lutchter, Executive Assistant

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

City and Citizen Comments: After wishing all a Happy New Year, Irrigon City Manager Aaron Palmquist said “good things” will be happening in Irrigon in the next few months.

Open Agenda: Commissioner Lindsay requested a discussion on the process for staff to provide legislative updates at BOC meetings.

Consent Calendar

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

1. *Accounts Payable, January 10th, \$158,529.95; Fiscal Year 2018-19 Retirement Taxes, January 3rd, \$19,565.41; Two Payroll Payables, January 2nd, \$162,439.89 and HRA VEBA, \$3,000*
2. *Minutes: December 18, 2018 Business Meeting*

Commissioner Lindsay seconded. Unanimous approval.

Public Hearings

Road Transfers to the City of Boardman and Port of Morrow; and Associated Order Numbers OR-2019-1 through OR-2019-7

Chair Doherty called for abstentions or conflicts of interest. Hearing none, he outlined the process for offering testimony and called for the Staff Report.

Carla McLane, Planning Director, reviewed her memo to the Board and Interested Parties dated January 2nd. She outlined the additional information provided for today’s Public Hearing since the last meeting with the Board. She discussed the seven Orders for consideration and the required notice process, which resulted in no inquiries.

Ms. McLane then discussed Order No. OR-2019-7 which states, “...the Morrow County Board of Commissioners transfers authority to the City of Boardman or the Port of Morrow of the roads identified within Orders OR-2019-1 through OR-2019-6 and any other County road that may be

identified that is located east of Olson Road, north of Interstate 84 and Highway 730, and within the portion of City limits annexed since 1985 and in areas zoned for Industrial Uses. Or more specifically as depicted on the map identified as Attachment A.” She stressed both the City and Port have until February 20th to provide their respective adopted Orders or their actions become invalid.

Chair Doherty asked if the Commissioners had questions for Staff.

Commissioner Russell said the Port was under the assumption they already owned some of the roads involved in today’s request. These actions clear up that confusion, he added. He asked if there would be any reason the County should not transfer the authority of the roads since there is another public entity willing to take over maintenance.

Public Works Director Matt Scrivner said doing so frees up the entity doing the building and infrastructure in that area.

Chair Doherty called for proponents to speak.

Ron McKinnis, Port of Morrow, Engineer (Retired)

Mr. McKinnis said the effort to clear up the confusion surrounding these roads spanned his entire career at the Port. He said this is probably the best position now that could be hoped for. The County has chosen the best process so there isn’t confusion in the future, he said, because there has been confusion in the past. Mr. McKinnis requested the Board move forward with all of the Orders. He said he is not speaking for the City of Boardman, but at one time acted in their interest.

Chair Doherty called for opponents to speak. No response. He called for neutral parties to speak. Hearing no response, he asked if the Board had further questions of staff.

Commissioner Lindsay said the City of Boardman hasn’t shown up for any of these meetings and didn’t submit a letter until it was requested. She asked if there was contact with them in this process. She said she has seen letters about the City’s difficulty in maintaining infrastructure and asked if detailed conversations have taken place with the City.

Ms. McLane replied no, but the City Manager did not hesitate to quickly provide a letter when asked.

Mr. Scrivner said he hadn’t spoken to them in detail about it but the City currently maintains nearly all the way to the onion plant. They’ve already assumed the maintenance to that point, he said.

Chair Doherty said at this point, the City knows they’re taking on additional responsibility for the infrastructure. They’ve had challenges with funds for infrastructure in the past. Maybe this

will free up some of the Grants to Cities funds for the County as we come into budget because it doesn't appear to be a challenge for them to take on this extra responsibility. He explained in the last update about the grant funds from the City of Boardman, the letter stated the grant funds were needed because keeping up with infrastructure was a challenge. He said he'd be curious to see, as we move forward, if there are other things the City can spend those funds on.

Closed Public Hearing: 9:19 a.m.

Order Numbers OR-2019-1 through OR-2019-7

Commissioner Lindsay moved to approve Order No. OR-2019-1, An Order Transferring Jurisdiction Over a Portion of Columbia Avenue to the City of Boardman. Commissioner Russell seconded. Unanimous approval.

