

UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, November 18, 2010
4:00 p.m., Umatilla County Justice Center, Media Room
Pendleton, OR

COMMISSIONERS

PRESENT: David Lynde, Clinton Reeder, Gary Rhinhart, John Standley, Tammie Williams, Don Wysocki, David Lee, Frank Kaminski, Randy Randall.

ABSENT: none

STAFF: Tamra Mabbott, Carol Johnson, Richard Jennings, Heather Haueter, Gina Miller.

Note: The following is a summary of the meeting. A recording of the meeting is available at the Umatilla County Planning Department.

CALL TO ORDER:

Chairman Rhinhart called the hearing to order at 4:08 p.m., and welcomed Randy Randall as the newly appointed Planning Commission member.

APPROVAL OF MINUTES:

Chairman Rhinhart asked if everyone had reviewed the minutes from the last hearing of October 28, 2010. There were no corrections or additions, and the minutes were approved by consensus.

NEW HEARING:

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

Chairman Rhinhart called for abstentions, and there were no abstentions or objections to the jurisdiction of the Planning Commission. Chairman Rhinhart read the opening statement and called for the staff report.

Staff report: Carol Johnson, Senior Planner, presented a brief staff report. Last December the Planning Commission asked Commissioner Reeder and Commissioner Colgan to work with staff and draft updated language to the county's wind ordinance. The changes incorporated suggestions from two work sessions in 2009. The resulting draft ordinance has been posted on the county website for comments since last July. New

comments were considered in the packet before the Planning Commission for this hearing. The proposed changes include the pre-application meeting, fish and wildlife impact studies, emergency management plans, setbacks and changes to financial assurances. In addition to the proposed changes to the wind ordinance chapter (HHH), there are also general changes to the Condition Use Permit chapter. The matter before the Planning Commission for this hearing is to decide whether or not to forward the proposed changes to the Board of Commissioners for adoption, or to continue the hearing to a future date and time. Mrs. Johnson turned the presentation over to Commissioner Clinton Reeder for a presentation of the proposed changes.

Commissioner Reeder stated that he has been involved with wind development in Umatilla County since the first project, and at that time there was no language in the ordinance pertaining to wind development. Commissioner Reeder advised he would begin with some generic discussion for the first 2 hours, and then later analyze the specific draft language of the proposed changes.

Commissioner Reeder read aloud from his presentation handout.

Intent of Planning Process: The process of planning is complicated and involves social, economic and political aspects. It is important to make this process as unbiased as possible to provide equity to all parties involved. As the variety of interests increase in this topic, it becomes increasingly more important to level the playing field. It is important to identify the differences and resolve them among the parties involved. There have been many changes and land use law must adapt to changing circumstances, technology, political and public responses. One of the comments submitted was that county language is contrary to state language in siting standards, and this poses problems for projects in both jurisdictions. The county must listen to the public comments to build confidence and trust.

Land Use Planning: It's not just land any longer; it now includes natural resources such as air, water, wildlife and habitat. It is also inclusive of rural and urban planning. One comment received asked the ordinance to address archeological preservation and protection.

Wind Power Development Concerns vs. Planning: The goal is to minimize conflict between neighbors who wish to develop wind farms on their property and the neighboring property owners who do not wish to have wind farms in their vicinity. Some of the problems to be considered are: access locations, road damage from wind farm construction, noise and vibration, human health issues, view shed interference, negative impact on property values and taxes, erosion and weed control, wildlife habitat, and silt impacts to the water shed.

Oregon's Energy Facility Siting Council (EFSC): EFSC has jurisdiction over projects that are 105 megawatts and above, and below 105 megawatts are processed by the local county jurisdiction. The problem has been that large developers have broken up the projects into smaller LLC's in order to qualify for state subsidy funding. The new

ordinance will continue to state the preferences that Umatilla County has always had when siting wind farms, and may or may not defer to EFSC on smaller projects.

Corporate Structure of Development Company vs. Bonding Requirement: When the larger development companies break their projects into smaller companies, it results in less risk for them as each company presents a lesser liability compared to the whole. But this strategy leaves the county under liability if one of the smaller projects goes into bankruptcy and has no means of decommissioning a wind farm. The county has required a form of financial assurance from wind developers to prevent this from happening. The county will continue to require a surety bond as it provides the most guaranteed form of financial assurance to the county. The developers must maintain an updated cost estimate of decommissioning and rehabilitation and this must be reflected continually in the surety bond amount. There is a language change to the formula and frequency in which this must occur included in this ordinance update. This measure is to protect the county taxpayer and the county budget from having the liability fall to them if a wind project should fail. County constituents are very firm about this particular topic and strongly resolved that it should be present in the ordinance.

Pre-application Consultation Process: There have always been pre-application meetings occurring with wind development in Umatilla County, but this ordinance update formalizes it into the process. This process is particularly effective when dealing with smaller wind developers and projects, as their experience levels are less than the larger companies. County budgets do not allow for additional staffing to process applications, so the better prepared an application is from the beginning, the better for all parties involved. The pre-application meeting is designed to improve efficiency, limit planning costs and minimize delays in permitting.

Evidence of Wind Monitoring Data: The county is not trying to acquire the proprietary data gathered by wind developers, but is looking to establish that the developers have utilized credible methods to gather the data. The county will continue to trust that developers are going ahead with plans to construct a wind farm based on technical and economic feasibility.

