

UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, February 24, 2011
4:00 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

COMMISSIONERS

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

Chairman Rhinhart called the meeting to order at 4:04 p.m.

APPROVAL OF MINUTES:

Chairman Rhinhart asked if there were any changes or additions to the minutes from the work session minutes of January 13, 2011. Commissioner Lynde moved to accept the minutes as presented, and Commissioner Lee seconded the motion. The minutes of January 13, 2011 were approved by consensus.

NEW HEARING:

- **Update of Umatilla County Development Code, #T-10-040.** A summary of the updates include the following:
 1. UCDC 152.059 (K) I (2) b (7) clarify language
 2. Enforcement of Code, refer to the Chapter 38
 3. Change TYPE IV Review II language
 4. Change TYPE IV Review III language
 5. Requesting a Continuance
 6. Remove UCDC 152.626 “Minor Variance” Section and References to Minor Variance in Other Sections
 7. Modify Setback Variance language in Commercial and Industrial Zones
 8. Clarify Non-Farm Dwelling Criteria
 9. Clarify Conditional Use Reference in UCDC 152.060
 10. Parking Standards
 11. Boundary Line Adjustments – Date of Creation
 12. Boundary Line Adjustments – DEQ Site Suitability Approval
 13. Mobile Homes Not to be used as Storage Units
 14. Modify Conditional Use Permit Section
 15. Replacement Dwellings in the EFU Zone
 16. Type II Land Division - UCDC 152.684 (E) modified
 17. Cargo containers

Chairman Rhinhart read the opening statement, and called for any abstentions, or objections to the jurisdiction of the Planning Commission. There were none.

Planning Director Tamra Mabbott clarified that the hearing would be held in two parts, with the first addressing only the code update. This would be followed by a dinner break and the continued hearing for the Section HHH, Wind Energy siting standards, would be opened immediately after. Public testimony forms were available at the back of the room for both hearings for people to fill out and hand to a planning staff member.

Staff Report: Richard Jennings, Senior Planner, presented the staff report. Mr. Jennings stated that this annual update is a matter of clarifying the language for the ordinances, or updating to reflect adherence to state statute and administrative rules. These are fairly simple updates.

1. UCDC 152.059 (K) I (2) b (7) clarify language
2. Enforcement of Code, refer to the Chapter 38

The first update is just an addition of references in the code, related to dwellings in non-high value soils. The second update is a reference to the enforcement ordinance, Chapter 38.

3. Change TYPE IV Review II language
4. Change TYPE IV Review III language

These updates will be discussed in more detail later in the discussion.

5. Requesting a Continuance

This update pertains to continuances, and bringing the ordinance up to date with the administrative rules.

6. Remove UCDC 152.626 “Minor Variance” Section and References to Minor Variance in Other Sections
7. Modify Setback Variance language in Commercial and Industrial Zones

These changes deal with variances. In the past, there was an opportunity to do a minor variance, so this was eliminated. All variances are now administered the same way with this code update.

8. Clarify Non-Farm Dwelling Criteria

This update clarifies the date of creation for the parcel when processing a non-farm dwelling application. This is a clarification of state statute.

9. Clarify Conditional Use Reference in UCDC 152.060

This update adds a reference to the Conditional Use Permit section to all text for the criteria for approval found in UCDC 152.061.

10. Parking Standards

This update will address parking standards for applications.

11. Boundary Line Adjustments – Date of Creation

12. Boundary Line Adjustments – DEQ Site Suitability Approval

These updates address boundary line adjustment issues.

13. Mobile Homes Not to be used as Storage Units

This update will address the issue of mobile homes not being permitted as storage units.

14. Modify Conditional Use Permit Section

This is a detailed update of the Conditional Use Permit section. There are basically two types of permits issued, Conditional Use Permits and Land Use Decisions. This section deals with both types of permits, so this update will change the title to include the language for Land Use Decisions in addition to just Conditional Use Permits. This will update the procedures for reviewing both types of permit applications.

15. Replacement Dwellings in the EFU Zone

This update includes a feature of the state statute that previously was not included locally in the county ordinance.

16. Type II Land Division - UCDC 152.684 (E) modified

This update deals with the Type II Land Division. Currently this process requires a sign at intersections of county road or state highway. This modification will give the county some flexibility; if the application is for a private drive that will not serve many parcels, this requirement may be waived. This update will also add some language in regards to road standards (P-1 and P-2 standards), and they were not specified. References to these standards will now be a part of this section.

Mr. Jennings stated that the Type IV Land Division deals with land in the EFU (Exclusive Farm Use) zone or GF (Grazing Farm/Forest) zone. This update deals with the creation of an 80 acre parcel, and whether it can be made smaller by doing a boundary line adjustment later. Once this update is adopted, the 80 acre parcel cannot be made smaller by a boundary line adjustment, thus closing this loophole.

