



# PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

**Minutes of the Morrow County Planning Commission  
Tuesday, January 19, 2010 6:00 p.m.  
Port of Morrow Riverside Center  
Boardman, Oregon**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, Jim Key, Tucker Rice, Pamela Schmidt, David Sykes, Rod Taylor, Jeff Wenzholz

**Morrow County Staff Present:** Carla McLane, Planning Director; Lori Timmons, Associate Planner, Mary Curry Planning Department Office Manager, Ryan Swinburnson, County Counsel

Planning Commission Chair Sykes called the meeting to order at 6:00 p.m.

New Planning Commission member Roderick Taylor was introduced. He replaces the position vacated by Leann Rea. Planning Director McLane informed the Commission that Commissioners Devin and Docken, whose appointments had been expiring, were reappointed to the Planning Commission by the County Court to new 4-year terms.

Roll call was provided by Planning Director McLane.

Election of 2010 Planning Commission officers. Commissioner Key moved to retain the present officers: David Sykes as Chair and Jeff Wenzholz as Vice-Chair. His motion was seconded by Commissioner Schmidt. Motion carried.

Pledge of Allegiance was recited.

The minutes of the October 27, 2009 and the December 2, 2009 hearings had been provided in the Commissioners' packets for review. Commissioner Rice made a motion to approve minutes of both hearings. Commissioner Devin seconded his motion. Motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Continued from December 1, 2009, Land Partition LP-S-410: Michael D. Glavey, Heidi Hains, and Frances King, applicants and owners. Property is described as Tax Lots 1100, 1102, 1200, 1201, 1301, and 1400 of Assessor's Map 4S 27; Tax Lot 4700 of Assessor's Map 4S 28; and Tax Lots 700, 900, 2700, and 4000 of Assessor's Map 5S 27 and is located about 20 miles southeast of Heppner along Upper Rhea Creek Road near the National Forest boundary. Property is zoned Exclusive Farm Use (EFU) and Forest Use. Request is to partition the subject property into three parcels each meeting the minimum lot size. Criteria for approval include Morrow County Subdivision Ordinance (MCSO) Article 5 Land Partitioning.**

Planning Director McLane reviewed the directions given to Staff by the Planning Commission at the last hearing. There had been a revised deed prepared and a revised map that excluded the

two outlying parcels whereby the applicant complied with the Commission's directive. Commissioner Wenzholz asked if the County Surveyor, Judson Coppock and the Assessor, Greg Sweek were in agreement with this action. Planning Director McLane responded that yes, they were.

Opened the Public Hearing:

No one testified in favor, in opposition of or neutral to this portion of the hearing.

Closed the Public Hearing:

Commissioner Wenzholz made a motion to approve this application as presented.

Commissioner Rice seconded his motion. Motion carried.

**Land Partition LP-S-412: Joseph P. and Jeri D. McElligott, applicants and owners. Property is described as Tax Lots 2100 and 2200 of Assessor's Map 1S 23 and is located about 10 miles southwest of lone along Halvorson Lane adjacent to the Gilliam County Line. Property is zoned EFU. Request is to partition the subject property into two parcels each meeting the minimum lot size. Criteria for approval include MCSO Article 5 Land Partitioning.**

Planning Director McLane presented the staff report. In the staff report, Planning Staff asked for additional right of way to meet the Transportation System Plan if Halvorsen Lane and Smith Road do not meet that standard.

Opened the Public Hearing:

No on testified in favor, in opposition of, or neutral to this portion of the hearing.

Closed the Public Hearing:

Commissioner Rice made a motion to approve the application as presented. His motion was seconded by Commissioner Wenzholz. Motion carried.

**Conditional Use Permit CUP-N-271: Madison Farms, applicant and Kent Madison, owner. Property is described as Tax Lot 1700 of Assessor's Map 3N 27 and is located approximately 6.5 miles west the Echo Junction on Highway 207 and approximately 4.5 miles south of Homestead Lane. The property is zoned EFU. Request is to approve an aggregate quarry that will process less than 500,000 tons of aggregate material. Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3.010(D)(11) and Article 6 Conditional Uses, Sections 6.020, 6.030 and 6.050(I).**

Planning Director McLane presented the staff report. The application for a new quarry is based on the possibility to provide rock off of the Madison Farms property, specifically for wind energy development. The use would include road development and wind towers. It was noted that the quarry is in the LUBGWMA and the Ordinance Basalt CGWA.

The Oregon Department of Transportation (ODOT) provided comment to this application. Their comments are that any signs and new accesses must be permitted by ODOT when an ODOT facility will be affected. It was noted that this access to State Highway 207 is in Umatilla County, which was notified of this action. The Umatilla County Planning Department did have a question, to which the applicant did respond.

Because the applicant is requesting to have the quarry permitted as a conditional use, the quarry will be limited to mining no more than 500,000 tons of material. Commissioner Sykes asked whether or not the discussion about weeds in the staff report was included in the last

staff report. Associate Planning Timmons responded that it was, but in this staff report the subject was expanded to include the list of weeds of "economic importance." Commissioner Key asked if they were going to have a well. Planning Director McLane responded that the County does not require a well, but the applicant will need to show how they will get water, mostly for dust abatement. They will need more if they apply for a batch plant.

Opened the Public Hearing:

In favor:

Kent Madison, Madison farms, Applicant

Mr. Madison spoke in favor of the application and said that, if the wind farms in the area were ever to expand, they will be able to accommodate that increased need. He said the rock is poor quality in that location and is low in dust, and will be used as base rock because it is not good enough for producing cement. Commissioner Schmidt asked Mr. Madison why they had decided to not use the old, existing rock pit on the Madison property. Mr. Madison explained that the old, existing pit is farther away from any prospective wind development need and the rock at the new location is easier to mine.

In opposition or neutral:

No one testified in opposition or neutral to this application.

Closed the Public Hearing:

Commissioner Key moved for approval of the application as presented. His motion was seconded by Commissioner Schmidt. Motion carried.

**Comprehensive Plan Amendment AC-018-09 and AC(M)-017-09: Madison Farms, applicant and Kent Madison, owner. Property is described as Tax Lot 1700 of Assessor's Map 3N 27 and is located approximately 6.5 miles west the Echo Junction on Highway 207 and approximately 4.5 miles south of Homestead Lane. The property is zoned EFU. Request is to amend the Comprehensive Plan to include a locally significant aggregate site to Morrow County's list of significant aggregate sites and to amend the Comprehensive Plan map to include the aggregate site location. Criteria for approval are found in the Morrow County Comprehensive Plan (MCCP) Review and Revision Process.** Planning Director McLane presented the staff report. She explained to the Commission why this is two-step process. It is a requirement by State Rule to amend the Comprehensive Plan to add any aggregate site on farmland as a significant site and this action is a separate action from the conditional use permit in that the County Court must approve the amendment. This site is estimated to produce less than 500,000 tons of material and the County is following the required process.

Commissioner Sykes asked about the number of applications for new quarries and whether or not they have been a problem as far as compliance. Planning Director McLane said there haven't been any problems with the process and so far the Planning Department has been doing okay.

Opened the Public Hearing:

Kent Madison, Madison Farms, Applicant

Mr. Madison spoke in favor of the application.

In opposition or neutral:

No one testified in opposition or neutral to this application.

Closed the Public Hearing

Commissioner Wenholz moved to approve the application as presented. Commissioner Docken seconded his motion. Motion carried.

**Land Partition LP-N-413 and Conditional Use Permit CUP-N-272: Stephen and Tana Hill, applicants, and Mildred Rauch Estate/Irvin Rauch Trust, owner. Property is described as Tax Lot 3300 of Assessor's Map 1N 26. The property is located near the junction of Bombing Range Road and Highway 207 on Strawberry Lane. Property is zoned EFU. Request is to partition a 218-acre parcel to create a "non-farm dwelling" parcel and to allow the siting of a non-farm dwelling. Criteria for approval include MCSO Article 5 Land Partitioning and MCZO Article 6 Conditional Uses.**

Planning Director McLane presented the staff report. The Staff Report contains a condition of approval to require additional right of way along Strawberry Lane if the existing right of way does not meet TSP standards.

Opened the Public Hearing:

No one testified in favor, in opposition or neutral to this portion of the hearing.

Closed the Public Hearing:

Commissioner Schmidt moved to approve the applications as presented. Commissioner Key seconded her motion. Motion carried.

**Land Partition LP-N-414 and Conditional Use Permit CUP-N-273: Monty Crum and Bonny Peterson, applicants, and Ralph S. Crum Family Trust/Crum Enterprises Limited Partnership, owner. Property is described as Tax Lots 2000 and 2001 of Assessors Map 1N 24 and Tax Lot 300 of Assessor's Map 1S 24. The property is located approximately 2 miles north of Lone on Crum Road. Property is zoned EFU. Request is to partition a 3,312-acre parcel to create a "non-farm dwelling" parcel and allow the siting of a non-farm dwelling. Criteria for approval include MCSO Article 5 Land Partitioning and MCZO Article 6 Conditional Uses.**

Planning Director McLane presented the staff report. This application came about as a result of an illegal partition accomplished in 1990 when Ralph S. And Lou B. Crum transferred three parcels of land into their limited partnership. A 19.22-acre portion of land was excluded from the Crum Ranches parcel that contained their home place. This exclusion created a new parcel (Tax Lot 2000), which amounted to an illegal partition of the Crum Ranches parcel. Now, almost 20 years later, the Crum family desires to re-establish the parcel's legal status by applying for a land partition and "non-farm" dwelling status for the home place. The subject parcel contains two dwellings, one of which would have to be removed if the applicant were to create only one non-farm parcel to contain both dwellings. Based on a telephone conversation with Monty Crum, Planning Director McLane indicated that he wants to create two non-farm dwelling parcels to allow each dwelling to continue to exist. Commissioner Wenholz asked about the need to change the request line and to indicate what choice Mr. Crum made regarding the number of non-farm dwelling parcels. The Commission discussed the changes to be added or changed in the staff report.

Opened the Public Hearing:

No one testified in favor, in opposition to, or neutral to this portion of the hearing.

Closed the Public Hearing:

Commissioner Wenholz reviewed the language changes to the Conditions of Approval and then made a motion to approve the Conditional Use Permit and the Land Partition staff report with corrections. His motion was seconded by Commissioner Schmidt. Motion carried.

**Variance V-S-017-09: Heppner High School, applicant and Morrow County, owner. Property is described as Tax Lot 4200 of Assessor's Map 2S 26. The property is zoned EFU and is the fairgrounds just east of Heppner on State Highway 74-Lena. Request is to approve a variance from the setback requirement for structures (football field snack shack) on an arterial right of way. Criteria for approval include MCZO Article 3 Section 3.010(H) and Article 7.**

Commissioner Taylor recused himself from this hearing because he is the Fair Board Chairman.

Planning Director McLane presented the staff report. This property, owned by the County and used by the high school for the football field, has an old snack shack in place and is requesting to replace it with a new one, but will need a variance from the setback from Highway 74. Planning Director McLane indicated that locating the snack shack within the setback will create less of a potential impact to the highway than the grandstands.

Opened the Public Hearing:

No one testified in favor, in opposition to, or neutral to this portion of the hearing.

Closed the Public Hearing:

Commissioner Key moved for approval of the variance request as presented. His motion was seconded by Commissioner Nelson. Motion carried.

**Comprehensive Plan Amendment AC-019-10 and AC(M)-020-10: Love's Travel Stops & Country Stores, Inc., applicant and City of Boardman, owner. Property is described as a portion of Tax Lot 119 of Assessor's Map 4N 24 and is located approximately 5 miles west of Boardman at the Tower Road interchange on Interstate 84. The property is zoned Space Age Industrial. Request is to amend the Comprehensive Plan to add policies to support the recently adopted "Tourist Commercial" zoning designation, change the Comprehensive Plan designation to Commercial, and apply the Tourist Commercial zone to a proposed 52-acre parcel. Criteria for approval are found in the MCCP Review and Revision Process.**

Commissioner Docken recused herself from this hearing because she is a broker/owner of Mountain Valley Land Company.

Planning Director McLane presented the staff report. The Planning Commission had been provided a binder with the staff report, and it includes documents, such as amended letters regarding water, the hydrogeology report, a traffic impact analysis and an amendment to the TIA. She went over a summary of applicable criteria included in the staff report. The Goals that apply would be a Goal 3 exception process, an analysis under the Transportation Planning Rule, Goal 12, and additionally Goals 11 and 14. The applicant's attorney has indicated that the applicant will cover these requirements within their presentation. Planning Director McLane then indicated that, for the most part, the application meets the requirements but there is some language the Commission may want to take a closer look at. Planning Director McLane would like the Commission to review the part where Love's identified four policies for the Tourist Commercial Zone for the Comprehensive Plan. The policies would exclude the Tourist Commercial zone from areas not near Interstate 84. The TIA has been reviewed by ODOT and the Public Works Director. The amendment with a worst-case scenario was prepared based on requirements of the DLCD.

Opened the Public Hearing:

In Favor:

Bill Kabeiseman, attorney for Garvey, Shubert and Barer; 121 SW Morrison Street, Portland  
Mr. Kabeiseman represented Love's Travel Stop and introduced other representatives of Love's in regard to this application: Ms. Leslie Hauer, a local planning representative; Keith Ellison, and Greg Flowers of USKH, engineers for Love's. Mr. Kabeiseman spoke in favor of the application and asked the Commission to make a positive recommendation regarding adding policies to the Comprehensive Plan, a zone change to convert 52 acres zoned Space Age Industrial to Tourist Commercial. He explained the major recommendations in their application:

He referred to Planning Director McLane's concerns and the possibility to make the policies broader. He said they agree with the Planning Director in that they don't need a Goal 14 exception but don't want to tangle with DLCD and will go through the process. He asked the Commission to take a look at the suggested policies and whether they should be broader.

Leslie Ann Hauer, the Land Use Planner who prepared the application. Ms. Hauer added that they prepared the TIA worst case analysis because it is a requirement. The analysis showed that one road would be impacted and stop signs would mitigate the impact even in the worst case situation. Nevertheless, she recommended to the Commission that the worst case situation be addressed. She also said that a travel stop would make sense in this location. She agrees that the policies exclude Highway 207 and that the policies broadened to include more possibilities would be acceptable.

Commissioner Sykes asked: In Policy #1, where the distances come from. Ms. Hauer said it is the distance from Tower Road to Boardman.

Commissioner Taylor asked if they addressed the truck traffic impacts. Mr. Kabeiseman said that the application discusses this in the Traffic Impact Analysis section and explained that they took a look at the intersections. Tower Road will function well except for the off-ramps to the Interstate. Ms. Hauer told the Commission that Love's is aware of the many uses Tower Road accommodates. Love's probably won't affect levels of service and accessibility but if it is found that mitigation will be required, they will look into that.

Commissioner Nelson expressed concerned about whether the applicant is jumping the gun because of the ongoing LUBA process regarding the land partition. Mr. Kabeiseman said that a remand could affect the access road and then he discussed the tower road 150' easement problem. This issue may need to be resolved sooner rather than later but they expect to need to deal with it sometime anyway. Commissioner Nelson reiterated his concern that they might be putting a cart before a horse in this situation.

Commissioner Wenzholz said he would like to see some road improvements regarding the right turn leaving the property. He asked if there would be a curb or something similar to prevent drivers from coming off the freeway and making a left-hand turn. Planning Director McLane said that design work would be accomplished regarding this with work between Morrow County Public Works Department and ODOT who would probably state requirements regarding this.

Keith Ellison, USKH, engineer, Walla Walla

Mr. Ellison said that those issues will be resolved through the ODOT participation, who have indicated that Love's will not be allowed to have a left turn there.

Commissioner Wenzholz wondered about a left turn from Tower Road, that a left-turn-only lane would be good so as to not queue up traffic behind the trucks. He prefers a curb or something similar. Also, maybe the right turn toward the east should be a dedicated right-turn lane. He said that he doesn't want to limit the ability of trucks to maneuver and turn easily and to not tie up traffic unduly. He also commented that the data for the analysis was created in April and this is a relatively slow time for analyzing truck traffic. There are probably times of the year that would better represent average truck traffic. Commissioner Taylor commented that in September and October it is a much heavier use period for local farm trucks. Mr. Kabeiseman commented that they don't want to interfere with the local truck use and Love's has interest in working with the County so that this will work for their customers and the local truck use of Tower Road. Planning Director McLane said that turning radiuses on the interchange has been worked on. Keith Ellison commented that they will be working with ODOT and Public Works regarding the movement of large trucks. Mr. Kabeiseman said it will be resolved. Planning Director McLane commented that there will be a Site Plan Review that can be provided to the Commission. Then the Commission will be able to see what Love's would need to comply with. She also said that she will provide the Commission with the Tourist Commercial Zone language.

Commissioner Nelson reiterated the need that a policy be broad enough to meet possible needs countywide, not just for a specific area.

Commissioner Wenzholz said that it looks like there are a lot of back-in spaces and commented that you don't really back those things up. Mr. Kabeiseman indicated that they will take another look at this.

Cameron Krebs, 78171 Kunze Lane, Boardman

Mr. Krebs spoke in favor of the application and asked if this is the first time the Tourist Commercial zone will be applied in the County, and if so, please make the policies broad. He also said that it is crucial the truck turning radiuses be large enough that large trucks can turn. He asked whether there will be a separate hearing for the site plan review. Planning Director McLane said that she doesn't think so, that site plan review is normally a ministerial decision. Mr. Krebs asked if access still exists from the old Kunze Lane (the part before it was straightened). Planning Director McLane said there is no access granted from Kunze Lane because Love's is not proposed to be adjacent to Kunze Lane. The old Kunze Lane is not available for travel anymore, even though there is pavement in place. The only legal access location to Love's is an easement from Tower Road.

In Opposition or Neutral

Michael Runyon, Oregon Motor Speedway, Oregon Architect

Mr. Runyon spoke as a neutral party but voiced concerns about the airport approach zone and the limits to height, lights, and occupancy. He said that the safe zone extends across Tower Road just south of the partition. He hasn't seen where this was considered. He also didn't see any discussion regarding the codification in 2002 of the Airport Master Plan. He agreed that sometimes that is a very congested area with trucks at harvest time of the year. He also questioned about how the 5-lane standard would be affected for the Speedway as well. Mr. Runyon also said he didn't see any turnaround study for local trucks in the TIA. Commissioner Sykes asked about where he got his ideas about conflicts with the airport. Mr. Runyon said there is a limitation of impacts to the airport hazard and other impact areas in the Zoning Ordinance. He also said that he didn't see reference to the Speedway agreements in the updated TSP. He said they should be included so everyone can consider them. He indicated that the airport zone says that development must prove it won't cause a hazard.

Mr. Kabeiseman said they were of the understanding that the development wouldn't be in the airport hazard zone. He said they will take a look at the 5-lane standard and they will take a look at traffic during harvest. Mr. Runyon specified that there was no direct access from the Tower Road easement issue. He said that the Speedway is a party to the ownership or easement. Mr. Kabeiseman thinks that they do have access. They will be working with the County to make sure this particular issue is resolved.

Closed the Public Hearing.

Planning Director McLane indicated that Staff needs some direction and will ask for continuance, and, given the discussion, she asked for a clearer sense of direction for Staff. The Commission discussed creating some broader policies that will also allow the Tourist Commercial (TC) zone to be allowed in a wider set of locations. Also, Love's should take a look at harvest time truck traffic on Tower Road. Commissioner Nelson said that perhaps staff should look at what other counties require in their tourist commercial-type zones. He wants to see that at the next meeting. Planning Director McLane said that when they developed the language, there wasn't much locally to develop the language. Biggs could be looked at but it is a rural incorporated community. The TC zone was pretty much written by Barry Beyeler, and she thinks he found the language from a broader area - probably out of state. Mr. Kabeiseman said that DLCD may have heartburn with really broad policies.

Commissioner Rice made a motion to continue the application to the next meeting, February 23, 2010 hearing at Heppner City Hall. His motion was seconded by Commissioner Devin. Motion carried.

***Review of Condition of Approval 1 of Conditional Use Permit CUP-N-213: Invenergy, owner of the subject wind energy project. Subject property is approximately 3,000 acres north of Cecil, Oregon located west of Highway 74 at approximately milepost 10 and is zoned EFU. The Planning Commission will be reviewing two noise studies to determine compliance with Condition of Approval 1 of the subject Conditional Use Permit.***

Commissioner Sykes asked Planning Director McLane to explain the consequences of any Planning Commission decision made based on this action before them tonight. Planning Director McLane reviewed the CUP requirement regarding noise and said, at the end of the process, the Planning Commission needs to find whether the facility is in compliance. They will have the opportunity to come to some conclusions as to the extent, if any, regarding a violation. There may be a violation that does not warrant shutting down the facility, but will come to a mitigation solution. She was very clear that this hearing is not about the approval for the facility, or any other conditions of approval. Condition of Approval #1 is the only Condition open to discussion. Planning Director McLane said that there have been written submissions arriving today and in the last few days regarding this hearing and indicated that maybe the Commission would want to continue this action based on the volume of information the Commission has received and may not have had time to thoroughly review. Planning Director McLane also referred to a "peer reviewed" document called "Wind Turbine Sound and Health Effects An Expert Panel Review" for Commission review regarding the allegations of the complainants.

Opened the Public Hearing:

Permit Holder Testimony:

Mike Collins, representative of Invenergy, Chicago, a wind farm development company. Mr. Collins said the facility went commercial in January 2009 and they employ 7 people who live in Morrow County. In December/January of last year they received complaints regarding a



noise nuisance. Invenergy then developed a protocol for conducting a test and deployed sound equipment for testing and on December 15<sup>th</sup> the study was completed.

Michael Theriault, Michael Theriault Acoustics, Inc., consultant for Invenergy.

Mr. Theriault presented a slide show reviewing a study conducted by his firm to see if Willow Creek Energy (Invenergy) complies with DEQ Rule 340 Division 35. The slide show and Mr. Theriault's presentation showed that the noise at the complainants' houses is mostly fully compliant with the code. The Williams place was substantially in compliance. He testified that these levels are in compliance with the state requirements. Additionally, the Willow Creek noise levels are lower than a majority of other state code requirements.

Kelly Hossaini, Miller and Nash, 111 SW 5<sup>th</sup> Ave. Portland, attorney for Invenergy.

Ms. Hossaini said that the noise standards are met, except at the Williams residence where they are only exceeded by a little. She repeated the study's findings and indicated that the minor deviations do not bring the facility into non-compliance with State requirements. She added that the findings will allow the County to make a determination that the facility is not out of compliance. She asked that the County allow for the exceptions to the compliance requirements.