Electric Energy Transmission and Interconnections: Easements are sometimes difficult to obtain. The county will continue to require proof that a connection to the grid is established before approving their permit to develop the wind farm. Developers don't always agree with this step, and want to proceed with construction before the interconnection is done.

Fish, Wildlife, and Avian Technical Committee: In the earlier wind farms, there was very little data available. ODFW was asking the first developers to provide broad scale studies, essentially doing the research for ODFW. The county raised the question of why developers would generate this data for their competitors. The goal of the technical committee is to have local people who know the site be involved with working with the technical people from the project. The county encourages wind developers to form this

committee, as it typically results in a cost savings to the developers by reducing the requirements to the developers.

General Emergency Management Plan: It is essential for local emergency response agencies in the county to know names and contact information for the wind projects, in the event of an emergency with the projects. This plan should also include erosion control plans, and address health and safety issues. The county wants to know how the developers are going to work to protect the territory and people around the wind farms.

Vegetation and Erosion Control Plan: Vegetation and erosion control should also be addressed in the plan. The language in the ordinance update states that other agencies should be consulted prior to development. The Oregon Department of Agriculture administers the Oregon Agricultural Water Quality Management program for silt and erosion control in rural waterways.

Purpose of Facility Set-Backs on Wind Power Development Sites: Umatilla County wishes to minimize the conflict between wind development and other land uses. The factors in this standard are a result of public discussion on the effect of wind farms on human health; noise, flickering shadows, invasion of privacy, blocked view shed, and diminished property values. Uncompensated people affected by the presence of the towers results in a cumulative effect, which increases as the opposition grows.

Requirement Concerning Wind Power Developers Providing Financial Assurance: Public support for the financial assurances of a surety bond is tremendous. The county will continue to require this standard, and will not expose the budget to liability if a wind farm fails.

Commissioner Reeder summarized his reading of the presentation. Commissioner Reeder preceded to the presentation of the actual proposed ordinance updates. There were questions from the floor about cumulative effect and a brief discussion followed.

Mrs. Mabbott advised that the Planning Commission has a packet of information that has been posted on the county website, with numbered pages for reference. Several comments were received yesterday, and have not yet been scanned and posted on the website. The comments received over the last year are included in the mark up version of the proposed ordinance update being reviewed. Mrs. Mabbott went on to explain that after the proposed changes are read, it will be time to take public testimony. Anyone wishing to present testimony should fill out a yellow form and give to a staff member.

Mrs. Mabbott began reviewing the proposed update language for the general Conditional Use chapter. Commissioner Reeder advised that the blue underlined words are the language added to satisfy existing county and/or state rules or submitted comments.

Commissioner Reeder reviewed the proposed updates in order of how they appeared in the chapter. He explained that the language update pertaining to a Zoning Permit for

each tax lot will remain, as all permitting is tied to tax lots. There is language that allows for the Planning Director to defer an application to the Planning Commission if they feel it is warranted. This allows for public input to the process. Mrs. Mabbott clarified that these updates are applicable to all Conditional Use Permits, not just wind development. In the past several years, all wind development applications have been reviewed by the Planning Commission.

Commissioner Reeder commented on the standard of each tax lot in a project being required to take out a Zoning Permit. Guest Elaine Albrich, Stoel Rives, objected to the Planning Commission drafting any language changes prior to hearing public testimony. Commissioner Reeder stated that he would go through all the changes to the ordinance, and then go back to the points later where further discussion was needed.

The next proposed language addition was to add “water pollution” to Chapter 152.615 in response to public comments submitted as to how important it is to preserve the rivers in Umatilla County. Mrs. Mabbott advised that this chapter pertains to any Conditional Use application, so both air and water resources were added to the language.

Commissioner Reeder advised that the Critical Winter Range overlay zone is addressed in a different chapter. Commissioner Standley asked about prior cumulative effect comments from the floor, and would it be addressed in the Critical Winter Range overlay zone chapter. Mrs. Mabbott explained that wildlife issues will be addressed in the Critical Winter Range overlay zone, as are all Goal 5 protected resources, when reviewing impacts to proposed development.

Commissioner Reeder moved on to Chapter 152.616 (HHH), specific to wind power generation facilities. The word commercial was added to separate these standards from a personal wind tower on someone’s property used to provide power to just a single property owner. The definition of commercial to be applied in this chapter is, “a project designed to sell generated power for profit.” This definition is also found in Chapter 152.003 of the Umatilla County Development Code. This definition may have to be revisited in the future if larger farming operations propose to build several wind turbines to generate power to sell back to their farms, to reduce the footprint their operation leaves.

Chapter 152.616 (HHH)(2): The pre-application meeting component has been added to formalize it into the standards. Language was included in this section to ensure specialists with pertinent expertise to relevant fields may be included in this process. Sarah Parsons, Iberdrola Renewables, asked for clarification on this change. Commissioner Reeder explained that this pre-application meeting is not a public meeting; it is only for the applicant, planning staff and relevant agencies and experts.

Chapter 152.616 (HHH)(4) : Commissioner Reeder explained that all permits must be obtained prior to any construction taking place. There is a specific sequence to the permits that must be followed.