The Type IV Review III process deals with creating parcels for non-farm dwellings. This update will clarify the county ordinance to comply with the state statute; there can only be a total of two parcels and both must qualify for non-farm dwellings. To qualify for this process, the property can't have water rights, and must have 90% Class 7 soils.

Mr. Jennings spoke about the issue of off-street parking standards. In industrial and commercial zones, the current standard is one parking space per employee and 1 parking space per 200 square feet of floor space. This standard will be changed to 1 parking space per 200 square feet of public space. If the public can access the area, then this standard must be met. This change will decrease the amount of off-street parking that would be required in commercial and industrial zones. It has been particularly difficult for warehouse structures to meet this old standard of floor space.

Mr. Jennings covered the topic of mobile homes being converted to use as a storage unit. The general policy in the past has been to not allow this conversion in residential zones, but it was allowed in the EFU zone in the past, for storage of feed and tack. This change to the code is to clarify this language; manufactured home will not be allowed to be converted to storage units except for the EFU and GF zones.

17. Cargo containers

Mr. Jennings spoke about the proposed code update to implement a policy of allowing and permitting cargo containers for storage purposes. He gave a brief history of how this topic has been covered in past Planning Commission hearings and work sessions. He explained the definition that will appear in the code. If the cargo container is greater than 120 square feet and is on the ground, it will require a Zoning Permit and must adhere to the setback requirements and floodplain development standards. If the cargo container has wheels on it, it will not fit under this definition and will not require the permit process.

Commissioner Reeder and Commissioner Lynde asked Mr. Jennings to clarify the language about the storage container being totally closed, and how semi-trailers with axels but not fit for road use will be handled. A brief discussion followed on these two questions. Mr. Jennings advised that any containers with wheels would not meet the definition and would not require permitting.

Mr. Jennings explained what a buildable area means; set back areas, easements and septic/drain fields are not considered areas where building should take place. The cargo containers will require a site plan to verify the placement and must adhere to floodplain development standards. The cargo containers cannot be stacked more than one level high, and must be on a level surface. They must be used for storage and would require further permitting if there was a change in use for the container. The cargo container must contain the belongings of the property owner; a person may not set up cargo containers on their property and rent them out for someone else's belongings. This may be allowed in the proper zone with a permit.

Commissioner Lee asked how this code update would affect the Humbert's rental service in Milton-Freewater. Mr. Jennings advised that no permits would be required for the property where the rental units are stored, and that property owners will be the responsible party for obtaining any permits for placement on their property. Mr. Jennings also advised that if the storage container was going to be present less than six months on the property, it would not require a Zoning Permit.

Mr. Jennings spoke about the “grandfather” or grace period that will be offered to property owners who already have a storage container on their property. The property owner can get a Zoning Permit within the first six months following this ordinance being adopted. There will be no fee for this permit, and the storage container can remain where it is and will not have to meet setback requirements unless it is considered a hazard. If the existing storage container is located in a floodplain, it will require a floodplain development permit.

Commissioner Lynde asked if the county will inform the public about this new ordinance and the six month grace period. Mr. Jennings replied there will be public notice provided, press releases, radio spots, and it will be on the county website.

Public Testimony: Richard Barton, Barton Industries, Hermiston, OR. Mr. Barton stated that they sell storage boxes. He clarified that the boxes with chassis are exempt from this ordinance. He asked what the fee would be for the Zoning Permit, and would it be a one time fee or annual. Mr. Jennings advised him that Zoning Permits are currently \$75 and this would be a one-time fee. Mr. Jennings also stated that while the Zoning Permit fee could go up with proper public notice and approval from the Board of Commissioners, it was not likely to go up any time soon as it was just raised last year.

Mr. Barton asked for clarification on when the six month grace period would begin, and what if a person had multiple cargo containers on their property. Mr. Jennings replied that the Board of Commissioners would be considering the code update on March 17, 2011 and if approved, the six month grace period would start soon after that. He also advised that a person can permit multiple cargo containers with one permit. Mr. Jennings advised that the grace period would only apply to pre-existing storage containers when the ordinance goes into effect. Any newly placed storage containers would be required to be permitted and would be charged the permit fee.

Public Testimony: Sam Hopkins-Hubbard, Milton-Freewater, OR. Mr. Hopkins-Hubbard asked why this topic was before the Planning Commission, and why were they considering having to permit cargo containers. Commissioner Reeder advised it was because of the increasing amount of complaints, and problems with enforcement with set back and floodplain requirements. A definition was also required to classify exactly what was being discussed. Cargo containers are becoming more prevalent all over and other counties have started permitting them for a measure of regulation. Mr. Hopkins-Hubbard asked if these regulations would apply to areas within city limits, and Commissioner Randall advised that they would not at this time. Mr. Jennings explained that cargo containers were not allowed before and this process was designed to provide a way for people to have them. Discussion followed on how this ordinance would be enforced, and what would be considered solid waste.

Public Testimony: Richard Barton asked to speak again. He asked to enter into the record that he opposes having to go through this process of permitting cargo containers and having to pay a fee for this permit. Chairman Rhinhart advised him that he still had another opportunity to speak to the Board of Commissioners on March 17, 2011, when this code update would be heard by them.

