

UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, September 23, 2010
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

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COMMISSIONERS

PRESENT: Rick Colgan, Frank Kaminski, David Lynde, Clinton Reeder, Gary Rhinhart, Don Wysocki, David Lee.
ABSENT: John Standley, Tammie Williams.
STAFF: Heather Haueter, Richard Jennings, Tamra Mabbott, Carol Johnson.

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

CALL TO ORDER:

Chairman Rhinhart called the meeting to order at 6:30 p.m.

SPECIAL BUSINESS:

A special presentation was made in honor of Commissioner Rick Colgan, who was resigning from the Planning Commission. Planning Director Tamra Mabbott presented a certificate of appreciation on behalf of the Department, and County Commissioners Larry Givens and Dennis Doherty presented a certificate acknowledging September 23, 2010 as Rick Colgan day, along with a Pendleton woolen blanket. Fair Director Peggy Clough also spoke in recognition.

OTHER BUSINESS:

Staff Report on EFU Survey: Planning Director Tamra Mabbott explained that the EFU discussion began with input from a group of citizens from East County about the existing EFU-10, 20 & 40 zones. After citizen feedback, and a grant study by Bruce Sorte, Senior Planner Richard Jennings conducted a survey the past winter and will now summarize those results for the Planning Commission. Staff will then ask for feedback and direction on what the next step should be.

Mr. Jennings gave a PowerPoint presentation summarizing the survey results. He explained that in 1993 the Oregon legislature modified ORS 215.780, requiring a minimum parcel size of at least 80 acres. Umatilla County complied by discontinued recognition of the smaller minimum parcel sizes. The County intended to review the issue after Periodic Review, but that did not end until 2006. In 2007 staff brought forth

the idea of modifying the zones, which resulted in a request that the zones be looked at closer.

County zoning maps still show EFU-10, 20 and 40. We need to re-establish the minimum parcel sizes or remove them and make them straight EFU.

Mr. Jennings displayed maps of the EFU-10, 20, & 40 zones in the county. He then went through the current parcel size analysis:

- In the EFU-10 zone there are a total of 1237 parcels. Only 59 parcels are large enough to divide.
- In the EFU-20 zone there are a total of 286 parcels. Only 31 are large enough to divide.
- In the EFU-40 zone there are a total of 518 parcels. Only 37 are larger enough to divide.

Mr. Jennings reviewed the survey results. The main question was; should Umatilla County proceed with re-establishing the parcel sizes in these zones? While 54% replied that it would not benefit them directly, 57% said the county should proceed with re-establishing the minimum parcels sizes.

A table was displayed of land use actions that may or may not be possible with a go below. Some properties may be divided if large enough, but a go below will not automatically allow for a dwelling. Siting criteria for a dwelling will be the same as it is today. Landowners could also lose some flexibility with certain boundary line adjustments.

Mr. Jennings explained the go below application process. ORS 215.780 requires a minimum parcel size of 80 acres. Smaller sizes require going through a go-below process. You cannot rely on historical pattern and designation. There are still criteria to be met.

The main question for a go below is; what size allows a successful commercial agriculture operation? Can it support a family? The Umatilla County median income is \$40,773 per household. We would then review the existing commercial agricultural operations to figure out what parcels are being used now, their size, what operations are going on there, and what kind of income they create. Mr. Jennings pointed out that the go below criteria also clearly states that a dwelling is not automatically allowed.

Mr. Jennings reviewed the Bruce Sorte report. What Mr. Sorte concluded was that smaller parcels, even as large as 40 acres, would require adaptive farming practices. Of course, if everyone in the EFU-10 zone for example was adaptive farming, the market would become saturated.

Commissioner Colgan noted there is still a requirement of successive years of income. Mr. Jennings agreed that is true for approval of a dwelling. Also, more than one parcel may be used to calculate income generated, but restrictions must be placed on the other parcels that they may not be used for the purpose of qualifying for another dwelling.

Commissioner Colgan asked how the county would track an operation for compliance. Ms. Mabbott replied that the rule does not require tracking after a dwelling is placed. Commissioner Colgan noted there is risk in that though. Commissioner Reeder added that one safeguard is that the income test has to be met prior to dwelling approval. It then becomes a sustainability issue.