Chapter 152.616 (HHH)(5): This section contains the numbered application requirements, including the evidence of wind monitoring data information. There was some discussion as to the burden of completing the application falling on the developer, and Mrs. Mabbott stated that this is addressed in the final decision of the Planning Commission. Commissioner Reeder again commented on Section (5)(C)(1) that the purpose of requesting evidence of wind monitoring data is not to acquire the developer's proprietary data, but evidence that they have made a good faith effort to collect quality data to ensure that the project is feasible. The Planning Commission will trust that a developer will not invest in a project unless it is sound.

Suzi Asmus, Horizon Wind Energy, asked if a met tower permit would be considered adequate to prove evidence of wind monitoring. Commissioner Reeder indicated that it would suffice, as long as it showed a length of time that data was collected.

Chris Copeland, Windkraft Nord, stated that developers must be able to demonstrate feasibility to banks to secure loans in the first place, so why must they provide this information to the county as well? Commissioner Reeder explained that the county will not be evaluating the quality of wind data collected. The county only wishes to ensure that the process used to generate the wind data is sound, and the Planning Commission will trust that the developer concluded that the wind data was good enough to proceed with the project.

Chapter 152.616 (HHH)(5)(C)(2-3) : Commissioner Reeder commented on the added language of requiring evidence of an active utility transmission interconnect to the grid, as it is becoming a huge issue. This amounts to a cumulative effect issue as multiple developers want to have transmission lines along the same corridor, so they must decide who will provide pole maintenance and upgrades for the future.

Chase Whitney, Iberdrola Renewables, stated that they would like to see language in Section (2) about proprietary data in regards to the interconnect plan. Mrs. Mabbott clarified that the language says evidence of an active utility interconnect request. It has been a condition of approval on other projects that the county be provided a copy of the interconnect agreement before the final Zoning Permit is issued. This criterion is just evidence that the developer is working on that process. This language was crafted very carefully by Commissioner Colgan for this reason. The developer can also submit information that describes the process they will undertake to get an active utility interconnect agreement, or evidence that such an agreement request has been filed. Commissioner Reeder explained that a past incident with a developer caused the county to be cautious on this issue. This developer didn't have a proposed route for the transmission line, or any easements from property owners to connect from the project to the grid.

Chapter 152.616 (HHH)(5)(D) : Commissioner Reeder explained this language as the Planning Commission wanting to know exactly what kind of land and uses were present in the project, and how they would be impacted. The words "forest practices" and "ranching" were added and number (3) removed.

Chapter 152.616 (HHH)(5)(F) : The fish, avian and wildlife impact monitoring plan language was broadened to include species not included in the first ordinance. There are specific sampling procedures, frequency of evaluation of kills at the site, strategies for walking the site to obtain credible data, and forensic data collected. Mrs. Mabbott commented that the Blue Mountain Alliance had requested a full Environmental Impact Statement (EIS) for this standard, rather than a technical committee. Commissioner Reeder explained that an EIS is very complicated and expensive, and so the recommendations in the standard asks the applicant to look at issues similar to those an EIS would include.

Chapter 152.616 (HHH)(5)(G) : Commissioner Reeder explained that the changes in this section are to clean up the language for the emergency management response plan criteria. Due to the nature of the weather in Umatilla County, special allowances have been made to anticipate such problems as run-off following a large snow or rain fall. Extraordinary weather events causing silt erosion into rivers should be addressed in the emergency management plan by developers. Changes in this section deal specifically with handling fire events. Commissioner Reeder stated that he would like to see the developers sit down with the fire districts located near the wind towers and decide who will purchase the specialized equipment needed to respond to fires on and around wind towers.

Suzi Asmus, Horizon Energy, asked about the timing to have these plans submitted. Developers would like to submit a typical plan of how they deal with emergencies with the application, and then a more detailed, site-specific plan later. Mrs. Mabbott agreed that this would be a part of the final condition of approval. Commissioner Reeder explained that the county needs a list of names and phone numbers of who to call in the event of any kind of emergency condition related to the wind projects for emergency dispatch to have on file. Commissioner Reeder briefly discussed the unique nature of wind development in the Blue Mountain area because of the water run-off and silt concerns for the rivers. Discussion followed about the impact of development of lands near water and effects on water quality.

Chapter 152.616 (HHH)(5)(H) : Commissioner Reeder stated that comments had been received on archeological issues from Confederated Tribes of the Umatilla Indian Reservation (CTUIR). A list of agencies that have water quality related responsibilities in Oregon was added to this section; Soil and Water Conservation District, Department of Environmental Quality (DEQ), the Watershed Council, and Oregon Department of Agriculture.

Nate Rivera, Umatilla Electric, asked if sections 2, 3, and 4 also applied to the transmission line. Mrs. Mabbott explained that all the conditions applied to the towers in a Conditional Use Permit also apply to internal connector lines on the site. Once the transmission line leaves the project site, it has an entire different set of standards.

Mrs. Mabbott commented that this section was updated to include the names of agencies involved in erosion control/weed control plans, so developers would have a source of information, and input will be sought from these other agencies to ensure that the plans are sound.

Chapter 152.616 (HHH)(6) : Mrs. Mabbott moved on to the actual standards/criteria for approval, the first being setbacks. The proposed language states that no portion of a facility will be located within 3,520 feet of property zoned as residential. It also states there must be a half mile between any towers and a dwelling and 500 feet between a transmission line and a dwelling, unless the transmission line is in a right-of-way.