Commissioner Williams asked what kind of public notification would be implemented to advise property owners of this ordinance and the grace period. Mr. Jennings explained that a public notice would be put in the paper, press releases, radio and it will be on the county website. He also suggested that a notice would be sent to business owners like Mr. Barton, and Humbert's in Milton-Freewater. It would be too costly to notify all property owners directly. Commissioner Williams just wants to make sure that the maximum numbers of people are notified. Commissioner Williams asked where rail cars were addressed in the definition. Mrs. Mabbott explained that a caboose would not meet the definition. A rail car might if it's totally enclosed and not on wheels. A discussion followed on wheels versus no wheels and how it would meet the definition. Mrs. Mabbott clarified that this ordinance would only address structures that are 120 square feet or more to require the permit. Mrs. Mabbott explained that complaints will be addressed on a case by case basis, but Code Enforcement will not be going out and searching out all storage containers in the county.

Hearing Closed; Deliberation and Decision: Commissioner Reeder asked if they could do a package recommendation for all the updates, or did they have to do each one at a time. Mrs. Mabbott explained that they could do them all at once, or separately.

Commissioner Reeder moved to recommend the update of Umatilla County Development Code, #T-10-040, to the Board of Commissioners for adoption as presented. Commissioner Lynde seconded the motion. Question called; motion carried 7-0.

APPROVAL OF MINUTES:

Chairman Rhinhart asked if there were any changes or additions to the minutes from December 16, 2010. The minutes were approved by consensus.

NEW 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.

Chairman Rhinhart asked Carol Johnson, Senior Planner, to summarize the additional comments that were received after the packets were mailed to the Planning Commission on February 17, 2011. Commissioner Lynde requested the remainder of time until the dinner break be used to review the additional materials submitted. Chairman Rhinhart called for recess at 5:07 p.m.

DINNER BREAK

Chairman Rhinhart reconvened the hearing at 5:54 p.m. He read the opening statement and called for the staff report.

Staff Report: Commissioner Reeder presented the staff report. He conducted a brief discussion on the philosophical approach to creating these regulations, and to ensure that all parties' interests are being addressed with equity. He noted that there is now credible data available that shows how noise can impact health issues and cannot be ignored in this process. He also spoke about the negative impacts of sleep deprivation. He stated that all comments will be considered valuable, and that the Planning Commission must address the community as a whole when drafting this ordinance.

Commissioner Reeder referred to his prepared statement and discussed the last details of the ordinance left to define.

Pre-Application meeting: There will be a pre-application meeting requirement for all developers. This process will be standardized for all applicants to meet with staff to ensure completeness of the application. This meeting will not be open to the public.

Erosion and water quality issues: Commissioner Reeder commented that the issue of erosion and silt in the water ways is still the biggest threat to the Blue Mountain area. He and Mrs. Mabbott have met with water representatives from the state regarding water quality issues. The Department of Environmental Quality (DEQ) works through the Department of Agriculture for enforcement issues to respond to water quality complaints. Local enforcement will come through the local water conservation district, working to bring the property into compliance. Resistance to enforcement will result in further action. He stated that no silt damage to the water shed will be tolerated.

Emergency Management Plans: Wind developers must put forethought into their plans to head off catastrophes in the event of fire or other emergencies. Complete and accurate contact information for the wind projects must be provided to local emergency responders. High altitude rescues will be the responsibility of the wind developer.

Set back requirements: The Planning Commission's task is to set standards that fit the circumstances. They can either leave the set back's close and risk greater impact on rural land owners, and expose the developer to lawsuits, or they can increase the set backs, causing the developer to make the choice of putting smaller towers in. The set backs are based upon tower height. The set backs for roads will be 2 tower heights from county roads for safety issues (ice throw, flicker). The set back from a state highway will be 3 times the tower heights. Erosion related to roads must also be considered. Roads will be a primary source for silt movement in the mountains. The roads will be required to be engineered to promote erosion control.

Notification requirements: If a project changes hands, or contracts with other parties for emergency services, this information must be given to local first responders on a frequent basis so they always know who to contact in the event of an emergency with the projects.

Commissioner Reeder stated that the individuals involved in this process are as important as the wind developers, and that the changes to this ordinance are designed to put the burden of compliance with the developers. That is why the setbacks are increased.

Commissioner Reeder referred to the copy of the proposed ordinance on the screen. The green underlined text is recent changes, the blue underlined text is added language, and red text that is crossed through has been eliminated.

The pre-application meeting requirement named in Chapter 152.616: HHH (2) was discussed. This meeting will be an opportunity for all parties to identify potential impacts to the area, and bring in other agencies to create a starting point for the project. Chapter 152.616: HHH C (1) was discussed. This addition involves the non-proprietary evidence of wind monitoring. The county wants to know if the data was collected by credible sources, and does it sustain the prospect of installing a wind energy facility. The county will trust the developer to only develop if the project can make it financially, and does not want to subject the landowners to the burden of having to restore the project back to its original status if the project goes bankrupt. The decommissioning bond will be in the name of the county for this reason.

