

UMATILLA COUNTY BOARD OF COMMISSIONERS
Meeting of Thursday, May 12, 2011
9:00 a.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

COMMISSIONERS PRESENT: Dennis Doherty, Larry Givens, Bill Hansell
(Chairman).

ABSENT: None.

COUNTY COUNSEL: Doug Olsen

STAFF: Tamra Mabbott, Carol Johnson, Gina Miller

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. A RECORDING OF THE MEETING IS AVAILABLE AT THE PLANNING DEPARTMENT OFFICE.

CALL TO ORDER:

Commissioner Hansell called the meeting to order at 9:06 a.m.

CONTINUED HEARING:

- **Update of Umatilla County Development Code, #T-10-039.** Amendment to Conditional Use Section 152. 616 (HHH) of the Umatilla County Development Code, pertaining to standards for large scale commercial wind energy projects.

Commissioner Hansell thanked everyone for the additional materials that were submitted for the record. He asked Planning Director Tamra Mabbott to update the Commissioners on information submitted since the last hearing.

Mrs. Mabbott explained that the record from the March 17th hearing was at Exhibit #48 and they were prepared to submit Exhibits #49 through #83 at today's hearing. Commissioner Givens moved to accept the new exhibits into the record, and Commissioner Doherty seconded the motion. Commissioner Doherty noted that due to the overwhelming size of the materials, he did not read every page of the information. Motion carried 3:0.

Commissioner Hansell asked to submit a letter from the City of Milton-Freewater received the previous day into the record as Exhibit #84. Commissioner Givens made this motion, and Commissioner Doherty seconded. Motion carried 3:0.

Mrs. Mabbott explained the nature of the hearings and work sessions held to date. Commissioner Doherty moved to adopt the minutes from the March 17, 2011 hearing, and Commissioner Givens seconded the motion. Motion carried 3:0.

Public Testimony: Bob Levy, representing Cunningham Sheep Co, 31471 Andrews Road, Echo, Oregon. Mr. Levy commented that the county was singling out wind energy for its impacts on property rights, and it was important to balance between owners and uses for the land. Some of the regulations currently considered would be restrictive to property rights and impact their financial benefit. He stated that data was provided to show that the alleged impacts from wind energy were no greater than any other use currently allowed. Mr. Levy commented that proposed regulations on weed control, re-vegetation requirements and water quality compliance issues were better left to state and federal agencies that have the staff and expertise to address these issues. His client was concerned about the effects on neighboring cattle growers, and how these proposed regulations would spill over to other uses than wind development. They were strongly opposed to the county adding layers of regulations to already burdensome state and federal regulations that impair their property rights. He commented that the county benefited from tax revenues from wind projects and this income stream could continue if balanced and fair regulations were adopted. Mr. Levy testified that it was important to maintain a fair and friendly business climate in Umatilla County, and investors would only invest where there was certainty. He considered parts of the proposed ordinance to be an attack on the free enterprise system. He urged the Commissioners to adopt a fair and balanced ordinance that avoided duplication of state and federal regulations.

Commissioner Givens moved to adopt Mr. Levy's letter as Exhibit #85, and Commissioner Doherty seconded the motion. Motion carried 3:0. Commissioner Doherty asked Mr. Levy about his letter submitted at the March 17th hearing and his testimony at today's hearing. Mr. Levy replied that he felt that the most egregious portion of the proposed ordinance is in Section 5, pertaining to the requirement for the developers to submit proprietary information. This kind of information was not required of other kinds of development, so why should wind developers be required to submit this type of information.

Commissioner Doherty asked Mr. Levy if he wanted to comment on the health impacts issue, and Mr. Levy replied that he had read a lot of information on this topic and it was very controversial. He urged the Board of Commissioners to consult with an independent third party to review the material submitted to ensure that it was unbiased and factual before making a decision. Mr. Levy commented that the county should avoid duplicating state and federal regulations with regard to water shed and wildlife issues. These topics were best handled by Department of Environmental Quality (DEQ) and the Oregon Department of Fish and Wildlife (ODFW). It was a serious problem to try to comply with state and federal Endangered Species Act (ESA) regulations. Commissioner Doherty asked Mr. Levy if he had any suggestions to try and balance the

competing interests involved in this topic, and Mr. Levy stated that was why they were the elected officials.

Commissioner Givens asked Mr. Levy about the undue access to properties, and the complaint driven problems as a result of environmental issues and agencies. Mr. Levy replied that there were already adequate state regulations against property owners that did not comply. He felt that the additional regulations in the proposed ordinance will unduly burden the county staff. Commissioner Givens was concerned that these complaint driven problems will create potential conflict between land owners.

Public Testimony: Ron Brown, 84156 Winesap Road, Milton-Freewater, Oregon. Mr. Brown wanted to address some comments made by the previous speaker, Mr. Levy. Mr. Brown worked with the ESA for over 11 years, and the problem with that type of regulation and monitoring was that it is post-construction, when the potential damage was already done. Their watershed council developed an Environmental Impact Statement (EIS) several years ago that cost them \$3.5 million, along with a habitat conservation plan done by the federal agencies. This document included sufficient scientific data to demonstrate that the sensitive watershed area required protection from such large industrial development. Mr. Brown stated that there was currently not a river in Oregon that met the standards of Total Maximum Daily Load (TMDL), and their watershed council was being regulated on every chemical that is dumped into the stream. He did not agree with Mr. Levy on the level of protection by state and federal regulatory agencies, as their enforcement typically came after the damage was done.

Mr. Brown stated that they need to be pro-active and protect this sensitive watershed area before the damage was done. They are currently spending millions of dollars to correct the harm done by the development along the rivers done 50-60 years ago, and he wanted to see the county head off these water quality problems for the future today with the proposed ordinance language. The irrigators from that part of the county are currently putting 30% of their water back in the stream, and if they were required to put more than that, it would put farmers and orchardists out of business. He encourages the Board of Commissioners to not rely solely on the regulations of state and federal agencies, but to address this problem locally in our ordinance.

Mr. Brown advised that water quality and quantity were not the only issues for this sensitive area; there was the Endangered Species Act, wildlife issues, tribal issues, fire issues, and noxious weed issues to consider. The watershed would have a huge impact on the entire community if not protected. He referenced a letter sent from Jon Germond, ODFW, to the Department of Energy about a project in another county where development was being proposed in a sensitive water shed area. The letter discussed developing in a zone of multiple values. Mr. Germond recommended establishing a natural resources work group, consisting of farmers, biologists and watershed representatives to address ESA issues. The problems with sensitive areas impact everyone, not just the landowners and developers. Mr. Brown discussed their apple growing operation in Milton-Freewater. They have 1100 acres and their operation is completely salmon safe. They employ bats for insect control instead of using chemicals,

and the bats they use would potentially be impacted by the presence of wind towers. He stated that there was enough information available to show that development of any kind in the sensitive watershed area was a very valid concern, and that violations of the ESA are very costly. Being proactive was much better than being reactive. The Clean Water Act trumps the ESA. He supported an environmental impact study (EIS) to be required for development in the watershed because this sensitive area needed that protection.

Commissioner Doherty asked Mr. Brown to confirm that his point was that the sensitive watershed area needed proactive protection and that if not protected there would be extreme consequences. Mr. Brown also confirmed that he did not feel that the state has sufficiently addressed the need to protect the watershed. Commissioner Doherty asked Mr. Brown if he agreed that there are other areas of the county more suited to wind development, and should they attempt to create ordinance language that would protect these sensitive areas. Mr. Brown agreed with Commissioner Doherty on this point. Mr. Brown entered a map of the lower watershed area into the record. The map showed the areas where TMDL's are not being met in the streams. Right now Dry Creek was running full, and had an effect on the salmon migration when it ran. Chemicals dumped on roadways would find their way into the watershed. Erosion had already been a large problem this year because of the large amount of runoff caused by the snow in the lower elevations. Mr. Brown stated that he had years of experience dealing with federal regulations and violations in this watershed, and he was present to warn the Commissioners about the need for protection for this sensitive area.

Commissioner Doherty commented that the watershed people did not want to spend another \$5 million dollars cleaning up these mistakes again, and they must find a way to prevent this from happening again. He asked Mr. Brown if he had any ideas to design a local ordinance that will help accomplish this goal. Mr. Brown discussed his ideas, including providing compensation for the property owners in the upper watershed area to help them do their part to control pollution in the water. He wanted to establish a path for future generations to follow that protects the watershed. Commissioner Doherty stated that they have four tools right now to work with; state law, statewide planning goals, the comprehensive plan and the development code. When staff was reviewing applications, they would identify whether something needs mitigation or prevention.