Chapter 152.616 (HHH)(6)(A)(5) : The word “downwind” was removed from this section, as it is now clear that turbine noise is not restricted to downwind from a tower. Mrs. Mabbott commented that there is added language to address noise issues, and a developer may be required to submit a noise study and must operate within limits established by the state of Oregon. A brief discussion of noise easements and noise standards followed. Mrs. Mabbott clarified that these standards in review will only be applicable to new applications, and may not affect permits already issued. Compliance will be monitored through a yearly review process.

Chapter 152.616 (HHH)(6)(E) : Commissioner Reeder commented that the language states that private access roads to wind facilities shall be gated, but it does not require them to be locked. This is due to the vandalism that occurs at project sites.

Chapter 152.616 (HHH)(6)(L-M) : Commissioner Reeder explained language changes to the decommission requirement in this section. The decommissioning fund is an analysis of the amount of the bond required to remove the towers and return the ground to the condition it was, prior to construction. The term “letter of credit” was removed because it is not as much of a guarantee as the surety bond.

Chase Whitney, Iberdrola Renewables, commented on the deletion of the letter of credit from the criteria. He asked that the county follow EFSC’s model on being flexible on accepting either a surety bond or letter of credit. Commissioner Reeder advised that the county has not changed their position, and will continue to require a surety bond. Mr. Whitney stated that the cost to the developer is very different on these two items. Doug Olsen, County Counsel, advised that the county wanted to make sure that a third party is involved in the process, and not a sub-entity from the developer having a letter of credit. Commissioner Reeder stated that a letter of credit is not a guarantee of funding; it is assurance the financing is now available and may later be available. A surety bond is actual funds available for the cost of decommissioning. Sarah Parsons, Iberdrola Renewables, commented that their letters of credit are with third parties, and are posted in the name of the State of Oregon. The letters of credit are placed in a bank that the state can draw on at any time. The decommissioning amount is updated every year. They feel that their process of a letter of credit is just as secure as a surety bond, and would like to discuss this further with Mr. Olsen. Commissioner Kaminski pointed out that the only time the county would need to call upon the letter of credit is if a developer goes

bankrupt, in which case the creditor is going to really think twice before lending additional monies for the decommission. A brief discussion followed on the merits of this method of insuring the decommissioning fund. Commissioner Reeder advised the representatives from Iberdrola Renewables to discuss this further with Mr. Olsen. Commissioner Standley reminded the speaker that the county deals with many companies and must have a consistent standard to apply to all of them.

Chapter 152.616 (HHH)(9) : Mrs. Mabbott explained that the major change to this section was to add the fish and wildlife monitoring requirement in addition to avian monitoring to the annual report. Sub-section (H)(2) has new language that states the annual report can be modified as the project conditions, circumstances and compliance dictate.

Chapter 152.616 (HHH)(10)(B) : Language has been changed to reflect updates on any amendments that need to be submitted to the permit. Any changes to ownership, emergency plans or contacts must be reported immediately to the county. Mrs. Mabbott advised that proof of insurance has always been a condition of approval in the final permitting process.

Commissioner Reeder called for a dinner break, and the Planning Commission would reconvene at 7 p.m.

Chairman Rhinhart reconvened the meeting at 7:04 p.m. He advised that all people presenting testimony should come forward to the testimony table and state their name and address for the record.

Public testimony: Wade Muller, Helix, stated that his family has been in the Helix area for over 120 years, and they have historical references. He commented on setbacks, voicing concern over the half mile setback, which he doesn't feel is adequate. They have enjoyed their scenic view for 120 years and he would like his children to also have this view to enjoy. He is not opposed to wind power, but is opposed to it affecting his quality of life. He also commented on the county road topic. If it is a county road, then it should be treated as such, even if it is just a two track road and should be considered in the transmission line setback criteria. He was also concerned about the size of the new towers going in, as they are much larger than the first projects that were constructed in that area. He commented on the Columbia River Gorge area and how many wind towers are there now. He said that the term "scenic" is subject to each person's perspective, and he believes the views around his home and area to also be "scenic", not just the Blue Mountains. He believes that the view should be more closely considered in the county's criteria. He has read the Oregon Revised Statutes (ORS) and knows that the Planning Commission is tasked with maintaining quality of life.

Commissioner Wysocki asked what Mr. Muller thought would be an adequate setback. Mr. Muller replied that he thought a mile from any residences would be appropriate and 2 miles from a residential district. He believes that the size of the towers does make a significant difference in the setback requirements. Commissioner Lynde asked what he

thought would be a good setback for roads, and Mr. Muller stated he had not thought enough about it to make a suggestion, but that with the increased size of the projects, it should be increased. He believes that people have a right to make a living off their land, but if that affects quality of life for other people around them, it is an issue. Commissioner Reeder asked if there was any compensation that would make the towers more acceptable to him. Mr. Muller replied that their family had been there over 120 years without the towers, so he didn't think so. Money is not the issue.