Commissioner Russell moved to approve Order No. OR-2019-2, An Order Transferring Jurisdiction Over a Portion of Laurel Road to the City of Boardman. Commissioner Lindsay seconded. Unanimous approval.

Commissioner Lindsay moved to approve Order No. OR-2019-3, An Order Transferring a Portion of Columbia Avenue to the Port of Morrow. Commissioner Russell seconded. Discussion: Chair Doherty asked if all these roads remain public access. Ms. McLane replied absolutely. Vote: unanimous approval.

Commissioner Russell moved to approve Order No. OR-2019-4, An Order Transferring Jurisdiction Over Industrial Way to the Port of Morrow. Commissioner Lindsay seconded. Unanimous approval.

Commissioner Lindsay moved to approve Order No. OR-2019-5, An Order Transferring Jurisdiction Over Lindsay Way to the Port of Morrow. Commissioner Russell seconded and noted the road is named after Port of Morrow Commissioner Larry Lindsay. Unanimous approval.

Commissioner Russell moved to approve Order No. OR-2019-6, An Order Transferring Jurisdiction Over a Portion of Rippee Road to the Port of Morrow. Commissioner Lindsay seconded. Unanimous approval.

Commissioner Lindsay requested further discussion on Order No. OR-2019-7. She said the unintended consequences of the Order are in the back of her mind and without a request from either party as to this type of need, she was not in favor of the Order.

Commissioner Russell moved to approve Order No. OR-2019-7, An Order Confirming Transfer of Jurisdiction Over Several Roads within the City Limits of Boardman and the Port of Morrow Food Processing Park and East Beach Industrial Park. Chair Doherty seconded. Discussion: Chair Doherty asked County Counsel Richard Tovey if there were any challenges relative to

Commissioner Lindsay's concerns, or any other challenges, in general. Mr. Tovey said in his discussions with Ms. McLane, the only hold-up he had was the unintended consequences, for example, is there any chance the County does approve this broad Order and later there is a portion of a County road that for some reason is brought back to the County and the County wants to keep it. The way it's been delineated, specifically within the City limits and Industrial zones, it does really limit it to areas that have been discussed as wanting the Port and City in control of those. The only hang-up is the "what if." As far as legal hang-ups, the mechanisms are here for the Port and City to accept within that limited area of the map. Ms. McLane said this was noticed, the packet was provided, the City and Port had opportunity to say they didn't want to accomplish this. Silence usually means acceptance, she added. There was then discussion about the City's and Port's response requirement to the County's Orders. Chair Doherty said he had a challenge with the approach in that we could have led off with Order No. 7 and made it effective immediately, but we felt it was necessary to go through each one individually. I don't think doing a blanket Order, especially when we just went through an exercise telling us we don't want to do that in the future. Vote: Aye – Commissioner Russell; Nay – Chair Doherty, Commissioner Lindsay. Motion failed.

Port of Morrow/Columbia Mill Rezone – Continuation of Public Hearing of January 3, 2019

Chair Doherty called for abstentions, conflicts of interest, or ex parte contact.

Commissioner Lindsay said she attended the Planning Commission meeting originally held on this topic and stayed for the entire presentation. She said she also received a hand-out of an email exchange not included in this, as did Commissioner Russell and the audience.

Ms. McLane said the Planning Commission did not take an action to add that to the record, as you see it.

Commissioner Russell said he attended the Planning Commission meeting and heard the same items as Commissioner Lindsay on this. Commissioner Russell said he listened to the two-hour audio recording of the original BOC Public Hearing from January 3rd. He said he had ex parte communication with a previous Port of Morrow Manager when he was still Manager about his thoughts on this project and client, however that client is no longer in the picture. He said he did not have an idea of future plans for this, but at one time there were plans for a client but economics have changed and the client is no longer. Commissioner Russell stated he had no conflicts.

Chair Doherty said he had nothing further other than what was disclosed at the original Public Hearing on January 3rd. He then called for the Staff Report.