Commissioner Rice asked if there was a wind study done before construction. Mr. Theriault said a background study was not conducted. Commissioner Wenholz asked why they didn't use the noise data generated by the turbines after the cutout speed. Mr. Theriault said that, according to the GE designers, at 9.9 meters per second the rotor stays at a constant speed and doesn't get any louder. Commissioner Wenholz questioned that with higher wind speeds the sound levels don't change. He then asked why they plotted birds chirping at a time that was in the middle of the night.

Mike Hankard 100 Park Avenue, Verona, WI Principal Engineer, Hankard Environmental Acoustics and Vibration Consulting

Mr. Hankard said they listened to many recordings. Because bird noise is quite different they can take it out, and keep the noise signal of the wind facility.

Commissioner Docken asked if noise studies evaluate how humans are affected by turbine noise. Mr. Theriault said that annoyance is not related to noise levels. Annoyance levels vary, many times, whether or not the noise source can be seen. He said that health affects studies suggest strongly that there are no identifiable health effects at the setbacks and levels at the wind facility.

Justin Nelson wanted to know, if the base levels are about 30 dBA, why don't they use the 10 dBA level above standard. Mr. Theriault thinks the Code won't allow averages, so they use the basic level of 26, instead of an average, which happened to be 31 db on a quiet day.

### Complainant Testimony

Jim McCandlish, Attorney at Law, 200 block of SW Washington, Portland of Griffin & McKandlish, attorney for the complainants, Mike Eaton, Dave Williams and Dennis Wade.

Mr. McCandlish said that he represents the complainants in this case. The complainants' consultants conducted a study last fall that shows findings not consistent with Mr. Theriault's findings. About 35 percent of the time, wind facility noise disturbs sleep of nearby residents.

He also indicated that Mr. Mingo, a resident near the wind facility, hired a separate consultant who also found the Theriault data represents a severe problem.

Kerrie Standlee, DSA Engineers, 4900 SW Griffith Drive in Beaverton, OR, acoustical engineer representing the complainants. Having been involved with the formulation of the DEQ noise Rules, he said that it is difficult to apply the OAR on noise to wind farms, especially the "relative" ambient and wind farm developers can't define the "relative" or ambient conditions.

After the Theriault group's study, he conducted a separate noise study in November. The noise level of their study ran around 40 dBA. The noise chart showed the noise levels through time such as when a car went by or the birds began chirping just before sunrise; the other noise in the area was the wind facility. He reminded the Commission that the limit was at 36 and the levels never dropped down to that level. Their focus was at night, during the time when the complainants have the most problem with the noise when they try to sleep. He stressed that a lot of the sound disturbance occurred when the Theriault study was excluding data - when the wind speed exceeded 9.9 meters per second. This suggests that the GE data indicating that the wind turbines do not get louder as the wind speed picks up is wrong. He testified that the Willow Creek noise exceeds DEQ noise limits by at least 4 dBA at Eatons and at least 6 dBA at Williams. Mr. Standlee further testified that the conclusions of the Theriault report suggesting that the Willow Creek noise does not exceed DEQ limits very often is based on limited analysis of the data. He said that the excluded data makes a large difference in the results. Mr. Standlee concluded that when wind is out of the south or west the noise exceeds the DEQ noise regulations. Violations of the Rule are substantial in level and number of occurrences at the Eaton and Williams residences. The noise levels radiating from the Wind Farm do not meet the requirements of the CUP for the facility. He commented that more data would be nice and he said it would be helpful if the County would request more details from the Theriault's data get a better picture. He also commented that when he was at the home sites he was surprised at what he heard. He said it sounded like the ocean at the other side of the hill and that it was a constant sound.

Commissioner Nelson asked Mr. Standlee what data he would like to have. Mr. Standlee responded that he would like to see reasons for noise monitoring at a specific time of day, appropriateness of the daytime hours, and of limiting the wind speed at 9.9 meters per second. He would also like to see the 3rd octave band data. Ryan Swinburnson asked about what turbines, if any, were focused on. Mr. Standlee responded that there was no focus on any particular turbines.

Dan Williams, local resident: 72097 Highway 74, Lone.

Mr. Williams testified that he bought his home based on the view and that it was quiet there. He has been a self-employed general contractor for approximately 16 years. No one from Invenergy ever approached him, he approached them with his concerns. The noise is incredible according to him and he has endured many sleepless nights from the sound and the vibrations of the wind facility. They can't sell the property they developed to sell. A mistake was made and he asked the Commission to deal with it and try to fix it. He is asking for help with the problem at hand and asked the Commissioners to put themselves into his shoes. Commissioner Sykes asked him what he considered a "fix." Mr. Williams said its not fixable because the windfarm isn't going away.

Sherry Eaton, 72396 Highway 74, Lone.

Ms. Eaton read a prepared statement. They want the Commission to know they are real people having a real problem.

Mr. McCandlish presented a suggestion to the Commission. He said that the science tells us that the wind from the west and south west is the predominant direction when the violations start occurring and also when the data is found to be most troublesome. He requested the wind facility be limited during the times of the violations. He added that the "peer reviewed" document on wind turbine sound and health effects that was provided to the Commission is a biased document because it was prepared for the wind industry by a panel established by the wind industry.

Dave Mingo, 72512 Highway 74, Lone.

Mr. Mingo stated that he didn't join the previous group because he worked at the wind farm and decided to wait until the facility was operating. He said it is only a problem when the wind blows from the south/southwest. He plans to move from his residence and said that he wouldn't have bought his home if he had known about the effects of the wind facility. He asked the ethical question of if it is okay to be "a little bit" out of compliance.

Jerry Lilly, JGL Acoustics, Inc. 5266 NW Village Park Drive, Issaquah, WA; Mr. Mingo's consultant.

Mr. Lilly told the Commission that he reviewed the findings and is concerned that only 21 percent of the collected data was considered for analysis by Invenergy's consultants. He provided a 9-slide PowerPoint to the Commission. The presentation indicated that Invenergy's consultants acknowledged that noise exceeds the DEQ noise limits and their conclusion that the noise level excess is minor is based on extremely limited data. Mr. Lilly questioned the decision to ignore the noise data collected when the turbines were operating at full power. Additionally, Mr. Lilly pointed out problems with Invenergy's consultants' methods of collecting the data and the fact that the Morrow County Noise Ordinance was not considered in their study.

Mr. Lilly had some recommendations: At a minimum, provide a 1/3-octave raw data for review, conduct a new study with 3 sound level meters, one at the property line, one at the residence and one inside the residence; and a new study should also include wind data collected near measurement locations. Commissioner Sykes asked about his agreement on mitigation. Mr. Lilly said he is in agreement with the mitigation proposal.

Mr. Standlee mentioned that the GE data is ambiguous regarding the sound above 9 m/sec.

Casey Beard

Mr. Beard testified that there is a complex set of issues but asked the Commission to look to develop a set of standards that would protect the values of the community and not solely chase after dollars the County would receive.

#### Permit Holder Rebuttal

Mr. Theriault wished to make a couple of comments. He stressed that Mr. Standlee concluded that there is no exceedence at the Wade residence and also that the exceedence is not by very much at the other residences, and their conclusions are very similar. Since Mr. Standlee was concerned that the data was incomplete, or not all utilized, he offered to provide the data to Mr. Standlee. He doesn't agree on the similarities of time, and they are going to take a look at this. He talked about a bedroom level of 35 is set to allow 45 outside. He said the code doesn't require data to be taken inside, the code requires measurements taken outside. Because they didn't have the data to make a conclusion that the noise was from the facility, maybe the noise comes from somewhere else? He said they have been very careful to look at the data and

come to the right conclusion. He doesn't agree with Mr. Standlee about the turbine issue. Mr. Standlee responded that he questions the GE data because of the way the data is reported. Commissioner Nelson requested that Mr. Theriault be clear as to whether they will they provide the data to Mr. Standlee and Mr. Lilly. Mr. Theriault indicated that he is willing to provide it.

Dennis Wade, 73782 Highway 74, lone.

Mr. Wade testified that they took 6 days of data at his property. He wanted to know where the data is and what they have done with it. He said he was told the instruments didn't work. He asked Invenergy's consultants what happened to the data.

Mr. Mingo indicated that his lawyer wants to leave the hearing open.

Commissioner Wenzholz said that, in light of the fact that there is one request to leave the hearing open and to give the Commission time to review the paperwork, he moved to continue this hearing to the next hearing date. Commissioner Devin seconded his motion. Motion carried.

At this time there was a discussion between the Commission and Planning Director McLane. Commissioner Sykes requested that staff provide the Commission the hearing minutes from the original CUP hearing for the wind facility. The Commission was concerned that they didn't have the expertise to make a good decision and wondered if another consultant might be appropriate. Planning Director McLane doubted that another consultant would make the noise issue any clearer but would bring up such a request with the County Court if the Commission decided it would be necessary. Planning Director McLane voiced her hope that the two sides would be able to come up with a mutual agreement regarding mitigation of this issue before the next hearing.

**Other business:**

Due to the number of public hearings, planning staff have no additional items for this month's agenda.

**Adjournment:**

The meeting was adjourned at 11:45 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, February 23, 2010 at 7:00 p.m. at the Heppner City Hall in Heppner, Oregon.

Respectfully Submitted,  
Lori Timmons



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, February 23, 2010 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Jim Key, Justin Nelson, Tucker Rice, David Sykes, Rod Taylor, Jeff Wenholz

**Members Absent:** Pamela Docken, Pamela Schmidt

**Morrow County Staff Present:** Carla McLane, Planning Director; Lori Timmons, Associate Planner

Pledge of Allegiance was recited.

Planning Director McLane announced that the second agenda item, Review of Condition of Approval 1 of Conditional Use Permit CUP-N-213: Invenergy, owner of the subject wind energy project has been requested to be continued. To preserve the notice, the hearing will be opened and then subsequently continued to the next hearing date in March.

The minutes of the January 19, 2010 hearing had been provided in the Commissioners' packets for review. Commissioner Rice made a motion to approve the minutes with the following two changes: Commissioner Devin's name is spelled wrong and the adjournment time was corrected from 10:45 p.m. to 11:45 p.m. Commissioner Devin seconded his motion. Motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Continued from January 19, 2010: Morrow County Comprehensive Plan (MCCP) Amendments AC-019-10 and AC(M)-020-10, Morrow County Zoning Ordinance (MCZO) Amendments AZ-021-10 and AZ(M)-22-10, and Conditional Use Permit (CUP) CUP-N-274 to allow for 1) development within the Airport Approach Zone and 2) the establishment of a truck-tire-changing facility: Love's Travel Stops & Country Stores, Inc., applicant and City of Boardman, owner. Property is described as a portion of Tax Lot 119 of Assessor's Map 4N 24 and is located approximately 5 miles west of Boardman at the Tower Road interchange on Interstate 84. The property is zoned Space Age Industrial. Request is to amend the Comprehensive Plan to add policies to support the recently adopted "Tourist Commercial" zoning designation, change the Comprehensive Plan designation to Commercial, apply the Tourist Commercial zone to a proposed 52-acre parcel, and to approve a CUP. Criteria for approval are found in the MCCP Review and Revision Process, MCZO Article 8 Amendments, and MCZO Article 6 Conditional Uses.**

Planning Director McLane said, based on last month's testimony, CUP-N-274 was added to allow Love's to develop within the Airport Approach Zone and to approve the establishment of a truck-tire-changing facility. Love's will be applying for all of their permits at the same time. If/when this simultaneous permitting is approved, the approval will stay on hold until the pending

land partition is finalized. Ms. McLane also indicated that some additional reading material was provided for the Commission that included tabs 8, 9, and 10 in their application binders. LUBA did render a decision on the Land Partition application but it has been appealed to the Court of Appeals. LUBA did support the Commission's findings but remanded the Tower Road easement issue back to the County for finishing.

Planning Director McLane told the Commission that the Tourist Commercial Zone policies presented by the applicant and suggested to be included in the Comprehensive Plan are not pertinent to the application before the Commission and may be dealt with at a different time. Planning Director McLane then explained the Feb 11, 2010 letter from USKH having to do with the Commission's request that Love's deal with the Tower Road level-of-service requirements for traffic in the fall and at times when the truck traffic on Tower Road is heaviest. The language for the applicable zones (Tourist Commercial (TC) and Airport Approach (AA) was also included for the Commissioners' binders. The language in the new zones is where staff interpreted that the new uses will be conditional uses. Planning Director McLane went through the changes to the staff report and then continued to the conditional use permit criteria. Many of the conditions of approval will be based on the Traffic Impact Analysis (TIA). There has been no comment from the Boardman RFPD. Parking conditions will be applied at the time of Site Plan Review, as will sign limitations. Also ODOT will regulate signs within their right of way. Lighting will be asked to be as minimal as possible. Landscaping will be installed according to the requirements of the TC zone and Love's normal landscaping plans. No fence is planned but a zoning permit would be required for any fence over 6 ft in height. The CUP will be valid when all of the approvals are complete. The access points that exist on the map haven't been changed. The elevations of the buildings were established based on the FAA requirements of the airport approach zone. Commissioner Rice asked, based on the zone change packets, will Love's have to meet ODOT standards? Planning Director McLane replied that, yes, their standards are incorporated into our TSP and ODOT has been involved and has approved the accesses where they are proposed. Commissioner Sykes asked about the signage that separates cars and trucks on the facility. Planning Director McLane said that once you get onto the site there will be such signage. She has experienced Love's signage and it worked well, and signage is required in Site Plan Review. Commissioner Wenzholz asked if Site Plan Review is a counter action. Planning Director McLane said yes, because the site is less than 100 acres, it will be a ministerial action. Commissioner Sykes asked about the blank space in the layout view map. Planning Director McLane said it is where landscaping will be required by the Tourist Commercial zone. The Tourist Commercial zone landscaping language was designed to encourage xeriscaping and other landscaping compatible to the local, desert environment. Commissioner Rice asked about the concern about the limitations of the proposed language in applying the policies. Planning Director McLane said there are three possible paths regarding the policies. We could complete the policies as part of this action, or complete the policies at a later time and part of another action, or the Commission could choose to not adopt any policies. Planning Commissioner Sykes said that we should try to create something before being behind the 8 ball later. Planning Director McLane said it might be in the applicant's best interest to not immediately deal with the policies. Commissioner Wenzholz agreed that applying the Tourist Commercial Zone here without policies does meet the intent of the zone because the zone was created for development of a travel stop at the Tower Road interchange.

Opened the Public Hearing:

Bill Kabeiseman, attorney for Garvey, Shubert and Barer; 121 SW Morrison Street, Portland, representing Love's Travel Stop:

Mr. Kabeiseman introduced himself and explained the process:

LUBA remanded to the County the Tower Road issue whereby guaranteed access remains questionable. They have engaged the Oregon Department of Administrative Services regarding Tower Road and the issue will be worked through. Also, the LUBA decision was appealed to the Court of Appeals. He said the Court of Appeals affirms about 90 percent of the decisions of LUBA. He expects their decision in June. At the last hearing there was a question about whether the process could proceed without an approved partition. Based on their legal interpretation and a confirmation by County Counsel, it is legal to proceed this way. He is fine with the Commission removing the policies portion of the application.

Mr. Kabeiseman said that, based on Mr. Runyons testimony at the last hearing, they incorporated the issues of the airport approach zone into a conditional use permit. He introduced the other speakers who will address it further.

Frank Ille, Love's Project Manager, P.O. Box 26210 Oklahoma City, OK 73126

Mr. Ille said Love's has two other locations in Oregon - in Ontario and in Roseburg. Mr. Ille also explained the layout map and showed that there is an adequate turning radius for large trucks, up to triple trailers or two double trailers back-to-back. They keep the 4-wheel traffic and 18-wheel traffic separate by signage at the entrance. The lighting will be in accordance with regulations, landscaping is important to Love's and they expect it to exceed requirements. Love's has two types of site layouts. Commissioner Taylor asked where the asphalt starts on the side next to the highway. Mr. Ille said there will be landscaping, but they will want the gas canopy and the store to be visible from the Interstate. Planning Director McLane said that one thing they will ask Love's do is to facilitate the Heritage Trail that goes along Tower Road at that location with landscaping. Mr. Ille said it could be accommodated. Commissioner Taylor said wind will impact the entrances and asked if they had planned for that. Mr. Ille said that the entrances will be made to last and of quality materials. Commissioner Wenzholz asked where the big RVs and camp trailers will park. Mr. Ille showed the Commission where that kind of parking will be accommodated with 19-ft parking spaces. Commissioner Taylor asked if there will be a fence between the uses. Mr. Ille said that they plan a fence between the car and diesel uses. Another fence is open to discussion and he said they might put a fence in to prevent trash blowing around.

Keith Elefson, the USKH chief engineer, 5 N. Colville Street Walla Walla, WA 99362

Mr. Elefson said that the sensitivity analysis was a supplement to the TIA. It was prepared in response to the harvest traffic discussed at the last hearing. The original analysis was bumped up by 9 percent, and the new analysis bumped up the analysis in a worse case scenario. It revealed that the area could take 260 percent more than the traffic than currently exists. Their discussions with ODOT revealed that it meets their requirements.

At this point Planning Director McLane informed the Commission that there was some additional correspondence. One was from West Extension Irrigation District (WEID) that reminded the Commission that there is a WEID ditch with a 200 foot right-of-way nearby. It was determined that this location is not next to the Love's travel stop location. The other letter was received was from Gary Burnett of the Drinking Water Division. His comment was that the well is a community water well and needs to meet community water well standards. The letter included the Drinking Water Division's process, including their fee schedule, their LUCS and plan review requirements. The applicant will need to get their well constructed, get their water right and then have it tested to meet the community water well standard.

Leslie Ann Hauer, Land Use Planner for Love's, 6100 Collins Road, West Richland, WA 99353  
Ms. Hauer explained why they applied for the CUP at this time. Since there were so many questions they decided to develop a site plan. The CUP was needed by the vehicle repair services and the Airport Approach zone, which is the primary concern. The FAA requires that the use not be a dense human use such as churches, assembly areas, etc., and they were concerned about the building heights. Commissioner Nelson asked about where the requirements are written. Ms. Hauer directed him to 3.090(c)(3) of the Airport Approach zone language. They are required to get an FAA certificate. Commissioner Sykes asked about, as the County moves forward with the policies, does she have any other examples of where the TC zone might apply. Ms. Hauer mentioned that the area around Hardman and Spray might have some possibility. Commissioner Rice asked about the FAA language, could it restrict the use of the Love's travel stop? Ms. Hauer said that we would need to take a look at the definition of assemblies. Commissioner Nelson analyzed it and said, based on the interpretation, you could go either way. Commissioner Wenholz commented that around the Portland airport there are lots of meeting areas, convention halls, etc. in the nearby hotels. What could be an issue would be a conference room?

Bill Kabeiseman

Mr. Kabeiseman asked the Commission to approve the Conditional Use Permit and forward the Zone change to the County Court at this hearing.

Commissioner Wenholz asked about why they placed the facility on the southern portion of the zone change area. Mr. Ille responded that this was due to the DOT 1320-foot setback requirement from the Highway 84 interchange.

Cameron Krebs, 78171 Kunze Lane, Boardman

His concern about the blowing waste and lagoon water on his neighboring property has been addressed. He further stated that he proposes the Commission consider the TC policies at a later date. He believes it is a bad idea for petitioners to create policy for the County.

Close the Public Hearing:

Planning Director McLane told the Commission that the Commission needs to review the Conditions of Approval for the facility and many of the conditions will be met at the site plan review for the development as it progresses. The water permits will be reviewed by DEQ or Water Resources as appropriate; she further indicated that she believes the Commission has enough information to make a decision tonight. If not, she requested that they come up with a list of questions to be answered. Commissioner Nelson commented that he is satisfied that their questions have been answered. Commissioner Wenholz asked if the Planning Director thinks the questions about wastewater, water supply, and the other issues have been answered. Planning Director McLane responded that the Land Partition will condition these requirements. She feels comfortable with the conditions in the staff report. Commissioners Wenholz and Sykes concurred with her comment. Commissioner Rice moved to approve the subject zone change without the proposed policies and with no timetable for completion of the policies. Commissioner Devin seconded the motion. Motion carried. Commissioner Wenholz made a motion to approve the Conditional Use Permit as presented. His motion was seconded by Commissioner Key. Motion carried.

***Continued from January 19, 2010: Review of Condition of Approval 1 of Conditional Use Permit CUP-N-213: Invenergy, owner of the subject wind energy project. Subject property is approximately 3,000 acres north of Cecil, Oregon located west of Highway 74 at***



**approximately milepost 10 and is zoned EFU. The Planning Commission will be continuing discussion of two noise studies to determine compliance with Condition of Approval 1 of the subject Conditional Use Permit.**

Commissioner Wenzholz made a motion to continue this hearing to the March 30, 2010 hearing date at Boardman, Oregon at 7:00 p.m. His motion was seconded by Commissioner Taylor. Motion carried.

#### Other Business/Correspondence

- "The Long and Winding Road: Farmland Protection in Oregon 1961 - 2009" This is recommended reading for anyone even remotely interested in how our land use laws got to be the way they are. It is a very readable article.
- County Court Activities. The County Court has approved a new road, Kirkpatrick Road, where the Kirkpatrick hunting preserve is located. The Local Reuse Authority (LRA) is still working on a reuse plan for the U.S. Army Depot when the incineration is finished. Planning Director McLane spoke of many things needing to be resolved as the LRA works through the various issues. Some of the issues are: coming up with a reuse plan that the Army will accept, reconciling the wishes of the surrounding communities and other interested parties, what to do with the dilapidated buildings, and the high costs of redevelopment. DEQ and EPA have indicated that the land can eventually be certified clean but the cost would be high and there is a perception problem of growing food at a former chemical munitions storage area.
- HB 2229 was passed in the 2009 legislature as the outcome of the Big Look Task Force. The Commission will receive an article called Counties Should Rezone Land, an article by David Hunicut, the language of the actual HB 2229, and the notes of the meeting the Planning Directors had with Mr. Hunicut.
- Energy Projects Update: The valid site certificates Shepherds Flat wind facility are moving along. Other wind or related energy facilities the Planning Department is working on are Montague, 2Morrow Energy, Mariah Wind, Carty Generating facility, transmission lines for Idaho Power, and Cascade Crossing.
- The Madison gravel pit goes to the County Court on March 3<sup>rd</sup>.
- The Associate Planner position will become full time after Associate Planner Timmons leaves. Planning Director McLane asked if any Commissioners would want to participate in the interview process. Commissioner Taylor indicated that he would like to participate.
- Based on a landowner request, the Commission was asked to have a meeting to come up with a statement about where the Commission believes power transmission should go in the County.