Public Testimony: Suzi Asmus, Horizon Wind Energy, 53 SW Yamhill, Portland, OR, 97204. Ms. Asmus did submit comments from Horizon, and she hoped they would be helpful to the county when considering this amendment. Their comments were meant to improve clarity and consistency of regulations to assist the Planning Commission in providing a transparent and reliable process for companies proposing wind development in Umatilla County. They hope that the changes they have suggested will reassure wind development companies that permitting through the county instead of EFSC will provide the same reliable process. Ms. Asmus commented on the setback language. The ordinance states that, "no portion of the facility will be within 3,520 feet", and she suggested that the language specifies turbines, as opposed to any and all aspects of the facility. They do not want to see this standard affect roads, underground transmission lines, and operation & maintenance (O & M) buildings. Mrs. Mabbott asked Ms. Asmus if she brought copies of her comments for the Planning Commission as specified in the email. Ms. Asmus stated that she read her comments from the cover page, and their specific language updates were the same as the Iberdrola Renewables and RES comments submitted. Commissioner Reeder asked if she also wanted to include substations in their comments about the 3,520 foot setback requirement affecting the facility. Ms. Asmus clarified that they would request that other aspects of the facility would not be subject to the 3,520 foot setback, just to be specific to the towers.

Public Testimony: Chris Copeland, Windkraft Nord, 4365 Executive Drive, Suite 1470, San Diego, CA 92121. Mr. Copeland stated that they are in favor of the language that is presently in front of the Planning Commission. There is a fine line to be maintained between the developer and the county. Their specific concern would be the bonding requirement. He explained that any requirement that is presented to the county must also pass their financing. The language needs to be able to be financed. The risk is on the developer, but one must also consider the developer's risk upon a county. If a county goes bankrupt, and the bonds are tied into that county, then a bank will not finance this. He wants the language very clearly spelled out. Commissioner Lynde asked what Mr. Copeland suggested would guarantee the county financial assurance for a decommission, should a wind developer company fail. Mr. Copeland commented that with input from financial attorneys, they could recommend a guideline of things that would be able to be financed on the street and would provide the long-time security the county is looking for. A one-size fits all agreement will prove to be difficult when financial markets change. The ability to have a living and changing bonding requirement would be helpful in this case.

Public Testimony: Ed Chestnut, 812 Jacquelyn Street, Milton-Freewater, OR, 97862, representing the City Council of Milton-Freewater. He will be limiting his comments this evening to that of interest to the city council. Mr. Chestnut explained the contents of his packet to the Planning Commission. The first item was a copy of the Declaration #2106 of City of Milton-Freewater. The city is concerned that the proposed language updates do not adequately address the concerns of the city. The City of Milton-Freewater is surrounded with significant agri-tourism business which would be adversely affected by the presence of wind turbine development on the face of the Blue Mountains. Mr. Chestnut referred to the study done by Dr. Bruce Sorte, Oregon State University. This study shows the economic value of agri-tourism to the community. Mr. Chestnut commented that the requirement of a socio-economic study, or some version of it, should be re-instated in the standards. The study should identify what existing businesses would be adversely affected by the presence of wind turbines on the face of the Blue Mountains. He would like to see the setback standards improved, and cited the situation in Morrow County as an example of what can go wrong. Mr. Chestnut spoke to a resident of Morrow County and was told they have spent over \$30,000.00 of their own money to get legal representation and noise studies done to cause enforcement of the state noise standard. The problem with noise standards is that they are essentially a prediction of what may or may not occur as a result of a project. He feels that this situation could eventually put the City of Milton-Freewater in a position of having to spend tax payer dollars to enforce a noise standard. Mr. Chestnut also noted the Department of Environmental Quality (DEQ) has not been involved in investigating violations of state noise ordinances since 1991. He stated that the city feels that noise standards are not the best way to handle noise impacts, but would encourage setting physical setback requirements as a much more effective way to address the noise problem. Mr. Chestnut indicated that in the packet he submitted to the commission is a diagram of projected wind towers and how they would appear around the city of Milton-Freewater. He closed by asking that the Planning Commission not vote to send the proposed amendment to the Board of Commissioners tonight, and there should be another public hearing on this topic. The City of Milton-Freewater would be happy to host this hearing in Milton-Freewater, and would make a space available to the county at no charge. Commissioner Lynde asked Mr. Chestnut what he would suggest for a setback standard. Mr. Chestnut declined to offer an answer, but did state that the current standard of 3,520 foot is not enough. Commissioner Wysocki asked about the agri-tourism impact that Mr. Chestnut talked about, and wanted to know if the city had identified any other negative effects on agri-tourism beyond the visual impact. Mr. Chestnut stated that they didn't feel it necessary, as once you damage a business, it's damaged. That is why they recommend the socio-economic study be a part of the standards.

Public Testimony: Chase Whitney, Iberdrola Renewables, 1125 NW Couch Street, Suite 700, Portland, OR, 97209, was joined by Elaine Albrich, Stoel Rives, 900 SW 5th Ave., Portland, OR, 97204. Ms. Albrich spoke about the updates. They provided an outline of suggested language revisions to the Planning Commission. Mr. Whitney commented further on setbacks. They would like the county to be consistent with the EFSC process, and they feel that EFSC setbacks have proven to be protective of public health and safety. Mr. Whitney asked for clarification on the 3,520 setback requirement

that was earlier discussed by Ms. Asmus from Horizon Wind. They would also like to see the language specifically apply to turbines, and not the rest of the facility. Ms. Albrich commented on wanting consistency with EFSC standards, because they have projects that cross many counties in Oregon. Ms. Albrich explained that the EFSC standard requires measurement of the distance of setbacks for turbine towers from the center line of the turbine to the center of the nearest residence. This setback is 1,320 feet from turbine to residence. In respect to public safety, Ms. Albrich commented on the setback requirement from public road right-of-way, a minimum distance of 110% of maximum blade tip height. This allows for the changes in turbine technology as time goes by. The noise requirements should be to comply with DEQ's standards of noise, and the county can enforce this through a condition of approval for the lifespan of the facility.