Mr. Brown stated that there was not enough in the proposed ordinance to mitigate all the problems, so they needed to look closer at prevention. Mitigation cannot be counted on to take care of all the problems. Commissioner Doherty said that they want to find a way to make things better, not worse. He asked if there needed to be less or more change to the ordinance. Mr. Brown stated that there was not enough regulation on the sensitive areas, and the cumulative effect would go on for years. Commissioner Doherty asked if Mr. Brown would support new standards county wide and stricter standards in the sensitive areas of the county. Mr. Brown agreed, stating that one size does not fit all. He referenced the letter from Mr. Germond, citing the zones of multiple biological values.

Commissioner Doherty moved to accept the letter from Mr. Germond as Exhibit #86, and Commissioner Givens seconded the motion. Motion carried 3:0.

Commissioner Givens stated that they also need to consider the financial impacts. Wind energy provided revenue to the county for services and community benefits. He asked Mr. Brown how many acres were serviced by the watershed district. Mr. Brown replied that the watershed and irrigation districts encompassed about 25,000 acres on the Oregon side. Commissioner Givens asked Mr. Brown about the economy of the Milton-Freewater valley and how it contributed to the state economy. Mr. Brown replied that Umatilla County is #2 in the state in farm receipts, and is the #1 food producer in Oregon. His business is the #1 apple producer in the state, and averages \$250,000 per year to provide power to their cold warehouses. They were concerned about their increase in power costs, due to the 25% requirement by the state to utilize “green” power. From an economic standpoint, the impact of the watershed was huge to the community. Commissioner Givens commented that they are trying to balance the economics. He stated that when they were doing something to boost one side of the county, nothing would be gained if that negatively impacted the other side of the county. He asked Mr. Brown what he thought about establishing a conservancy to buy the development rights from property owners to protect the environment, and Mr. Brown agreed with this idea. Commissioner Givens discussed the micro climates in Umatilla County and how this also had to be taken into consideration, as one size does not fit all.

Commissioner Hansell asked Mr. Brown about the history of orchards in the county. Mr. Brown stated that their company re-started in 1955 following a complete freeze out, but orchard production dated back before the 1890’s. Commissioner Hansell asked about the soil types in the Milton-Freewater area, alluvial and cobbly loam, and how they were ideal for tree crops. He asked Mr. Brown if orchards could live without irrigation, and Mr. Brown replied that they couldn’t live without irrigation. Commissioner Hansell commented that the mitigation being done by producers presently was to counteract the harmful practices of the past, and Mr. Brown confirmed they are putting 30% of their water back into the river as part of this mitigation. Commissioner Hansell asked if the producers were required to put back any more than 30% of their water, would this impact the growers. Mr. Brown replied that if they were required to give up more than 30% of their water, land would be taken out of production. Commissioner Hansell summarized that the economic future of this community was based on agriculture, and they needed the water from the Blue Mountains to survive. This provided the critical balance for the valley and the watershed must not be further impacted in this way. Commissioner Hansell further summarized Mr. Brown’s testimony by stating that the sensitive watershed needed extra protection from development, above and beyond the current proposed changes and that clean water trumped all other issues.

Public Testimony: Richard Stewart, 515 Fleetwood Ave, College Place, Washington. Mr. Stewart stated that he was a land owner in Umatilla County. He commented on property rights, and that property lines are vertical, not horizontal. He couldn’t stop his neighbor from planting trees or building tall structures that obstructed his view. He couldn’t stop his neighbor from building a rock crushing operation, if it was zoned for

this and if they followed the rules. He was not aware of an ordinance prohibiting a dairy or pig farm, with offensive odors. Mr. Stewart asked why the Planning Commission felt that they could stop private land owners from wind development and the opportunity to harvest renewable energy. He was not aware of any other regulations that required other types of agricultural or industrial development to pay mitigation fees. He stated that wind developers were required to submit more study information and perform more mitigation than any other type of development. State and federal guidelines regulate wind development, including noise levels. Umatilla County should welcome wind development for the economic benefits that it brings. The set back issue should be based on scientific facts, and not emotion or unsubstantiated information.

Mr. Stewart urged the commissioners to protect his property rights and allow wind development to prosper in Umatilla County. He stated that the proposed ordinance would kill wind development in the county. The Federal Emergency Management Agency (FEMA) was considering whether or not to stop all development in the floodplain that would result in harm to the waterways. He stated that if this new FEMA regulation went into effect, their land would be worthless. Mr. Stewart referenced the recent public notice from the Department of Land Conservation and Development (DLCD). He stated that due to government land use regulations, land owners do not own their own land any more, but the taxes continue to go up every year.

Commissioner Givens asked planning staff to identify the letter from DLCD referenced by Mr. Stewart. Mrs. Mabbott confirmed that this letter was a Measure 56 notice that the county sent out on the behalf of the state. She also confirmed that this notice did not pertain to the wind issue in any way. Commissioner Givens asked Mr. Stewart to confirm that his main issue was property rights. Mr. Stewart stated that his property rights were being diminished every day, and soon they wouldn't be able to do anything with their land due to regulations. Commissioner Givens asked Mr. Stewart how he felt about the conservancy idea. Mr. Stewart stated that some people may want to take this option, but all residents would be affected by these amendments under consideration.

Commissioner Doherty asked Mr. Stewart about his statement that decisions needed to be based on scientific facts and did he have any information to share on the adverse health impacts issue. Mr. Stewart replied that health issues could arise from most anything. He agreed that the Board of Commissioners should consider health affects when making their decision, and discussed how noise issues were worldwide. Mr. Stewart asked for his document to be entered into the record as Exhibit #87. Commissioner Givens moved to accept, Commissioner Doherty seconded the motion. Motion carried 3:0.

Public Testimony: Lauren Prince, 917 SW Oaks St., Portland, OR, representing Renewable Northwest Project. Ms. Prince stated that their company mission was to promote environmentally responsible renewable resources, including wind, geo-thermal, solar and wave energy. She had worked on wind projects in the state for many years, and understood that this topic was complex, and stirred the passion of local residents. She was here to present data to address concerns that have been raised in this process. There was a preponderance of information on the top five concerns; economic impacts,

property rights/values, health impacts, setbacks and sound. Ms. Prince submitted information of a neutral prospective addressing these five top concerns, and shared the sources of this information. The studies included in the data were written by PhD's and other industry professionals, who believe in the environmental and economic benefits of wind development. There was also information from the Saginaw Springfield County Planning Commission in Illinois, and the Southeastern Washington Economic Development Administration. These documents examined impacts to farming, tourism and impacts to property values. She urged the Commissioners to take these materials into consideration when making their decision.

She commented that Umatilla County received \$12.5 million dollars as tax revenues in 2010 alone, and this did not include the SIP (Strategic Investment Program) agreements. In Oregon, including Umatilla County, over \$54 million of tax revenue was invested, mostly on the dry side of the state and rural economies. RNP's goal had been to examine the full return on investment in renewable energy in Oregon since it first began. Ms. Prince stated that \$5.4 billion dollars had been invested in Oregon as a result of renewable energy, with a significant portion of that money coming from wind energy. There was also information in their paper relating to the creation of jobs as a result of wind energy. She stated that environmental impacts from wind energy were vastly different from other types of energy.

Commissioner Doherty moved to accept their information into the record as Exhibit #88, and Commissioner Givens seconded the motion. Motion carried 3:0. Commissioner Doherty concurred with the tax benefit information presented. He commented that the state had adopted a rapid deterioration scale for wind projects, and the county cannot count on the revenue in the future. Ms. Prince noted that someone else from their group would address the funding aspects for wind projects.

Commissioner Givens asked Ms. Prince where the Umatilla County data came from. She replied that the information was provided by a researcher who obtained the information from public records. Commissioner Givens stated that he had recently asked the County Assessor for this same information and the information did not match what Ms. Prince provided. Discussion followed on the source and accurateness of the information provided in their report and how inaccurate information affected the decision making process. Commissioner Hansell stated that he had just finished the budget process, and did not notice an additional \$12.5 million dollars available to the county.

Commissioner Hansell asked Ms. Prince what she thought about wind development in the sensitive areas addressed in prior testimony. She deferred to other experts and agencies. She stated that there are already state and federal regulations in place that would prevent wind projects from being sited where they shouldn't be. These questions about health effects and noise have been raised before, and there were credible scientists studying these issues from an unbiased perspective to answer them.