#### **Adjournment:**

The meeting was adjourned at 9:45 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, March 30, 2010 at 7:00 p.m. at the Port of Morrow Riverfront Center, Boardman, Oregon.

Respectfully Submitted,  
Lori Timmons



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, March 30, 2010 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Jeff Wehnolz, David Sykes, Mifflin Devin, Tucker Rice, Rod Taylor, Jim Key, Pamela Docken, Justin Nelson

**Member Absent:** Pamela Schmidt

**Morrow County Staff Present:** Carla McLane, Planning Director; Mary Curry, Office Manager

Pledge of Allegiance was not recited because no flag was available.

The minutes of the February 23, 2010, hearing had been provided in the Commissioners' packets for review. Commissioner Wenholz made a motion to approve the minutes with the following change: add Commissioner Nelson's name to the list of members present. Commissioner Taylor seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**LP-S-216, Land Partition. Land Partition LP-S-216: Brosnan Ranches, Inc., applicant and owner. The property is described as Tax Lot 1500 of Assessor's Map 2S 29 17, 19, 20, 24, and 30. The property is located on the top of Franklin Summit on State Highway 74. Zoning is EFU. Criteria for approval include the Morrow County Subdivision Ordinance Article 5 Land Partitioning.**

Planning Director McLane presented the staff report. The partition is to support transfer of a grazing lease in the National Forest. Current access is from Little Butter Creek and any new accesses will need to be approved by the Public Works director. If Little Butter Creek doesn't have a 60-foot easement, a condition of approval is that the owner dedicate additional right of way to allow for a 60-foot right-of-way.

Commissioner Nelson asked whether the permit number was LP-S-416 or LP-S-216. Planning Director McLane answered "416."

Opened the public hearing.

Bill Kuhn of Kuhn and Spicer, 410 Hurlburt Avenue, Hermiston, Oregon 97838.

Mr. Kuhn introduced Mr. Brosnan. He said that Mr. Brosnan is selling cattle to the Knollses along with a grazing lease. The Forest Service requires that a small piece of property go with the lease. The Brosnans propose to temporarily transfer 160 acres separated through the requested partition. Mr. Brosnan will transfer the land for 2 years to satisfy the Forest Service requirement, then the Knollses will the transfer the property back. The Brosnans and Knollses have a contract outlining the terms of the transfer.

There was no other testimony.

Closed the public hearing.

Commissioner Nelson recused himself because he once worked for Kuhn and Spicer. Planning Director McLane added that the Planning Department received a phone call from a neighbor who inquired about the application. Commissioner Rice moved to approve the request. Commissioner Key seconded the motion. The motion carried.

**CUP-S-275, Hunting Preserve. John Flynn/Ruggs Ranch, applicant and owner. Property is described as Tax Lots 700 and 703 of Assessor's Map 5S 25. The property is located southwest of Hardman off Highway 207. Zoning is EFU. The request is to approve a bird hunting preserve. Criteria for approval include the Morrow County Zoning Ordinance (MCZO) 3.010(D)(13), 6.020 and 6.030.**

Planning Director McLane presented the staff report. The preliminary findings were submitted to the Oregon Department of Transportation. They did not comment. Sign safety requirements are dictated by the Oregon Department of Fish and Wildlife (ODFW). Additional signs have to meet County Zoning Ordinance requirements. The Planning Department received a letter in favor of the application from Robert and Judy Stevens, adjacent land owners.

Chair Sykes asked about the seasons for bird hunting. Planning Director McLane responded that ODFW has set very delineated times of year and dates. He then asked whether it was incumbent on ODFW to change from birds to big game. Planning Director McLane responded that they would have to come to the Planning Commission to change the permit. Bird hunting preserves are a specific size and the parcel does meet the acreage limitation of 1,200 acres. Mr. Flynn also has another hunting preserve, but it is far enough away that it has a separate permit.

Opened the public hearing.

No one testified in favor, neutral, or in opposition.

Closed the public hearing.

Commissioner Wenzholz moved to approve the application. Commissioner Taylor seconded the motion. The motion carried.

**CUP-276, Umatilla County Emergency Management Communications Facility Antenna Placement. Michael Aippersbach and Associates, agent for Umatilla County Emergency Services, applicant, City of Boardman, owner. The property is located south of the Union Pacific Railroad line, southeast of Columbia Boulevard, and northeast of Rippee Road. Zoning is General Industrial. Request is to approve installation of a 180-ft communications tower and associated structures. Criteria for approval include MCZO 3.070(B)2.**

Planning Director McLane presented the staff report. She mentioned that they will need a chain link fence, which will need zoning permit. The only correspondence was a phone call was from Chief Rogelstad, who attended the meeting.

Open Public Hearing

Michael Aippersbach. P.O. Box 95429, Seattle, WA 98145.

Mr. Aippersbach thanked the Planning Commission for allowing them to present the project and introduced Shawn Halley from Umatilla County Emergency Management (UCEM) and Chief Marc Rogelstad from the Boardman Fire Protection District. UCEM is proposing to install a facility consisting of the tower, an unmanned shelter, and a propane tank. Two to three times per month a technician will stop by and check on the equipment, which will provide radio communication for police, fire, and emergency medical services. Currently communications are poor or substandard and messages do not reach the dispatch center or are not clear. The tower will cover the Boardman area and a stretch of Interstate 84, along with some rural portions of the County. Mr. Aippersbach and UCEM have reviewed and concur with the conditions of approval.

Chief Marc Rogelstad, Boardman Fire Protection District, 300 Wilson Lane, Boardman, OR 97818. Chief Rogelstad testified that the system is the one put in place as part of the Chemical Stockpile Emergency Preparedness Plan. The emergency responders have ongoing issues with the system and the Federal Emergency Management Administration finally agreed to fix the system. This tower will provide coverage in the Boardman area, which has been unreachable by radio.

Shawn Halley, Umatilla County Emergency Management, 4700 NW Pioneer Place, Pendleton, OR 97801. Mr. Halley offered to answer questions.

There was no other testimony and Chair Sykes closed the public hearing.

Commissioner Key asked about how the tower height relates to the high-tension wires.

Mr. Aippersbach responded that the wire height is pretty close to the top of the tower and could be a little over.

Commissioner Wenholz moved to approve the application. Commissioner Key seconded the motion. The motion carried.

***Continued from January 19, 2010: Review of Condition of Approval 1 of Conditional Use Permit CUP-N-213: Invenergy, owner of the subject wind energy project. Subject property is approximately 3,000 acres north of Cecil, Oregon located west of Highway 74 at approximately milepost 10 and is zoned EFU. The Planning Commission will be continuing discussion of two noise studies to determine compliance with Condition of Approval 1 of the subject Conditional Use Permit.***

Planning Director McLane passed out hard copies of the material submitted to the Planning Commission via e-mail on March 29, 2010 and reminded everyone that this is a continuation of an existing hearing. She said that the Commission has received a lot of information from all the parties and that the parties are hoping for a chance to present more material. After they have presented their additional material, the Planning Commission will deliberate.

Commissioner Taylor recused himself.

## Permit Holder Testimony.

Jeff Condit, Miller and Nash, 111 SW 5<sup>th</sup> Ave. Portland, OR.

Mr. Condit said that he represents Invenergy, which owns the Willow Creek Wind Farm. He stated that the purpose of the hearing was to determine whether Invenergy is in compliance with the noise condition of its permit. He introduced Michael Theriault of Michael Theriault Acoustics, Inc., Mike Collins, from Invenergy and Mike Butcher, the local manager of Willow Creek Wind. He stated that Invenergy's position is that they are in compliance and that any exceedences are minor and infrequent. He repeated the information presented at the January hearing about the three points of the Oregon Department of Environmental Quality (DEQ) rule. He said that Invenergy wants the Planning Commission to find in their favor because the rule has to be interpreted by how wind works at the wind farm.

Michael Theriault, President and Principal Consultant for Michael Theriault Acoustics, Inc., consultant for Invenergy.

Mr. Theriault explained the method his firm used to conduct the noise study and reiterated the conclusions they presented at the January hearing. He used PowerPoint slides to support his conclusions that at the Wade residence, noise levels comply with the ambient degradation portion of the rule, at the Eaton and Mingo residences, they substantially comply and at the Williams residence they moderately exceed the standard. He argued that Mr. Lilly and Mr. Standlee are incorrect in saying that any time the noise exceeds 36 dBA, the wind farm is in violation. He said that the primary technical criticism offered by the complainants' acoustical specialist was that Michael Theriault Acoustics (MTA) terminated the analysis at the time turbines are making the most noise. Based on this criticism, MTA reanalyzed all the data. They originally analyzed 8 hours of data, then expanded the analysis to include 2,800 hours of data. MTA concluded that the results were overwhelmingly the same.

Mr. Theriault said that the best way to demonstrate compliance is to measure the noise with the turbines on line, then again with the turbines off line to measure the background noise. They did that for a week. He presented slides showing the measurement results and analysis. He said that they could not use that process for all 2,800 hours of test data, so they listened to audio recordings of the noise. He showed slides that indicated what they analyzed to be turbine noise and background noise.

Mr. Theriault said that Mr. Lilly suggested that the high noise levels were caused by the wind farm and that MTA did not show that result because they did not analyze the data at the higher wind speed. The reanalysis clearly shows that the increased noise is not from the turbines, but is other noise. He also stated that the burden of proof is not 36 dBA, but is 10 dB higher than the ambient noise and that using that standard Invenergy complies,

Chair Sykes asked whether not analyzing all the additional data was done as a cost savings?

Mr. Theriault answered that they used a data-reduction technique, which was to look at fewer hours of data and draw conclusions. They actually recorded 4,000 total hours of data and somewhere along the line they had to truncate analysis.

Commissioner Nelson: "Just to be clear. The noise is no more over 10. Most of the increased noise is not turbines but wind? When wind gets faster wind takes over from turbine noise?"

Mr. Theriault said that was correct. The baseline is 26 dB, but compliance is always 10 dB above ambient conditions and that they don't have to use the baseline if they know the ambient conditions. To not use the baseline, they have to collect data about the background noise. You could measure for 3 days or 3 nights. Other than California, no state requires that you measure at a specific time of day. There is no set procedure. Ambient noise appears to be 5 maybe 10 dB above. Seem to indicate that we can use 10 dB above that. The standard used is to measure in 1-hour durations. That is resolution required by the code.

Commissioner Nelson indicated that he was satisfied with the answer.

Mr. Condit said that the issue is whether Invenergy violated the rule, not whether wind farms make noise or make noise that people are not used to hearing. He said that many allowed uses in the EFU zone, including wind farms make noise, and that the expectation cannot be that it will be completely silent. He said that he thinks that the exceedence is so minor and infrequent that Invenergy complies. He also said that Invenergy wants to be a good neighbor. They conducted exhaustive and expensive analyses to try to be good neighbors. He said they also attempted to negotiate or offer noise easements both preconstruction and post construction and that the offers varied by landowner, but that the offers were rejected. He said that Invenergy is willing and able to stand by those offers. He asked the Planning Commission to recognize that they do want to be good neighbors. He reiterated that Invenergy thinks that they do not violate the DEQ standard required as a condition of approval and that the Rule itself permits you to exceed by another 10 dB if you negotiate a noise easement.

Chair Sykes asked for clarification on what offers were made to the complainants.

Mr Condit replied that three separate offers were made to each landowner.

County Council Swinburnson explained the standard of review. He said that as far as violation is concerned, the question is who bears the standard of proof and what that standard is. He said that the burden of proof is on the applicant and that there is substantial evidence in the record, even if the evidence is conflicting.

Commissioner Nelson said that he believes that if there is a complaint, the applicant has the burden of proof.

Mr. Condit said that the burden of proof is on the applicant 51 percent of the time.

Commissioner Nelson asked Mr. Condit to explain how the DEQ rule applies.

Mr Condit replied that the entire DEQ noise rule applied but that an exception applies because DEQ lost funding and now the burden falls on the counties to apply the rule.

### **Complainant Testimony**

Jim McCandlish, Attorney at Law, of Griffin & McCandlish, 200 block of SW Washington, Portland, Oregon. Attorney for the complainants, Mike Eaton, Dave Williams and Dennis Wade.

Mr. McCandlish first asked all the complainants in turn whether they had been offered compensation for a noise easement before the week before the January hearing. All replied that they had not. He then said that a few days before the hearing the Planning Commission

received a point-by-point rebuttal of the MTA work by Misters Standlee and Lilly. He said that MTA told the Planning Commission that the exceedences were not "a big deal." He said that the complainants spent \$30,000 on the rebuttal and that they do consider the exceedences to be "a big deal" because they can't sleep. He said that it is "a big deal because MTA suggests that a combination of standards exists and that the standard floats. He also requested that Mr. Standlee be compensated for the work he has done and that he be hired to do additional analysis.

Kerrie Standlee, DSA Engineers, 4900 SW Griffith Drive in Beaverton, OR, acoustical engineer representing the complainants.

Mr. Standlee first discussed whether the standard under consideration was 26 dB or something higher than 26 dB, depending on the ambient noise. He said that using ambient noise as the standard, the baseline could also be lower than 26 dB.

Mr. Standlee said that MTA identified the noise as turbine noise, so while it's true that they had a default of 26 dB and turbines can go as high as 36 dB, anything can be higher than 36 dB. He said that if Invenergy chooses ambient noise as the baseline, they have to stay within 10 dB of the ambient noise, whatever that is. He agreed with Mr. Theriault that identifying the ambient noise for all of the study hours is problematic, which is why the Oregon Department of Energy (ODOE) decided that the wind farm operator can take a default and not do a study. He added that if they do a review and find residences that don't fall within that contour, they cannot go back after construction and say they want to do a study. They can decide to do a study during the application process. He used Shepherd's Flat as an example because one residence is not willing to accept the 26 dB default.

Chair Sykes and Commissioner Wenholz asked for clarification.

Mr. Standlee said that Oregon Administrative Rule (OAR) says that the contractor must choose either the default baseline or do a study, but if conditions change, the contractor can do a study to show that background conditions have changed and that the baseline should change.

Mr. Standlee showed slides to reiterate his concerns about the MTA study. He also mentioned a letter from John Hector who managed the DEQ noise office when the regulations were written. He said that, according to Mr. Hector, the regulations were written to protect sleep, not outside activity.

Commissioner Nelson asked whether the regulations directly mention protecting sleep.

Mr. Standlee said that the regulations don't directly mention protecting sleep, but that he was bringing it up because the Commission is being asked to weigh the significance of these exceedences and that they need to consider when the exceedences are occurring.

Chair Sykes observed that first Mr. Standlee said that MTA didn't provide enough data and now he seems to be saying that they provided too much.

Mr. Standlee replied that MTA said they saw 26 nights when the noise level exceeded 36 dBA and that they did not discuss those data. He also said that the examples of regulations outside of Oregon are irrelevant to the discussion and that offering examples of how DEQ regulations

differ from others' regulations implies that the DEQ regulations are incorrect. He also questioned whether MTA looked at the data close enough to determine whether the noise level may have exceeded 36 dB for more than 1 hour. He also reiterated that he thought the bird noise should be removed from the background noise because without birds present the baseline would be lower. He disagreed with the sound model MTA used because they used 105 dBA, which is not the correct sound calculator for the model. He said they should have used 106 dBA to predict what the noise levels could be. He said that using the 106 dBA constant is the most conservative method and that it does a good job of demonstrating why his analysis is finding evidence that the exceedences are real.

Mr. Standlee then said that ODOE applicants are required to use the method he advocates because it reduces ground attenuation. He said that ODOE found that the standard method was underpredicting actual noise and that, had the project gone before ODOE the project would not have been in compliance.

Commissioner Nelson replied that the project had not been brought before ODOE. The only reason for the hearing is to decide whether Invenergy is in compliance with their conditional use permit. He also asked whether OAR 305 includes the calculations.

Mr. Standlee replied that OAR 305 only stipulates that the calculations be done.

Commissioner Nelson asked during which months data were collected.

Mr. Standlee replied that MTA collected data during June, July, and a little bit of August. He collected data for 1 day in November from 2:30 a.m. to 7 a.m.

Chair Sykes asked whether Mr. Standlee was disputing the data. Mr. Standlee said that he was not disputing the data, only the analysis. Chair Sykes then wanted to know how Mr. Standlee generally conducts a study and Mr. Standlee outlined his process.

Council Swinburnson asked about sound degradation when talking about 10 dBA over background and how do you differentiate between actual noise and ambient. He asked how they determine if the noise is in violation of that provision.

Mr. Standlee explained that, for projects not wind-farm related, they do enough of a study to capture all other noise sources during the most restrictive hours.

Council Swinburnson said that OAR 340(5) differentiates between proposed and operating wind facilities. The operator does not get to choose which one he uses. Subsection 5 seems to say that if an increase in noise over the presumed or actual baseline, if measured, is not more than 10 dBA that would seem to contradict Mr. Standlee's statement.

Mr. Standlee replied that, based on that provision, if the ambient level went below 26 dBA, Invenergy could not decide to use 26 dBA in that instance. They would have to use the lower actual ambient number. He also explained that he, Mr. Hector, and Mr. Jerry Wilson were involved in drafting the 2004 rules.

Commissioner Nelson asked about Mr. Standlee's objection to the way MTA conducted their ambient study.



Mr. Standlee said that the only procedure is from a 1975 employee manual and that it does not say what the study should be or how to interpret the results.

The Planning Commission wanted to know whether the MTA expanded study changed or reinforced Mr. Standlee's conclusions.

He answered that the data show that, at times, the wind farm exceeded the noise limit. He disagreed with Invenergy's contention that the exceedence was not substantial and said that what you have to look at is the disruption of sleep. He added that the purpose section of the OAR does mention sleep disturbance.

Andrew Sprauer, P.O. Box 804, Salem, OR 97308, representing Dave Mingo.

Mr. Sprauer first asked Mr. Mingo whether he had been contacted about a noise easement. Mr. Mingo responded that he had not. Mr. Sprauer then explained that Mr. Lilly couldn't be there, so he would speak to the analysis as best he could. He reiterated that Mr. Lilly was not able to conduct an analysis of the noise at Mr. Mingo's residence because no data were collected there. He challenged MTA's suggestion that they could use the data from the Eaton residence, which is between 200 and 250 yards from the Mingo residence. He said that the measuring device must be located in the direction of the wind farm and must be within 25 feet of the residence, so the data from the Eaton residence would not be a valid representation of conditions at the Mingo residence.

He said that the ORS noise restriction specifically states that noise can be a threat to environmental quality in Oregon. He said that noise can cause health problems and he reasons for these restrictions are paramount for these complainants. Willow Wind is not in compliance. He brought up Mr. Condit's statement that the burden of proof is substantial evidence or what a reasonable person could conclude on the basis of evidence. He said 51 percent is a preponderance of evidence, not substantial evidence, and that the level of the violation has no bearing.

He then compared the original analysis and the new one. He said that the Mingo property was most affected by new analysis, with the exceedence increasing from 1 to 6 percent. He said that because Invenergy knows they have a violation and their own evidence shows they are in violation, they are seeking an exception letter. He said that an exception was for addressing discrete and singular events, which is not the case here. He said that Mr. Condit suggests that because wind farms weren't adopted until 2004, the rule must change. He said changes were made to the rule in 1983 and most recently in 2004 and that he has copies of orders adopting those rules. The exception clause, which was adopted in 1974, did not change in 1983 or 2004 when wind farms were added, so the rule stands as adopted unless an action is taken to change it. He reiterated that Mr. Mingo was not approached about a settlement and questioned whether discussion of a settlement was even appropriate.

Mr. Sprauer also discussed the issue of whether the exceedences were infrequent and minor. He suggested that, using the plain meaning of the words, the violations cannot be considered either infrequent or minor.

Chair Sykes asked whether Mr. Sprauer had talked extensively with Mr. Lilly and mentioned that Mr. Lilly devotes almost his whole summary to his opinion that the data collected at the Mingo residence is bad.

Mr. Sprauer answered that Mr. Lilly strongly recommends that noise data be taken at the Mingo residence and that Mr. Lilly could not reach the same conclusions as Mr. Standlee because he did not have data collected within 25 feet of the Mingo residence.

### **Permit Holder Rebuttal**

Mr. Collins agreed that the only offers to the complainants were made during January and that Mr. Mingo was not approached with an offer.

Mr. Condit spoke about the legal issues brought up during the complainants' testimony. He said that using the language of the statute is the best tool and that nothing in rule states that nighttime is most important. He said that, intuitively, noise is more disturbing at night but the statute gives no more weight to nighttime noise. He also said that no complaints were made at the time the permit was granted about what was required. He also said that what ODOE would do is irrelevant to how the County applies its own rule.

Mr. Theriault discussed noise-control regulations regarding licensing. In accordance with the law, the wind facility uses the highest of the default ambient or measured background level. For determining compliance, Mr. Standlee mentioned percentages of time that data showed exceedence versus how often the plant was operating. He said the question is not how often the plant exceeds the standard in a year. It's a more rigorous standard. He said that the data showed again, and again, and again how the turbines were turned off and on again. Mr. Standlee approved the summertime protocol and MTA conducted the study in terms of that protocol.

Chair Sykes asked whether MTA worked with Mr. Lilly when setting up the protocol. Mr. Sprauer replied that Mr. Lilly was not involved at that time.

Commissioner Nelson asked if they had an answer for the times when the baseline noise level was more than 10 dB above 36 dB.

Commissioner Wenzholz said that he sees a problem if the noise level is over 36 dB or ambient plus 10 dB when some of the time the ambient noise is above 36 dB.

Mr. Theriault said that in those cases the wind farm complied with the standard.

Commissioner Wenzholz then asked whether they were considering the times when they would not have complied and asked whether they were taking into account the baseline itself.

Mr. Theriault responded that yes, they were considering those instances and that Invenergy believes that, for example, at times at the Williams residence, the noise level may be above 36 dB when the ambient is below 26 dB.

Commissioner Rice asked for details about how long they collected data at each residence.

Mr. Theriault repeated the information included in the data submittal and summarized by saying that they had to draw conclusions from data collected. He said that of the hours when they anticipate an exceedence 30 to 40 percent occur at night.