Chairman Rhinhart noted that basically about 100 parcels would be affected, and he wondered if there were any other opportunities for these parcels to divide. Mr. Jennings replied that the only way to divide would be through a conditional use that would require a smaller parcel size, or through a non-farm dwelling depending on the size of the parent parcel. They are still very limited. Chairman Rhinhart stated that his concern was that only about half of those surveyed had a desire to go through the go below, but it will take a lot of work and time for Planning staff. He didn't want to spend time going through a go below when only half want to do it, especially if there are other options for them.

Mr. Jennings explained the options from here:

Option 1: Prepare a go below application. If approved by the state, it would be followed with a zone map, plan map, and Comprehensive Plan amendment. However, there is no guarantee that the state would approve.

Option 2: Prepare a zone map, plan map and Comprehensive Plan amendment to remove the EFU-10, 20, and 40 zone designations. Ms. Mabbott noted that option 2 is how properties are managed now. If no go below then we need option 2 to clean up the maps and Comprehensive Plan. She added that option 2 might trigger some upset in people who have not participated previously, but who could be concerned when they receive notice that their property is being "rezoned".

Option 3: Do nothing.

Commissioner Reeder suggested we could also rezone those areas altogether to something besides EFU. Ms. Mabbott replied that the only other zone that might be an option would be RR-10, but almost all of these parcels are high value soils. It would be very difficult to rezone to something other than a resource zone. Commissioner Reeder wondered; if the land use there now is or isn't agricultural, then how do we want the area preserved for the long term? If we want it preserved for agriculture then we might want to provide incentives to encourage keeping it in agriculture, like special rules about re-combinations, or lot line adjustments to facilitate putting larger parcels together. Mr. Jennings replied that the biggest incentive right now is reduced property taxes.

There was some discussion with the audience about income requirements for a dwelling.

A guest asked if there are or would be any restriction to farm buildings. Ms. Mabbott replied that farm structures are allowed, regardless of the parcel size.

Guests had concern that the surveys had not been sent to everyone. Ms. Mabbott explained that staff used assessor's records for property owner addresses, so if people have moved or get their mail elsewhere it might have been returned.

A guest asked about the zoning of Seven Hills. Mr. Jennings explained that their property is zoned EFU, but has gone through a go below for a 40 acre minimum. Chairman Rhinhart asked if that would have any affect on this go below. Ms. Mabbott replied that it would affect it indirectly. It is one of the few go below areas in the state and some of the background information provided for the Seven Hills justification could be used as part of the data presented for a new go below. They based their analysis in large part on the fact that they were planning to grow grapes.

Norm Kralman commented that much more time was spent when the Comprehensive Plan was originally written. It would also be much less expensive to keep what's already there than to change the zones. Friends of Umatilla County has spent a lot of time communicating to the County that the majority of people are supportive of keeping small acreages. They developed a go below a couple of years ago that could have been presented, but was not. He felt the people who attended the meetings a couple of years ago were not heard.

Commissioner Reeder pointed out that the County did not decide not to have the EFU-10, 20, and 40 zones. It was a state decision. Mr. Kralman replied that there are other counties that have smaller zones recognized by the state. Commissioner Reeder replied that the issue before us is that the only way to keep those zones is to make an application for a go-below.

Ms. Mabbott added that the County heard the people at the previous meetings, but we have to follow a certain procedure. Staff has already spent a lot of time and resources on it. Whether or not the information Friends of Umatilla County provided back then was in the proper formant is questionable, but we would certainly use it in a go below application. Also, the reason a lot of people were excited at the previous meetings was because, as part of our annual code updates, it was proposed that the EFU-10, 20, and 40 designations be removed because we did not have a go below. Because of the public opinion at those meetings, the Planning Commission decided to leave those zones on the map, and requested that staff do more research and report back, and this meeting is a culmination of that.

A guest asked what would happen to properties already below the minimum parcel sizes. Ms. Mabbott replied that those properties would be grandfathered.

A guest argued that the county should have requested a go below back when the state implemented the changes. Since it wasn't done then, it should be now. Ms. Mabbott

explained that when the state recognized the County's Comprehensive Plan in 1986 they recognized the EFU-10, 20 & 40 zones. It wasn't until the 1993 legislature that the state changed it.

Robert Klein understood that other counties applied for a go below right away. Ms. Mabbott replied that they had to file through the same go below process, and did so soon after. Mr. Klein felt that the county needs to grow and these areas are already in place so why not keep them. After the approval Seven Hills received, he did not think it would be difficult to get approval from the state. Mr. Jennings asked how it would help the county grow. Mr. Klein replied that someone could potentially come in and prove the income for a dwelling on one of these smaller pieces of properties.