Chapter 152.616: HHH C (3) was discussed. This addition involved the evidence of energy marketing connections. The applicant must be able to show credible proof that they have the ability to sell their generated power into the grid. This must be completed prior to construction being started.

Chapter 152.616: HHH (F) was discussed. This addition involves the developer providing evidence of adequate protection from soil erosion and associated contamination of the water shed. The developers suggested removing this list from the ordinance, but Commissioner Reeder felt it should remain. By including this list, developers will know that they are liable to the listed agencies if silt should run off into the water ways as a result of their project. DEQ will issue permits during the construction phase, but that will end once the project is built. They only become involved again if a complaint is received. Both the land owner and the developer will have to deal with these issues, and will be held accountable until the problem is mitigated. Commissioner Reeder further described the process that the Department of Agriculture takes when they receive a complaint about water quality. Mrs. Mabbott clarified that this requirement has always been a part of the process, but the added language states that the other agencies will be convened in the event of needing their particular expertise in re-vegetation planning.

Chapter 152.616: HHH (H) was discussed. This addition involves the language regarding emergency management plans, particularly in the case of fire prevention. If someone is not familiar with the terrain and conditions of this area, fire prevention planning may be more difficult. This is a crucial part of the planning stage.

Chapter 152.616: HHH (I) was discussed. This addition is regarding the weed control plan that must be submitted with the application. Weeds can impact all phases of farming, so it is crucial to have an effective weed control plan in place. Weeds can decrease the value of harvested crops, as well as water ways.

Commissioner Reeder referred back to Section (H) and the emergency management plan and what it needs to contain. Section H (2) deals with spill prevention of hazardous materials. There must be a contact plan in place on who to call in the event of this happening, and how to handle it.

Chapter 152.616: HHH (J) was discussed. This addition pertains to the information of how the wind project will impact the surrounding areas. The developer must consider the terrain and soil conditions and how they will be affected by the development of a wind project. They are being asked to identify potential conflicts or problems, and submit a statement showing they have done this and how they intend to mitigate the effects.

Chapter 152.616: HHH (J) (2) was discussed. This section deals with the avian and wildlife impact studies that are required. This is required to obtain base level data and get an idea of what species and populations are currently there. There are specific protocols for monitoring the death rates and cause of death.

Commissioner Reeder referred back to the deleted section of Chapter 152.616: HHH (I), the socioeconomic impact study requirement, in response to a question from the floor. He explained that the EIS (Environmental Impact Statement) has federal guidelines that are very detailed and it is very costly to produce. So the county is trying to obtain the same information from the developer by requiring the impact letter cited in Section HHH (J). The person who commented went on to state that the elements deleted from the Section HHH (I) such as visual, financial, health and recreational impacts still needed to be included in impact assessment. Commissioner Reeder asked for a show of hands on how many agreed with this statement. Further discussion followed on this matter. Commissioner Reeder then asked for a show of hands of how many people felt that the original Section HHH (I) should be put back in. Commissioner Reeder said that, based on the positive response to this question, he would put that back in his notes.

Commissioner Lynde stated that the Planning Commission must listen to the citizens from Milton-Freewater who are opposed to the prospect of wind development. But they must also listen to the other citizens of Umatilla County who want wind development in their area and find a balance somewhere for all parties. There was further discussion about property owner rights versus the impact of wind development on the area. Commissioner Reeder promised that the staff and commission will take a second look at this requirement of the socioeconomic impact study.

Chapter 152.616: HHH (J) (5) was discussed. Commissioner Reeder spoke about the requirement for protection of cultural and archeological resources. The tribe has very strong feelings about this matter, but are not willing to provide specific maps because of the danger of vandalism or theft. This requirement has been a part of the process with boiler plate language to address the discovery of any sites during development. The tribe will do an assessment of proposed wind projects and mark any potential historic sites so the developer will know where not to build.

Chapter 152.616: HHH (K) was discussed. This section deals with the dismantling and decommissioning of a project and the rehabilitation plan. The county does not want to end up with abandoned wind projects left behind in the county. To avoid this, the developer must provide a surety bond based on the cost of removal of the towers, lines, and rehabilitation plan and this bond must be re-evaluated every three years to remain current with prices. The county will not accept letters of credit, and developers must

provide a surety bond that is guaranteed to be good even if the developer goes under. The county is named the beneficiary of the bond. Developers wanted to change this, but the county refused to eliminate this requirement in lieu of the letters of credit. Commissioner Reeder clarified that the permit goes with the sale of any project, as well as the bonding requirement. Further discussion followed on the topic of decommissioning a wind project.