Commissioner Standley asked Mr. Whitney and Ms. Albrich to comment on the Morrow County situation. She replied that they are not involved with this, but are aware of it. This particular facility was county permitted, and there have been complaints raised about compliance with the noise regulations. Commissioner Standley asked Ms. Albrich to consider the point brought up by Mr. Chestnut earlier regarding the citizen who had to expend his personal money to prove non-compliance to the state noise standards, and if Umatilla County should address this in our criteria. Ms. Albrich stated that she believed that this could be handled through a condition of approval; if a complaint is raised regarding compliance by the wind facility, then the permit holder would be accountable to provide the needed studies to prove or disprove the complaint on a cost reimbursement basis to the county.

Commissioner Wysocki commented that he appreciated the desire of the development companies to have consistent standards to deal with, but that Umatilla County has many unique qualities that are not necessarily addressed with uniform standard with the rest of the state. He asked how Iberdrola Renewables would propose how the Planning Commission protects the public interest by having just one standard. Mr. Whitney stated that having the standard of setbacks relative to the tip height will accommodate the changing technologies in turbines, but admitted that it is a very difficult balance to find between private use and community input. Commissioner Reeder asked Mr. Whitney to talk about noise standards. Ms. Albrich replied that during the application process, the noise standards are based on modeling using the manufacturer's data for the turbines used in the project. Then the layout of the project is applied to demonstrate that the facility will comply with DEQ noise regulations. Prior to construction, the permit holder is required to prove up that the final layout will continue to meet these requirements. Sarah Parsons, Iberdrola Renewables, further commented that EFSC requires this information to be verified by an independent consultant and this could be included in the county standards as well. Commissioner Rhinhart asked if anyone had ever required a wind developer to post a bond to protect the neighbors from noise damage. Ms. Parsons stated that it has never been done. The state is currently confident with their process and the burden is on the developer to correct any non-compliance with state standards. Commissioner Rhinhart suggested that the bond could be utilized to pay for noise studies in the event of complaints of non-compliance.

Commissioner Kaminski asked for clarification on the center of the tower for set-back determination. Ms. Parsons explained that the state has defined setbacks as points that are easily verifiable by GIS, such as the center of the tower, or center of the house. These are simply unified methods of measurement. Commissioner Randall asked what the largest tip height is currently for turbines. Ms. Parsons replied that the tip height is 492 feet for the 3 megawatt Vestas. Most of Iberdrola's turbines are 420 feet or less. The offshore turbines are nearly 900 feet in length. Commissioner Lynde asked the representatives of Iberdrola if any of them had ever gone out and camped near the turbines to experience them first hand. He explained that his daughter, who is totally deaf, cannot stand to be anywhere near the turbines because the vibration causes her actual pain. Commissioner Lynde went on to say that most developers coming before the Planning Commission do not have to live near the turbines, like the residents of Umatilla County do. Ms. Parsons replied that Iberdrola takes this very seriously, and they do their best to reach out to residents where they are building projects, to see what problems do rise from the facilities. Commissioner Rhinhart commented that neighbors in this county who have been close friends for generations are now bitter enemies because of the presence of the wind towers on one neighbor's property affecting the other's quality of life who get no benefit from it. Commissioner Rhinhart asked the wind developers present how they would put a price tag on that. The Planning Commission has to look at balancing this question for the residents of the county.

Commissioner Lee asked Ms. Parsons about setbacks on streams. Ms. Parsons stated that the setbacks depended on the biological resources and are taken into consideration when placing the towers. They don't put turbines on land that is sloped more than 12%, and they have permanent setbacks from wetlands and streams based on coordination with Oregon Department of Fish and Wildlife (ODFW) and the U.S. Army Corps of Engineers. Commissioner Lee asked about vibrations, and drilling down to the bedrock. Mr. Whitney advised that there are several styles of foundations that can be used, depending on the specific site and soil conditions. When designing a facility, run-off into water ways is not acceptable. The federal guidelines are very stringent on this issue. Commissioner Lee asked if a study had been done on the fish and wildlife habitat in response to the effect of vibration caused by the turbines. Commissioner Reeder commented that if fish and wildlife respond to the vibration like Commissioner Lynde's daughter does to the vibration, this would be problematic. Vibration can act like a dam to fish, and they won't go through it. Ms. Parsons commented that they do studies like geotechnical and biological studies on the impacts to wildlife. Ms. Aldrich commented that Iberdrola Renewables would support having another hearing after the information presented at this hearing has been reviewed.

