

# MORROW COUNTY BOARD OF COMMISSIONERS MEETING AGENDA

Wednesday, September 11, 2019 at 9:00 a.m.

Irrigon Branch of the Oregon Trail Library District, Community Room

490 N.E. Main Ave., Irrigon, Oregon

**AMENDED**

1. **Call to Order and Pledge of Allegiance - 9:00 a.m.**
2. **City/Citizen Comments:** Individuals may address the Board on topics not on the agenda
3. **Open Agenda:** The Board may introduce subjects not on the agenda
4. **Consent Calendar**
  - a. Accounts Payable dated September 12<sup>th</sup>; Three Payroll Payables, August 29<sup>th</sup>, \$195,428.53; August 21<sup>st</sup>, \$18,718.44; July 15<sup>th</sup>, \$1,615.29; Retirement Taxes, September 3<sup>rd</sup>, \$26,563.41
  - ~~b. Vehicle Fleet Inventory Postponed~~
  - c. Letter verifying BOC approval of Community Corrections Plan Intergovernmental Agreement #5854
  - d. Amendment 1 to Highway Safety Improvement Program Agreement #31234 for Sign Upgrades
  - e. Purchase Pre-Authorization Request from Parks Department for Forestry Brush Cutter using Oregon Parks & Recreation Department ATV Grant funds
  - f. Authorize Administrator to sign Victims of Crime Act/Criminal Fine Account application award documents & reporting forms
5. **Business Items**
  - a. Permit Application to Build on the Right-of-Way #OOL from Umatilla Electric Cooperative, Olson Road near the intersection with Wilson Lane, Electric Transmission Line; and Permit Application to Build on the Right-of-Way #OOR from UEC, Bombing Range Road 4.8 miles from the intersection with Homestead Lane, Electric Transmission Line (Carla McLane, Planning Director)
  - b. Permit Application Process Discussion (Carla McLane)
  - c. Adjusted Revenue from Oregon Department of Veterans' Affairs; Sign County Application for ODVA Funds (Linda Skendzel, Veterans Services Officer)
  - d. Oregon Health Authority Intergovernmental Agreement for Behavioral Health Services - Overview and Discussion (Kate Knop, Finance Director)
  - e. Reclassification Request for Review to the Board of Commissioners (Karmen Carlson, Human Resources Director)
  - f. Collective Bargaining Team for Retirement Plan Redesign (Darrell Green, Administrator)
  - g. Irrigon Building Update (Darrell Green)
  - h. Intergovernmental Agreement between Morrow County, City of Boardman, Port of Morrow & Oregon Department of Transportation for Planning Work to Complete an Update to the POM Interchange Area Management Plan (Carla McLane)
  - i. Morrow County, City of Boardman, Port of Morrow & ODOT Request for Proposals for Qualified Consultants to Complete an Update to the POM Interchange Area Management Plan (Carla McLane)

- j. ~~Wheatridge Road Use & Maintenance Agreement (Darrell Green)~~
- 6. Department Reports**
  - a. Planning Department Monthly Report (Carla McLane)
- 7. Correspondence**
- 8. Commissioner Reports**
- 9. Executive Session** – Pursuant to ORS 192.660(2)(e) – To conduct deliberations with persons designated by the governing body to negotiate real property transactions
- 10. Signing of documents**
- 11. Adjournment**

Agendas are available every Friday on our website ([www.co.morrow.or.us/boc](http://www.co.morrow.or.us/boc) under “Upcoming Events”). Meeting Packets can also be found the following Monday.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Roberta Lutcher at (541) 676-5613.

Pursuant to ORS 192.640, this agenda includes a list of the principal subjects anticipated to be considered at the meeting; however, the Board may consider additional subjects as well. This meeting is open to the public and interested citizens are invited to attend. Executive sessions are closed to the public; however, with few exceptions and under specific guidelines, are open to the media. The Board may recess for lunch depending on the anticipated length of the meeting and the topics on the agenda. If you have anything that needs to be on the agenda, please notify the Board office before noon of the preceding Friday. If something urgent comes up after this publication deadline, please notify the office as soon as possible. If you have any questions about items listed on the agenda, please contact Darrell J. Green, County Administrator at (541) 676-2529.