Public Testimony: Nicole Hughes, 421 SW 6th Ave, Portland, OR, 97204, representing Element Power. Ms. Hughes wanted to address concerns brought up in the hearings,

and also to cover the development process for a wind project. Wind energy was one of the most highly regulated industries due to mistakes from past development and the relative newness of the industry. They are proactive and wanted to understand the impacts of renewable energies in Umatilla County to be engaged in the process of siting wind energy facilities. Ms. Hughes discussed their process for determining where to place a wind project. They are concerned with reducing the risk, and the hardest part was getting a bank to finance the project. It was in their best interests to comply with all regulations. One nasty letter from ODFW could kill a project.

During the micro-siting phase, the final layout of a project was done looking at the ordinance and requirements and making adjustments to minimize impact and maximize production. They had professional engineers analyze the slope and soil types, and calculate the distance to substations, transmission lines and the layout of the turbines. Biological resources were considered, as are setbacks and cultural resources. This leaves a small area where the actual project can be sited. Every turbine that was moved affects the entire string. She stated that the question may be whether or not to develop the project. Developers look at the cost of mitigation, and would it make financial sense to build there. Ms. Hughes stated that their legal counsel had submitted suggested changes to the ordinance that would help them mitigate the risk of building a project, and address the environmental impacts and resident's concerns.

Ms. Hughes commented that the company had submitted a cumulative effects study of three wind farms in Columbia County, Washington, and a prospective analysis of another wind farm to be built that equals the size of the existing three farms. This study showed that there were no negative economic impacts to the nearby community, or impacts to property values. She also discussed a study by Lawrence Berkley Labs, authored by Ben Holman. This study looked at the impact of wind energy to property values over several states. Ms. Hughes responded to the earlier question to Ms. Prince about depreciation issues. It was her understanding that the SIP process spreads the payments over several years, and protected the county from the depreciation.

Ms. Hughes stated she was an archeologist by training, and had special knowledge about cultural resources. She discussed the setbacks to cultural resources proposed in the ordinance, and stated that she had never seen anything like this before. The state and federal process was well established for evaluating impacts to cultural resources, and the state regulations have a clear requirement for consultation. She cited the state ordinances in place that protect cultural resources, and described the typical process for evaluating impacts. The state was best suited to make these determinations, as they are the professionals. The state list was very broad and included things like ditches. She encouraged the commissioners to remove the cultural resource setback, and instead encourage developers to follow the state process and consult with the tribe. The current proposed ordinance language will open a can of worms as it stands.

Commissioner Givens asked Ms. Hughes to explain the tax structure difference between Washington and Oregon, and she replied that she did not know the answer to this question. Commissioner Doherty stated that he had a reasonable understanding of the

SIP process and the accelerated depreciation process. Under either process, after 15 years or so, the value of the projects would be down to nothing and would no longer generate any tax revenue for the county. He commented that the towers would still be there, with no tax benefits being generated for the county. Ms. Hughes replied that the tax revenue was not the only economic benefit to the county. Their studies show that the projects established good paying jobs in the community. These employees would be sending their children to the schools, and their wives would also get jobs and buy groceries in the communities. This would produce a large economic benefit to the community.

Public Testimony: Sarah Parsons, 1125 NW Couch St., Portland, OR, representing Iberdrola Renewables. Ms. Parsons stated that they had several other projects around the state that didn't have SIP plans, and they were paying the same amount of taxes each year directly to the Department of Revenue. They were not seeing depreciation on these projects. They are proposing SIP plans on all future projects and their policy group would be creating a plan to ensure stable tax revenue that counties can budget on. Commissioner Doherty asked about the benefit at the other end, when the energy flows somewhere else. Local people didn't want the towers here if the power didn't help them directly. Ms. Parsons stated that Oregon exports many products out of state, and this was an important part of the economy for the state. She said that no one complained when grass seed or hay was exported. One way to look at this was that the people of California have become tax payers in Umatilla County due to the power being exported. Ms. Parsons commented that not all power was sold to California; much of it was sold to local authorities as well.

Commissioner Doherty asked Ms. Hughes about the pre-application meeting process, and how it would be consistent with the developer's intent to be pro-active. Ms. Parsons agreed that a certain level of information must be provided for everyone to understand what the impacts will be before decisions can be made. The developers do not agree with the requirement of providing wind energy data or providing proof of connectivity with a transmission line. They do not feel that the county staff would be qualified to evaluate this information and it would not be relevant to the land use process. Ms. Parsons and the wind developer group provided an adapted version of the ordinance they would like to see considered with edited requirements and adjusted setbacks.

Commissioner Doherty discussed the sensitivity of cultural resources in Umatilla County considering the relationship the County had with the Confederated Tribes of Umatilla Indian Reservation (CTUIR). He asked Ms. Hughes if she really believed that the state regulations were adequate to deal with the concerns of local residents in a timely fashion. Ms. Hughes replied that Oregon had the highest level of protection for cultural resources in the United States, second only to California. Commissioner Doherty asked her what the staffing would be like in the state office. She replied that the state office was managed by a governor-appointed position, along with a state archeologist, state historian and heritage specialist. Each had a small staff working under them. In her experience, they worked efficiently. Commissioner Doherty had great concern with relying on the state agency for something of this level of importance. Ms. Hughes stated that the

County did not have a choice in the matter; the county was required by federal law to rely on the state agency under the National Historic Preservation Act. The county could recommend that developers consult with the Tribe, but the Tribe had no authority over the lands here, only an interest in protecting resources. She commented that the state office did have the best interests in mind when writing regulations. She recommended using the word, 'encourage', in the ordinance as the developers preferred that word over 'require'. Ms. Hughes stated that Cultural Resources was the ugly step-child of the environmental world, as no one knew how to deal with it.

Commissioner Doherty asked Ms. Hughes, as a representative of the industry, were they truly interested in creating a long-lasting and binding partnership, and would they stand by their project. Ms. Hughes replied that binding was a legal term. She stated that if they did not engage the CTUIR, they ran the risk of getting that "nasty" letter she discussed earlier that would kill the project. They were more inclined to solicit comments from the beginning to minimize the risk. Ms. Hughes commented that if the county were to require an arrangement from the developers, it would be usurping the authority of the state and potentially driving the developers away instead of encouraging them to work in a partnership with the tribe.

Commissioner Doherty asked if there were any protection for the County if the project was sold. Ms. Hughes replied that conditions could be written into the Conditional Use Permit (CUP) that would remain for the life of the project, no matter the ownership. Commissioner Doherty stated that the commissioners were also in the business of risk management for the good of their citizens. He asked Ms. Hughes if she had any other ideas, other than a fairly rigid code, to protect the citizens of the county. Ms. Hughes replied that the Commissioners should adopt an ordinance that didn't encourage litigation. The ordinance should encourage developers to be proactive in relationships with state agencies who have the authority to review the environmental studies. This would protect the developer, county and land owner through the life of a project. She commented that Umatilla County already had a very rigorous Conditional Use Permit process, and the county should not try and regulate every little thing with this ordinance. The ordinance needed to protect the county from litigation and also protect the wind developers so they could get financing.

Commissioner Doherty asked what kinds of assurances developers could provide that they would comply with all the conditions to prevent water quality damage in the watershed. Ms. Parsons replied that EFSC could reject their permit if the project was out of compliance, and Mr. Olsen confirmed this. She went on to say that there already were guidelines in place for the developer to comply with annual reporting, and the agency providing the data could charge the developer for that service. Commissioner Doherty asked Ms. Hughes about the requirement for developers to pay for the consultations. Ms. Hughes stated that their only concern was that they only wanted to pay for consultations or studies that were from agencies having authority over the issues. They did not want to pay for special interest group studies.

Commissioner Givens asked Ms. Hughes to elaborate about what jobs these projects would provide to a community. She replied that turbine maintenance positions, with a starting salary of \$40,000-\$50,000 per year, would be available. There were also indirect benefits from having more families in the community, spending money. A 100 megawatt project would provide jobs for approximately 30 people. There would be hundreds of workers employed during the construction phase. Discussion followed on wind energy as a commodity exported out of state. Commissioner Givens commented that no other agricultural product that was exported had as many side effects as wind production. He further stated that the majority of employees during the construction phase of Combine Hills were from out of state, and not hired from the local community. Once the project was completed, it resulted in only six maintenance/operations positions. Commissioner Givens stated that a project did not always produce the economic and employment benefits as described by the developers. Ms. Parsons stated that they try to hire locally for their projects, and they could not control where people chose to live.