Public Testimony: Bill Timmerman, 81368 Kupers Road, Helix, OR, 97835. Mr. Timmerman stated he lives 3 miles north of Helix, and is 1.25 miles from the nearest wind turbine put up 2 years ago. Mr. Timmerman hears noise from the nearby turbines at his residence. He believes that a mile setback to residences is not enough. His family has been in this area for 4 generations. He has noticed that even since the smaller towers were first put up, animal behavior in the area has changed. The patterns of movement

have changed considerably in that time. Mr. Timmerman asked why wind towers were allowed in farm country, and was advised by the Planning Commission that it was legislative law by the state. Mr. Timmerman commented on the subsidies given to the wind development companies. He went on to talk about nuclear and water generated power sources. Commissioner Wysocki asked for Mr. Timmerman's opinion of setbacks if he had a wind tower on his property, and Mr. Timmerman replied that there would never be a wind tower on his property.

Public Testimony: Debbie Kelley deferred her comments until the next hearing.

Public Testimony: Robin Severe, 82422 Vancycle Road, Helix, OR, 97835. Mr. Severe stated that they have lived in the Helix community since he and his wife were first married, and chose the area because of the land zoning (Exclusive Farm Use) and a high quality of people. He spoke about the setbacks. The first projects were over the horizon, and out of their view. They live on the Vancycle Highway, which was the construction route for the small towers. The county required a travel route for all construction phases, but it wasn't always followed and the large rigs came right in front of their home. It was a nightmare experience for them, and they had to call the county three times to ask the county to enforce the travel route requirement. For a year, they had a terrible experience with all the traffic as a result of the project; first construction and then the maintenance trucks afterwards. Now their quiet, little country road is a like heavy industry in the middle of farm ground. They now have 4 large towers in sight of their house, and they can hear them loudly when the wind is slow or intermittent. It sounds like a large vehicle or piece of farm equipment running all the time, and during the night. They are not used to it, and may never get used to it. He doesn't think that the setbacks are enough, and should be increased. He also believes that road setbacks should be substantial, as the traffic created as a result of a wind farm is significant. He is offended by that fact that if he wanted to put something heavy industrial on his land, he couldn't do it unless it was a wind tower. He also is offended to find that his state and federal tax money is being used to help put the wind farms up. He hopes that the county exceeds the state requirements for wind development in Umatilla County, to compensate for the impacts and injustices they have had to live with.

Commissioner Wysocki asked Mr. Severe to describe the topography of Vancycle Canyon. Mr. Severe stated that it is a shallow canyon where they live, but goes much deeper. The projects that are currently under consideration will put a substantial amount of towers between them and Helix, and they will be downwind from this project. Commissioner Lynde asked Mr. Severe if their horses act differently with the towers nearby. Mr. Severe stated that yes, they are afraid of the blades, especially the colts. It takes a long time to train them to ride near the towers, but some horses don't get used to it.

Public Testimony: Richard Jolly, 54462 Upper Dry Creek Road, Weston, OR, 97886. Mr. Jolly advised the Planning Commission that they are a citizen's committee and they are the first line of defense for property owners to have a chance to speak to. He realized the amount of time that the members of the Planning Commission have put into this

effort, but he still feels that everyone is not educated enough to realistically address this topic. He feels that the Planning Commission should bring in experts from the Department of Energy to speak to the Commission about wind power issues. He feels that Umatilla County would take a nuclear plant for the money if offered. If the county doesn't pay attention to what the citizens are saying, then some people need to resign their positions and get people in that don't look at the money issue. The Blue Mountain Alliance's position is still the same, and they feel that the issue of cumulative effects is still not being addressed. Most of the other issues could be addressed through adequate setback requirements. Mr. Jolly stated that setbacks should be from property lines, not just residences, in case someone would want to build a residence there in the future. He suggested a four mile setback for residences to address the noise issues. Mr. Jolly suggested that in critical habitat areas, an EIS should be required. He is opposed to the removal of a socio-economic study, as the health department is now doing studies on human health impacts from the wind farms. Mr. Jolly would like to see the annual reports be standardized for all the projects, as the developers are manipulating the information about avian statistics. Commissioner Reeder asked Mr. Jolly how he felt about noise easements. Mr. Jolly replied that noise easements should be treated like any other easement.

Public Testimony: Dana Dibble, 84504 Weis Road, Milton-Freewater, OR, 97862. Mr. Dibble displayed a magazine article about the potential for wind development across the United States. The northwest states are not even listed as marginal according to the article. Mr. Dibble asked what the setback was for a main highway. Commissioner Reeder advised it is twice the height of the highest point of the tower. Mr. Dibble then asked about shadows produced from the turbines. He stated that the Blue Mountains are different than other parts of the county, and that the scenic highway has not been addressed. When the sun comes over the mountains, and the long shadows are produced from turbines, will it affect traffic on Highway 11. Mr. Dibble requested that the Planning Commission drive along Highway 11 early in the morning and in the evening to see what it would look like if towers were put there. Mr. Dibble commented that the first turbines to go up were much smaller than what is currently being constructed, and wondered how much bigger they will get over the years. He asked the Planning Commission where they will draw the line and stop development.