Chapter 152.616: HHH (6) (A) was discussed. This section deals with the standards and criteria of approval. The set back requirement has been changed from 3,520 feet from residentially zoned properties to a set back formula based on the height of the tower. The new set back is two miles or twenty times the tower-to-blade tip height, whichever is greater. The city of Milton-Freewater had submitted comments suggesting a six mile physical set back requirement all around the city and a fifteen mile visual set back all around the city. Further discussion followed on these suggested set backs and the impact of wind project development to the view shed of Milton-Freewater.

Commissioner Reeder spoke about the distance set back from a city limit versus a rural dwelling, in response to a comment from the floor. He asked if the two mile/twenty times set back should be applied to both the city limit and rural homes. Commissioner Reeder then asked how many people felt the set back requirement should be enforced from the property line instead of the rural dwelling. Further discussion followed on how this would affect future land use for the property owners and their ability to develop it. Commissioner Reeder stated that if they make the set backs further, then the burden is on the developer, not the land owner. The land owner can decide if they want to sign a noise easement or not to allow the closer development. Commissioner Reeder went on to discuss the drilling of a new well so that it won't interfere with the supply of city water, and how can the Planning Commission use that same process with wind development.

A guest commented from the floor that where they live, the decibel level is already at 36-50 and this will only increase with the addition of the proposed new Iberdrola project additions. They will be surrounded on all sides when that project is completed. Discussion followed on how the topography affects the way noise is carried. The citizen advised that they have been approached several times by Iberdrola to sign the noise easement, and they refuse to. The guest went on to comment that their quality of life was more or less destroyed for the benefit of one land owner who wanted the wind project on his property. Commissioner Reeder asked Mrs. Mabbott if the county could require modeling studies of noise exposure from this wind developer. Mrs. Mabbott replied that anyone could participate in the EFSC proceedings. The guest also commented that their house and their neighbor's house were not included in the Iberdrola's mapping submitted to EFSC in their application.

Commissioner Reeder commented that citizens can have some impact on the government if they speak up and share their concerns. They should investigate how to contest the Iberdrola application. EFSC will not ignore 50 people who show up and voice their opinions.

A guest from the floor stated that the two wind projects that are completed in Umatilla County are not connected to the grid and selling power. He claims that the projects are just transferring power back and forth between their substations. Another person commented from the floor that because the city of Milton-Freewater has their own power plant, their city income goes down when the hydro-electric dam powers down because of the wind energy projects. This causes a very negative effect on the city finances. Further discussion followed on the rates going up and down when the energy is generated by water versus wind power.

A guest asked if this new ordinance will impact the designated wind generation area. Mrs. Mabbott advised that the Energy Generation Area (EGA) was removed by EFSC. The county petitioned the state to remove the EGA so that smaller projects under 105 mw could be permitted locally.

Commissioner Reeder spoke briefly about the history of the development of wind standards in this county since 1997. The decisions made on this ordinance update will serve as a model for other counties considering the same problems. The mission has been to put in place the standards that best serve our county. This is an evolving process with changing technologies that must be addressed.

A guest asked about credible noise studies, and what was decided on standards. Commissioner Reeder stated that he believed that the available data is not credible, because it is not comparable. Mrs. Mabbott explained that this would be discussed during the pre-application meeting, and can be required if determined if necessary.

A guest commented that they are upset with these new standards, because they signed lease contracts with wind developers under the old standards and now will be affected by this new ordinance. Commissioner Reeder advised that any new applications submitted after this new ordinance is adopted will be subject to the new standards being discussed this evening.

Commissioner Lynde commented on the letter from Dan Williams regarding the noise standards. He would like to see the noise study provided by a third party. Mrs. Mabbott explained that if the noise standard is considered a problem, the county can put out bids for a third party independent noise study that the developer would pay for.

A guest asked about transmission lines being placed in road easements. Further discussion followed on road easements and the locations and proximity of the transmission lines and the width of the road. Commissioner Reeder stated that the proposed set back for transmission lines is 500 feet from a residence. Transmission corridors have been discussed, but no one so far has come forward to develop this. Commissioner Lynde commented that all state highways can be used for transmission lines. The guest commented that they feel the road easements need to be relative to the size of the transmission lines and corridors should be created now. Commissioner Reeder stated that the power companies are very reluctant and secretive about their transmission line information. Mrs. Mabbott explained that there is a body of law regarding public utility access on public rights of way. Commissioner Reeder stated that there needs to

be more investigation into transmission lines in road easements, and who has the authority and determines the size and number of lines allowed in that easement.

A guest commented on the emergency management plans. He asked who will be required to provide service in the event of a fire. Mrs. Mabbott explained that the wind projects will be paying taxes into the existing fire districts and that district will be the district required to respond. The guest also asked about hazardous materials spills, and what will be the reporting process as anything over five gallons must be reported. Mrs. Mabbott explained that all applications are required to submit Material Safety Data Sheets (MSDS) with their applications and are monitored just like any other development. The guest also asked if any impact studies were considered about vibration and how this will affect aging utility systems in the nearby cities. Commissioner Lynde commented that the Planning Commission had been looking into it, but there was no evidence available to them at this time.