Commissioner Doherty asked Ms. Hughes and Ms. Parsons to discuss the differences between going through the local county siting process and going through EFSC. Both speakers stated that they were very interested in the outcome of this hearing, and were glad that Umatilla County was reviewing and amending the ordinance.

Commissioner Givens asked Ms. Hughes and Ms. Parsons to discuss how Umatilla County could improve the SIP agreements. Ms. Hughes replied that this can be done by negotiating with the developers during the siting process. Some factors that affect the SIP amounts were the tax revenues and the timeline of how long the project had been online.

Public Testimony: Mark Bastasch, 2020 SW 4th Ave, Portland, OR, 97210, acoustical engineer. Mr. Bastasch stated that he had been involved in organizing two international noise conferences in Berlin, Germany and Rome. He presented a power point presentation to the Commissioners. He explained how sound and noise was transmitted and measured. Sound was expressed in terms of decibels, and this was a measurement of pressure. There was also a measurement of sound coming from a turbine that was called the sound power level, typically between 100-110 scale. He discussed the complexity of how sound was measured, and what factors would go into determining the decibel levels (distance, atmospheric absorption) of a wind farm. The decibel levels were also affected by the number of turbines involved.

Mr. Bastasch stated that he had been on a multidisciplinary sound advisory panel, established to respond to concerns raised in regards to health issues related to wind farms. This panel was funded by the wind industry. The panel studied low frequency sound impacts, Vibracoustic Disease (VAD) and Wind Turbine Syndrome (WTS). They determined that the low levels of sound from turbines were not distinguishable from background sounds. VAD was found to be associated with a very high level of exposure to low level sounds. WTS was a hypothesis based on a study conducted by Dr. Nina Pierpont, based on a small group of ten families. Mr. Bastasch stated that her study was not subjected to the typical peer review process and medical examinations that

studies would normally go through. They did take Dr. Pierpont's findings seriously, but the panel found that the low level sounds did not exceed harmful levels as described in Dr. Pierpont's book. The symptoms described in this book were very similar to annoyance, in which a small portion of sensitive people respond to all sounds, not just wind turbine sounds. The panel's conclusions were that sub-audible or low frequency sounds from wind turbines did not present a risk to human health.

Mr. Bastasch discussed some studies field studies done on existing wind projects to document the noise levels. These studies showed that the wind projects complied with the international criteria at 1000 feet, and that infrasound occurred naturally in the environment. These higher noise measurements were associated with the older models of turbines. He explained the Oregon noise standards, and how they were among the most restrictive in the entire world at 36 dBA. The Netherlands and New Zealand have higher standards (41 dBA at night) and 35-40 dBA. Their criteria's were based on limiting the potential for annoyance and sleep disturbance.

Commissioner Givens asked why the Netherlands picked 41 dBA at night, and Mr. Bastasch replied that they wanted to primarily limit sleep disturbance. The 41 dBA level was based on a public health agency review of community consensus for wind projects, and the design was for the most restrictive criteria for developers. Commissioner Givens asked about the suggested 2 mile setbacks and how the sound level would be affected by distance. Mr. Bastasch replied that they don't establish a distance; that is left up to the developer and what type of turbine and array being used. The Netherlands establish their setbacks based on noise standards. Discussion followed on how distance affected the noise standards. Commissioner Hansell commented that Oregon had a 36 dBA standard, with a quarter mile setback. Mr. Bastasch stated that Oregon standards did not utilize a distance setback. He said that the 36 dBA noise standard typically resulted in a half mile setback, and participants had the option of signing the noise easement. It all depended on the geometry of the array and the type of turbines being used. Commissioner Givens asked what affects climate had on the noise levels. Mr. Bastasch replied that it was a common misunderstanding that the turbine noise was thought to increase with the wind speed, but their studies did not show this. He explained that humidity and temperature could play a role in sound production in dryer climates.

Commissioner Hansell asked Mr. Bastasch what he would suggest for setbacks. Mr. Bastasch replied that this would depend on what they wanted to the setback to accomplish. He stated that the Oregon noise rules were the current law, and they had been proved out. Any facility approved by EFSC had not encountered any problems with noise standards compliance. Commissioner Hansell asked how developers would know how the noise would affect pre-existing homes, and Mr. Bastasch replied that the modeling took care of this for them. EFSC used the maximum noise model with propagation factors such as humidity and temperature figured in. These studies were done by professionals and reviewed by acoustical professionals. He believed that having a credible noise study would satisfy the criteria, establishing the decibel level instead of using distance as the standard. It would be a very site specific issue due to the geography

of each project. Mr. Bastasch confirmed that they have not found any credible evidence to correlate low level noise and adverse health effects. Commissioner Givens asked if this was still true if the number of turbines were increased. Mr. Bastasch stated that the information was based on the models done by the international panel.

Commission Doherty asked Mr. Bastasch who selected the panel of experts for the panel. Mr. Bastasch stated that they had approached the national academies, medical professional agencies and higher education institutions. He stated that these groups did not want to participate, or stated that it would take too long or that they had no interest or expertise in the subject matter. Mr. Bastasch explained that the participants were awarded a small contract to assist in putting together this review. Since this panel was conducted, the chief health officers from Ontario and Australia had both reached similar conclusions. Commissioner Doherty asked Mr. Bastasch to confirm that his report today stated that there were no potential health issues and that people's concerns are baseless. Mr. Bastasch replied that what they were saying is that there was no credible evidence to suggest there are adverse health impacts, but there was the potential for annoyance. Commissioner Doherty asked if annoyance could potentially cause health impacts. Mr. Bastasch replied that all the symptoms expressed were consistent with high levels of annoyance. Discussion followed on the impact of annoyance to a sensitive population, and if this had the potential to produce actual symptoms of health impact.

Commissioner Givens moved to accept the presentation into the record as Exhibit #89, and Commissioner Doherty seconded the motion. Motion carried 3:0. Discussion followed about annoyance and could it lead to health impacts, and people who are sensitive to noise. Commissioner Doherty stated that people had become conditioned to noise, but could they become conditioned to annoyance. Commissioner Hansell asked Mr. Bastasch if there had been any reviews of the panel's conclusions. Mr. Bastasch replied that there were critiques from opposition groups because the wind industry funded the study and panel.

Commissioner Hansell called for a lunch break at 12:27 p.m.

Commissioner Hansell reconvened the hearing at 1:35 p.m.

Commissioner Givens moved to accept a letter from Cosner's as Exhibit #90, and Commissioner Doherty seconded the motion. Motion carried 3:0.

Public Testimony: Joy Potter, 53 SW Yamhill St, Portland, OR, 97204, representing Horizon Wind Energy. Mrs. Potter discussed the impact of wind farms on tourism. There had been concerns raised about the effect of wind development on the wine industry in the Walla Walla valley area. She spoke about the Wildhorse Wind Farm that opened in April 2008 in Kittitas County, Washington. To date, they have had 65,000 visitors to their wind farm between the months of April and November annually. In 2010, there were visitors from 7 continents and all 50 states. They believed that tourism increased in that county due to the presence of the wind farm. Another project near

Dayton, WA had a “wind & wine” tour. Last year she spoke at a conference about wind, wine and water, and the economic importance to the future of that area.

Public Testimony: Sean Bell, 1700 SW Tabor, Suite 210, Portland, OR, with RES Americas. Mr. Bell discussed the setbacks proposal to be amended. He talked about the surrounding Oregon and Washington counties that were similar in economic nature to Umatilla County. Commissioner Givens moved to accept this study into the record as Exhibit #91, Commissioner Doherty seconded the motion. Motion carried 3:0. Mr. Bell addressed the topic of residences, and he encouraged the commissioners to consider the definition of residences and how the setbacks would be measured from these residences. Commissioner Hansell asked Mr. Bell if he had any setback recommendations, and Mr. Bell replied that their recommendations were in the green paper that they submitted previously. Commissioner Doherty asked if the other counties were using distance or decibel standards. Mr. Bell replied that it was all over the board from the different counties, and some were defaulting back to the state standard.

Commissioner Givens moved to accept the new information as Exhibit #92 and #92, and Commissioner Doherty seconded the motion. Motion carried 3:0.