Ms. McLane reviewed the new information provided since the January 3rd Public Hearing:

1. Updated memo from Ms. McLane dated January 7th
2. Updated Agenda Item Cover Sheet

3. The Planning Commission Final Findings of Fact now include the amended application (Goal 9 portion, page 12, highlighted in yellow)
4. Attachment 4 – Port of Morrow Infrastructure Plan, 29 pages of drawings
5. Emails between Ms. McLane and Mr. McKinnis. Ms. McLane said the important piece of information in the email is the sentence about the ability to provide waste water and fresh non-potable water.
6. Regarding the question about the signature page of the application, Ms. McLane provided an email correspondence with Don Rice that delineates that authority.
7. Applicant submitted a letter dated September 8, 2018 which served as notice to Ms. McLane as Enterprise Zone Manager, and Assessor/Tax Collector Mike Gorman, that they are shuttering and moving toward closure of the facility, as required under the Warren Act.

Chair Doherty called for proponents to speak.

J.R. Cook, Cook's Land and Water Consulting, LLC

Mr. Cook, acting as the Port's land use consultant, presented a four page letter to the Board dated January 9, 2019. He said it represents the Port's support testimony to the record that's been supplemented between January 3rd and today; he proceeded to read it into the record. The main points of the letter were:

1. Port Infrastructure Plan and Capability of Serving the Subject Property
2. Compatibility with Goal 9
3. Compliance with the Abandonment or Diminishment Standard of Oregon Revised Statute (ORS) 197.719
4. Land Use Compatibility
5. Port Opposition to Imposition of a Limited Use Overlay Zone
6. History of Permitting and Use of the Subject Property

Don Rice, Greenwood Resources and current landowner

Mr. Rice said there was a formal agreement with the adjacent landowner for Right of First Refusal and it was declined. He said they continued to talk to other agriculture users in the area but no one expressed interest. They continued marketing efforts and started discussions with the Port to find a continued use for the site. He said the sawmill was idled in the early part of 2017 and so about 90% of the investment in the sawmill was idled at that point, and subsequently equipment was removed. There's still ongoing operation with a chipping line that is used minimally and a barking line that services a sub-tenant for veneer and that supply of veneer is scheduled to end in March 2019. All the trees will not be harvested at that point but we anticipate field processing of the materials after that. The site will be totally idled March 2019, he said.

Joe Nash, Nash Contracting

Mr. Nash said he could be called a potential client and has been there a long time. He said he's trying to work through keeping the chip facility in operation which would require no

modifications except to change the paperwork. He said the goal is to find an alternative for the 14 or 15 employees once the operation ends with Greenwood. He said he wants to bring in logs from the surrounding areas and store them on the site with the plan being to run continuously to chip them. He said the impact to County roads won't change much and could decrease as the outgoing traffic might be less than today's traffic.

Mark Patton, Port of Morrow, Assistant General Manager

Mr. Patton said the Port would hate to see this asset lost and for Mr. Nash to lose those employees. He said the Port supports the zone change.

Commissioner Russell said he would sum up where he thinks things stand: Greenwood Resources sold most of the farm ground to AgriNorthwest. The land where the trees were growing is being converted into crops. There's a zone there now that allows resources grown on the property to be processed in an industrial manner. Those resources are gone now or are going away. There's been no opposition from surrounding landowners. One landowner had a Right of First Refusal and declined. The landowner continued to seek a purchaser when the Port stepped up to say they'd purchase it. The Port is now asking for a zone change to Port Industrial which gives them maximum flexibility on what they can do out there. It's up to us to decide if that's right.

Mr. Cook said it's important to acknowledge ORS 197.719 is a tool people don't know is out there; no one has taken advantage of it. Future zone changes in and around there would have to go through a longer process to accomplish the same goal. It can't be expanded without a more onerous process, he said. Discussion as to those lengthier process options.

Chair Doherty called for opponents. After there was no response, he asked if there were additional questions for staff.

Commissioner Lindsay asked Ms. McLane about the Reasons Exception process cited by Mr. Cook above. Brief discussion.

Chair Doherty asked about a reference to eminent domain during the Planning Commission Public Hearing.

Mr. Cook said it was during the discussion about the ability to provide adequate services to the site. The Port, like the County, as a public entity has that tool, but it doesn't mean it would be used, he said. Additional discussions then took place between the Board, staff and audience about rail service, the conditional use process in the Planning Department, Interchange Area Management Plans, and the Transportation System Plan.

Commissioner Lindsay said the applicant acknowledged it is not a closed mill site yet and references a future date so it meets statute. She asked for input from County Counsel.