Chairman Rhinhart asked the Planning Commission what they'd like to do. Commissioner Lynde would like to go ahead with a go below application. Commissioner Wysocki was in favor of a go below, but commented that it won't provide the opportunities people think it will. Commissioner Reeder commented that, considering the use of the land, most people probably want to build a dwelling, but this won't enhance that ability. However, he was in favor of a go below because it's what the public wants. Commissioner Kaminski felt the zoning should reflect the surrounding uses. He was in favor of a go below. Commissioner Lee was in favor of a go below. Commissioner Colgan was in favor of a go below. Chairman Rhinhart felt we should go with option 2 and go through the process to amend the zones to reflect the state minimum. By consensus, the Planning Commission chose to go forward with a go below application

Ms. Tamra noted that staff could also file a request with a state legislator that could create a caveat so we don't have to file a go below. Chairman Rhinhart agreed that staff can try it and if it doesn't work, go forward with a go below application.

Recess.

Re-adjourned at 8:13 p.m.

Annual Reviews for County Approved Wind Projects: Senior Planner Carol Johnson referred to her memo to the Planning Commission, which provided a brief overview on each of the projects being reviewed. She also provided copies of reports for Vansycle for 2005, 2006 and 2007 that were not provided previously.

Representatives are present for Vansycle and Eurus Combine Hills. She had just made contact with the correct representative from Oregon Windfarms about additional information needed for their review. That information will be provided in a report at a later date.

Vansycle Ridge: Bill Hayduk spoke on behalf of Vansycle. He explained that the project is near Athena and consists of 38 turbines. It is approximately 11 years old now, and has been very successful, with 96-97% annual hours of availability of turbines.

Portland General Electric is their customer and they work closely with them to keep things operational. There have been no complaints from landowners, and low avian fatalities. They appreciate the County's support in getting this project and others up and running.

Commissioner Kaminski asked about their financial information, specifically their economic impacts. Relative to property taxes, he wondered if that figure was the reimbursement to the underlying landowners or if Vanscycle pays the property taxes directly. Mr. Hayduk replied that there are two parts to property taxes; they reimburse the landowners for the incremental value added to their properties, but they also pay taxes on the turbines themselves.

Ms. Mabbott asked about their percentage output. Mr. Hayduk replied that they refer to that as the annual capacity factor and it has been running around 33-34%, which is a very good number.

Commissioner Wysocki asked about the projected lifetime of the project. Mr. Hayduk replied that the purchase agreement with PGE is 35 years, and they expect to meet that, so they probably have 20-25 more years. Commissioner Colgan wondered about upgrades to the turbines. Mr. Hayduk explained that it depends on the economics, and one of the problems with repairs is the whole project has to be decommissioned and a write off taken. But if turbine efficiencies continue to go up, there is always that potential.

Chairman Rhinhart asked if there have been any catastrophic incidences. Mr. Hayduk replied that most recently there was a blade strike on a tower. There was significant damage to the blades and tower top, and they had to replace the top and blades.

Commissioner Colgan asked about their connection to the Bonneville Power Administration (BPA) and how it is dealing with them on wind integration. Mr. Hayduk replied that BPA has made a significant impact on the economics of the project. Their wind integration fee amounts to \$6-7.00 per MW hour. In spite of that, the project still works.

Commissioner Kaminski asked about the guarantee for decommissioning on this project. Ms. Mabbott replied that the county receives a certificate of bond annually. That is not part of their annual reporting requirement.

Commissioners asked some questions about turbine and tower upgrades, and requirements for lease agreements for upgrades. Commissioner Colgan explained that we are still working on some of our siting standards, so the context of questions may sometimes go beyond the reporting requirements.

Ms. Mabbott pointed out that the first project was permitted in 1997 and was the first in the state. That was before the county even had specific wind siting standards. The next projects fell under the section HHH standards.

Commissioner Reeder noted that one of the issues we're dealing with is setbacks and specifically the setback from roads, to ensure protection from fling, etc.

Mr. Hayduk suggested the county look at Solano County in California. They have a wind resource area about the size of Umatilla County's, and they have pretty strict standards. Ms. Mabbott noted that the first hearing on section HHH will be November 18th, so the projects might take heed of the changes that are implemented.