Public Testimony: Jeff Anliker, council member from the City of Milton-Freewater, stated that most of his concerns had already been addressed. He would like to discuss recreational home sites on Highway 204 as noted in the Comprehensive Plan Technical Report, table D-17. In this document, recreational homes are listed as a potential conflict to scenic value for Highway 204. Will the wind towers be addressed as another source of conflict to scenic value? Commissioner Lynde responded that there is no clear definition of how far the view should be. The state has not established guidelines for visibility. Discussion followed on a suggestion of 15 mile set back from the City Council of Milton-Freewater.

Public Testimony: Sam Hopkins-Hubbard, 120 S. Andrea, Milton-Freewater, representing the City Council of Milton-Freewater. He wanted the Planning Commission to understand that the decisions they are about to make will change everything that we know today. He stated that putting wind projects in the mountains will be industrializing them, and that wind projects are not really "green". What will be the impact on wildlife and tourism? He commented that county roads have been cut off due to the wind farms in other counties, and he doesn't want this to happen in Umatilla County. Mr. Hopkins-Hubbard advised that the impact is the difference between night and day, with all the blinking red lights on the projects that are already in existence. He commented that there should be a responsibility from citizens and the Planning Commission to protect the citizens. The decisions made are final and the impacts must be considered when making those decisions. He stated that the vibration issue impacts the elk worse than the deer populations, and why do the wind companies have to develop in such sensitive areas like the Blue Mountains.

Public Testimony: Cindy Severe, Helix, stated that all her questions had already been answered.

Public Testimony: Dave Price, 80488 Zerba Road, Athena. Most of the points had already been addressed tonight, but he would like to see the socioeconomic assessment put back into the standards. He is surrounded by wind project leases and they are getting closer all the time. He understands his neighbors signing leases for wind development on their properties, but what is the cost to him as a citizen. He wants these impacts

recognized and feels this can be addressed through the socioeconomic assessment standards. Set backs have been discussed, and should be based on the most credible information, not guesses or estimates. There is not a lot of room left to put more projects up against people's property so he wants this decision to be the best one possible. He also stated that the set backs should be all essentially the same, because the impacts are the same. He feels that the tower height standard is good, but they must keep in mind the technological advances of the wind towers as they change quickly and become more powerful. He feels the credible noise study is essential and should be done as a baseline for future impact assessment and used as a monitoring tool. He spoke about amendments to the initial applications. When projects increase their generating capacity, it also increases the impact the project has on the area.

Public Testimony: Dick Stewart, 515 Fleetwood, College Place, WA. He is a property owner in Umatilla County. He commented that the scenic view along Highway 204 was compromised long ago when the county allowed people to build homes and transmission lines along the highway. The state Forestry Department requires a buffer zone between the area being logged and the road, so that view is impacted as well. He also has an interest in private property owner rights, and does not want them affected by these changes. These rights are basic and needed by each individual property owner.

Public Testimony: Tim Weinke; left the meeting before being called to testify.

Public Testimony: Wade Muller, 81414 Muller Road, Helix. He is impressed that the Planning Commission is listening to the testimony of the people, and taking it to heart. He wants to see rural residents treated the same as citizens in city limits, and likes the formula of the twenty times the blade height. He appreciates the people/neighbors who want to make money from the wind, but also wants protection for his quality of life as well. He likes the idea of requiring a sound study, because he is worried about the effect of having wind towers on each side of the canyon creating a harmonic resonance. This is an amplification of the sound waves crossing in the canyon. He stated that he does not want to stop the windmills. If someone wants to sign a waiver and have them on their property, that is fine, but he wants to be protected by the set back requirements too. He encourages the county to make comments to EFSC about the Iberdrola amendment process going through right now, since they are applying to increase their project size.

Public Testimony: Dot Schroeder, 80056 Stein Road, Milton-Freewater. Mrs. Schroeder feels that she would have a very hard time telling another land owner that they can't do what they want to with their land. She does not believe that one person should be able to push their views on another person. She does have sympathy for the people dealing with noise and vibrations, but feels that landowners should be able to do what they want to with their land.

Public Testimony: Jim Hatley; left the meeting before being called to testify.

Commissioner Reeder asked Mr. Muller if the Planning Commission were to protect him from his neighbors in this matter, would that protect his relationships with his neighbors? Mr. Muller commented that the neighbors currently respect each other in other things, such as spraying of pesticides, or by not building too close to their land. He feels the

regulations set down by the Planning Commission do make it possible for neighbors to respect each other's property. He doesn't want to stop his neighbor from having a windmill, but they didn't ask him if it would bother him. He wants to be able to have a say in something that would affect his quality of life.