Public Testimony: Jim Burns, 78381 Hodgson Road, Weston, OR, 97886. Mr. Burns stated that he had already said most of what he came to say. He did want to go on the record and file a formal complaint about the hearing. The Planning Commission has tried three times to write this document and the last posting of the proposed changes was three days prior to the meeting. He spent a week writing comments on the last posted version and now found out that it was worthless. Mr. Burns requests that another hearing be scheduled to hear more on this topic, after the revised changes have been posted to give people a chance to review the changes prior to the meeting. Mr. Burns commented on the critical winter range. He stated that for the last several years the county has closed this area from vehicular traffic to protect the deer and elk. He commented on the bull trout in the Walla Walla River, and the Umatilla River. Mr. Burns stated that two years ago he asked a top man in Horizon Wind how much it would

cost to erect a wind tower. This person told Mr. Burns that it would cost \$850,000.00. Mr. Burns said it will cost at least that much to decommission a tower, as the tower would have to be disassembled just like it was assembled. The roads would have to be widened for the large equipment, cranes brought in, and removal of the metal and concrete done. He stated that they will only be able to get 6 cents per pound for the scrap metal. He feels that a surety bond is the only way to go. There are a lot of banks in trouble today, as their assets are tied up.

Public Testimony: Arla Ruthven, 84547 Weis Road, Milton-Freewater, OR, 97862. Mrs. Ruthven stated that she has lived in Milton-Freewater for 75 years. She is with the Blue Mountain Alliance. She spoke about Bonneville Dam, and has friends in Portland that visit Milton-Freewater. Her friends can't believe the changes in our area because of the wind projects. The fish in the Columbia River are being killed because the water is going over the dams due to the power grid changing. Mrs. Ruthven commented on something the governor said two years ago, about removing the dams from the Columbia River. This used to be sagebrush country, and now it is irrigated farmland because of the dams. Mrs. Ruthven then commented on Arlington, and how the children were frightened by the wind turbines being built. Mrs. Ruthven stated that most of the art located in Walla Walla stores and galleries is based upon the view of the Blue Mountains. If there were turbines in the Blue Mountains, there wouldn't be any art students or anyone coming in to view the mountains. Mrs. Ruthven encouraged the Planning Commission to slow down and not make decision based on experiments. Everyone is still learning after three years, and everything is new. There will be lawsuits in the future if we are not careful now.

Public Testimony: Cindy Severe, 82422 Vancycle Road, Helix, OR, 97835. Mrs. Severe asked who would want a large wind tower a quarter of a mile from their home. She stated that if people like herself that have to put up with the impacts didn't stand up to the wind developers, they will get what they want in the ordinances. She is concerned that the developers want to remove the word "facility" and change it to just "turbines", and this means roads that don't have to meet setbacks. She and her husband listened to the stories that Florida Power told them, and a lot of promises made that were broken. She stated that her property values are now lower because of the towers. Their property is right along the travel route and they were impacted by traffic, garbage, vandalism, and blocked roads from the large equipment being moved. She feels that the people who put up the projects leave and don't care about the problems left behind for the residents of this area. If the developer's quality of life was impacted like theirs has been, they wouldn't like it much. Commissioner Reeder asked Mrs. Severe if the project next to them had ever been sold. She didn't know that answer, but did relate a story about some met towers put up on an adjoining neighbor's land. When the neighbor called the company to come remove the met towers, he found that the company was bankrupt, and had to pay for the removal himself. Mrs. Severe stated that they encountered many problems with the construction of the last project near them, and the trucks not staying on the approved travel route.

Public Testimony: Ed Chestnut, 812 Jacquelyn Street, Milton-Freewater, OR, 97862. Mr. Chestnut asked to address the Planning Commission as a private citizen, and wanted to make it clear that he was not representing the Milton-Freewater City Council. Mr. Chestnut stated that he wanted to touch on the point brought up earlier by Mr. Dibble about wind turbine shadows. He feels that there needs to be a setback in the ordinance relating to wind turbine shadows in relationship to residences. Commissioner Wysocki asked Mr. Chestnut to now answer his question about what he thought would be a good setback distance. Mr. Chestnut replied that he was in favor of a minimum of two miles, but four miles would be better. He expects that the wind developers will fight this. There are thousands of acres with no residences nearby; he suggests they use those to develop wind farms.

Mrs. Mabbott advised that the Confederated Tribes and Mr. Steven Corey submitted written comments, but were not able to be present to provide testimony for this hearing, as Mr. Corey had to leave earlier. Chairman Rhinhart then asked for comments from other commission members as to how to proceed, and a brief discussion followed. Mrs. Mabbott offered up several options on meeting dates and times. Commissioner Lynde asked if they could have sound experts come and speak to the Planning Commission to help them better understand the problem.

Guest Sarah Parsons, Iberdrola Renewables, commented that they support bringing in specialists from the Department of Energy and BPA to provide further information to the Planning Commission. They would be able to also bring in acoustical engineers about sound, and how counties can enforce sound standards. There could also be biological consultants present to talk about how the vibration and sound affects the wildlife in the county.

Commissioner Standley offered some ideas on how to proceed, and there was further discussion on his suggestions. He would like to move forward on the information they have now such as setbacks and residences, and continue to look into and learn more about the remainder of the issues. Mrs. Mabbott reminded the Planning Commission that they can take all the time they need to work through this, but if an application is presented tomorrow, it will be processed under the existing ordinances. Commissioner Wysocki agreed to sit in and review the draft changes to replace Commissioner Colgan along with Commissioner Reeder and staff. It was decided to hold a work session for the Planning Commission in January. It will be open to the public, but there will be no testimony taken. The time and date for the work session will be announced and advertised later. The hearing will be continued until a later date and time, also to be announced at a later time following the work session.

Chairman Rhinhart adjourned the hearing at 9:07 p.m.

Respectfully submitted,

Gina Miller, Secretary