Mr. Tovey said the input by Mr. Cook and Mr. Rice today provided information the Board didn't have. The statute says "going to be closed" when it's zoned, he said, it does give the leeway to the Board to choose to do it now with the understanding it will happen, or hold off.

Commissioner Lindsay asked Mr. Tovey if it has to have been closed or have a clear understanding of closing, or it's out of compliance.

He replied he believed that to be the case.

Commissioner Russell said both "closed" and "diminished" are in statute and the mill is clearly diminished and the source of raw product is running out.

Ms. McLane outlined the timeline of a First Reading, Second Reading, and 90-day period before the ordinance would become effective. If the Board approved this today, she said, the effective date would be well after the closure date in March.

Closed Public Hearing 10:19 a.m.

Brief discussion to clarify effective date and what the motion should contain.

Commissioner Russell moved to adopt the findings of the Planning Commission and authorize staff to prepare the appropriate paperwork referencing ORS 197.719 about abandoned mill sites; effective date April 1, 2019 and move forward with this. Commissioner Lindsay seconded. Discussion: Commissioner Lindsay requested legal counsel confirm the effective date will meet statute. Mr. Tovey said based on the testimony received by the Board today that it will be closed in March, April 1st would be within legal standards. Commissioner Russell said there isn't the opportunity very often from the state to develop a zone like this. If we don't, he said, there is a risk of losing those 15 jobs and a site that would remain abandoned. Commissioner Lindsay said if it gets us there, and that is what she was hearing, then she was fine with it. Chair Doherty said if there was no further discussion, he would poll the Board. Commissioner Russell: Aye. Commissioner Lindsay: after asking to vote last, she voted: Aye. Chair Doherty said he and Ms. McLane have had many discussions about land use and he then went on to point out the differences that can be seen in Washington regarding zoning, or the lack thereof. He said the Board is faced with a similar situation with these 48 acres. He suggested the resources are still there but they've changed, which makes the potential for Resource Related Industrial still exist. The other thing to clear up is Port vs. Port Industrial. We take it on good faith it will sell...so we're faced with a zone change to the Comprehensive Plan...we need the separation from ag and industry. The Port has always gotten along with ag folks...that's not our challenge. The challenge is Port Industrial and the location of the land being discussed. He said he read an article relative to the great work Mr. Cook does with the water that suggested there were 8,000 acres of Port Industrial property, or properties managed by the Port and now we're looking at 8,048 and still you have the challenge, those acres are unique. He said he thought the application last week had a bit of a Freudian slip when it said the best place for Industrial Port

ground is adjacent to the Port Industrial Park; that was probably the best argument. He said he would have felt more comfortable with this going back to the Planning Commission because of the changes made. With that, he said the motion passes 2-1 with the Chair voting in opposition.

Break: 10:32-10:39 a.m.

Business Items

Oregon Military Department (OMD) Intergovernmental Agreement (IGA) #24800-17-0002, Amendment 1

Dave Pranger, Weed Coordinator/Inspector

Mr. Pranger said this is to spray weeds on the OMD's portion of Camp Umatilla that is situated in Morrow County. It basically extends the 2017 agreement term end date to December 31, 2020, he said.

Commissioner Lindsay moved to approve Amendment 1 to the Oregon Military Department Intergovernmental Agreement Number 24800-17-0002; not-to-exceed amount of \$7,000 in Federal Fiscal Year 2019, and authorize the Chair to sign on behalf of the County.

Commissioner Russell seconded. Commissioner Russell moved to amend the motion to allow the Morrow County Public Works Weed Control Department to sign on behalf of the County.

Commissioner Lindsay seconded the amendment. Unanimous approval.

Oregon Department of Transportation (ODOT) IGA No. 32141, Amendment 1

Matt Scrivner, Public Works Director

Mr. Scrivner said for security purposes, ODOT is asking to fence the Morrow County property where the sand storage facility is located on the north end of Bombing Range Road. The project will be at ODOT's expense, he said. A few other updates to the contract were reviewed, such as current contact information, etc.

Commissioner Russell moved to approve Amendment 1 to Intergovernmental Agreement #32141, Salt/Equipment Storage, Morrow County. Commissioner Lindsay seconded. Unanimous approval.

ODOT 2017 Fund Exchange Agreement #32127, Amendment 1

Mr. Scrivner said the amendment adds language for Americans with Disabilities Act compliance.