### **Complainant Rebuttal**

Mr. Standlee repeated his problem with the way the data is being oversimplified. He addressed Mr. Theriault's comment about 30 to 40 percent of the exceedences occurring at night. He reiterated that they eliminated all the 4-a.m. to 6-a.m. hours because of birds. He reminded the Planning Commission that for part of the year the birds are not there but the turbines are. He said the data being gathered during the summertime was the only reason they could say the noise didn't exceed ambient because of the birds. He suggested looking at the specific hours that were in violation and analyzing the data to see "if we can tell what they're talking about. What's wrong with these hours?" He said there is confusion about whether the background was 24 dB and the total noise was 36 dB. If the background was 24 dB, total noise should be 34 dB and he didn't think they included that in their calculation of hours.

Chair Sykes asked for clarification about the last two paragraphs of the letter from John Hector.

Mr. Sprauer responded that he is suggesting that any time all of the problem conditions occur (wind speed and direction and time of day) Invenergy programs the turbines to turn off. He said that the complainants are not anti wind power. They are just trying to resolve the problem of not being able to sleep a significant amount of the time. He suggested that Invenergy be allowed to "make this right" and to have Mr. Standlee assist in developing a solution.

Mr. Standlee confirmed that he had communicated with Mr. Theriault about the measurement procedure. He said that he did not consider the 10-minute collection window a problem because he thought that would be the initial look. He said that the analysis was always a concern and that he and Mr. Theriault had not discussed that.

Mr. Sprauer reiterated that the Planning Commission should be considering the plain language of the statute.

Mr. Theriault said that Mr. Standlee speculates that if the noise study had been done sometime other than summer the ambient noise would have been less because birds and crickets would not have been present. He said that the analysis demonstrates that wind elevates the ambient noise level and that is not going to change.

Mr. Standlee said that measurements from 4 a.m. to 6 a.m. were not considered in the analysis and that the wind farm was not considered in violation during that time because of the birds.

Commissioner Nelson said that the PowerPoint showed the sound marker of the turbine and showed that the bird noise was higher than the turbines.

Mr. Theriault said that in some cases you can confidently separate the two, but there is always some judgement in data analysis. The only way to actually prove compliance is to compare noise levels with turbines on to noise levels with turbines off and it is not practical to do that, so they had to find another method.

Planning Director McLane requested that the PowerPoint presentations be supplied to the Planning Department. She also said that the two mailings from MTA and the PowerPoint presentations needed to be added to the record.

Counsel Swinburnson suggested that Planning Director McLane list what she has for the record and submit it to the attorneys to ensure that everything gets included.

Planning Director McLane referred to the comments about data collection at the Mingo residence and told the Planning Commission that Mr. Mingo was not one of the original complainants and that data collection at the Mingo residence done as a courtesy by Invenergy.

Chair Sykes said that they had to consider the complainants as a whole. No differentiation

Mr. Mingo said that the County sent Invenergy a letter requiring that data be collected at his residence.

Arman Kluehe, P.O. Box F, Ione, Oregon 97843

Mr. Kluehe said that he had been approached by a wind company for a noise easement for a farm that has not been built. He began tossing \$20 bills on the table and said that he comes to meetings and wonders if it is ever going to stop. He said that the County granted a conditional use permit for a wind farm without adequately considering the impacts. He said that the wind farm negatively impacted the view, noise, neighbors, and even the groundwater. He said that the County is turning farm land into industrial wind parks through conditional use permits. Wind farms don't make good neighbors. Good neighbors don't negatively impact neighbors. He said that the County needs to find a way to compensate people who live near wind farms and needs to consider the whole picture and the impact to people.

Commissioner Nelson said that Mr. Kluehe made a point that was not about the issue at hand, but that it was an excellent point that needs to be considered. He said that the permit is valid in that wind farms are a conditional use and the County is not bending the statute. He said that this issue is whether they are in compliance. If the Planning Commission decides that they are not, do we grant them an exception. He admitted that there were many things that were not considered in the original permitting process and that is why the Planning Commission is looking at the OAR. He also said that in deliberation he was not going to focus on anything outside the County statute. He suggested that the Planning Commission take all the information and really look at it and possibly collect fall data. He suggested that the Planning Commission talk about it at another meeting.

After discussion of what the real question was and the consequences of their decision, the Planning Commission agreed that, while they were not ready to make a decision, each time they continued the hearing, they received additional information before the next hearing and listened to more testimony at each hearing. Commissioner Nelson asked whether they could continue the hearing with the stipulation that everyone has the same information and that the Planning Commission will not take additional testimony. After discussion with Planning Director McLane and County Counsel Swinburnson, it was agreed that they could do that.

Commissioner Nelson moved that they continue the hearing for deliberation only to the April 27, 2010 meeting at the Heppner City Hall in Heppner with an earlier start time of 6:00 p.m. with the

deliberation to be held at the end of the meeting. Commissioner Rice seconded the motion. The motion carried.

Planning Director McLane suggested that the other items on the March agenda be tabled until some time in the future. She also announced that Devin Oil appealed the Planning Commission's decision on the Love's Travel Center conditional use permit to the County Court. That hearing will be held on the afternoon of April 7 when the County Court will also be hearing the Love's zone change request.

**Adjournment:**

The meeting was adjourned at 11:05 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, April 27, 2010, at 6:00 p.m. at the Heppner City Hall, Heppner, Oregon.

Respectfully Submitted,  
Mary P. Curry



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, April 27, 2010 6:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, Jim Key, Justin Nelson, Tucker Rice, Pamela Schmidt, David Sykes, Rod Taylor, Jeff Wenholz

Members Absent: None

**Morrow County Staff Present:** Carla McLane, Planning Director; Lori Timmons, Associate Planner

Pledge of Allegiance was recited.

The minutes of the March 30, 2010, hearing were provided with the Commissioners' packets. Commissioner Devin reminded the Planning Staff that his name was misspelled again. Commissioner Rice moved that the minutes be approved with that correction. Commissioner Taylor seconded the motion. Motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Land Partition LP-N-417: Threemile Canyon Farms, LLC, applicant and owner. The property is described as Parcel 3 of Partition Plat 2007-9. The property is located south of Interstate 84 and west of Tower Road. Zoning is Exclusive Farm Use (EFU), General Industrial, and Space Age Industrial. Criteria for approval include the Morrow County Subdivision Ordinance Article 5 Land Partitioning.**

Planning Director McLane presented the staff report. She clarified that the larger parcel is Parcel 1, (not Parcel 3) of Partition Plat 2007-9. The partition area is in the vicinity of the Portland General Electric (PGE) coal-fired plant. The 160-acre minimum lot size requirement will apply to this partition as it is in the EFU zone. The reason for the application is that PGE is planning for future expansion of their electrical generation facilities. Planning staff is not asking for additional access based on this action. Commissioner Rice asked what would happen if the electrical expansion fell through. Planning Director McLane said that they could decide to not complete the partition, but since the parcels meet the standards for farm parcels, no impact is expected if nothing happens with PGE

Opened the public hearing:

Testimony in favor:

Martin Myers, manager of Threemile Canyon Farms.

Mr. Myers said that this request is to enable the farms to transfer the land to PGE for the gas-fired facility they are planning. He mentioned that this land is not suitable for farming, and is,

therefore, a good fit for PGE's expected use. He also mentioned that a new PGE plant will offer additional employment opportunities to the County. The parcel's close proximity to Tower Road, makes the location ideal.

Testimony in opposition or neutral:  
No one spoke in opposition or neutral.

Closed the public hearing.  
Commissioner Wenholz moved to approve the application as presented. Commissioner Rice seconded his motion. Motion carried.

**Conditional Use Permit CUP-N-277, Michael Aippersbach and Associates, agent for Umatilla County Emergency Services, applicant, Mary Emert Ranches, Inc., owner. The property is described as Tax Lot 400 of Assessor's Map 1S 24. The proposed use is located 10,000 feet east of Gooseberry Road along an existing farm access road. Zoning is EFU. Request is to approve installation of a 340-ft communications tower and associated structures. Criteria for approval include Morrow County Zoning Ordinance (MCZO) 3.010(D)17.**

Commissioner Rice declared that he is avolunteer member of the Lone Rural Fire Protection District, he further declared that he, as a Planning Commissioner, will be able to be impartial regarding the decision to be rendered by the Planning Commission.

Planning Director McLane presented the staff report. She told the Commission that the planned communication tower, along with the others that have been applied for and approved by the Commission, is part of a long-planned upgrade to emergency communication capability for the area. The tower, being over 200 feet tall, is a conditional use in an EFU zone. The exact location of the proposed tower has not been determined, but is expected to be on Jordan Butte near the gas transmission line.

Opened the public hearing:

Testimony in favor:  
Michael Aippersbach, UCEM

Mr. Aippersbach said the essence of the project is to improve pubic safety communication in the lone area. The project also provides microwave links to the Boardman site and a site in Heppner. Based on early coverage predictions, Jordan Butte is an ideal site. Their first plan was for a 180-ft tower, but after some research they decided that proposed wind turbines would be in conflict, so they moved the proposed tower location. At this time, the wind turbine locations have been changed, which increases the options for the communication tower. He indicated that he hopes the application and staff report provide enough information for the Commission to make a decision tonight and he will not be required to provide additional details about the location at the May hearing. The only difference would be that they might not need FAA lighting if the tower does not need to be over 200 feet tall. Chair Sykes asked whether there would be interference with the gas line communication system. Mr. Aippersbach indicated that there would not be interference.

Sheriff Matlack, Morrow County Sheriff

Sherriff Matlack said the County has always had a communication problem. This tower would benefit the communication system greatly. Many entities would use the system, and at this time, there is zero communication ability in the general lone area. This tower installation would

cover the "dead spot" and he urged the Commission to approve the application. He further described how emergency services would be improved with the installation of this tower, as the current situation is a safety issue that it is imperative to be addressed. Sheriff Matlack indicated that he had talked with the landowner, Mary Emert, to urge her to allow the siting of a tower at the Jordan Butte area. He indicated that she was strongly in favor of the tower. She said that the wind company should work with the UCEM to find a good location for the tower.

Casey Beard, Emergency Management Director for Morrow County:

Mr. Beard said that the lone area has been the "Bermuda Triangle" of Morrow County communications and that siting this tower would fix that problem. He said the tower is a critical link in the larger statewide communication system. Additionally, finding funding for maintenance of the system will be easier to obtain with a complete communications web. He urged the Commission to approve the application.

Virgil Morgan, Lone Fire Chief

Mr. Morgan said there are presently a lot of "dead spots" in communication and this tower is needed, especially to cover Highway 74. He urged the Commission to approve the application.

Chris Brown, Oregon Department of Emergency Management; CSEPP Manager

Mr. Brown said he could reiterate what the others have said, and added that OEM has expressed an interest in the Jordan Butte site, which they could use in furthering their communication facilities. They believe they could co-locate the state facilities, and also work with the wind developer. Lone would definitely benefit communication-wise, and he reiterated how safety and emergency response would be enhanced.

Testimony in opposition or neutral:

Andrew O'Connell; 6007 NE 35<sup>th</sup> Avenue, Portland, OR.

Mr. O'Connell represents the wind developer in the area. His testimony is from a neutral position. He said that the problem is that the ridge where UCEM wants to put their communication tower is where he wants to put his best turbines in their wind facility project. He said he and the UCEM people have been working to find a location that works for all involved. He repeated that the proposed communication tower site is in his best wind power sites. He indicated that the wind developer has a lease with Ms. Emert. He provided the Commission with a map showing an alternative site for the communications tower where the turbines should not affect the communication beam. He stated that not being able to site the turbines would create an unacceptable wind energy dollar loss to the landowner and the company. He told everyone how much money the company has invested already, but also said that he is in favor of the project and that they do not plan on being unreasonable.

Commissioner Sykes asked about the communication process between UCEM and the wind developer. Mr. O'Connell said that so far they have not found a mutually acceptable alternative location.

Planning Director McLane clarified that this issue identifies two conflicts. One conflict is with the tower locations. The other conflict is the line-of-sight beam path from this communication tower to other communication towers. The beam path can't go through a set of turning wind turbine blades.

John Wilson, technical advisor for UCEM, the microwave technician

Mr. Wilson asked Mr. O'Connell a couple of questions regarding the map he provided. He also



asked Mr. O'Connell if they had ever requested a setback variance. Mr. O'Connell said they had not because he did not believe that the Energy Facility Site Evaluation Council (EFSEC) would agree to a setback variance. Mr. Wilson explained to the Commission how a tower transmits its information, and that it needs absolutely no interference in its line of sight from one tower to another. They need to stay away from blades, either to the side or over the tops. An ideal spot for such a tower will need to be tall enough to see other towers and not be interfered with. He believes there will be a way to find a suitable location for both interests.

Marv Padberg, 64746 Rhea Creek Road, Lone; adjacent landowner

Mr. Padberg said that, regardless of the location, it is near the Lexington airport, and he thinks it should be lit for safety purposes. He also said that he has an easement that predates the wind developer's that he plans to use for a tower to communicate with his irrigation circles. He wants to make sure the towers they put up will not interfere with his tower and will not exhaust the available electrical capacity.

Mr. Aippersbach said he has not yet had a chance to evaluate the maps provided by the wind developer. He asked the Commission to provide at least tentative approval for his project at this hearing, then UCEM and the wind developer can work to find a mutually acceptable location the tower. He said the details could be worked out tentatively and then meet the requirements when they get their zoning permits. Chair Sykes asked what the advantage was of not waiting until the parties come to agreement. Mr. Aippersbach said timing is the issue. Funding could be lost if the project does not commence soon.

Mr. Beard agreed that time is critical because CSEPP funding will end when the Umatilla Army Depot finishes its mission and because supplemental funding for a closed-loop circuit would be easier to pursue once this project is approved.

Closed the public hearing:

Commissioner Rice asked Planning Director McLane what the mechanism would be to allow them to approve the project with all the variables still undecided. She said they could approve the project on Jordan Butte. She also reminded them that UCEM does not yet have a signed lease. The Commission may want to have a condition that the parties come to an agreement on a particular site. Chair Sykes said that, as time goes by, it will become more and more critical to have the better communication ability. Commissioner Nelson said he doesn't like competing leases. He thinks there needs to be some specificity and he prefers to have a set plan. Commissioner Rice asked whether, if the Commission agrees to the proposal contingent on an agreed-on site, the Planning Director can make the rest of the decisions? Planning Director McLane said that, when the Planning Department issues a zoning permit for a cell tower, the applicant needs to provide a signed lease from the property owner. No permit will be approved until there is a signed lease. Commissioner Taylor asked how many feet difference there is from the UCEM proposed location to the wind company's turbine and wondered whether they could stipulate that distance in the conditions of approval.

Commissioner Wenzholz reminded the Commission that the decision is a land use decision for a tower, and no location is specified as part of the request. He thinks the land owner will force the two entities to come up with a specific location. Commissioner Key moved to approve the application as presented. Commissioner Wenzholz seconded the motion. Commissioner Nelson asked whether not specifying the location was usual or unusual. Planning Director McLane said it is usual until the zoning permit is issued, then the specific location is given as part of the signed lease. The motion carried.

**Comprehensive Plan Amendment AC(M)-023-10, AC-024-10, and AZ(M)-025-10: Marty Britt, applicant and Sidney R. and Randy Rae Britt, owners. Property is described as Tax Lot 1400 of Assessor's Map 1N 27 and is located about 3 miles south of Pine City along Big Butter Creek Road. The property is zoned EFU. Request is to amend the Comprehensive Plan to include a Goal 5 significant aggregate site to Morrow County's list of significant aggregate sites and approve mining, also to amend the Comprehensive Plan and Zoning Ordinance Maps to include the site within the Significant Resource Overlay Zone.**

Planning Director McLane reminded the Commission that the packets contained a memo regarding aggregate. The memo explains the difference between previous aggregate applications and the two applications before them at this hearing. She guided the Commission about the process to make a decision for an aggregate site that is proposed to produce greater than 500,000 tons of material. Commissioner Wenholz added that the Commission can find that a site is "significant" but not allow mining based on the inability of the conflicts to be mitigated. There were two communications regarding this application: one from the Department of Land Conservation and Development (DLCD) aggregate representative, Amanda Puntun, and one from an adjacent landowner.

Associate Planner Timmons presented the staff report. She shared that an initial staff report was produced for the Notice of Amendment to DLCD. This staff report is an expansion of that initial report to DLCD. For the determination of significance, several documents are attached that outline the requirements established by DLCD for quantity, quality, and location.

Associate Planner Timmons reviewed the applicable criteria in Section II and shared that these criteria come from various sources: our local plans and ordinances as well as state statute and rule. Ms. Timmons provided an overview of the staff evaluation of the criteria. Ms. Timmons also called the Planning Commission's attention to the portion of the staff report where significance is discussed. The next discussion covered conflicts and the analysis that leads to determining whether conflicts exist and whether any conflicts affect neighboring land uses. Based on the remote nature of the proposed site, Planning staff found the only potential conflict to be dust, which can be easily controlled and is conditioned. Ms. Timmons next discussed the difference in the decision between whether mining is approved or how mining is accomplished. She then reviewed the Conditions of Approval as recommended by staff.

Opened the public hearing:

Testimony in favor:

Marty Britt, 1850 SSE Airport Road, Hermiston, OR: Applicant.

Mr. Britt shared some background on how the family decided to move forward with this application, conversations with Public Works and ODOT, and the access easement they have obtained from their neighbor. Their interest initially was in aiding wind development.

Testimony in opposition or neutral:

None.

Closed the public hearing:

Commissioner Rice inquired about the comments from the DLCD representative. Staff clarified Ms. Puntun's concern regarding this application. The application conditioned that there be no

residential uses allowed within the 1,500-foot impact area. The concern was that this condition was not adequately discussed within the staff report analysis. Planning Director McLane indicated that there will be communication with the DLCDC representative and further clarification in the staff report at the next Planning Commission hearing.

Commissioner Rice moved that the Planning Commission deem the site significant. Commissioner Wenholz seconded the motion. Motion carried. The Planning Commissioners concurred that the only conflict could be dust. Commissioner Wenholz moved that the hearing be continued to May 25, 2010, at the Port of Morrow Riverfront Center in Boardman. Commissioner Docken seconded the motion. The motion carried.

**Comprehensive Plan Amendment AC-026-10, AC(M)-027-10, and AZ-028-10: Willow Farms, LLC applicant and owner. The property is described as Tax Lot 1401 of Assessor's Map 2N 23 and is located approximately 3 miles north of Cecil on Ewing Road. The property is zoned EFU. Request is to amend the Comprehensive Plan to include a Goal 5 significant aggregate site to Morrow County's list of significant aggregate sites and approve mining, also to amend the Comprehensive Plan and Zoning Ordinance Maps to include the site within the Significant Resource Overlay Zone.**

Associate Planner Timmons summarized the significant aspects of the staff report, including the substantive criteria. She explained that portions of the analysis was done by a planning consultant for the applicant. She said that staff concurred with that analysis and referenced the applicant's report in the staff report rather than repeating the information. The analysis concluded that dust would be the only conflict, and it could be mitigated by normal dust control measures.

A letter was received from adjoining land owners Mike and Sherry Eaton and Dan Williams and Heide Hartman. An e-mail from DLCDC representative Amenda Punton also was mentioned.

Opened the Public Hearing:

Testimony in favor:

Mark Zoller, 2142 SE 12<sup>th</sup> Avenue, Camas, WA, applicant.

Mark Zoller shared some background on the development of the site. The site had been used for the development of the Invenenergy wind facility in 2008. The onsite graveled roads are 24 feet wide, and the access to Highway 74 has an approved ODOT access permit. A permit is in place from the Oregon Water Resources Department to use Willow Creek water for dust abatement. The farm also has a water truck available for dust abatement. They do not currently have a purchaser for the rock, but they are willing to entertain options. The facility and the 1,500-foot buffer area are entirely on the applicant's farm. The site is secluded, but is easily accessible using the road network constructed on the farm for Willow Creek Wind. They are taking a long-range approach to this site and believe that this source can provide benefit for many years. There may be use for future wind farm development or road development by either the county or ODOT. The applicant is comfortable with the conditions identified and are willing to work to mitigate impacts to adjoining land uses.

Testimony in opposition or neutral:

None.

Closed the public hearing:

Commissioner Rice moved to deem the site significant. Commissioner Taylor seconded the motion. The motion carried.

After some discussion, the Commissioners reached consensus that they would like planning staff to take a look at the additional potential conflicts raised in the letter from the adjoining land owners (noise, traffic, dust, wildlife, and vibration) and provide additional analysis of these conflicts for the next hearing.

Commissioner Key moved that the hearing be continued to the May 25, 2010, meeting at the Port of Morrow Riverfront Center in Boardman. Commissioner Schmidt seconded the motion. The motion carried.

**Continued from March 30, 2010: Review of Condition of Approval 1 of Conditional Use Permit CUP-N-213: Invenergy, owner of the subject wind energy project. Subject property is approximately 3,000 acres north of Cecil, Oregon located west of Highway 74 at approximately milepost 10 and is zoned EFU. The Planning Commission will be deliberating on testimony received at the January 19 and March 30, 2010, hearings regarding noise studies to determine compliance with Condition of Approval 1 of the subject Conditional Use Permit.**

Planning Director McLane told the Commission that Invenergy has requested a continuance both because they are trying to reach an agreement with the complainants and that because Invenergy's principal representative for the review process had a death in his family. Commissioner Schmidt moved for a continuance. Commissioner Key seconded the motion. After a short discussion the Commission voted. Motion carried.

Audience Participation:  
none

Other Business or Correspondence.

- The new Planning Commission contact list has been updated. Planning Director McLane asked the Commission to make sure all of the information is correct.
- Planning Director McLane updated the Commission on the PowerPoint presentation at the Boardman Chamber on March 17<sup>th</sup>. The presentation identified the current energy projects in Morrow County. There was information on the Energy facilities, transmission projects, and other considerations such as the business energy tax credit, and other things having to do with wind power.
- Planning Director McLane participated in the Northwest Environmental Business Counsel panel on wind energy. Her presentation covered local siting issues. She will be participating on another panel about wind in Hood River in May.
- Planning Director McLane addressed the FAA determination against wind facilities. The April 27 meeting in Lone covered the FAA notification of a presumed hazard that precludes any construction of wind towers above ground level. The FAA sent a notification form for every turbine. They had approved the turbines in 2007 and were reversing themselves in the name of national security. The form states that structures of "any height exceeding 0 feet above ground level (in the case of the example turbine, 858 ft above mean sea level)" are prohibited.