# PLANNING DEPARTMENT



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## MEMORANDUM

To: Morrow County Board of Commissioners  
From: Carla McLane, Planning Director  
Date: September 9, 2019  
RE: Permit Application Process

As I understand the inquiry there is a desire to understand how an application moves through the approval process, how an appeal may happen, if there is an opportunity to deny a permit, and if denied what avenue the applicant may have as recourse. The focus of this discussion will be on land use permits, but some of the appeal and denial information could be applicable to actions outside of land use. And I'll attempt a quick look at how condemnation might work, although that is NOT my area of expertise.

**Application process:** For most land use permits the approval mechanism is either a zoning permit, land use decision (reserved predominately on land zoned for Exclusive Farm Use), or conditional use permit. If a land owner wanted to build a home on land zoned for rural residential use the actionable permit would be a zoning permit, which is usually approved along with a land use compatibility statement for onsite waste water and a rural address. Should the land owner already own a home on land zoned for Exclusive Farm Use (EFU) and desire to replace that home, the approval process would be through a land use decision (a use allowed with standards). A conditional use permit is triggered when a land owner, in the EFU or Forest Use zone, wishes to establish a hardship dwelling to care for the family's matriarch. In other zones the hardship dwelling action does not trigger conditional use permit criteria and is approved as a hardship variance, although still a Planning Commission decision.

The zoning permit is issued by staff, does not require notice and is implementing the uses that are often referred to as 'uses allowed outright.' The land use decision implements a use that is 'allowed with standards,' or put another way a use that can only be denied if the applicant can't demonstrate compliance with those standards. Land use decisions do require notice and allow for comment. And conditional use permits are designed for uses that have known impacts, require notice, and in Morrow County are reviewed by the Planning Commission.

**Appeal opportunity and process:** Any of the above can be appealed. As the zoning permit and land use decision are staff level decisions, those appeals start at the Planning Commission. The Planning Commission determination can be further appealed to the Board of Commissioner's. The conditional use permit, as a Planning Commission decision, would be appealed to the Board of Commissioner's. Should an appellant not be satisfied with the decision rendered by the Board of Commissioners, they can appeal to the Land Use Board of Appeals, or LUBA.

Any decision can be appealed. Approvals can be appealed by aggrieved neighbors, or in the case of the lengthy Love's proceedings, a competitor can use the land use planning program to limit others entering a local market. In the case of a denial, the applicant then can become the appellant, working to gain an approval from a higher decision making authority or from the court system.

**Denial:** During my tenure at Morrow County denial has rarely been used. I can recall fewer than a handful of applications that have been denied; some with controversy, some not. Should an application be denied there would have to be clear findings adopted that outline why the application is being denied, stating the facts and conclusions leading to denial. Probably the best example during my tenure was when the County Court denied a quarry application, reversing the approval granted by the Planning Commission. Those findings were drafted by a hired land use attorney.

**Non-land use decisions:** Morrow County issues other types of permits outside of the regulated land use permit process. Those include road access and other road use permits; environmental health permits through Umatilla County under contract for both the onsite waste water treatment program or the food, pool and lodging program; or concealed weapons permits through the Sheriff's Office. With the exception of the Umatilla County Health Department permits, I am not aware of a review or appeal process for most other permits issued by or under Morrow County authority.

Considering specifically the road access and other road use permits, Oregon Revised Statute (ORS) 368 gives Counties broad authority relative to roads and road use. As I understand the currently adopted Ordinance that controls how current permits are issued, there is not a determined appeal body beyond decisions made by the Board of Commissioner's. Circuit Court is the usual next step in most non-land use proceedings within a county's jurisdiction.

**Condemnation:** As I said earlier this really isn't my area of expertise, but during my tenure with Morrow County I have engaged in conversations about a variety of condemnation processes in the region. Umatilla Electric Cooperative (UEC) utilized their condemnation option for a transmission line built between Hermiston and the McNary substation; Gas Transmission Northwest had to engage with condemnation for the Carty Lateral pipeline. For UEC the applicable Oregon Administrative Rule (OAR) would be Chapter 860 Division 25 which outlines what the utility needs to provide as their petition for a Certificate of Public Convenience and Necessity for Construction of Overhead Transmission Lines. The underlying statute is Oregon Revised Statute (ORS) 758 Utility Rights of Way and Territory Allocation; Cogeneration. Counties also have condemnation rights, which for roads are vested in ORS 368 County Roads, specifically under the portion titled Acquisition of Property for Roads. Both of these statutes have references back to ORS 35 Eminent Domain.

Reviewing these various statutes and rules, in preparation of this memorandum, has been enlightening.

I will do my best to answer your questions.