Commissioner Lindsay moved to approve Amendment 1 to ODOT 2017 Fund Exchange Agreement #32127, Overlay on Various County Roads, Morrow County. Commissioner Russell seconded. Unanimous approval.

ODOT Local Agency Agreement #32994

Mr. Scrivner explained the agreement is to provide chevron signs (a warning sign of a sharp curve in the road) on Willow Creek Road.

Commissioner Russell moved to approve ODOT Local Agency Agreement #32994, State Funded Local Project Program, amount \$136,485.60. Commissioner Lindsay seconded. Unanimous approval.

Planning Commission Appointment – Ione Position 8

Ms. McLane said Clint Carlson submitted a letter of resignation, so this would be a mid-term appointment. She reviewed the public notice process to advertise the vacancy.

Commissioner Lindsay moved to appoint Stacie Ekstrom to Planning Commission Position 8, serving the greater Ione area, term to be January 9, 2019 through December 31, 2019. Commissioner Russell seconded. Unanimous approval.

Comment Letter – Ellis Integrated Vegetation Project

Ms. McLane said the letter was drafted based on earlier discussions with the Board. She said she reviewed documents from the Forest Service website, Federal Register notice, the Project proposal, and the Forest Service letter soliciting comment. However, there was so little information available as to what the Forest Service is doing, that there was no way to make effective comment, she said. Ms. McLane reviewed the contents of the letter.

Commissioner Russell moved to approve signing the letter to Brandon Houck, District Ranger, Forest Service, concerning the Ellis Project, providing initial limited comment and requesting Cooperating Agency status. Commissioner Lindsay seconded. Unanimous approval.

Department Reports

Planning Department Monthly Report

Ms. McLane reviewed her report. Some of the discussion points were:

- January 22nd Renewable Energy Planning Commission Work Session about wind modeling and noise. Guest speaker will be Kerrie Standlee, Acoustical Engineer.
- Confined Animal Feeding Operations (CAFO) Workgroup – After a discussion of the activities in recent years regarding state issued CAFO permits in the County, Ms. McLane said when she made comments about protecting the Ground Water Management Areas it did not mean she was against agriculture, it meant she was doing so to protect agriculture. Commissioner Doherty said the previous County Court took the appropriate stance when they opted to “hold people’s feet to the fire.” The County doesn’t need to encourage additional safeguards, the state needs to follow through on the rules and regulations already in place, he stated.
- The follow-up process by the Planning Department on Conditional Use permits.

Justice Court Quarterly Report

Judge Ann Spicer

Judge Spicer provided a verbal report. She brought up the question of suspensions for those with low incomes. She said she does so when people don’t pay their fines, but there are other options, such as community service and payment plans. She said suspension is the only effective tool to

get people to pay fines. Having a low income does not mean you have the right to violate the law, she said. Judge Spicer also said she's been effective dealing with truancies, and that her office is collecting close to 100% of the traffic tickets issued.

Administrator Evaluation Process

Karmen Carlson, Human Resources Director

Ms. Carlson said the Board will meet in Executive Session on January 16th to review and evaluate the Administrator, Darrell Green. She reviewed the timeline including the due date for Mr. Green's self-assessment to the date for anonymous comments from staff to be turned into HR, etc.

Commissioner Reports

- Commissioner Russell talked about an upcoming meeting of the Columbia River Enterprise Zone II Board where discussions will take place on how to distribute an estimated \$3,000,000. He said the CREZ II Board needs to start discussing a variety of options on how to distribute future monies as they will be tasked with determining how to distribute up to \$8,000,000 in the not-too-distant future.
- Commissioner Lindsay briefly reviewed her calendar.
- Chair Doherty said in the past, he felt a need to justify his workload, but as he attended other meetings around the state where people discussed hopes, dreams, promises for their counties, he'd like to include that in his discussions, as well. Chair Doherty provided a brief update on the discussions regarding amendments to the Wheatridge Wind Energy Strategic Investment Program Agreement.

Legislative Updates from Staff & Directors

The Board decided to place "Legislative Updates" on the agenda while the legislature is in session. Commissioner Russell said he'd like to see staff provide information on proposed legislation they see as problematic or, what they'd like the Board to support.

Signing of documents

Adjourned: 12:35 p.m.