- Planning Director McLane reviewed the actions around the Love's Travel Stop. The County Court is in the adoption process. She anticipates that Devin Oil will appeal the decision to LUBA. The Planning Commission's decision on the Conditional use Permit was appealed. The County Court affirmed the Planning Commission's decision and added some conditions of approval. They sign the order on Wednesday, April 28, 2010, and Planning Director McLane expects that decision to be appealed to LUBA as well.
- The County has hired a new Associate Planner, Layne Womack from Douglas County to replace Lori Timmons. She has a degree in Planning and an internship in Douglas County. Her start date will be by May 17<sup>th</sup>. There will be a celebration at the next Planning Commission hearing on May 25, 2010 in Boardman. Dinner will be at 6:00 p.m., 1 hour before the hearing at 7:00. Cake and ice cream will be served after the meeting.
- Planning Director McLane said that she would like to conduct a Transmission Summit for the Planning Commission. She would invite the Transmission stakeholders for input from the Commission and have a conversation about utility corridors and a way to make future transmission facilities easier to site in the county. The Commission discussed possibilities of containing development. This can conflict with personal property rights.
- Commissioner Wenzholz brought up the issue of the odor from the chicken manure used as fertilizer in organic farming operations. Planning Director McLane explained that, yes, the manure stinks, but it is an allowed farming practice and the County has no jurisdiction. She said that most people probably are calling the Department of Environmental Quality, but that the Planning Department is referring complainants to the Oregon Department of Agriculture, which is the only entity with the authority to regulate the practice.

**Adjournment:**

Meeting was adjourned at 9:42 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, May 25, 2010, at 7:00 p.m. at the Port of Morrow Riverfront Center, Boardman, Oregon.

Respectfully Submitted,  
Lori Timmons



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, May 25, 2010 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, Jim Key, Justin Nelson, Tucker Rice, Pamela Schmidt, David Sykes, Rod Taylor,.

Member Absent: Jeff Wenholz.

**Morrow County Staff Present:** Carla McLane, Planning Director; Lori Timmons, Associate Planner; Layne Womack, Associate Planner.

Pledge of Allegiance was recited.

The minutes of the April 27, 2010 hearing were provided with the Commissioners' packets. Commissioner Rice indicated that he was a volunteer fireman for lone. He also stated that he believes that Mr. O'Connell's testimony was from a neutral position, not in opposition. Commissioner Sykes also mentioned that his concern in the testimony about the gas pipeline was about the communication system along the pipeline. The minutes seemed to indicate that Commissioner Sykes had asked about the gas pipeline, not the data relay system. Commissioner Sykes's question was about the data relay system, not the gas pipeline. Commissioner Schmidt made a motion to approve the minutes with the changes mentioned. Commissioner Docken seconded her motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Comprehensive Plan Amendment AC(M)-023-10, AC-024-10, and AZ(M)-025-10: Marty Britt, applicant, and Sidney R. and Randy Rae Britt, owners. The property is zoned Exclusive Farm Use (EFU), described as Tax Lot 1400 of Assessor's Map 1N 27, and located about 3 miles south of Pine City along Big Butter Creek Road. Request is to amend the Comprehensive Plan to include a Goal 5 significant aggregate site to Morrow County's list of significant aggregate sites and approve mining, also to amend the Comprehensive Plan and Zoning Ordinance Maps to include the site within the Significant Resource Overlay Zone. Criteria for approval are found in the Morrow County Comprehensive Plan (MCCP) Review and Revision Process and the Morrow County Zoning Ordinance (MCZO) Article 8 Amendments.**

Planning Director McLane presented the staff report and explained the changes that were made since the April 27, 2010, hearing. The cover memorandum included with the amended staff report in the packet details the changes. The Planning Director then reminded the Commission about the recommendations that need to be made to the County Court. The Commission was then asked to finish the recommendation items for the Court deliberations.

Opened the public hearing.

No one spoke in favor, neutral, or in opposition.  
Closed the public hearing.

Commissioner Rice moved that, with County Court concurrence, the site be listed as a significant site in the Comprehensive Plan. Commissioner Key seconded his motion. The motion carried.

**Comprehensive Plan Amendment AC-026-10, AC(M)-027-10, and AZ-028-10: Willow Farms, LLC applicant and owner. The property is zoned EFU described as Tax Lot 1401 of Assessor's Map 2N 23, and located approximately 3 miles north of Cecil on Ewing Road. Request is to amend the Comprehensive Plan to include a Goal 5 significant aggregate site to Morrow County's list of significant aggregate sites and approve mining, also to amend the Comprehensive Plan and Zoning Ordinance Maps to include the site within the Significant Resource Overlay Zone. Criteria for approval are found in the MCCP Review and Revision Process and the MCZO Article 8 Amendments.**

Planning Director McLane presented the staff report and explained the changes made since the April 27, 2010, meeting. The Commission had asked for more information regarding the letter from persons who had submitted a letter regarding noise, vibration, wildlife, water, and dust. Staff sent a letter to the senders asking for additional comment. At the time of this hearing, no comment had been received.

Opened the public hearing.

In favor:

Mark Zoller, applicant:

Mr Zoller recognized the changes to the staff report and agrees with them. He said that it seems like the issues brought up at the last hearing had been addressed, and he asked the Commission to approve the application.

In opposition or neutral:

Dan Williams, Highway 74, lone:

Mr. Williams was one of the senders of the letter. He said sleeping so near to a crusher is impossible. He said there is an existing noise problem with this property, but now that they know a crusher will be there, it is unacceptable. He said that the crusher was a nuisance when it was there as a temporary use the last time the site was active. Now they are absolutely against a crusher as an allowed use. He also indicated that the vibration was not acceptable. He believes that water would be an issue, but wouldn't get too involved with the traffic problem because he couldn't quantify it. He feels there is plenty of gravel around, including Gilliam County's gravel for their port project that got shut down and the aggregate pits along the Highway 74 corridor in the area. He also mentioned that having an aggregate site in a scenic byway was not acceptable. He is also concerned about the draw (canyon) containing overburden from the earlier project that he believes has not been removed or even discussed. He recommended that if the aggregate site is allowed, he would like to have Kerry Standlee hired and his two lots and his house monitored for noise nuisance. He said his experience has been a long process and he isn't interested in getting "hammered" again. Commissioner Sykes asked the distance from his house to the proposed pit. Mr. Williams said about 3/4 mile to the aggregate site. He wanted to also make clear that the noise he experienced the previous time was from the crusher. Commissioner Docken asked about the hours of operation for the previous crusher. Mr. Williams indicated that at that time they operated at all hours. Commissioner Docken asked about the dust blow from the original quarry. Mr. Williams said

that there had been some dust on the severe windy days, and they did make complaints in the past.

Commissioner Schmidt asked what the hours of operation would be for this use. Planning Director McLane said that the hours of operation are written on Page 3 of the findings. Mr. Williams asked what the noise level allowed for a crusher is. Planning Director McLane said that it is an industrial standard and that it is in statute. Commissioner Docken asked staff what the County requires for dust abatement. Planning Director McLane said that the operators have to mitigate for dust as required by their permit. Commissioner Docken then asked what happens to the dust abatement requirement when the quarry is no longer operating. Planning Director McLane said that the requirement for dust abatement remains when the quarry is not operating. Commissioner Docken asked Planning Director McLane to reiterate the water right for the Commission.

Mike Eaton, Highway 74, nearby resident:

He said he lives about 1.5 miles from the site and wanted to comment about the dust problem. During the previous operation, there was a lot of dust at their house. He also was concerned about the overburden in the draw and the noise. He was prepared to guarantee that the noise would exceed the industrial noise standards.

Dave Mingo, nearby resident:

He said that he was the foreman during the Invenergy project. He confirmed that the noise and dust were from the crusher. He said the overburden pile, which is about 14 feet tall, needs to be taken out of the canyon. He also is concerned about traffic and noted that a school bus was almost hit by a gravel truck during the site's previous operation.

Rebuttal

Mark Zoller:

The operation is covered in rock at the moment but the ground above is fallow wheat ground, which he said has the potential to produce more dust at the moment than the quarry. He does not have any contractors or contracts for rock at the moment, but if they did have a contract, they would hire reputable contractors to operate the quarry. The contractors would be required to adhere to the conditions of approval. He would not plan to operate 24 hours a day. They would do everything they can to be good neighbors. They expect to approach the county as a client and he believes that noise would be addressed as the law allows. He mentioned that the residents who commented didn't say anything to him personally, but he plans on doing things right.

Dave Mingo:

He asked Planning Director McLane who came out after the complaint for the dust. He asked who would monitor the dust problem when it occurs. Planning Director McLane said that DOGAMI will monitor and will respond to complaints and alleged complaints against the DOGAMI permit. Chair Sykes asked Planning Director McLane if there is any reason to believe that this rock operation would be different from any other approved aggregate site at this location. She replied that there was none.

Dan Williams:

He said that he appreciates Mr. Zoller trying to mine rock. He wants to know how the noise problems will be addressed at his property. Commissioner Sykes said they have already spoken regarding this particular issue.



Closed the public hearing.

Planning Director McLane said that, under the noise control standards for industry and commerce, there are set noise levels. Commissioner Nelson indicated that, if there are issues, and there are, he recommends that the Planning Commission make another condition of approval that would require the operation meet the commercial standard for noise. Commissioner Nelson also stated that, since this is a potential ongoing issue, it should be dealt with by the Commission. Commissioner Schmidt concurred. County Counsel Swinburnson said that, if there are OARs, the applicant would also be required to adhere to them. If the County makes a condition of approval, then the County becomes the enforcer. Commissioner Nelson said that, yes, that may be true but passing the buck to DEQ would only place enforcement into limbo. He believes that the County, needs to be the enforcer in this situation. He recommended that the County find an answer, to which Planning Director McLane said that it is a DEQ rule that is not enforced. She recommended that the Commission follow Counsel's recommendation. Commissioner Rice said that the County isn't any better off with staff regarding noise experts and enforcement. She said that DOGAMI would be a better enforcement body than the County. Associate Planner Timmons commented that Ben Mundie, for DOGAMI enforces reclamation issues, not necessarily noise and the operation of a crusher. Carla said enforcement of an aggregate site permit would depend on what part of each permit would best be used by the complainant. The Commission then discussed how a complainant would file a complaint against a DOGAMI permit and enforcement and what part of what permit would be violated and who would enforce the permit. Commissioner Rice said that, if we include an unenforcible condition regarding noise, it would not be good. Commissioner Nelson said that the burden would be on the complainant to keep track of noise levels. Commissioner Rice asked to see a DOGAMI permit to tell whether it has language regarding noise. Commissioner Key said that he thinks the subject site meets the requirements of the 1500-foot buffer area.

Commissioner Key moved for approval and Commissioner Taylor seconded his motion. A roll call vote was taken. Commissioners Key, Rice, Devin, Taylor and Sykes voted aye. Commissioners Nelson, Schmidt, and Docken voted no. The motion carried.

**Land Partition LP-N-418: Hale Farms, LLC, applicant and owner. The property is described as Tax Lot 115 of Assessor's Map 4N 24. The property is zoned Air Industrial and is located south of Interstate 84 and west of Tower Road. Criteria for approval include the Morrow County Subdivision Ordinance Article 5 Land Partitioning.**

Planning Director McLane presented the staff report. Commissioner Taylor asked about the easement problem regarding Tower Road. Planning Director McLane said that they would be accessing Tower Road from north of the 150-ft easement.

Opened the public hearing.

No one spoke in favor, neutral or in opposition of this application.

Closed the public hearing.

Commissioner Rice moved for approval and Commissioner Devin seconded his motion. The motion carried.

**Subdivision SD-N-221: Cecil and Nancy Swaggart, applicant and owner. Property is described as Tax Lot 1200 of Assessor's Map 4N 25 14. The property is zoned Farm Residential (FR) and is located approximately 2 miles southeast of Boardman near the intersection of Wilson Lane and Rippee Road. Request is to amend Condition of Approval 10 to allow road construction at a reduced standard until a minimum number of lots are sold. Criteria for approval are contained in the Morrow County Subdivision Ordinance.**

Planning Director McLane presented to the Commission the reason that the Swaggarts are asking for a change to the pavement standard for their subdivision. They would like to be able to sell the first six lots before completing the asphalt. Commissioner Nelson asked what the Commission would be doing as far as this request. Planning Director McLane said that they would be amending Condition of Approval 10 to allow this. The County has not allowed a phased development such as this yet, and allowing it would be setting a precedent.

Opened the public hearing.

Testimony in favor:

Nancy Swaggart: applicant

Mrs. Swaggart explained the reason for their request, which is their inability to afford pavement at this time. Their proposal is to pave after they have generated some revenue by selling the first six lots.

No one spoke neutral or in opposition.

Closed the public hearing.

Commissioner Schmidt moved to amend condition of approval 10 to allow the phased development as discussed—road to a rural access II standard until they sell six lots, at which time they will pave the whole road. Commissioner Taylor seconded her motion. Commissioner Nelson reminded Staff and the Commission that this precedent would open the door to completing all subdivisions in this manner based on economic conditions when they meet the less-than-10-lot criterion. A roll call vote was taken. Commissioners Key, Rice, Devin, Taylor and Sykes voted aye, Commissioners Nelson, Schmidt, and Docken voted no. The motion carried.

**Continued from March 30, 2010: Review of Condition of Approval 1 of Conditional Use Permit CUP-N-213: Invenergy, owner of the subject wind energy project. Subject property is approximately 3,000 acres north of Cecil, Oregon, located west of Highway 74 at approximately milepost 10. Zoning is EFU. The Planning Commission will be deliberating on testimony received at the January 19 and March 30, 2010, hearings regarding noise studies to determine compliance with Condition of Approval 1 of the subject conditional use permit.**

Commissioner Taylor recused himself from this proceeding and left the room.

Planning Director McLane recapped the activity on this request through the January, February, and March hearings. At this point, the public hearing is closed and no new information will be taken. The Commission may question staff to clarify points but not to elicit new information. Commissioner Docken requested that Planning Director McLane read Condition of Approval #1, the subject of this proceeding. Discussion was suspended while Commissioner Nelson

retrieved his copy of the original permit. When Commissioner Nelson returned, the meeting was called back to order.

Planning Director McLane read the original Condition of Approval #1 that required compliance with the noise rule.

Commissioner Rice said there is a fairly large difference between the two noise studies. He said that it is hard to choose, being that they are not experts. He suggested that there be a third study by an impartial entity. Even though there would be more money and time involved, it would be worth it.

Commissioner Schmidt concurred with Commissioner Rice. She said that she is not able to reach a conclusion about who has provided accurate information and she can't make a decision.

Commissioner Rice said it is too hard to bridge the gap between the two sets of information and make a proper decision.

Commissioner Nelson said that what stood out to him was that Invenergy's study said the noise limit was exceeded although they said it was infrequently. He said that he sees a violation and there is an issue, and the condition has been violated.

Commissioner Rice asked what the steps are for an appeal if the losers in this case wanted to appeal the Commissioners' decision. County Counsel Swinburnson said that the County Court would get to hear the appeal whatever aspect was appealed. Counsel Swinburnson told the Commission that they would also need to apply a remedy for the situation.

Planning Director McLane said they need to find whether the windfarm is in compliance, and what the remedy should be. She reminded the Commission that they have the ability to look at the separate locations and make a determination regarding a remedy for each one.

Commissioner Rice said that at this stage, he doesn't recommend a third study. Commissioner Key said he believes the Condition has been broken. He thinks it is necessary to say the Condition has been exceeded. Commissioner Sykes said that the ambient standards allow for noise exceeding the ambient background.

Commissioner Nelson requested a few minutes break to make a telephone call. The Commission suspended deliberation for 5 minutes. When Commissioner Nelson returned, he informed the Commission that he had to leave, but delayed his departure until after the vote. Commissioner Docken moved that Invenergy is in violation of the Condition. Commissioner Schmidt seconded the motion. Commissioner Rice moved to amend the motion to say that Invenergy has 6 months to fix it. Commissioner Devin seconded the motion. A roll call vote was taken on the amendment. Commissioners Rice, Key, Schmidt, Devin, and Sykes voted aye. Commissioners Docken and Nelson voted no. The motion carried. A roll call vote was taken on the original motion that Invenergy is not in compliance. Commissioner Nelson cast the only no vote. The motion carried. No further actions were taken. Commissioner Nelson then departed.

**Audience Participation:**

none

**Other Business or Correspondence:**

Planning Director McLane presented the articles in the packets: Planning Commission training articles: "What is the Planning Commissioner's Role in Educating the Public," "Future Housing Demand," and "Drafting Clear Ordinances: Do's and Don'ts. "

**County Court Activities:**

The Love's Travel Stop conditional use permit has been appealed by Devon Oil.

**Wind Energy Presentations:**

Planning Director McLane referred to the memo that she provided to the Commission with their May packet; this information is covered there.

Planning Director McLane passed out a PowerPoint presentation that she gave at a Future Energy Conference held in Portland on April 22, 2010.

**Temporary Workforce Housing:**

The southern cities have convened a workforce in the southern part of the County to address housing. The County has gotten involved. The urban growth boundaries of the cities have been a challenge. The Commission discussed the problem of the ability for development in Heppner.

Planning Director McLane recapped the discussion with DLCD representative Jon Jinnings at the April and May Planning Directors' meeting to address siting temporary recreational vehicle parks on farm land to accommodate worker housing for a large rural project

**Adjournment:**

Meeting was adjourned at 10:20 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, June 29, 2010, at 7:00 p.m. at the Heppner City Hall, Heppner, Oregon.

Respectfully Submitted,  
Lori Timmons



# PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

## Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, June 29, 2010 7:00 p.m.

**Morrow County Planning Commissioners Members Present:** Jim Key, Pamela Schmidt, David Sykes, Jeff Wenholz

**Members Excused:** Tucker Rice, Pamela Docken, Mifflin Devin, Justin Nelson, Rod Taylor

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner

Pledge of Allegiance was recited.

The minutes of the May 25, 2010 hearing were provided with the Commissioners' packets. As a quorum was not available, the minutes of May 25, 2010 will be reviewed at the July 27, 2010 meeting.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

### **WORK SESSION:**

#### 1. Recreational Vehicles—Changes to General Industrial, Conditional Use Permit, and other pertinent articles within the Morrow County Zoning Ordinance

Planning Director McLane shared the LCDC temporary rules allowing development of campgrounds and RV Parks on farm land in support of large rural projects. Director McLane informed the Commission that the Willow Creek Valley Economic Development Group (WCVEDG) had concerns with temporary housing, which lead to proposed changes to the Zoning Ordinance pertaining to RV Parks, General Industrial Zone (MG) and various other parts. Commission Chair Sykes was concerned an RV Park at the old mill site in Heppner may sway other businesses from locating at the mill site. Director McLane informed the Commission of definitions that needed to be updated along with clarifications in our code. The Commission wants the complete update to RV's submitted to DLCD.

#### 2. Renewable Energy Siting—Is there a need to change our criteria, standards, and process?

Director McLane informed the Commission that Wind Energy is allowed conditionally on Resource land by state statute. There are people out there that want Morrow County to change the siting requirements. Morrow County Zoning Ordinance provides the necessary framework, the county needs to change the process, not the code.

Director McLane discussed the Association of Oregon Counties Wind Energy Task Force Report and Recommendations, which is a complete look at how permitting of wind facilities

under 105 MW can and should be sited at the county level. Carla specifically discussed the requirements contained within the AOC report that could and should be included in a complete application for energy facility siting. We already ask for many of the items, some we need to be more specific about, and a couple need to be evaluated based on the project.

The Director then discussed the Oregon Columbia Plateau Ecoregion Wind Energy Siting and Permitting Guidelines which address habitat and species concerns. The Director discussed in detail the ODFW Habitat Categories and Mitigation Goals and Standards table included in the publication.

Another document briefly discussed was a publication from the law firm Stoel Rives, "The Law of Wind: A Guide to Business and Legal Issues".

The final publication discussed was published by the USFWS titled "Wind Turbine Guidelines Advisory Committee Recommendations to the Secretary".

The last piece discussed regarding Wind Energy was regarding Conditional Use Permit criteria that we apply to a energy facility request.

The discussion concluded with a consensus that our code provides the necessary framework, but that we need to get better at the questions we ask.

### 3. Updates to the Park Master Plan, Comprehensive Plan Recreation Element, and the Parkland Overlay Zone

Director McLane informed the Commission that the Parks Committee has finished the update to the Park Master Plan, which in turn triggers the need for an update to the Recreation Element of the Comprehensive Plan and a need to apply the Parkland Overlay to the OHV Park. There was consensus to submit the necessary paperwork to the DLCD and to start the hearings process.

### 4. Update, update, update—Where to begin?

Director McLane instructed the Commission to begin to think about where the update needs to begin; Comprehensive Plan or Zoning Ordinance. The Comprehensive Plan is the guiding document of the Planning Department, and needs to be updated completely. The Zoning Ordinance needs to be updated to allow smoother processes; ie: Devin Oil appeals. The Comprehensive Plan is a big document and a "work program" may need to be outlined to give direction to planning staff. The Commission was given options of whether they would like this update to be held in full Planning Commission meeting times, or to start off with subcommittee or technical advisory meetings. More on this topic is to be discussed at the follow up work session special meeting at the Port of Morrow in Boardman, September 14, 2010.

#### **Audience Participation:**

All audience members had departed.

#### **Other Business or Correspondence:**

##### County Court Activities

Planning Director McLane informed the Commission of ZeaChem Groundbreaking activities, and County Court reviewing the Britt Aggregate Site.

Energy Facility Siting Council Projects

The EFSC denied the most recent ONDA petition; another victory for counties.

Anticipated Local Energy Projects

Director McLane informed the Commission about Buttercreek and Mariah Wind projects.

**Adjournment:**

Meeting was adjourned at 10:45p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, July 27, 2010 at 7:00 p.m. at the Port of Morrow Riverfront Center Boardman, Oregon

Respectfully Submitted,  
Layne Womack



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, July 27, 2010 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, Jim Key, Tucker Rice, David Sykes, Rod Taylor, Jeff Wenholz

**Members Excused:** Pamela Schmidt

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner; Ryan Swinburnson, County Counsel

Pledge of Allegiance was not recited as no flag was available.