Public Testimony: Elaine Albrich, 900 SW 5th Ave, Suite 2600, Portland, OR, 97204, representing Stahl Reeves. Ms. Albrich presented the green paper, a consolidated recommendation from the wind companies to address concerns in the proposed ordinance from the work session on May 3rd. They had tried to listen to the testimony being presented and were submitting language that offered a compromise based on the past hearings and work sessions. There were some in their group that continued to advocate for the state standards. Ms. Albrich discussed the tools available to the Commissioners to address wind development in the county. They have Statewide Planning Goal 3 that governs uses on agricultural lands and allows wind facilities subject to county review. There had been much discussion on the unique geography in Umatilla County, with watershed and topography issues. Ms. Albrich stated that this process and forum was not the correct way to re-zone or create an overlay zone for this area; it should be done by a Zoning and Code Amendment process, Comprehensive Plan Amendment and Text Amendment. She discussed the difference between the ordinance and the Conditional Use Permit, and how the county minimized risk. The county had broad authority in the CUP process to impose risk management, but the planning staff needed to be adequate to properly review incoming applications, and annual reports need to be reviewed. She suggests contracting out to legal counsel with specific land use expertise to support the county in review of applications. Responsibility for the additional costs for these services could be placed back on the applicant.

Ms. Albrich discussed the difference between EFSC siting and county siting. The EFSC process has review requirements that were similar to an Environmental Impact Statement (EIS), and they felt that the County was looking to have these same measures in place. In response to this, they had suggested revisions in Sections 1-8 in the green paper. She covered these sections of the green paper. One of the sections they addressed was the timing of the application process. Ms. Albrich stated that some parts of their plan were

not finalized until the micro-siting was done for the project, such as the fire management plan. They would like to clarify when this type of information would be required in the application process so it was clear to everyone. In Subsection 5, there was still concern about the language regarding proprietary evidence of wind monitoring and transmission line connectivity. The developers felt that the process of reviewing project feasibility should be left outside the land use process.

Ms. Albrich would like to see the section pertaining to identifying agricultural conflicts deleted from the ordinance, as it was already addressed in the EFU zone section in Section 152.061 that implemented the state standards. This standard applied to all Conditional Uses, and not just specifically to wind development. With respect to the potential conflicts to rural homes, there was no standard to coincide with these criteria. Ms. Albrich discussed the re-vegetation and erosion control plan. There was some concern regarding the consultation requirement with the Soil and Water Conservation District (SWCD). The developers felt that the guidance for this standard should come from the County Public Works Department and if needed, coordination with the SWCD, with the decisions made by the county. She pointed out that there were already regulations in place from the state that address erosion control. In addition to state permits, there are federal permits that must be complied with for a wind project. Ms. Albrich referenced a list of all the state and federal permits that a wind project must have in order to operate. She said that it would be helpful to review this list of permits and regulatory authorities so that the county did not unnecessarily add layers of regulation that were not needed. She stated that the concerns raised about the ability of the state to enforce their regulations could be addressed through conditions of approval for the county in the individual Conditional Use Permits. The re-vegetation and erosion control plans should address the geographical character of the individual projects.

Ms. Albrich commented on the socioeconomic impact analysis. She noted that the Commissioners had added this back into the ordinance at the work session, but she agreed with their initial conclusion to remove it. She stated that the SIP project addressed this need, but if it was to be left in the ordinance, it should be tied to a corresponding standard. In respect to the language pertaining to impacts to wetlands, streams, fish, avian and wildlife habitats, criminal activity, open and scenic spaces, and cultural resources, Ms. Albrich commented that the code was not clear about how the information requested would be used. She asked if the information would be used to determine if the facility met the standard described in Section 6(C). If so, there were no corresponding standard for criminal activity. She stated that the county needed to be careful that they were within their scope of jurisdiction for evaluating the resources identified. It may be that language needed to be added to state that the applicant is encouraged to work with the Tribes when evaluating these resources.

Commissioner Doherty asked about the linkage to standards. He asked if this would reduce the flexibility on how each individual project was evaluated. Ms. Albrich stated that the staff had the discretion to decide how much information was needed according to the size of each project in the application to make sure that the plan requirement was met.

Ms. Albrich moved on to Sub Section (6); setbacks. The developers were uncomfortable with having undefined setbacks from the Urban Growth Boundary (UGB) at the request of a city government. The proposed language did not provide clear and defined definition to developers. They would like to propose the 2-mile setback from UGB boundaries, unless the city waived the setback with an official action from the city council. They proposed to include the method of measurement in the ordinance for clarity. Commissioner Hansell asked what would happen if the city increased the UGB, and Ms. Albrich replied that this setback should be based on whatever UGB boundary was in place at the time the application was deemed complete. In Sub Section (2), Ms. Albrich discussed Unincorporated Communities (UC). The developers had proposed a 1-mile setback unless the landowner signed a waiver and recorded it in the county records department. This was designed to create flexibility for those who want to have towers and those who don't want them.

In Sub Section (3), the developers suggested changing the language from "homesite" to "rural residence" and "participating" and "non-participating" instead of outside/inside the project boundary. This language would also allow the waiver of a setback for flexibility. The measurement criterion was suggested to be from the center line of the turbine to the center of the rural residence. In Sub Section (5), the developers would like to delete the cultural resource content, and impose a construction buffer over a permanent setback for the turbines. They felt this was better addressed on a project-by-project basis through conditions of approval. In Sub Section (7), the developers proposed a setback from noise sensitive receptors, such as churches, schools, etc., to ensure compliance with the state noise standards.

Ms. Albrich discussed Sub Section (C), the standard for evaluating impacts to resources. The developers suggested making the language consistent with Sub (B), by using "reasonable efforts" instead of "required" in this section. The submission of an annual report was already covered in another section. In Sub Section (L), the plan for decommission, Ms. Albrich recommended this to be deleted as this should be in Sub part (5) dealing with plan requirements, and was already addressed by Sub part (7). She discussed the language pertaining to roads. The developers would like to see this language removed so that the only consulting required was with the County Public Works Department, rather than having multiple agencies to work through. This provided a clearer and more streamlined permitting process. In Section (M) concerning the financial assurance for decommissioning, there have been many concerns about this requirement for a surety bond instead of a letter of credit. The developers encouraged the Commissioners to be flexible, as there may be other mechanisms of financial assurance available in the future. They would like to see the language of a letter of credit or other financial assurances acceptable to the County added back in to address this concern.

Commissioner Hansell asked about the potential of ice throw with regards to road setbacks. Ms. Albrich stated that the state standards should be sufficient for protecting public safety on roads. Commissioner Doherty asked Mr. Bell about the compilation he created for other surrounding counties. He wanted to know if there was any consistency

between counties for setbacks or noise standards, and Mr. Bell replied there was no common factor or theme. Discussion followed on the merits of using noise standards versus setbacks of distance to control this impact. Commissioner Doherty commented that the staff was aware of the redundancies in the proposed language, and that this was done with intent to accommodate applicants that were less familiar with the development code.

Mrs. Mabbott asked to clarify some points. She asked if the developers would be comfortable with referencing between specific sections instead of completely deleting the language, as they did want some element of redundancy. Mrs. Mabbott addressed the discussion from the developers about cultural resources, but commented that the staff had received very strong input from CTUIR about this topic and staff wanted to retain this language in the draft. Discussion followed on how to address this in the ordinance. Mrs. Mabbott asked about the language addressing the requirement to request a credible noise study. Ms. Albrich stated that the use of the word, "may", could resolve this issue. She talked about another county that was undergoing this same process and wrote an ordinance that enabled them to break down their requirements according to project size, with corresponding criteria and standards.

Commissioner Hansell asked if the county should link the state regulations pertaining to cultural resources to the county ordinance. Ms. Albrich replied that the state regulations already apply, and the staff could impose a condition that required compliance with the OAR that required a need for an archeological permit if a cultural resource was disturbed. Mrs. Mabbott also explained the state agency coordination requirement, so the County included state agencies in all their public notifications. Commissioner Doherty asked if it was possible to produce a code that addressed the unique geographical needs of the county, as well as the size of a project. Ms. Albrich replied that this process was not the way to handle this through standards. Commissioner Doherty asked if they needed to invoke further substantive provisions that did meet specific standards, and if so, where would these appear in the code. Mrs. Mabbott replied that this was found in Section 5, and the procedural materials were in the outset.