Public Testimony: Dana Dibble, 84504 Weiss Road, Milton-Freewater. Mr. Dibble displayed a flashlight with blinking red lights to simulate the red lights which he sees every night from his home on the tops of the wind towers every night. It bothers him and he is afraid of having these blinking red lights all around his house. He spoke about property rights. He has a piece of property that he cannot build a house on. If everyone could do what they wanted to with their property, then we would not need the Planning Commission. Mr. Dibble believes that people have to consider what they do on their property and how it affects the surrounding area. He stated that he feels that the EIS should be required for all the property east of Highway 11, because of the delicate nature of the land there. There are many issues that need to be considered about the Blue Mountain area. He commented that there are satellite photos that show the elk stay away from wind farms. He has seen pictures of the Blue Mountains all over, and this will all be ruined if wind turbines go up there. He has documents showing that Europe and the United Kingdom are not putting in wind farms any longer because of the problems they have experienced over the last 10-15 years. He stated that the vibration bothers people and causes hearing problems. Mr. Dibble commented about the recent story about a protected eagle being killed in Eastern Oregon that caused the stoppage of the wind farm. He doesn't agree that the EIS would be a costly burden to the developers; he feels that if they can't afford to pay for this study they shouldn't be developing in that area. Wind turbines are killing condors in California, and we are now getting the real story from other areas that have had wind farms for several years and how they impacted their areas.

Public Testimony: Richard Jolly, Weston, Oregon. Mr. Jolly thanked the Planning Commission for their efforts. Mr. Jolly feels that the EIS should be included in the standards where there is more danger of critical impact. There are no protections in place in the current proposed ordinance for the protection of the scenic views along Highway 204, and this must be dealt with. He feels the current language is too vague in regards to the impact information being requested. He asked about the surety bond and whether there will be a base amount that it doesn't go under for the decommission costs. Mr. Jolly feels that certain issues should not be removed from the annual reporting requirement.

Commissioner Lynde asked what issues he was referring to in the annual report. Mr. Jolly replied that the term "information" is too vague. Commissioner Reeder suggested that there be a specific list of details that should go into the annual reporting. He referred to Chapter 152.616: HHH (J) (1-5) and the details listed there to be included in the annual report. He just wants to see a more thorough reporting process specific to the site.

Public Testimony: Sam Hubbard-Hopkins, 120 S. Andrea, Milton-Freewater. Mr. Hubbard-Hopkins asked how in the future they would allow the 500 foot towers on the Blue Mountains and tell other property owners they can't build a home on their property

in the same area. Chairman Rhinhart explained that according to the state statutes, wind farms are an allowable use on EFU land. Discussion followed on this topic.

A guest commented that the Planning Commission has more power to affect change than they are choosing to use in this matter.

Mrs. Mabbott clarified that the standards being considered will apply to any property in the county, so they are not taking action on a development proposal solely in the Blue Mountain area. The county is not obligated to approve an application. If an application were to be submitted for development in the Blue Mountain area, the public would have an opportunity to voice concerns during the processing of that application.

Deliberation and Decision: Chairman Rhinhart called for any other testimony, and there was none offered. Commissioner Lynde suggested that they discuss how to proceed. He wants to see what they have achieved this far forwarded to the Board of Commissioners now so that the new standards will apply if an application is filed in the near future. Commission Reeder stated that they can get implemented what they have so far, with the idea that they can immediately start on updating the new standards right away to further address the concerns raised and he would be willing to continue to review it with staff. Discussion followed on this matter. Commissioner Lee stated that he wants to see more information on the vibration impact.

Chairman Rhinhart asked if they had considered the proper set backs for property lines versus the actual dwelling locations enough. Commissioner Williams stated that she is concerned about finding the balance for property owner rights to develop wind farms, and for the property owners who want to be protected from the wind farms, and the wind developers who want it for the money. She cited the regulations for pesticide application as an example of having too many regulations, and will this continue with wind farm development? She sees her role on the Planning Commission as finding a balance and representing the land owners' rights.

Mrs. Mabbott responded that the commission's current proposed ordinance is balanced, and there will never be absolute agreement from all sides of the issue. There is an option for the developers to apply for a variance process if the standards don't work for them. She commented that the Planning Department received an application just yesterday. The existing standards will apply, not the new proposed ones being considered this evening. She clarified that the application submission date is what determines what standards apply.

Chairman Rhinhart commented that he is ready to send the proposed ordinance on to the Board of Commissioners for adoption, but would like to see further discussion on the set backs from the city limits to the Urban Growth Boundary (UGB). Further discussion followed on treating the city the same as the rural areas and UGB. Commissioner Williams stated that she supports using the UGB as the starting point for the two mile setback, and Commissioner Reeder called for a show of hands from the Commission of who agreed. Most of the Planning Commission agreed with this idea. Discussion followed on treating the city residents the same or differently as rural residents in regards to set back requirements, and what the best set back amount should be for all parties.

Commissioner Reeder asked that if you want justice in a community, where do you place the burden; on the person causing the problem or the person being victimized by the development? If the set back is two miles, it guarantees that if a wind tower is closer than two miles, someone will get compensated and have to agree to it. This does not limit where the towers go, it forces the developer to mitigate the impact it will have. This sets the standard for when the noise easement is triggered, and this helps both the land owner who wants towers, and offers protection to those who don't want them.