The minutes of the May 25 and June 29, 2010, hearings were reviewed. Commissioner Wenholz identified a small typographical error in the May 25 minutes then moved to approve the minutes with that small change. Commissioner Taylor seconded his motion. The motion carried. Commissioner Rice made a motion to approve the June 29 minutes as presented. Commissioner Wenholz seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Conditional Use Permit CUP-N-280: Loren and Della Heideman, applicants and owners. The property is described as Tax Lot 3500 of Assessor's Map 2N 23. The property is located off Fairview Lane 2 miles west of Cecil, Oregon and is zoned Exclusive Farm Use (EFU). Request is to approve a private temporary campground for construction workers. Criteria for approval include Morrow County Zoning Ordinance (MCZO) 3.010(D)(13) and Temporary Administrative Rules Regarding Private Campgrounds on Lands Planned and Zoned for Exclusive Farm Use, Oregon Administrative Code (OAR) chapter 660-033-0130(19).**

Planning Director McLane discussed the background to the temporary rules regarding temporary worker issues and the changing regulation to be able to approve this kind of CUP. DLCD recognized the need and quickly moved the draft rules through adoption. The Planning Director then presented the staff report. Commissioner Wenholz asked if the campground would comply with the solid waste ordinance. Good question. Not as a self-hauler. The Planning Director shared a letter from a neighbor, Vic Jansen, in support of the campground. Commissioner Rice asked if these temporary rules only apply in Exclusive Farm Use Zones. Director McLane said yes because that is where these wind energy projects are taking place. Commissioner Rice then asked if these are only for energy facilities. Director McLane said the way the temporary rule is written, yes. Commissioner Sykes said this will probably be the first of many others like this. Commissioner Sykes asked if the solid waste ordinance was being followed. Commissioner Taylor asked if there are any state laws regarding disposal of sewage or solid waste. Commissioner Sykes then informed staff that they were talking about sewage, not solid waste. Commissioner Sykes said the Commission needs more information.



Commissioner Wenholtz asked if this falls under a community water system and stated that a personal well is for personal use. He question if this is permitted. Director McLane said that it can be categorized as a community well after 3 wells, but Oregon Water Resources Department don't even look at them until about 25 wells. This can be a Condition of Approval, but not a lot will happen. Commissioner Wenholtz stated that he would like it put in as a Condition of Approval. Commissioner Rice asked who enforces this. Director McLane said that Oregon Department of Human Resources Drinking Water Division does, not the County. Commissioner Wenholtz asked if this is complaint driven. The Planning Director said that it is.

Opened the Public Hearing.

Testimony in favor: Loren Heideman, landowner/applicant. He stated that the sewage is being pumped with his own truck and hauled to Arlington, that the trash will be picked up, and that water is water that everybody uses.

Commissioner Wenholtz asked if he is licensed to dispose of the sewage. Commissioner Wenholtz stated that he needs to have a DEQ permit. Heideman said that he is allowed to dispose of the sewage in Arlington.

No one in neutral or in opposition spoke.

Closed the public Hearing.

Commissioner Wenholtz stated that there should be an added Condition of Approval for a septic system. Director McLane said that they should be compliant with the rules, make sure it is done correctly but the bar shouldn't be so high that its hard for applicants to meet. The Planning Department doesn't want to ask for infrastructure because this is temporary. Commissioner Wenholtz asked if this is the same as for residential. Director McLane said that the City of Arlington is accepting the sewage, so that is between the applicant and the City. Commissioner Taylor said the Condition of Approval should say "legal disposal". Commissioner Docken asked if he already had trailers out there. The applicant stated that he already has 3 trailers out there, but does not think he has enough power for more than 4. Director McLane stated that the planning Department has been working on this with the Heideman's for awhile now, and that these temporary rules will be permanent rules in the fall. Commissioner Docken asked that since this type of application is new, we need to know who enforces everything. Commissioner Taylor stated that the wording should be fixed to say "legal disposal". Commissioner Rice said that should be put it in the Conditions of Approval. Director McLane informed the Commission that the department noticed DEQ, but they didn't make any comments. Director McLane recommended that the applicant either provide evidence that he is licensed to dispose of it or that the City of Arlington is willing to accept the sewage. Commissioner Docken asked if Fairview Road was graveled. The applicant said that it is all the way to Arlington. Director McLane recommended the Condition of Approval be changed to say "disposed of the sewage by the applicants or a licensed hauler". Commissioner Sykes made a motion to approve the application with the wording change. Commissioner Rice seconded his motion. A vote was taken. Commissioner Wenholtz voted no. Motion Carried.

**Conditional Use Permit CUP-S-281: John Flynn/Ruggs Ranch, applicant and owner. The property is described as portions of Tax Lots 3900, and 4500 of Assessor's Map 3S 24 and portions of Tax Lot 600 of Assessor's Map 4S 24. The property is located 7 miles west of Ruggs off Highway 206, and is zoned EFU. Request is to approve a bird hunting preserve. Criteria for approval include MCZO 3.010(D)(13), 6.020 and 6.030.**

Director McLane informed the Commission about Ruggs Ranch background, and then presented the staff report. The Director stated that the property is currently used for grazing and will continue to be used for grazing. The Director stated that ODF&W regulates the hunting itself and that the applicants need to provide evidence of an Access Permit from ODOT because of the location off Highway 206. The Director then presented the Commission with two e-mail comments received by the Planning Department. The first e-mail from Shirley Palmer, was in opposition to the application, and Tina and Larry Palmer want a buffer zone because they are located next to the subject tax lots. Director McLane informed the Commission that on the proposed hunting preserve, they will not be able to hunt across properties because of ODF&W regulations.

Opened the Public Hearing.

No one spoke in favor, neutral or opposition.

Closed the Public Hearing.

Commissioner Wenholz moved for approval and Commissioner Taylor seconded his motion. The motion carried.

**Land Partition LP-N-419: Port of Morrow applicant, and City of Boardman, owner. The property is described as Tax Lot 119 of Assessor's Map 4N 24. The property is located on the east side of Tower Road south of Kunze Lane and is zoned Space-Age Industrial (SAI). The request is to partition a 456.97 acre parcel into a 411.97-acre parcel, a 30-acre parcel, and a 15-acre parcel. Criteria for approval include the Morrow County Subdivision Ordinance Article 5.**

Director McLane informed the Commission that this Land Partition is on City of Boardman owned property at the Tower Road interchange. The Commission should be familiar with the property, because it is the same as the Love's partition that is being appealed (LP-N-404). The Director stated that there is no minimum parcel size for Space Age Industrial Zoned land. Access off of Tower Road needs to be in place. The Director also stated that there are industrial uses in the vicinity and the zoning is industrial on both sides of the road. Commissioner Rice asked if there needs to be something in the staff report that says that this partition is dependent on the outcome of the Love's partition. The Director stated that it is identified in staff report. Commissioner Rice asked about the access issues for Tower Road. Director McLane stated that this area is far enough south that the current issues don't apply. Also they current issues should be resolved within the next couple of months. Commissioner Wenholz asked what the sliver of land on the east edge of the bigger parcel was for. Director McLane said that it's going to be for power lines and it is about 250 ft wide.

Opened the Public Hearing.

Testimony in favor: Gary Neal, manager of Port of Morrow explained to the Commission that the 250 foot portion left on the side of parcel 2 is for transmission lines currently under review. The sanitary sewer requirements will be easy to meet. There will be minimum occupancy in the buildings.

No one spoke in neutral or in opposition.

Closed the Public Hearing.

Commissioner Rice moved for approval, Commissioner Devin seconded his motion. The motion carried.

**Conditional Use Permit CUP-N-282: Port of Morrow, applicant, and City of Boardman, owner. The property is described as Tax Lot 119 of Assessor's Map 4N 24 27. The property is located on the east side of Tower Road south of Kunze Lane and is zoned SAI. The request is to approve a data center. Criteria for approval include MCZO Article 3, Section 3.072; Article 4, Section 4.080; and Article 6, Sections 6.020, and 6.030.** Director McLane stated that the proposed use request is for a data center, and that the Director had been working with DLCD and identified a data center as an conditional use in the Space Age Industrial zone for technology. The Director stated that are height limitations because of the Airport Overlay zone which would be regulated by the FAA. Commissioner Sykes asked why Ron is on one application, but not on the other. Director Mclane stated that was because the new intern at the Port of Morrow filled out one application and Ron filled out the other. Commissioner Wenholtz said that on the CUP Staff Report it doesn't say that it's the 15 acre portion that the CUP is for. Director McLane said that we will change the staff report to include "see LP-N-419 parcel 3".

Opened the Public Hearing.

Testimony in favor: Gary Neal, manager of Port of Morrow. He stated that he wants to keep clients in Morrow County, the clients needed to be 6 miles away from their other location, that's why they chose this one. The Port wants to get the site approved to make the process easier for their clients.

No one spoke in neutral or in opposition.

Closed the Public Hearing.

Commissioner Wenholtz made a motion to approve with noted changes, Commissioner Key seconded his motion. The motion carried.

**Land Partition LP-S-420 and CUP-S-283: Adam and Shelley McCabe, applicants, and Ashley and Cathy McCabe, owners. The property is described as Tax Lot 1900 of Assessor's Map 2S 24. The property is located east of Brenner Canyon Road and south of McCabe Lane and is zoned EFU. The request is to partition a 718.17-acre parcel to create a "non-farm" dwelling parcels and approve a "non-farm" dwelling. Criteria for approval include MCZO Article 3, Section 3.010(F); MCZO Article 6, Sections 6.020 and 6.030, and MCSO Article 5, Land Partitioning.**

Director McLane presented the staff report and informed the Commission that the land use pattern surrounding the subject property is mainly dryland wheat farming, there are four dwellings, with one being a Land Partition for Financial Purposes, which is different than a Non-Farm Dwelling. The applicant is addressed on Olden Lane but they actually live on McCabe Lane. The applicants need to either petition and apply for Olden Lane to continue in McCabe Lane's place, or get readdressed to McCabe Lane. This needs to be fixed and is listed as a Condition of Approval. Commissioner Key asked why they have to pay back taxes for 10 years for a Non-Farm Dwelling. The Director informed the Commission that when a piece of farm land is no longer being farmed, the owners no longer get a special assessment on that piece of farm land. This is an intersection of land and tax law with the outcome being that the last 10 years of back taxes can be viewed as a penalty. Commissioner Wenholtz asked why there is no 60 foot

road dedication on McCabe Lane. For consistency with the TSP it should have a road dedication. The Director answered that a lot of these roads from the 1890's have dedications that do not indicate the width, but statute at the time required 60 feet. The Director also stated that she feels asking more than required for this road puts an undue financial burden on the applicant. This is based on some current survey work for a land partition that was approved earlier this year.

Opened the Public Hearing.

Testimony in favor: Adam and Shelly McCabe, applicants. The applicants told the Commission that they just want to get the land to build a house.

No one spoke in neutral or in opposition.

Closed the Public Hearing.

Commissioner Key made a motion to approve, Commissioner Taylor seconded his motion. The motion carried.

**ATSP-29-10: Morrow County, applicant. The request is to add the Wilson Lane/Laurel Road Intersection Improvements project to the Morrow County Transportation System Plan. The project involves 1.5 miles of Wilson Lane from the intersection of Laurel Road to the intersection of South Main in Boardman and construct a turning lane on Wilson Lane. Criteria for approval will be MCZO Article 8.050**

Director McLane explained to the Commission that the Transportation System Plan is where a project has to be listed so that funding can be put in place or obtained from ODOT. The Director stated that the turning radius on Wilson Lane is not big enough, and needs to be improved. Commissioner Taylor asked when the turn lane on Wilson Lane is added, what happens to the homeowners. The Director stated that there is enough right-of-way in place already. Commissioner Docken asked about a well on a property that is really close to the intersection where the road improvements will be taking place. The Director advised the Commission that this is a right-of-way acquisition issue and will be addressed at the time final engineering is complete and the project is initiated. The Director also added that this is a need that will be very beneficial. Commissioner Rice asked for clarification if the Commission is just adding this project to the list, so then it can be done whenever. The Director said yes, this list of projects will be done in a five year time frame. Commissioner Rice asked if there are projects on the list that haven't been completed yet. Director McLane stated that there are a lot that are not done yet on the list and that this will just add the project to the list of proposed projects.

Opened the Public Hearing.

No one spoke in favor, neutral or in opposition.

Closed the Public Hearing.

Commissioner Rice made a motion to continue to the August 31, 2010 hearing.

**Audience Participation:**  
none

## **Other Business or Correspondence:**

### County Court Activities

Planning Director McLane informed the Commission that the Britt and Willow Farms aggregate sites have been passed by County Court. The Director stated that there still have been ongoing issues with the access for Tower Road, and that the Department of Administrative Services owns the property that is in that easement. The Director explained to the Commission that with regard to Invenergy's appeal hearing, the County Court remanded the decision back to the Planning Commission to figure out how to deal with it. The Director told the Commission that the Planning Department will be supplying the Commission with a packet before the next hearing. Various members of the Planning Commission said that they were not sure how to go about this procedurally when it has been sent back to them. County Counsel explained to the Commission what the Commission needs to do now that the decision has been remanded back to them from County Court, and explained the appeals process in general.

### Energy Facility Siting Council Projects

The Director reported that both EFSC transmission projects were back on track—Boardman to Hemingway and Cascade Crossing. Planning staff commented on the Montague wind energy facility project based on noise. We have received a Notice of Intent for the Baseline wind energy facility located in Gilliam County. Scoping meetings are planned for Cascade Crossing and Boardman to Hemingway in August. The Director stated that the County is in support of Portland General Electric and Idaho Power negotiating with the Navy to grant an easement to allow power lines in the northern 500 feet of the bombing range. The Director also stated that if this easement is not granted by the Navy, then farmland will be affected. The Director informed the Commission that we have been reviewing the Carty Generating Station application. We are still waiting for an application for the Saddle Butte Wind Park. We have received an application for a locally approved project from Oregon Windfarms for their Buttercreek project.

### Future Agendas

The Planning Director informed the Commission that the August 31 hearing is going to be a full agenda, plus deliberations on the wind noise appeal remand. The Commissioners decided that the meeting should start at 7:00 p.m. with no more than an hour for deliberation on the appeal remand. They will then move on to the rest of the agenda at 8:00p.m.

Director McLane reminded the Commission about the two upcoming special hearings that are slated for September 14 and October 12, 2010, for the Port of Morrow. We are taking advantage of these special hearing dates to move other applications through the hearings process in a timely manner.

### **Adjournment:**

Meeting was adjourned at 10:09p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, August 31, 2010 at 7:00 p.m. at the Heppner City Hall, Heppner Oregon.

Respectfully Submitted,  
Layne Womack



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, August 31, 2010 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, Jim Key, John Renfro, Pam Schmidt, David Sykes, Rod Taylor, Jeff Wenzholz.

**Members Excused:** Tucker Rice

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner; Ryan Swinburnson, County Counsel

The Pledge of Allegiance was recited.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Remand of Planning Commission Decision on Condition of Approval 1 of CUP-N-213: Invenergy, owner of the subject wind energy project. Subject property is approximately 3,000 acres located north of Cecil, Oregon, west of Highway 74 at approximately Milepost 10. Zoning is Exclusive Farm Use (EFU). The Planning Commission will be reviewing the decision they made at the May 25, 2010, hearing regarding noise studies to determine compliance with Condition of Approval 1 of the subject conditional use permit.**

Commissioners Taylor and Renfro recused themselves.

County Counsel Swinburnson suggested that Chair Sykes asked the Commission whether any had had ex-parte contact with regards to this remand. The Commissioners all said no.

Planning Commissioner Sykes said he wanted to determine some things regarding the remand issue. There needs to be with the Planning Commission a common understanding of what the County Court wants exactly, to understand the legal issues after a decision, to establish a procedure, whether to introduce new evidence or not, then the process of the discussion, and how to resolve this issue.

County Counsel Swinburnson suggested that the Commission determine whether they should see new evidence or not first. Commissioner Key stated that they have already had a lot of evidence presented and heard experts on both sides of the issue. Commissioner Devin stated there shouldn't be much to add, and Commissioners Docken and Schmidt both said they think there is already enough evidence. County Counsel informed the Commission that the decision needs to be made and if no more evidence is to be introduced, then that would be fine. Commissioner Wenzholz stated that the Commission already closed the record once before and had heard enough.

Commissioner Sykes wanted to know exactly what the commission is charged with. Planning Director McLane stated that County Court read the decision and felt it would be better to remand the decision back to Planning Commission for further deliberations. What that means is more discussion. County Counsel stated that the County Court wants to put the least number of restrictions on the Planning Commission as possible. County Court had questions of enforcement and that the Planning Commission was not being clear. County counsel said the Planning Commission needs to set forth findings, if someone is in violation, how and why and when to be in compliance. The Planning Commission needs to have a discussion, establish findings of fact and conclusions of law.

Commissioner Sykes asked what the time limits would be. County Counsel stated that procedurally he's not sure, because its different from an application being heard in front of the Commission. Commissioner Docken wanted to make sure that the Commission was clear that the Department of Environmental Quality (DEQ) has no ability for enforcement of the DEQ codes because it has been de-funded. Planning Director McLane stated that Morrow County has a Code Enforcement Officer with the Sheriff's Department, and that the permit would be enforced, and that the parties holding the permit would have to be looked to for the costs. Commissioner Docken asked Planning Director McLane if DEQ has responded to anything pertaining to this issue. Planning Director McLane responded that they have not, and reiterated that DEQ is currently de-funded and that they have actually rerouted complaint information back to the Planning Department.

Commissioner Sykes asked if any Conditional Use Permit (CUP) was out of compliance, does the Planning Commission set up a procedure to establish compliance. Planning Director McLane responded that staff does, the Planning Department handles violations in regard to CUPs or permits.

Commissioner Sykes then asked why the Planning Commission is being asked to monitor enforcement on this hearing, but not others. Planning Director McLane stated that enforcement is complaint driven, a call is made and the Code Enforcement Officer goes and checks on the complaint, as opposed to a permit not being in compliance just because they have not sent the Planning Department required information. Commissioner Sykes stated that if there is no money in the County budget to send a deputy, the Planning Commission should make the determination if the permit holders are out of compliance, but not the enforcement. Planning Director McLane stated that, for the remand, the Planning Commission have already made the determination with a time line, now the Commission needs to determine how or with what mechanism they could become compliant. Commissioner Schmidt stated that her original assumption was that the two parties could work out the issues themselves.

Commissioner Key asked County Counsel if the Commission can just make a motion. County Counsel stated that the Commission needs to deliberate before they make the motion.

Commissioner Schmidt reiterated that she thought maybe the parties would work it out. They were in compliance sometimes, they wanted to approve the application but with exceptions, like certain wind speeds, the applicant and complainants can work out an agreement to what needs to happen.

Commissioner Docken asked if there is technology out there to determine all these different factors on the wind turbines. Commissioner Key stated that the technology is out there; it's not by guess and by golly.

Commissioner Sykes asked the Commission to decide where in the record they are basing the decisions on, and where in the record they can arrive at a decision, how to get in compliance and be able to enforce it. County Counsel suggested the Commission start with the part of the code that states whether they are in compliance then work backwards from there. Commissioner Sykes wants the Commission to make sure they read the record thoroughly and ask County Counsel if they have any questions.

Commissioner Key made a motion to continue the remand to the September 28, 2010, hearing. Commissioner Devin seconded the motion. The motion carried.

**Conditional Use Permit CUP-N-284: Ron Haguewood applicant and owner. The property is described as Tax Lot 5900 of Assessor's Map 1N 23. The property is located on Ely Canyon Road approximately 6 miles north of Ione off Highway 74 and is zoned EFU. Request is to approve an aggregate quarry that will process less than 500,000 tons of aggregate material. Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3.010(D)(11) and Article 6 Conditional Uses, Sections 6.020, 6.030 and 6.050(I).**

Planning Director McLane presented the staff report to the Commission and described where the aggregate site is being proposed. The aggregate site is on a rocky bluff in a large predominantly dryland wheat area. The area proposed for the quarry has not been farmed, is not tillable land, and once the quarry life is over, the area will go back to rocky bluffs. There will be no significant increase in farming practices in the area. The Morrow County Zoning Ordinance conditionally allows mining in the Exclusive Farm Use Zone, therefore there will not be much impact anywhere. A new boundary map and a letter from the Oregon Department of Fish and Wildlife (ODFW) were shown to the Commission and added to the staff report. Planning Director McLane read the letter from ODFW that stated there may be Washington Ground Squirrels (WGS) and that the applicant should get a survey done to determine the location of colonies of the WGS.

Opened the Public Hearing.

No one spoke in favor.

Neutral:

Steve Cherry from ODFW in Heppner. Mr. Cherry said he was contacted by the applicant because, according to the Planning Department, the area had been mapped as part of Shepherds Flat Wind Farm. There was a map that showed WGS colonies in the area and Mr. Cherry needed to determine if WGSs were still there. The site was mapped in 2007, so a survey needs to be done to figure out where the colony is, if it still exists, and if the applicant can still mine the proposed area. Mr. Cherry informed the Commission that the survey window is from about March until June, so this is not the best time of year, but a survey still was done. The person doing the survey searched the area that was delineated on the original map. He found a couple of holes that may be from squirrels, but it is hard to tell. Mr. Cherry stated that his professional judgement was that they may or may not be there. He is not 100 percent sure that they aren't there. He would recommend that the applicant try not to stockpile the rock where they think the colonies may be. If any WGSs are there, mining shouldn't affect the colony. He then showed the Commission the survey map. Mr. Cherry stated that the best and current data say no WGSs are out there. He then suggested that if the applicant wanted to find out for certain, he should get another survey done in the spring.



Planning Director McLane asked Mr. Cherry about the 785-foot buffer around the colonies and why exactly that number of feet. Mr. Cherry responded that ODFW uses some old data, and the old data state that WGSs need about 785 feet to burrow or forage and they just still use that number.

In opposition:

Steve Putney, an adjacent landowner to the applicant. Mr. Putney wanted to understand why the applicants were bulldozing the bank when they don't even have an approval yet.

Keven Haguewood, applicant. Mr. Haguewood responded to Mr. Putney's question by saying he did not know anything about the map and the WGSs. As soon as they saw the letter, they immediately stopped bulldozing and contacted ODFW to address the WGS issue. He then stated that it's private land; people can bulldoze on their land if they want to. Mr. Haguewood said that this map came out of nowhere and feels this is a landowner rights issue.

Randy Free, rock driller. Mr. Free asked why the squirrels are called Washington Ground Squirrels; we are in Oregon. He also stated that Mr. Haguewood or anybody who wants to mine rock needs to clean off the soil to see if he has rock underneath.

Closed the Public Hearing.

Commissioner Wenholz asked Planning Director McLane if it is DOGAMI who monitors the 500,000 tons limit. Planning Director McLane responded that it's up to the applicants to know how much their threshold is, and that DOGAMI is out on an annual basis, so they check too, to a degree. The active pits get closer attention.

The Planning Commission would like to make the letter and new map part of the staff report.

Commissioner Key moved for approval and Commissioner Schmidt seconded his motion. The motion carried.