Mrs. Mabbott commented that the suggested language from Ms. Albrich met the intent that staff was looking to draft, with language that indicated it wasn't the intention of the County to require duplicate procedures if it's a sub-jurisdictional project by EFSC. Mrs. Mabbott confirmed that re-zoning was another process entirely, and that modifying the application requirements and standards was clearly within the purview of this legislative process. Commissioner Givens commented that the county cannot assume that consultations would be done, and it would be up to the staff to confirm that they had been done. He would be more comfortable if the staff had the ability to make the determination, instead of relying on another agency. Ms. Albrich stated that they, as developers, had three tiers of regulations to satisfy; federal, state and local. They were highly concerned with reducing the risk for all parties.

Commissioner Hansell asked if the industry would be interested in providing assistance to the county by paying filing fees, so that the county could hire additional staffing to

review the applications. Ms. Albrich said she could not speak for the other companies, as one of the attractions to permitting through the county was the inexpensive and speedy process. She explained how the state process goes, and how their filing fees cover the entire cost of processing an application. EFSC could charge up to \$220,000.00 for an application, while the county charged \$500 for a Conditional Use Permit. Ms. Albrich did suggest increasing the charge for this review to cover the county costs.

Commissioner Hansell asked Ms. Albrich to give her thoughts on the two-mile setback. She replied that two miles was a long distance. She asked what the county hoped to accomplish with this setback and how could the county support that number with scientific data. She recommended the DEQ noise regulations as a standard. Commissioner Hansell replied that the purpose was to allow property owners more power if they didn't want the towers near their homes. The developers see this two-mile standard as a further hurdle to wind development in this county. Commissioner Givens asked how dependent the developers were on the state tax credit BETC (Business Energy Tax Credit). Sarah Parsons, Iberdrola Renewables, replied to this question. She stated that this was much more critical to development plans several years ago. The industry now understood that they cannot rely on this tax credit for large scale projects. They were in a different economy now, and the lack of the BETC could dissuade wind development in Oregon in the future. Ms. Parsons noted that every type of energy receives a subsidy from the federal government, and the percentage going to renewable energy was much less than what goes to fossil fuels. Ms. Albrich described Exhibit #93, a power point used by Iberdrola, to outline how they went about making a development decision.

Ms. Albrich recommended to the Commissioners that they close oral testimony today, including any consultation with the Planning Commission or individuals on the Planning Commission. She further recommended 30 additional days in which to submit written testimony or evidence, and then the Commissioners should hold a public hearing to deliberate and adopt their decision. She cautioned them to carefully consider the perception of who was before them presenting testimony, back and forth between the Planning Commission. There needed to be a clear process through to deliberation.

Public Testimony: Brian Wolcott, Director of the Walla Walla Basin Watershed Council. The Watershed Council submitted a letter pertaining to development issues in the watershed, and two power point presentations that were part of the record. He was speaking today about the risk of industrial development in the upper watershed area. This area has unique characteristics apart from the Columbia Plateau area where much of the other wind development had occurred in the county so far. These are the typical environmental issues that are associated with development in a watershed area; bird and bat mortality rates, impacts to terrestrial species such as deer and elk, migration patterns and water quality. This area had also been identified as a critical elk winter range habitat by the Oregon Department of Fish and Wildlife (ODFW). These heightened environmental issues need to be given more consideration in these sensitive areas.

In 2006, ODFW developed the Oregon Conservation Opportunity Strategy to identify conservation opportunity areas across Oregon. Two areas were named as the most environmentally sensitive locations in Oregon, and both were in the Walla Walla Watershed. Two species of fish, bull trout and steelhead, both on the ESA list were found in these intact habitats. The Watershed Council was very concerned with these issues, but would like to also address the risk of fire in this watershed area, as a result of the wind towers. If a tower were to catch on fire and the fire spread throughout the watershed, who would be liable for the damage to the habitat. This issue of liability and who would pay for the repair to this sensitive habitat and loss of resources need closer review.

Another issue of great concern to the Watershed Council was the topic of erosion control on these steep slopes. The National Resource Conservation Service (NRCS) has identified the steep slopes in the upper watershed as high risk erosion areas that drop into the direct water areas where fish spawn and live most of their life cycle. These determinations were based on rainfall, soil types and slopes. Building access roads and pads on these steep slopes would certainly cause increased erosion and these roads are a direct conveyance for siltation. Local farmers have done a great job of adapting their practices to reduce the amount of soil released into the water ways, but development could significantly damage this progress. The watershed council has worked very hard to protect and restore fish habitats to keep the federal agencies from further enforcement actions.

The State of Oregon developed the Columbia Plateau guidelines for energy development a few years ago. These guidelines do not apply to the unique characteristics of the Blue Mountains and foothills. The Watershed Council is concerned about small projects under 105 megawatts that do not go through the EFSC process, and would not be required to produce the EIS assessment. The proposed county ordinance had made a good attempt to provide more criteria and standards for future development to protect the natural resources of the county. The Watershed Council felt that any industrial development in the watershed area greatly increases the risk of ESA and Clean Water Act enforcement from the federal government. It also puts the improvements done already at risk, as well as the water quality and economic viability of irrigated agriculture in the Milton-Freewater and Walla Walla valley. These risks need to be minimized and better places determined in the county to site wind projects. Once the damage is done, it would be very difficult to come back from that. Mr. Wolcott stated that it was far better to protect the watershed up front.

Commissioner Doherty asked Mr. Wolcott if he felt that there were enough consultation requirements in place to identify potential impacts. Mr. Wolcott replied that their primary concern was the development of roads, and the language in the proposed ordinance that left this responsibility to the SWCD to monitor. He felt that this agency does not have the expertise to monitor these issues. It might be better to consult with the Oregon Department of Transportation or the Oregon Department of Forestry, as this issue would be more familiar to these agencies.

Commissioner Doherty commented that he has received complaints that the county was not doing enough to monitor the construction of the projects. The county imposed the standards and asked the project to self report, but is this enough enforcement. He further commented that the county must be diligent to address these concerns in these sensitive areas in the future. Mr. Wolcott stated that the county does close roads in the watershed during parts of the year especially prone to runoff, and he questioned whether or not the wind developers would also follow this practice for their project maintenance. Commissioner Doherty asked Mrs. Mabbott what the new language was for road development. Mrs. Mabbott replied that the language now read, "consult with the Soil and Water Conservation District" and the appropriate watershed council. Commissioner Hansell commented that the Blue Mountain watershed has unique environmental issues, and that the proposed ordinance language does not adequately address this for development. There needs to be special considerations made for this area. He asked if the watershed council would be interested in moving on to a Comprehensive Plan amendment once this ordinance is adopted. Mr. Wolcott stated that they would be interested in this process, but they did not want to delay protection mechanisms for the sensitive watershed area.

Public Testimony: Dave Price, 80488 Zerba Rd, Athena, Oregon. Mr. Price submitted written material that dealt with the issues of socio-economic impact studies, setbacks and cumulative effects. Mr. Price supported having the requirement of a socio-economic impact study in the ordinance because it would provide valuable information to the decision making body and to the public. This study brought to light the information needed by the public what they are getting out of wind development. There had been discussion about the revenue provided by wind development to the communities in this county. Mr. Price acknowledged that money was received by the local school districts from the wind projects, but the state adjusted their budget to compensate for the amount received, so in fact the total amount gained was zero. Mr. Price stated that the setbacks were a pivotal issue and needed to be dealt with up front. He felt the Commissioners was drifting towards using a noise standard as a setback, instead of a distance setback. He asked how this factor was being measured, and wanted to recognize that the bigger turbines caused a larger impact to landowners. He wanted to see the affected landowners have some measure of control in the decision making process, as there was no standard in the past that protected these people.

Mr. Price would like to see a cooperative spirit fostered in the community for future development, so that all parties were a part of the process. The county needs to do all it can to protect the affected land owners. He would also like to see the cumulative effects addressed in the proposed language. The current proposed project around Helix goes right through the string of turbines from an adjacent project and there is no mechanism in the proposed language to address this. This situation would be impossible to mitigate. He recommended that developers should be required to include existing projects in their modeling when submitting applications for a new project, and that the county required a pre-project noise study. This would show cumulative effects in the modeling from existing projects.

Mr. Price commended the Planning Commission and the Board of Commissioners for taking the time to make a good decision, but there were applications coming in that would be processed under the old standards. He urged the Commissioners to make a decision soon, so new applications would be subject to the new ordinance.