Commissioner Reeder commented that the assumption has been that downwind noise is the problem, but he recently took video clips of some towers and was surprised that the uphill noise was high as well. You also never know which way the turbines will be facing, depending on wind direction. Because of this, "downwind" has been taken out of the draft changes to section HHH. The standard will relate to wind relative to the tower.

Commissioner Lynde asked if they'd had any problems with ice fling. Maintenance engineers with Vanscycle replied that they have a procedure to watch for ice and wait for it to clear before working on the turbines. It is primarily caused by freezing fog that sticks to the blades.

Eurus-Combine Hills I: Tom Farnham and Micah Engum reported on behalf of Eurus – Combine Hills I. Mr. Farnham explained that they are close to generation expectations, and they are at 31-32% annual capacity factor for both of their sites.

Chairman Rhinhart asked if they'd had any catastrophic issues. Mr. Farnham replied that in seven years they'd had one lightening strike on a blade, and a pole fire last year for a transmission line. They were back up and running within 30 hours. They have also had a few gear box failures.

Mr. Farnham noted that they've had a good experience. Everything has gone well on the project, and they've had good experience with the county and landowners. They hire local and focus on making sure they pay attention to the economics of the area.

Commissioner Lynde asked if they had any suggestions on the height/setback issue. Mr. Farnham replied that they are not close to anything, so they don't have that issue. When there is ice on the blades they shut the turbines down, more for crew safety than public. They only had one shutdown last year for one day. Micah Engum added that they have another project for which they had to take into consideration the ice throw because they were near a substation. He did not recall the exact distance, but it was less than twice the tower height. The distance was required by the substation.

Chairman Rhinhart asked about avian mortality. Mr. Farnham replied that it is rare to find carcasses, but they have a procedure for storing and documenting any carcasses that they do find.

Commissioner Lynde asked about big game. Mr. Farnham had not talked to landowners about what they've noticed, but hunting is allowed and he's seen game. He did not imagine that game had been impacted by the project other than during the construction phase. Mr. Engum added that during construction he was at the site two days per week and he saw deer every day.

Commissioner Kaminski had questions about property taxed reported. Mr. Farnham noted that it is for Phase I only, and the 19% referenced was the percentage given to him by Don Bain to represent the amount actually paid to the county from the total given to the state. The total from which the 19% was taken includes all property taxes paid, including landowner taxes, which are very insignificant. Ms. Mabbott noted that the actual numbers can be acquired from the assessor's office.

Commissioner Wysocki asked if there was some kind of uniformity to assessment by the state. Ms. Mabbott replied that it is supposed to be based on real value. Part of the reason the county has been negotiating Strategic Investment Program (SIP) agreements is because the utilities have the turbines on a very accelerated depreciation schedule.

Commissioner Wysocki asked about the Community Benefit Fund. Mr. Farnham explained that they have an agreement with the county to pay .38% of their revenues to the county every year. That goes into a fund administered by the County Commissioners, who solicit requests for use of the funds. County Commissioner Larry Givens added that the funds are partly to address socioeconomic impacts. The percentage was negotiated and these are monetary benefits that go to different community service organizations, schools, special districts, etc. It is above and beyond the SIP agreement.

Amendment to UCDC 152.616 (HHH): Commissioner Colgan summarized the changes to be proposed in upcoming hearings. The county recognizes that if we make the standard more restrictive than the state developers will just go to the state. So we really can't make it more restrictive, but we do want to recognize environmental concerns, setbacks, etc.

Ms. Mabbott pointed out that Umatilla County was the first county in the state to have specific wind siting standards. But over the past couple of years, what we've heard is that the standards we had in place do not address some of the impacts that a community might see for a projects that might be located in areas other than wheat or dry land range ground. Commissioner Colgan added that one of the big issues on water quality is that there are a lot of Endangered Species Act (ESA) issues, and ESA and water quality are not very well addressed at the state level with DEQ.

Idaho Power: Ms. Mabbott passed out a copy of the letter she sent to the state Department of Energy relative to the Idaho Power transmission line. It included that comments of the Planning Commission at the previous meeting.

EFSC Amendment to Iberdrola: Ms. Johnson passed out her letter to the EFSC regarding the amendment to Iberdrola. They are adding about 100 MW to their project.

ADJOURNMENT:

The meeting was adjourned at 9:26 p.m.

Respectfully submitted,

Heather Haueter,
Secretary