**Comprehensive Plan Amendments AC-040-10 and AC(M)-041-10: Ron Haguewood applicant and owner. The property is described as Tax Lot 5900 of Assessor's Map 1N 23. The property is located on Ely Canyon Road approximately 6 miles north of Lone off Highway 74 and is zoned EFU. Request is to amend the Comprehensive Plan to include a locally significant aggregate site to Morrow County's list of significant aggregate sites and to amend the Comprehensive Plan map to include the aggregate site location. Criteria for approval are found in the Morrow County Comprehensive Plan (MCCP) Review and Revision Process**

Planning Director McLane informed the Commission that the information is all the same, and that this is the part being listed in the comprehensive plan as a significant site. Aggregate sites under 500,000 tons need to be deemed locally significant, and added to Page 102 of the County Comprehensive Plan.

Opened the Public Hearing.

Testimony in favor:

Randy Free, rock driller. Mr. Free stated that you can never get enough rock quarries.

No one spoke neutral or in opposition.

Closed the Public Hearing.

Commissioner Wenholz moved to continue to the September 14, 2010, hearing. Commissioner Taylor seconded his motion. The motion carried.

**Conditional Use Permit CUP-N-285: Oregon Wind Farm, applicant and Madison Farms, Mader/Rust Farms, Christensen Farms, Doherty Farms, Lindsay Farms, and Hawkins Farm owners. The property is described as Tax Lot 400 of Assessor's Map 1N 26, Tax Lot 800 of Assessor's Map 2N 26 16, Tax Lot 100 of Assessor's Map 2N 27 16, and Tax Lot 1100 of Assessor's Map 3N 27. The property is located in east central Morrow County near the Umatilla County line and is zoned EFU. The request is to site a community wind power facility. Criteria for approval include MCZO Article 3.010(D)(16) and Article 6 Conditional Uses, Sections 6.020, 6.030, 6.040 and 6.050(0).**

Planning Director McLane stated that the proposed use request is for four turbine strings with having five 2-MW turbines each. Planning Director McLane presented the staff report and stated that the initial construction of the project might impact the surrounding farm practices and maybe the cost of accepted farm practices, but not in the long term. She also stated that she did not think the traffic from construction would trigger a traffic impact analysis. There are not a lot of residences out there, but three might be impacted. Planning Director McLane has asked the applicant to collect some information at those residences regarding ambient noise standards. The applicant will be obtaining a 1200(c) (Storm Water) permit. The roads are already there for the majority of the project, those roads being mainly farm roads. The planning director stated that the applicant has some FAA permits and others are in process. The planning director stated that a memorandum of understanding will be drafted to address road concerns. Planning Director McLane presented a letter from Steve Cherry of ODFW and provided it to the Commission. She informed the Commission that Mr. Cherry has been working with the applicants regarding wildlife. She also informed the Commission that the turbines will be visible from I-84 and State Highway 207, but that the County does not have ordinances pertaining to sight intrusion. There are stipulations about the color of the turbines. Planning Director McLane then handed the Commission a letter from the Umatilla County Planning Department supporting the project, but with two small revisions to the conditions of approval and adding two conditions of approval.

Opened the Public Hearing.

Testimony in favor:

Bob Guertin, Oregon Windfarms. Mr. Guertin informed the Commission that the projects are at least 5 miles from each other because of certain rules. The project will be using some of the same transmission line as the Echo Project, but will add a new substation in Umatilla County. Mr. Guertin presented to the Commission a large map to illustrate where the project and transmission lines will be located. The existing and the proposed project will use the same transmission poles. He then showed the Commission some photos of the project site, and the existing Echo project. Mr. Guertin informed the Commission that the Oregon Trail intersects the Christensen property, but runs between two turbines in an area that has been plowed for years. The trail also traverses another location, but isn't visible. Mr. Guertin informed the Commission that the closest home is the McCarty residence, one-half mile away. This residence is not part of the project, and Oregon Windfarms needs to make sure that there will be no noise impact. They have already relocated some of the turbines to site them farther from

the residence.

Commissioner Sykes stated that Oregon Windfarms does not want any problem with noise to begin with. Mr. Guertin replied that they can move turbines right now because they have not been constructed, the noise models have not been run yet, and each turbine has a different noise signature.

Commissioner Sykes asked Mr. Guertin how he is basing the one-half mile from a residence standard. Mr. Guertin responded that studies are available that show one-half mile is sufficient.

Commissioner Schmidt asked Mr. Guertin what modeling factors are used.

Mr. Guertin replied that geography and barriers are used.

Planning Director McLane answered that the modeling will show how noise is distributed based on topography and trees and the geography of the land, based on the noise signature of that turbine. How far the noise will drop off in 1000 feet or whatever depends on what is on the ground. The modeling will show how far from the turbines noise can be heard. It will be like buffers radiating out from the turbine, and where the residences are, whether inside or outside the buffers. Mr. Guertin said that Oregon Windfarm would prefer to work the wind issues out before construction.

Kent Madison, Madison Road, Echo, Oregon. Mr. Madison said that you can hear the turbines but it is never offensive, and that you can barely hear the gear boxes when it is not windy.

Eugene Wigglesworth, 210 Columbia Lane, Irrigon, Oregon. Mr. Wigglesworth wanted to share with the Commission some history of wind energy in our area. He talked about how Boeing was doing research on the Columbia River, with wind energy and nuclear power and that we need power from wind generators.

Eugene Anderson, Clackamas, Oregon. Mr. Anderson said he will be the contractor for the project, which will bring a lot of revenue to the area, and that the workers will need services for the project. Mr. Anderson also stated that the transmission lines will be under 200 feet high.

Tim Rust, Mader-Rust Lane, Echo, Oregon. Mr. Rust informed the Commission that the existing Echo project turned out really fine. Oregon Windfarms did everything they said they would do. He is in favor of this project.

Neutral:

Steve Cherry, ODFW. Mr. Cherry said that this is a very benign project, there is survey protocol for wildlife concerns, and that a condition of approval should be added if anything is found regarding wildlife.

Randy Free, rock driller. Mr. Free stated that he had concerns with property values in the project area.

County Court Commissioner Leann Rea. Mrs. Rea asked whether the application had been reviewed by the Fossil Radar Station. Planning Director McLane informed Commissioner Rea that the FAA would deal with that.

Commissioner Renfro asked what would happen to the land values.

Mr. Guertin replied that land values usually go up, because of the potential revenue stream, the possible exception being a home without acreage. Then it could be a visual issue, not a noise issue. This is not in residential areas.

Planning Director McLane informed the Commission that a study done a few years ago showed that wind turbines did not negatively affect land values.

No one spoke in opposition.

Planning Director McLane stated that she wants to add some different language in the staff report. She would like to insert Mr. Guertin's language concerning noise, and that the condition of approval would change based on the identified new language. A couple other changes also need to be done to the staff report. Something needs to be added that states the applicant will work with the Public Works Department in a Memorandum Of Understanding about the roads. Would also like to include the changes suggested by the Umatilla County Planning Department.

Commissioner Wenholz suggested that staff add a condition of approval that the applicant change the agricultural water use to a construction use, and get permission from ORWD to use the water appropriately.

Closed the Public Hearing.

Commissioner Wenholz moved to approve with changes. Commissioner Taylor seconded his motion. The motion carried.

**Land Partition LP-N-421: Tim and Jeanette Meyers, applicants, and Susan Koch, owner. The property is described as Tax Lot 1104 of Assessor's Map 5N 26 25C. The property is located west of Irrigon and is zoned Rural Residential (RR). Request is to partition a 7.98-acre parcel into a 2-acre parcel and a 5.98-acre parcel. Criteria for approval include the Morrow County Subdivision Ordinance Article 5 Land Partitioning.**

Planning Director McLane presented the staff report and informed the Commission that the land sale has closed and Susan Koch is no longer the owner; the Meyerses are now the owners.

Commissioner Wenholz asked Planning Director McLane why the Meyerses need a consent to participate agreement for Fourth Road.

Planning Director McLane stated that it is because the access easement is showing their access off of Fourth Road. Even though they don't have frontage, they still use Fourth Road, and, potentially, the Meyerses and the adjoining property owners could develop the properties, increasing use of Fourth Road. The agreement probably will never be needed, but it will be in place.

Opened the Public Hearing.

Testimony in favor:

The Meyerses were present and in favor.

No one spoke in neutral or in opposition.

Closed the Public Hearing.

Commissioner Key moved to approve. Commissioner Schmidt seconded his motion. The motion carried.

**Park Master Plan and Comprehensive Plan Recreation Element: Morrow County, applicant. Proposal is to update the MCCP Recreation Element to address changes to the Morrow County Parks Master Plan, to amend the Parkland Overlay Zone, and to apply the Parkland Overlay Zone to Morrow County parks. Criteria for approval are found in the MCCP Review and Revision Process and MCZO Article 8 Amendments.**

Planning Director McLane presented the staff report to the Commission and stated that this is hearing one of two. Director McLane asked the Commission to change the next hearing date from September 28, 2010, to October 12, 2010.

Opened the Public Hearing.

No one spoke in favor, neutral or in opposition.

Closed the Public Hearing.

Commissioner Wenzholz moved to continue the hearing to October 12, 2010. Commissioner Taylor seconded his motion. The motion carried.

**AZ-035-10 Amend Industrial Zone RV Standards: Morrow County, applicant. Proposal is to amend various sections of the MCZO based on Oregon State-adopted temporary private campground rules and other statutory changes regarding RV parks. This amendment will also update the entire MCZO relative to RVs and RV parks. Criteria for approval are found in the MCCP Review and Revision Process and MCZO Article 8 Amendments.**

Planning Director McLane presented the staff report to the Commission and added that staff needs to add a definition for "camper cabin" in Article 1 of the Morrow County Zoning Ordinance.

Opened the Public Hearing.

No one spoke in favor, neutral or in opposition.

Closed the Public Hearing.

Commissioner Devin moved to continue the hearing to September 28, 2010. Commissioner Key seconded his motion. The motion carried.

**ATSP-29-10 Minor Update to the Transportation System Plan: Morrow County, applicant. Second hearing on the request to add the Wilson Lane/Laurel Road Intersection Improvements project to the Morrow County Transportation System Plan. The project involves 1.5 miles of Wilson Lane from the intersection of Laurel Road to the intersection of South Main in Boardman and to construct a turning lane on Wilson Lane. Criterion for approval will be MCZO Article 8.050.**

Planning Director McLane presented the staff report to the Commission and stated that this was hearing two of two. She informed the Commission that the County is working with ODOT to get the necessary funding, and that issues that were brought up last hearing are issues to be dealt with by Public Works during construction. She informed the Commission that, to get funding at

all, the project must first be listed in the County Transportation System Plan. The County needs the funding and cannot get it unless the project is on the project list.

Opened the Public Hearing.

No one spoke in favor, neutral, or in opposition.

Closed the Public Hearing.

Commissioner Key moved to approve. Commissioner Devin seconded his motion. The motion carried.

**Minutes**

The minutes of the July 27, 2010 hearings were provided with the Commissioners' packets. Commissioner Wenzholz moved to approve the minutes. Commissioner Schmidt seconded his motion. The motion carried.

**Other Business or Correspondence:**

Planning Director McLane provided a draft updated Planning Commission and staff address list to the Planning Commission for review. She also handed out an updated list of meeting dates.

**Adjournment:**

Meeting was adjourned at 10:52 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, September 14, 2010 at 7:00 p.m. at the Port of Morrow Riverfront Center in Boardman, Oregon.

Respectfully Submitted,  
Layne Womack



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

### **Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, September 28, 2010, 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Pamela Docken, John Renfro, Tucker Rice, David Sykes, Rod Taylor, Jeff Wenzholz

**Members Excused:** Jim Key

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner; Ryan Swinburnson, County Counsel

The Pledge of Allegiance was recited.

#### **Minutes**

Review and approval of September 14, 2010, minutes will be continued until the October 12, 2010, special meeting at the Port of Morrow Riverfront Center, Boardman, Oregon.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Continued deliberation on the Remand of Planning Commission Decision on Condition of Approval 1 of CUP-N-213: Invenergy, owner of the subject wind energy project. Subject property is approximately 3,000 acres located north of Cecil, Oregon, west of Highway 74 at approximately Milepost 10. Zoning is Exclusive Farm Use (EFU). The Planning Commission will be reviewing the decision they made at the May 25, 2010, hearing regarding noise studies to determine compliance with Condition of Approval 1 of the subject conditional use permit.**

Commissioner Taylor recused himself from deliberations.

County Counsel Swinburnson suggested that Chair Sykes poll the remaining planning commissioners to see whether they needed to recuse themselves from deliberations. The Commissioners all said they would be able to deliberate.

Commissioner Renfro said he was not a planning commission member for any of the evidence and was not sure if he should recuse himself. Chair Sykes replied that he could deliberate.

County Counsel informed the Planning Commission that both parties had submitted evidence to staff for inclusion in the record. He reminded the commissioners that the last time they deliberated, they decided not to receive any new evidence. County Counsel informed the commission that, if they decided to introduce new evidence into the record from both parties, they would have to continue the deliberations. County Counsel asked the parties if they wished to withdraw their request to submit evidence for the record. The parties withdrew their request.

Commissioner Rice asked the Commission what was said at the last hearing pertaining to this deliberation. Chair Sykes furnished an email message that had been discussed at the last hearing. The message laid out the framework of their deliberations, including agreeing on the task at hand, receiving new testimony, the legal structure, and the actual discussion leading to a solution. Chair Sykes explained that the County Court wanted more meat on their decision. Chair Sykes believes the Commission should rely on the evidence that had already been submitted and not add anything to the record.

Planning Director McLane read the County Court decision out loud for the Commission to clarify the County Court's position.

County Counsel advised the Commission and all parties involved in the remand that the County Court don't want to limit how the Planning Commission reaches their decision. However, if the decision is the same as before, the Commission still needs to figure out who will be responsible for the monitoring, and how to get Invenenergy back into compliance.

Commissioner Rice stated that he was concerned that they will need a written framework to make this decision, for instance a staff report. He suggested that staff write out the findings and then the Planning Commission go over it and clarify points and make changes. County Counsel thought that would be a good idea, and that the staff will write findings. He emphasized that the Planning Commission must make the decision, then staff can elaborate with the findings of fact.

Commissioner Docken stated that, on page 276 of the Planning Commission record, Oregon Administrative Rule (OAR) establishes the baseline dBA, and that the data seem to go over the 10 dBA limit. She referred to page 250 where a graph shows the data exceeding the baseline.

Chair Sykes referred the Commission to page 88 of the record, which showed different measurements, and pointed out that they were not all the same and were not uniform. Commissioner Docken asked the other Commissioners if they felt that the data exceeded the 10 dBA, or whether that approach was over-simplistic.

Commissioner Devin pointed out that the Morrow County noise standard is confusing and differs from the OAR. He said different noise levels seem to be allowed, and asked which standard prevails.

Commissioner Docken then asked staff if the CUP condition of approval is based on Oregon Department of Environmental Quality (DEQ) Noise Standards or the Morrow County Noise Ordinance. The Commissioners stated that they believe the DEQ standard trumps the Morrow County noise ordinance.

Chair Sykes asked how restrictive the Planning Commission can be, and how restrictive previous commissions have been on other issues. He asked the Commission the if the process should be the same as before. Commissioner Docken stated that this is new territory, so she asked the Commission whether Invenenergy is in compliance.

Chair Sykes posed the question of how the Commission would deal with an aggregate pit with dust problems. He asked whether it would be ½ percent or 1 percent out of compliance. Commissioner Rice replied that is comparing apples to oranges because dust is easier to abate than noise. Commissioner Devin said he felt that if you are out of compliance, you're out, and if



you're in compliance, you're in. Commissioner Rice asked the Commission what part is being decided first.

Chair Sykes agreed that the Commission needs to figure that out, and reiterated that identifying what the Commission is deciding is part of the direction from County Court. Commissioner Wenholz stated that Invenergy chose the route of using 26 dBA and only going over by 10 dBA. He then said that if they are over, they are over. The rest of the Commission concurred that Invenergy was out of compliance, and that it was a black-and-white issue. Commissioner Wenholz went on to say that, based on the Commission's discussion, the record is enough.

County Counsel replied that, based on the discussion, and based on the record, more information and decisions need to be flushed out, so the Commission can move forward. County Counsel also reminded the Commission of an argument that had been touched on concerning the frequency of an event. He reminded the Commission that a discussion of the infrequent event argument would need to be in the findings.

Commissioner Rice asked County Counsel if, in the final determination, the Commission could include in the findings some sort of variance. County Counsel stated that is one of the issues that needs to be discussed in more depth. Commissioner Docken asked the Commission to note page 77 of the record regarding unusual events, which was brought to the Commission's attention by one of the lawyers.

Chair Sykes was seeking consensus that a violation is black or white. He then asked about what happened to the 6 months, and whether, since all the parties appealed, the time stopped. County Counsel replied that, since the decision was remanded, the time starts over.

Commissioner Rice stated that the Michael Theriault Associates (MTA) data is needed to make a decision, because it showed hours of analysis. The Commission needs to give all parties time to rectify the situation. He suggested that the Commission give Invenergy 6 months to fix this violation, then require another noise study to determine compliance.

Commissioner Docken asked staff if the Commission can pick out one turbine, or if the condition of approval applies to the whole wind farm. County Counsel replied that was determined before, and that the condition applies to the whole farm. Chair Sykes stated that it was not up to the Commission to pull out one turbine. Commissioner Rice told staff he was using information from pages 33 and 34 of the Planning Commission record.

Commissioner Rice said that he wanted to know who oversaw the monitoring. He feels that maybe the county needs to hire a third party to do the compliance monitoring. Chair Sykes asked staff why this is the Commission's decision for compliance. Commissioner Rice agreed the County should do the monitoring, but not pay for it, and that the County should select the third party. Commissioner Devin agreed that could be part of the discussion.

Chair Sykes stated that, since the wind company is out of compliance, maybe they should pay for monitoring. Commissioner Rice said that when Invenergy thinks the wind farm is in compliance, the Commission can initiate another study. The two companies that did previous work (MTA and Daly-Standlee & Associates) are biased.

Commissioner Devin asked the Commission if they should look at the 6 months time frame, and if that is enough time for Invenergy to get things fixed. Commissioner Docken asked whether 6 months is an arbitrary time frame.

Chair Sykes asked staff if there can be selective testimony.

County Counsel informed the Commission that there are two issues: how long will the wind study take and how long to get into compliance. The Commission could be opening up a can of worms. Or the Commission can build into the motion that, if Invenergy cannot meet compliance in 6 months, but they show that the time frame is impossible to meet, maybe they could have an extension.

Chair Sykes asked staff if the other appealing party could rebut that. County Counsel affirmed that they could appeal either way. He informed the Commission that it was up to them to decide if it will be 6 months and final or 6 months then the review.

Commissioner Rice restated that the Commission should make the decision, and have staff review it, then start the 6 months, then require a noise study after that.

Chair Sykes asked about the specifications on the noise study. He suggested that the third party could determine what a valid noise study length would be. He then asked County Counsel if the Commission needed a motion. County Counsel suggested that the Commission just needed to reach a consensus.

Commissioner Docken asked staff what the date was when the first complaint came in. Planning Director McLane responded that it was in November of 2008, before the facility came online. Commissioner Docken asked staff when the turbines were turned on. Planning Director McLane stated that they were testing in November of 2008, and went on line in late 2008.

Chair Sykes informed the Commission that a consensus was needed to move forward.

Commissioner Wenzholz asked the Commission if they thought this was an infrequent or unusual event. He stated that he does not feel that it is. Chair Sykes inquired if everyone else felt the same way. Commissioners Devin and Docken agreed.

Chair Sykes stated that the final decision need not be made tonight, but there needed to be consensus. He went on to say that this is not an infrequent event, and the Commission agreed. He then stated that there is the time frame issue.

Commissioner Rice stated they should commission another study with a third party.

Chair Sykes agreed with a finding of compliance within 6 months or sooner, then a wind study. The Commission all agreed on having an independent third party do the study and having the County select that party.

Commissioner Wenzholz stated that he wanted to be clear on what Commissioner Rice had said: that Invenergy has 6 months after this time frame begins, then the third party can start the study, and the developer will reimburse the County after the study, because they have the burden of proof.

Director McLane repeated that statement back to the Commission. She verified that the developer could trigger the wind study earlier, so 6 months would be the latest.

County Counsel asked the Commission about suspending Invenergy's operation during the 6-month period. Commissioner Wenzholz stated that is not possible because they need to keep

running to figure out how to comply. Chair Sykes agreed that suspending operations was not in the original motion.

County Counsel asked the Commission whether they wanted to differentiate between the four properties. Planning Director McLane asked the Commission if they are going to retest at the properties that are in compliance. Planning Director McLane confirmed with the Commission that all four properties would be in the re-analysis. Commissioner Wenholtz stated they should reconfirm if they are or aren't in compliance with all four properties. All Commissioners agreed with Commissioner Wenholtz.

Commissioner Rice asked staff what else will be needed. Planning Director McLane replied that staff wanted to make sure everyone is clear and that staff has the referenced page numbers. She added that the Commission has time to think about it, because it will be continued.

Commissioner Rice moved to continue the deliberations to the October 26, 2010, Planning Commission meeting. Commissioner Wenholtz seconded his motion. The motion carried.

**Second hearing on Comprehensive Plan Amendments AC-040-10 and AC(M)-041-10: W.I. Construction, Inc., applicant, and Dana Heideman, owner. The property is described as Tax Lot 6001 of Assessor's Map 1N 23. The property is located on Ely Canyon Road approximately 6 miles north of Lone off Highway 74 and is zoned EFU. Request is to amend the Comprehensive Plan to include a locally significant aggregate site to Morrow County's list of significant aggregate sites and to amend the Comprehensive Plan map to include the aggregate site location. Criteria for approval are found in the Morrow County Comprehensive Plan (MCCP) Review and Revision Process.**

Planning Director McLane asked the Commission if they had any questions, as this was the second hearing and they were already familiar with the staff report. She noted there needed to be a change to the date on the top, and another legal notice date needed to be added.

Opened the Public Hearing.

No one spoke in favor, neutral, or in opposition.

Closed the Public Hearing.

Commissioner Wenholtz moved for approval with the noted changes. Commissioner Docken seconded his motion. The motion carried.

**Second hearing on AZ-035-10 Amend Industrial Zone RV Standards: Morrow County, applicant. Proposal is to amend various sections of the MCZO based on Oregon State-adopted temporary private campground rules and other statutory changes regarding RV parks. This amendment will also update the entire MCZO relative to RVs and RV parks. Criteria for approval are found in the MCCP Review and Revision Process and MCZO Article 8 Amendments.**

Planning Director McLane outlined the changes to be made. These changes in definitions are needed for consistency. There was a need for consistency between use zones and the definitions. Commissioner Wenholtz identified that, in Article 1, the definitions for "mobile home or manufactured home" also needed some changing for consistency. He also pointed out that "sleeping unit" needs to be underlined. Planning Director McLane described the rest of the

changes that are being made to the Rural Service Center zone and the General Commercial zone. Article 6 has been changed for consistency with statute.