Public Testimony: Tammie Dennee, 831 NW 5th Street, Pendleton, OR, and was joined by Kent Madison. Ms. Dennee discussed property rights and contentious issues, and stated that land owners should be the best steward of the land. Agriculture and energy have interesting parallels, and consumers take them both for granted. People expected the food and energy to be readily available, but did not care where it came from. She stated that people opposed the first transmission lines when they were being put up, but anymore people don't mind them because we are used to them. Ms. Dennee discussed the surrounding community and how it badly needs economic development, and suggested that renewable energy was the industrial development and economic opportunity for the 21st century. She stated that farmers could farm and graze cattle around the turbines, so the underlying land use would not change, and the farmer could make more money. This side of the state was forced to look at other sources of economic development as opposed to the densely populated western side of Oregon. Wind energy development presented this area with a new sense of hope, and a lifeline for some independence from state and federal legislators and budgets that we have been dependent on in years past.

Public Testimony: Kent Madison, 29299 Madison Road, Echo, Oregon, representing Madison Farms. Mr. Madison is a land owner in Umatilla County, and has a wind farm project on his land. He asked to comment on setbacks and the distance between a tower and a rural residence. He asked if he were to be a participating landowner, could the setback be lessened if he signed a waiver. Mrs. Mabbott replied that that would not be possible; it would have to remain the half mile distance. Mr. Madison suggested that the waiver option be available to both the non-participating and participating land owner. He also supported the language changes from the developer group to take the oversight of project roads away from the SWCD and give it to the County Public Works Department. The SWCD would not be qualified as road engineers, and there needed to be some way established to fund the county road department for this task.

Mr. Madison recommended creating a sensitive environmental overlay zone, and designating a portion of the revenue gained from the wind development taxes into a trust fund to support and monitor this overlay zone. He discussed the fluctuating price of wheat, and described the steady income derived from wind power. Mr. Madison stated that the state of Oregon would soon be releasing a Health Impact Assessment (HIA). This study was looking at low frequency noise and vibrations, economic effects, air pollution, community cohesion and livability, and visual impacts. The draft should be out in July and finalized by the end of this summer.

Mr. Madison stated that he would like to know what the economic impacts of wind development to the county are. He would like to know how the county had spent the money generated from wind project taxes. He felt that there had been a poor job done of

telling the public how much revenue is provided from the wind projects, and how it has benefitted the general public through services. There has been a positive impact from wind development that needed acknowledgment. There needed to be smart, enforceable codes. Mr. Madison commented on the placement of the towers on EFU land and should it be considered industrial, and he replied yes, it should be. The ground under the towers is not farmable, and should not be tax exempt. They were also looking at solar energy development. The land taken out of production for wind turbines was much less than the overall land used for the solar arrays and the wind turbines product much more power. His entire wind project only took 15 acres out of production in Umatilla County. He felt that wind energy should not be discouraged as it was a much more efficient use of space than solar energy generation.

He believes that tourism and interest in the wind farms should be capitalized on. He has not seen the negative effects on wildlife, and stated that the deer lay in the shade under his towers. He does support the cumulative noise modeling to be done before the project is built, to take into account any existing projects already there. Developers do not want to put these towers in the wrong place, because that is not cost effective. As far as employment opportunities, he employs 6 full time employees for 15 acres of wind project and 22 full time employees to manage his agricultural operation of 1750 acres. Mr. Madison was not concerned about the danger of fire from the turbines. They are expensive machines and have built in fire prevention mechanisms.

They did get BETC credits for their wind projects. He stated that these credits were a contract with the state that if he were to take the personal risk to build a project that is profitable and pays taxes, the state will give him a credit on his taxes. Mr. Madison gave a demonstration of a decibel meter to the Commissioners. He stated that there was no scientific proof of adverse health impacts.

Commissioner Doherty asked who was doing the health assessment study that Mr. Madison mentioned. He replied that the state received a federal grant to the Health Department and this study would be completed by September or October. The grant was being administered by the State Health Department. Commissioner Givens asked who buys the power generated by his project. Mr. Madison replied that he was a BPA customer, but sold power to Pacific Corp.

Public Testimony: Bill Timmerman, 81368 Kupers Road, Helix, Oregon. Mr. Timmerman lives 3 miles north of Helix in the middle of the proposed new project site. He stated that models are models and they are not always correct. He hasn't seen any deer in his area for over two years since FPL put up their project. He was opposed to wind power, because the populations were not increasing much but wind project populations are doubling. BPA has more power than they know what to do with right now. Mr. Timmerman doesn't want to see or hear the towers, and he felt that he shouldn't be affected by his neighbors wanting towers. He felt that rural residents were being treated as second class citizens with only a one-mile setback. He stated that they should also get the two-mile setback just like the city residents do. Mr. Timmerman had several towers less than a mile from his home, and was concerned about the cumulative

effects with the new towers being added soon. He was very concerned also about the threat of fire from the towers. He lived downwind from the towers and there would be no help that could arrive in time to save his home if a tower caught on fire. Mr. Timmerman supported the requirement of a surety bond, in case the project was sold or went bankrupt. He felt that an anti-hydro power sentiment had resulted in increased wind power development.

Public Testimony: Richard Jolly, 54462 Upper Dry Creek Road, Weston, Oregon. Mr. Jolly encouraged the Commissioners not to throw out the recommended proposed language from the Planning Commission. There is a sense of urgency to finish this process because there is impending development that would be reviewed under the old regulations that have no environmental impact considerations. Mr. Jolly stated that there were appropriate locations for wind development, and places where it should not be allowed. He discussed this topic being in the political arena, because the Commissioners asked EFSC to remove the wind generation designation. He stated that there needed to be an environmental oversight included in the regulations. One size did not fit all for Umatilla County, and this does not work because of the unique and sensitive habitats.

He would like to see a moratorium on wind development in place until this issue was settled. He was concerned because the developers were telling the county to look to the state for regulation, and the state was understaffed as well and can't do the job either. Commissioner Hansell advised that the Planning Commission was an advisory board, and the final decision rested with the elected officials. The Commissioners were not bound to accept the recommendations from the Planning Commission. Commissioner Doherty asked if Mr. Jolly was testifying on behalf of the Blue Mt. Alliance or himself, and he replied it was a little of both. Commissioner Givens asked Mr. Jolly if he thought they should consider the economics in their decision. Mr. Jolly said if they consider the economics, they must consider both the good and the bad sides of economics. The public did not see what BPA did to their power rates because of the requirement to produce 25% green power, and that caused the rates to go up for their customers. Mr. Jolly was in favor of a sensitive habitat overlay zone in the Blue Mountains.

Public Testimony: Kirk Terjeson, 82526 Vansycle Road, Helix, Oregon. He read aloud his letter that he submitted. The letter is available in the record. Commissioner Givens asked Mr. Terjeson if he had any feelings about a sensitive area zone. Mr. Terjeson did not have any input, and stated that there were already ways to protect the sensitive areas. He commented that people still should have their property rights. Commissioner Givens moved to accept the two letters into the record as Exhibit #94 and #95. Commissioner Doherty seconded the motion. Motion carried 3:0.

Public Testimony: Robin Severe, 84822 Vansycle Road, Helix, Oregon. Mr. Severe thanked the county staff and Planning Commission for their hard work and efforts into creating a thoughtful document. Mr. Severe stated that they lived 1.5 miles from the large towers on Vansycle Road. They were downwind and to the side of the project. He stated that the towers were more of a view distraction for them than a noise impact

but they can hear them. His property has been devalued by the presence of the nearby towers. Mr. Severe commented that he felt that there was adequate information to show that the wind projects are a health risk. He would like to see the setbacks preserved to protect property values. He stated that a 1-mile setback was not enough, but would agree that the 2-mile setback was a good compromise. Mr. Severe commented on the recent EFSC meeting in Helix. He noted that the testimony presented that evening was 2:1 in opposition to the amendment proposal by a wind developer. Mr. Severe pointed out that the ratio of letters posted on the county website was nearly 3:1 in support of the 2-mile setback. This should be a good indicator of how the community felt about wind development in the county.

Commissioner Givens asked Mr. Severe what towers he could see from his property. Mr. Severe explained that he has the larger 3 megawatt towers about 1.5 miles away. He stated that it is an annoyance for them. Commissioner Hansell said he had driven by their house and was not able to view the towers. Mr. Severe explained that they could see $\frac{3}{4}$'s of the towers and all of the blades from their tack room, and they see the top quarter of the tower and the blades from their home. He invited Commissioner Hansell to stop by their home any time and he would show him what their view is.