A guest commented that they would like to see the Planning Commission recommend the proposed ordinance to the Board of Commissioners so that it will apply to any applications submitted in the near future, with the idea that it requires further study. Further discussion followed on the set backs being set from the UGB versus city limits.

Commissioner Reeder suggested that he work further with the Planning staff to come up with suggestions to further refine the proposed ordinance, including the comments received at this hearing. This refined proposal would then be communicated by email to the Planning Commission for final approval prior to the Board of Commissioners hearing on March 17, 2011. Further discussion followed on the set back distances and noise easements in the UGB.

Mrs. Mabbott commented that staff has a list of what the Planning Commission would like changed in the current draft; change the language from city limits to UGB, set backs would be the same for city limits and rural residents at 2 miles. Further discussion followed on having the same standard for city and rural residents. Commissioner Reeder suggested it could be 2 miles from the UGB and 2 miles from the rural dwelling. Further discussion followed on using the property line versus the location of the rural dwelling.

A guest who lives near Helix invited everyone to come out to their home to experience just how bad the noise impacts their lives and how it will just get worse with the expansion of the Iberdrola project currently under consideration by EFSC. She went on to say that it is very difficult to get information from Iberdrola; she has only been able to get information from DLCD. Commissioner Reeder stated they should contact EFSC to let them know that the noise is already a problem.

Mrs. Mabbott asked if the Planning Commission wanted to use property lines versus dwellings as the marker for the two mile set back. Mr. Jennings stated that using property lines would be very problematic. He recommended remaining with using the dwellings as the marker. Mr. Jennings said that he could come up with a map that would show how much area would be affected by using the property lines instead of dwellings as the marker for the set back. Commissioner Williams suggested keeping the set back for the UGB at 2 miles, but changing the rural dwellings set backs to a lesser amount with a possibility of requiring a noise study. A guest asked why her rural property was valued less than a city property by doing this. They have been offered \$145,000 to sign a noise easement and have refused the offer. The guest further commented that there is plenty of scab ground in the county where wind towers are appropriate, but they shouldn't be allowed around so many of the residences in their area. Further discussion followed on the fire danger of having wind towers close to rural residences.

Mrs. Mabbott confirmed that if this proposed ordinance is approved by the Board of Commissioners, it can be amended later after the current language is adopted.

Public Testimony: Ann Jolly, Milton-Freewater, OR. Mrs. Jolly commented that her friends' home in Umapine is 3 miles from the Combine Hills project. They hear the noise constantly, and it sounds like a big motor running all the time.

Mrs. Mabbott asked if the Planning Commission had decided to use the rural dwelling or a property line as the 2 mile marker. Commissioner Williams suggested that the distance to rural dwellings should be shorter, with a noise study requirement. Commissioner Reeder referred to the noise violation situation in Morrow County. The burden to prove the violation was put upon the land owner. They had to commission the noise studies and bring the legal action. All that can be done ahead of time is model potential noise violations. Discussion followed on what the decibel and safety levels should be. Mrs. Mabbott stated that the decision to require a third party noise study will be made by the Planning Commission and paid for by the developers. Noise monitoring could be written as a condition of approval for the application.

Mrs. Mabbott asked if the Planning Commission wanted to use property lines of leased ground or dwellings as the two mile marker for set backs. Commissioner Reeder suggested they continue to use the rural dwelling as the marker, and this can be investigated and changed later.

Mrs. Mabbott asked about the suggestion from the floor of keeping the socioeconomic study requirement in the proposed language. Mr. Jennings asked what criteria would be used to evaluate the data from the socioeconomic study, and how it would be applied. Commissioner Reeder stated there is a question of standards and criteria that should be examined further. Mrs. Mabbott commented that the Strategic Investment Program replaced the need for an EIS. It is assumed that there are impacts and the developers agree to pay mitigation to the community. If a socioeconomic impact is detected, what would be the consequences to the developer?

A guest commented that if the Planning Commission had the socioeconomic study data, they would have all the information they need to make an informed decision. That in itself is a reason to keep that requirement in the ordinance. Commissioner Reeder questioned if they would be able to get credible information from the applicants. He feels that the greater set backs are a compromise and protective according to the studies he has read. Discussion followed on the merits of including the socioeconomic study in the ordinance.

Chairman Rhinhart asked for a motion. Commissioner Reeder moved to recommend the ordinance as presented in the draft with modification by staff and himself in response to testimony at the hearing tonight. This modified draft will be sent by email to the Planning Commission for final comment and approval. After that time, it will be forwarded to the Board of Commissioners for adoption. Commissioner Lynde seconded the motion. Question called; motion carried 7-0.

ADJOURNMENT:

Chairman Rhinhart adjourned the meeting at 10:04 p.m.

Respectfully submitted,

Gina Miller
Secretary