Public Testimony: Debbie Kelley, 146 SE 11th Ave., Milton-Freewater, Oregon. Mrs. Kelley commented on the proposed changes to the county ordinance. She stated that she was concerned that EFSC did not have to consider the county ordinance when they were siting the larger facilities. Umatilla County should not be held to the less effective standards from EFSC. The state regulations and siting process was developed several years ago when the turbines were much smaller, and is no longer relevant. Mrs. Kelley stated that the permitting fees of Umatilla County should be increased to cover the costs of reviewing the applications and verifying the applicant's information. She stated that the county should have more guidelines to oversee wind development to minimize the liability of an appeal. Mrs. Kelley stated that the setback of a minimum of 2 miles would lessen the problem of impact and would protect the property value for everyone. People living in the rural setting should not have to suffer the impact of an industrial operation.

Mrs. Kelley encouraged the Commissioners not to rely too heavily on wind development as a source of revenue for the county. She also encouraged the Commissioners not to rely on state standards for the level of protection needed in the sensitive areas of the county. Mrs. Kelley recommended setting a realistic permit fee to allow adequate staffing to thoroughly review the applications. She also commented that the 2-mile setback from rural homes must be retained as proposed. That would allow a level playing field for all property owners, not just large land owners.

Mrs. Kelley stated that she was concerned about the procedures of the hearings that have been held on March 17th and May 3rd. She referred to the "yellow paper" drafted by Commissioner Hansell and the planning staff. Her concern was that this document was not crafted at any public meeting and the public was not permitted to make comments or participate in the May 3rd meeting. The minutes from that work session were not yet

available for public review. She stated that the public was at a disadvantage in this process. Mrs. Kelley requested that the hearing be continued with a public comments period left open to the next hearing. She commented that this would allow everyone to work from the same materials and understand what the Commissioners were using to make these important decisions.

Commissioner Hansell asked Mrs. Kelley if she had heard his response to Mr. Jolly earlier about the EFSC meeting. She replied that she did hear that, but she was still concerned about the documents and discussions crafted outside the public process. She stated that she was a city council member for 12 years, and understood the stringent regulations pertaining to public hearings and the public forum. Commissioner Hansell explained that the work session was not a public hearing. Discussion followed on the public process and submitting written testimony.

Commissioner Givens commented on the EFSC jurisdiction. He explained that the county could propose standards, but EFSC was not required to recognize these standards. Mrs. Kelley stated that Umatilla County deserved much higher standards than EFSC currently set, as their standards were based on outdated information.

Public Testimony: Norm Kralman, 52151 Fruitvale Road, Milton-Freewater, Oregon. He asked for his letter to be entered into the record. Commissioner Givens moved to accept his letter as Exhibit #96, and Commissioner Doherty seconded the motion. Motion carried 3:0.

Mr. Kralman is a member of the Blue Mt. Alliance, but would be speaking for himself. He stated that it was important to protect property owners who were affected by the wind projects. Mr. Kralman referenced an overlay map created by Ed Chesnut that showed the existing wind farms and the proposed wind farms according to the state noise standard and the 2-mile setback. It was interesting to see how these numbers supported the 2-mile setback as a reliable setback to meet the state noise standards. Mr. Kralman asked the Commissioners about the life expectancy of the wind projects and the 15 year tax base that Commissioner Doherty discussed earlier in the hearing. He displayed an article pertaining to wind power from the April 2011 Wheatlife magazine. Mr. Kralman stated that he hoped that wind development was not the future of this county.

Commissioner Givens asked Mr. Kralman what his main issues were. Mr. Kralman replied that it started out for him being protection of the view shed, but he now believed that it was most important to protect the rights of the people who were negatively impacted by the presence of the wind projects and received no compensation for their lives being affected. He also stated that once the tax subsidies went away, the wind development would go away as well.

Public Testimony: Gary Rhinhart, Chairman of the Planning Commission. Mr. Rhinhart discussed the role of the Planning Commission in this process. He stated that they attempted to be unbiased when reviewing the testimony both for and against wind development. The majority of opposition to wind development was specific to the

foothills of the Blue Mountains in the sensitive watershed area. Most people he talked to understood that wind development was here and did not mind it in the dry flatlands. He stated that many people were unhappy with the Planning Commission's recommendation to the Commissioners for different reasons. Some people wanted more setback distance, or some wanted less distance. He commented that other counties were watching how Umatilla County resolved this issue. He encouraged the Board of Commissioners to complete this process soon.

Public Testimony: Jess Moline, 700 Universal Blvd., Juno Beach, Florida, 33047. He is the project manager for Nextera, otherwise known as FPL project. Mr. Moline stated that he agreed with prior testimony that the permit fee for wind applications should be increased. He recommended structuring the fees according to the size of the projects. Mr. Moline stated that their company currently had a \$300 million project under consideration for Umatilla County, and if the 2-mile setback were adopted, their company would not build that project here. He described the process used in the Vansycle project where a noise model was used to build that project. Their engineer gave them a map based on noise modeling that told them where they could and could not put a tower. He stated that noise modeling was better today than when that project was built, and would hopefully be better in the future. Mr. Moline explained that they were doing some evaluation of that project to see if their noise modeling projections were accurate by placing microphones and analyzing the sound production. He commented that the state noise standard of 36 dBA was adequate. Mr. Moline discussed his military career and why he felt strongly about the generation of renewable energy to create independence from oil and the Arab states.

Public Testimony: Paul Landers, 5519 Riverlane Drive, Pasco, Washington. Mr. Landers is the local operations manager for Vansycle II facility, 425 megawatts. He stated that there were currently 30 people employed by this project. He was a transplanted employee, but the majority of their workforce was composed of local residents. Their company was involved in several community projects in the county. They have given money to the Blue Mountain Wildlife facility to support their avian rehabilitation project. The CTUIR tribes bring their elders for tours of the project. They provide high elevation training for local fire districts, and provide scholarships to local schools and science programs. Mr. Landers discussed the employees they have, and how they have become an active part of the communities in which they live. Commissioner Hansell asked Mr. Landers how many employees they have, and Mr. Landers replied that they currently have 30 local employees that manage their 425 megawatt project of 535 turbines, both old and newer models. Mr. Moline commented that the technology was changing rapidly in their industry.

He discussed the Altamont Pass project in California. That project was nearly 25 years old. They were replacing the older towers, and 1 newer model turbine could replace 33 of the original turbines for that project. Commissioner Doherty asked what the useful life of their project would be. Mr. Moline replied that it currently was projected out to 25 to 30 years, with regard to the newer technology available. Commissioner Givens asked what they would do with the older models being replaced. Mr. Moline explained

that they plan to scrap some of the towers, but there was a small niche market to re-sell the older towers to small projects. The newer models were highly computerized, and were manufactured with mostly recyclable materials. Discussion followed on what goes on when a project was re-powered. Mrs. Mabbott asked to clarify how many towers were in Umatilla County from their project. Mr. Landers replied that half of the 535 towers mentioned were in Umatilla County and the rest were in Washington State.

Commissioner Hansell explained that there is a requirement from the state to mail out a Ballot Measure 56 Notice prior to the next hearing. Discussion followed on available dates for the next hearing, and if this would accommodate the required 20 day public notice period.

Commissioner Hansell asked the Commissioners if they would like to move to close the oral testimony portion of the hearing, or leave it open. Commissioner Doherty stated that he felt there was enough confusion already. He recommended to take the information submitted to date and produce the next edit of the proposed ordinance draft, so this could be posted on the website. County Counsel Olsen suggested they close the record, and deliberate at the next hearing. Further discussion followed on how to proceed. Commissioner Doherty asked Mrs. Mabbott if staff could produce the next edited draft in time for the next scheduled hearing. Mrs. Mabbott agreed this was possible. Commissioner Hansell proposed closing the oral testimony at this hearing, but keeping the written record open until May 20th. Discussion followed on dates and times for this procedure.

Commissioner Hansell closed the oral testimony. The written record would remain open for written testimony until May 20, 2011 at 5 p.m. The written record would close at that time. There would be a first reading of the edited draft on June 14, 2011, and the second reading would be on June 28, 2011. The Measure 56 notice would be sent out for the June 28th hearing to meet the 20 day notice mailing time frame required. The hearing on June 14th will be in the Media Room of the Justice Center at 9 a.m. The time and location for the June 28th hearing will be determined and announced at a later date. Commissioner Hansell requested staff to post the edited draft on the website a week prior to the next hearing. Commissioner Givens moved to accept the dates and times for the coming hearings, and Commissioner Doherty seconded the motion. Motion carried 3:0.

Commissioner Hansell adjourned the hearing at 5:38 p.m.

Respectfully submitted,

Gina Miller, secretary

(adopted by the Board of Commissioners on June 14, 2011)