Opened the Public Hearing.

No one spoke in favor, neutral, or in opposition.

Closed the Public Hearing.

Commissioner Wenholz moved to forward as amended to County Court, recommending approval. Commissioner Taylor seconded his motion. The motion carried.

**Audience Participation:** None

**Place Name Changes: The Confederated Tribes of the Umatilla Indian Reservation (CTUIR) have requested that the Oregon Geographic Names Board change three place names in Morrow County. The Morrow County Court has asked that the Planning Department and the Planning Commission seek local input on this request. Based on input received, the County Court will either support the CTUIR request or make an alternative recommendation.**

Planning Director McLane explained the background of what the CTUIR and the Oregon Geographic Names Board are trying to accomplish. She furnished copies of e-mail messages that she had sent stating her concerns along with the replies. An e-mail message from Teara Farrow Ferman of the CTUIR said that they had notified all property owners, but received no comments, and that the County could put in a competing proposal for different names. Sharon Nesbitt, President of the Oregon Geographic Names Board, said she had pronunciation concerns. Planning Director McLane then explained that, a few years ago, the Legislature decided to replace the word "squaw" from public place names with Native American names or terms. Only the U.S. Board of Geographic Names can actually change the names of geographic features on private or public land. Planning Director McLane shared with the Commission that the County wasn't contacted or invited to participate in this process. She asked for some ideas from the Planning Commission to take to the County Court for recommendation. Director McLane informed the Commission that she received a response from Heppner City Manager Dave DeMayo, who said that his City had no vested interest in the issue. Todd Buckholz, the Umatilla National Forest District Ranger, had told Planning Director McLane that the land where the name change is to happen is actually Warm Springs Tribe ceded territory, not CTUIR ceded territory. Clay Penhollow, Natural Resources Planner for the Warm Springs Tribe, confirmed the tribe's geographic boundaries, but said he did not have a map. He also said the tribe had a non-derogatory response to the term "squaw". The majority of the Warm Springs tribal members do not view squaw as derogatory, not enough to proceed with the name change.

Commissioner Renfro stated that he had heard that someone at the Forest Service in Heppner had already changed the names within the National Forest boundary. Commissioner Renfro also inquired why would this be a derogatory term to the tribes, he doesn't feel that it is.

The Director explained that some time ago it became a derogatory term.

Commissioner Wenzholz asked staff what the justification was to change it to possibly "immigrant."

Planning Director McLane explained that the biggest concern is that some of these words are so difficult to pronounce by non-native speakers that first responders will not be able to find the location in an emergency and that the names on the maps have to agree with the names being given. Another concern is the cost of updating the maps, databases, etc.

Commissioner Taylor responded that people should be able to pronounce it.

The Commissioners agreed that they should recommend to replace "sisu" with "immigrant" and "ninipa" with "aspen."

**Other Business or Correspondence:**

Commissioner Schmidt resigned on September 15. Planning Commissioner McLane requested that, if the commissioners know of someone from the Heppner area who would like to fill the vacancy, get the word out. Notice will be published in the *East Oregonian* and *Heppner Gazette-Times* on September 29 and October 6, 2010.

The Department of Environmental Quality hearing on the Portland General Electric coal-fired plant will be in The Dalles on Thursday. The hearing will discuss rules on how to regulate haze and how the PGE Coal Fired plant will be regulated or shut down.

County Counsel commended the Commission for handling this remand very well.

The Love's final determination on land partition remand will be held by County Court on October 20. The only piece left was the Tower Road access issue, which is being fixed. The Oregon Department of Administrative Services (DAS) is quit claiming the land to the County. The zone change and CUP appeals are under consideration by the Land Use Board of Appeals. The Devin Oil brief has been deemed complete and the Love's attorneys are working on the brief response.

**Adjournment:**

Meeting was adjourned at 9:30 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, October 12, 2010, at 7:00 p.m. at the Port of Morrow Riverfront Center in Boardman, Oregon.

Respectfully Submitted,  
Layne Womack



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, September 14, 2010 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Pamela Docken , Jim Key, John Renfro, Tucker Rice, David Sykes, Rod Taylor, Jeff Wenholtz

**Members Excused:** Mifflin Devin, Pam Schmidt

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner; Ryan Swinburnson, County Counsel

The Pledge of Allegiance was not recited because no flag was available.

### **Minutes**

The minutes of the August 31, 2010, hearings were provided with the Commissioners' packets. Commissioner Wenholtz stated that a few typos and a place where the wrong commissioner was noted as making a motion was shared with staff. Commissioner Wenholtz moved to approve the minutes with corrections. Commissioner Rice seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Port of Morrow Exceptions to Goals: Port of Morrow, applicant and Port of Morrow and Westland Enterprises owners. The property currently zoned Exclusive Farm Use (EFU) is described as Tax Lots 901, 1999, and 1201 of Assessor's Map 4N 25 11, Tax Lots 200, 300, 301, and 901 of Assessor's Map 4N 25 12, Tax Lots 100 and 200 of Assessor's Map 4N 25 07, and Tax Lot 202 of Assessor's Map 4N 25 08. The property currently zone Industrial (MG) is described as Tax Lot 1700 of Assessor's Map 4N 25 24. The request is to change the zoning of 513.86 acres currently zoned EFU to Port Industrial (PI) and to change the zoning of 515 acres currently zoned MG to EFU. Criteria for approval are found in the Morrow County Comprehensive Plan (MCCP) Review and Revision Process, and the Morrow County Zoning Ordinance (MCZO) Article 8 Amendments.**

Planning Director Carla McLane presented the staff report and informed the Commission of the parties being Port of Morrow and Westland Enterprises. She described where the properties are located, then described the Port of Morrow's expanding rail operations and transportation improvements. The Port of Morrow has grown and needs to add land to their inventory. There also is a big demand for industrial land. This action is in advance of to the Interchange Area Management Plan (IAMP) for Interstate 84 and Highway 730, a collaborative effort by the Port of Morrow, the Oregon Department of Transportation (ODOT), the City of Boardman, and Morrow County. Planning Director McLane presented two letters of comment, both related to water rights currently on the land. She informed the Commission that the water rights will be appropriately moved when the land is rezoned. The letter from Jon Jinnings of Oregon Department of Land Conservation and Development (DLCD) voiced no real concerns, but

posed questions regarding transportation capacity, why the property cannot be in City of Boardman's Urban Growth Boundary, and why is the Port rezoning the existing MG land to EFU. Planning Director McLane explained that the Port management thinks that what they are trying to do makes sense because the location of existing and new rail facilities.

Chair Sykes asked either the Port or Planning Director McLane when the Port will move forward with the transportation part of the project. Planning Director McLane explained to the Commission that the County, ODOT, City of Boardman, and the Port are all working on the IAMP currently, along with the technical advisory committees. The IAMP is similar to the Morrow County Transportation System Plan (TSP) and may drive needed changes to the code. The new IAMP will need to be adopted by all parties involved, including the Oregon Transportation Commission.

Commissioner Docken asked staff why the IAMP doesn't come before the Planning Commission. Planning Director McLane replied that The IAMP will come before the Planning Commission, and that the process will require two hearings, then forwarding to the County Court with a recommendation for adoption.

Opened the Public Hearing.

In favor

Mark Greenfield, The Port of Morrow's counsel, Portland.

Ron McKinnis, Port of Morrow engineer.

Mr. Greenfield told the Commission that he supports the staff report and that they should approve it. Mr. Greenfield also told the Commission that currently 510 acres are proposed to be rezoned from EFU to MG. Mr. McKinnis showed the Commission a map highlighting the areas to be rezoned. Mr. Greenfield told the Commission that the main reason for this proposal is the location of the properties, and that there is no real need for more industrial land at this time. The land proposed to be changed to Port Industrial is close to rail and has easy access to services. The land to be rezoned as EFU is already in agricultural use and irrigated. Mr. McKinnis showed the Commission an aerial map of the area that identified the rail and barge activities. The Port supplies water to the industrial uses within the Port, and provides domestic sewer and wastewater collection through a DEQ permit with land application. A gas line runs through the Port, along with an electric system, and phone and fiber optic cable. Mr. Greenfield explained that the main reason for the request is to meet Port needs. The East Beach area is expanding and will need to serve new uses. Oregon Administrative Rule says that rural Industrial development is allowed if the development is beneficial and has minimal impact to agricultural land. Industrially zoned land needs to be near the rail system and in proximity to East Beach Industrial Park. Mr. McKinnis then showed on the map where the new rail spur, a new transload facility, and a new road connection to Highway 730 would be located. Mr. McKinnis said that in 2005 the Port built the unit train facility, hoping that it would bring in business. In 2007 Pacific Ethanol built on the spur, fulfilling that hope

Chair Sykes asked what a unit train is. Mr. McKinnis replied that a unit train is about 100 cars and that a unit train facility can handle one unit train at a time. He explained how this operation works to the commission.

Chair Sykes commented how the Port is really a transportation hub now. Mr. McKinnis stated that a new line on Port property next to Union Pacific's main line will go to the unit train facility

and the future container transload facility. He explained what led up to this zone change and what will happen on that land in the future.

Chair Sykes commented to Mr. McKinnis that the Port already knows what will be in the new area, not so much a case of build it and it will come. Mr. McKinnis agreed that the Port knows exactly who will be there, so it makes the transportation impact analysis a lot easier, and a lot of analysis has already been completed.

Commissioner Taylor asked to clarify that there would be two new spurs. Mr. McKinnis explained what the Port is doing and that there needs to be room to expand.

Mr. Greenfield identified alternative places and explained why they would not work for new Industrial development. He said that he believes that the rezoning will be a win-win situation. He then commented on the DLCDC letter, and agreed with Planning Director McLane about accessibility to facilities and impacts with regard to location, and that clustering industrial uses will be better than siting an industrial facility in the middle of agricultural land. He also said that keeping industrial development together will save energy.

Chair Sykes asked what the relationship is between the Port and City of Boardman with regard to the sewer. Mr. McKinnis said the City of Boardman and the Port have an agreement about system development charges, and that, basically, the agreement spells out the Port's allocation of sewer space, and when that allocation is reached, the sewer system will be expanded.

Commissioner Renfro asked whether there has been any opposition to this proposal. Mr. McKinnis said he hasn't heard of any.

Planning Director McLane told Commissioner Renfro that one of our responsibilities as staff includes mailing property owner notice. The Planning Department didn't receive much comment at all to this. The application is new, but not the ideas of development in the area.

No one spoke in neutral or opposition.

Closed the Public Hearing.

Commissioner Rice moved to continue to the October 12, 2010, hearing. Commissioner Docken seconded his motion. The motion carried.

Director McLane informed the Commission that Jon Jinnings wanted his letter put in the record. There were no objections to attaching the letter to the staff report.

**Conditional Use Permit CUP-N-285: W.I. Construction, Inc., applicant, and Dana Heideman, owner. The property is described as Tax Lot 6001 of Assessor's Map 1N 23. The property is located on Ely Canyon Road approximately 6 miles north of Lone Off Highway 74 and is zoned EFU. Request is to approve an aggregate quarry that will process less than 500,000 tons of aggregate material. Criteria for approval include Morrow County Zoning Ordinance (MCZO) Article 3.010(D)(11) and Article 6 Conditional Uses, Sections 6.020, 6.030 and 6.050(I).**

Planning Director McLane presented the staff report and explained the conditional use permit (CUP) and post acknowledgment plan amendment (PAPA) process. This application is similar to Mr. Haguewood's, and the property is located near his operation. This aggregate quarry will



be used for concrete rock. The quarry will be reclaimed after use and will require an Oregon Department of Geology and Mineral Industries (DOGAMI) permit. The quarry site is nontillable scab land with no groundwater issues. A lot of activity will occur during construction, but will not have not much impact to neighboring uses, and no traffic impact analysis is needed. No additional improvements will be made, and no sign is requested. No trees and minimal grass grow in the proposed Quarry area. Steve Cherry of the Oregon Department of Fish and Wildlife (ODFW) sent a letter stating there is no concern about Washington Ground Squirrels in that area.

Commissioner Rice asked Planning Director McLane if this quarry can be repermited for over 500,000 tons. She replied that they can apply to expand, but would have to repeat the process to take a full Goal 5 Exception.

Opened the Public Hearing.

In favor:

Jack Ingram, WI Construction, applicant. Mr. Ingram told the Commission the original intent of the first Heideman Quarry was to mine concrete aggregate.

Dana Heideman, landowner. Mr. Heideman said that, at the proposed quarry site, the rock won't even touch the county road and that they will use their already permitted batch plant.

Mr. Ingram informed the Commission that this rock will be to ODOT standards, which are very high.

Commissioner Renfro asked the applicant how long this project will last. Mr. Ingram said that they started the crusher on Heideman I, and that the concrete plant will not be for another 6 or 7 months.

Commissioner Wenholtz wanted to clarify that no county roads will be used at all. Mr. Ingram said that it doesn't look like they will need to use county roads to transport the rock.

No one spoke in neutral or opposition.

Closed the Public Hearing.

Commissioner Wehholz asked for clarification on the agenda of the CUP number for this application. The agenda was fixed.

Commissioner Wenholtz moved for approval. Commissioner Taylor seconded his motion. The motion carried.

**Comprehensive Plan Amendments AC-043-10 and AC(M)-042-10: W.I. Construction, Inc., applicant, and Dana Heideman, owner. The property is described as Tax Lot 6001 of Assessor's Map 1N 23. The property is located on Ely Canyon Road approximately 6 miles north of lone off Highway 74 and is zoned EFU. Request is to amend the Comprehensive Plan to include a locally significant aggregate site to Morrow County's list of significant aggregate sites and to amend the Comprehensive Plan map to include the aggregate site location. Criteria for approval are found in the Morrow County Comprehensive Plan (MCCP) Review and Revision Process**

Planning Director McLane presented the staff report.

Commissioner Rice asked why the application gets two numbers. Planning Director McLane replied that one is for the PAPA and the other is for the map change.

Opened the Public Hearing.

In favor:

Mr. Ingram told the Commission that both he and the landowner were in favor.

No one spoke in neutral or opposition.

Closed the Public Hearing.

Commissioner Rice moved to continue the hearing to the September 28, 2010, meeting. Commissioner Renfro seconded his motion. The motion carried.

**Comprehensive Plan Amendments AC-040-10 and AC(M)-041-10: Ron Haguewood applicant and owner. The property is described as Tax Lot 5900 of Assessor's Map 1N 23. The property is located on Ely Canyon Road approximately 6 miles north of lone off Highway 74 and is zoned EFU. Second hearing on request to amend the MCCP to include a locally significant aggregate site to Morrow County's list of significant aggregate sites and to amend the Comprehensive Plan map to include the aggregate site location. Criteria for approval are found in the Morrow County Comprehensive Plan (MCCP) Review and Revision Process.**

Planning Director McLane told the Commission that they have already heard the staff report because this is the second hearing and that the Commission just needs to forward a recommendation to County Court.

No public here for this portion.

Opened the Public Hearing.

No one spoke in favor, neutral, or opposition.

Closed the Public Hearing.

Commissioner Taylor moved for approval and Commissioner Rice seconded his motion. The motion carried.

**Audience Participation:** None

**Other Business or Correspondence:**

Transmission Update

Planning Director McLane recapped the Transmission Summit. She said there was a lot of conversation about opportunities for interconnect and substations, and that there may be transmission capacity available. On the topic of whether the County should pursue planning for

transmission corridors, she said it might be better to tell the power suppliers to work together to run fewer lines than tell them exactly where to put the lines. The Cascade Crossing and Boardman to Hemingway projects have a memorandum of understanding, but if the Navy does not agree to let them go across the Bombing Range, the lines will go across farms and impact 8 to 10 circles. Planning Director McLane said that people left the meeting with a greater understanding of local concerns. She also noted that the County should bring more people to the table, like the Bonneville Power Authority (BPA) and wind developers.

Commissioner Wenholz commented to the Planning Director that these BPA lines are at least 50 years old, and asked why these lines cannot use more power. A discussion ensued regarding Idaho Power and Portland General Electric (PGE) regarding transmission line capacity.

#### EFSC Projects Update

The Planning Director informed the Commission that the Energy Facility Siting Council (EFSC) has started the scoping phase on both the PGE and Idaho Power projects. The Planning Department has not received the application for the Saddle Butte project yet. The EFSC received Notices of Intent on the Baseline project and Rock Creek project. There is a potential for 4000 MW of wind energy generation in Morrow County.

#### **Adjournment:**

Meeting was adjourned at 9:29 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, September 28, 2010, at 7:00 p.m. at the Port of Morrow Riverfront Center in Boardman, Oregon.

Respectfully Submitted,  
Layne Womack



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

**Minutes of the Public Hearing of the  
Morrow County Planning Commission  
Tuesday, October 12, 2010 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Pamela Docken, Jim Key, John Renfro, Tucker Rice, David Sykes

**Members Excused:** Mifflin Devin, Rod Taylor, Jeff Wenholz

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner

The Pledge of Allegiance was recited.

### **Minutes**

The Minutes of the September 14, 2010 and September 28, 2010 hearings were provided with the Commissioners' packets.

Commissioner Rice moved to approve the minutes of September 14, 2010. Commissioner Docken seconded his motion. The motion carried.

Chair Sykes noted that a few changes needed to be made to the September 28 minutes regarding reaching consensus with the Commission.

Commissioner Rice moved to approve the minutes of September 28, 2010 with changes noted. Commissioner Key seconded his motion. The motion carried.

Planning Director McLane presented a gift to the Planning Commission from the County Court. The Director explained that the County Court had the leather coasters made, in part for tourism, and these have been given to all employees of Morrow County as well as the various Commissions. These are for use during the Commissioner's term and may be kept after their service to the County is finished.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Second hearing on Port of Morrow Exceptions to Goals: Port of Morrow, applicant and Port of Morrow and Westland Enterprises owners. The property currently zoned Exclusive Farm Use (EFU) is described as Tax Lots 901, 1999, and 1201 of Assessor's Map 4N 25 11, Tax Lots 200, 300, 301, and 901 of Assessor's Map 4N 25 12, Tax Lots 100 and 200 of Assessor's Map 4N 25 07, and Tax Lot 202 of Assessor's Map 4N 25 08. The property currently zone Industrial (MG) is described as Tax Lot 1700 of Assessor's Map 4N 25 24. The request is to change the zoning of 513.86 acres currently zoned EFU to Port Industrial (PI) and to change the zoning of 515 acres currently zoned MG to EFU.**

**Criteria for approval are found in the Morrow County Comprehensive Plan (MCCP) Review and Revision Process, and the Morrow County Zoning Ordinance (MCZO)s Article 8 Amendments.**

Director McLane stated that this is the second hearing. The Director informed the Commission that since the last hearing staff has had email, mail and phone correspondence with Jon Jinings of DLCD, Teresa Penninger of ODOT and Ron McKinnis of the Port of Morrow (the applicant). Jon Jinings of DLCD stated in an email a need for additional explanation and had some questions regarding the application. Teresa Penninger of ODOT sent a letter after reviewing the application and suggested adding an additional Condition of Approval stating that an Interchange Area Management Plan (IAMP) be adopted by the County before development begins. The response from the Port of Morrow answers the questions that were brought up by DLCD and ODOT. The Port had no objection to adding the new Condition of Approval, and having language added to the staff report about the exceptions process, economic opportunities with unit trains and having the correspondence added to the record. The Director informed the Commission that there had been no additional comment. The application is scheduled for County Court in December.

Commissioner Key asked staff why the Port didn't trade the whole 640 acres.

Director McLane stated that staff had asked the Port the same question and the Port wanted to retain some of the land Industrially zoned. For the land that will not be re-zoned, in the end staff encouraged the Port to orient the Industrial land differently, but this is the configuration that the Port ultimately chose. The Director explained to the Commission that some time ago the land was identified as suitable for industrial. The land had to be zoned industrial to apply industrial wastewater to it, now it can be applied to agricultural land. Since the Bombing Range is so close to it, it would be better if it was to be zoned agricultural land instead of industrial land.

Opened the Public Hearing.

Testimony in favor.

Ron McKinnis, Port of Morrow Engineer, Boardman, Oregon. Mr McKinnis stated he wanted to address the questions that were raised in the correspondence. The Port of Morrow had purchased the 640 acres from a farmer to apply wastewater to the land, it was called the South Farm. Then the Port of Morrow decided that it was not needed any longer, so they sold it to Westland Enterprises, but the Port reserved the right to transfer or use the zoning that would fit the Ports needs. There was no intention of industrial activities at that site. The Port maintained the block of zoning just for future use. It was a value to the Port now and it will be in the future. Mr. McKinnis responded to the letter from ODOT saying that there are no problems with what they are proposing, that the IAMP be adopted by the Oregon Transportation Commission and the County prior to building and zoning permits. Mr. McKinnis stated that it is a bit redundant because they already have the funding through ODOT by legislation, ODOT has already signed off on that, but the Port will do it the way that ODOT wants.

No one testified in neutral or opposition.

Closed the Public Hearing.

Commissioner Renfro commented that since there has not been any opposition, it would be hard for the Commission to not accept it, and recommend approval.

The Director responded that there will be times when things don't get approved. Planning staff do work with applicants before hand to get them where they need to be on the applications so it is easier to be approved.

Mr. McKinnis said it was easy because in this instance they are trading apples to apples. Meaning the zoning swap was pretty even with regards to acreage. If it had not been even, there would have been more opposition.

Chair Sykes commented that this is the most democratic way to do this, in a public hearing setting, where citizens are noticed, and they have an opportunity to be in favor or oppose land use actions.

Commissioner Rice moved to recommend approval to County Court with changes. Commissioner Key seconded his motion. The motion carried.

**Second hearing on Park Master Plan and Comprehensive Plan Recreation Element: Morrow County, applicant. Proposal is to update the MCCP Recreation Element to address changes to the Morrow County Parks Master Plan, to amend the Parkland Overlay Zone, and to apply the Parkland Overlay Zone to Morrow County parks. Criteria for approval are found in the MCCP Review and Revision Process and MCZO Article 8 Amendments.**

Director McLane stated that there have been no changes made to the staff report since it was last viewed by the Commission. The Director explained that this document is not a regulatory document, it is mostly an informative document. She went on to say that this document needs to be there to get funding through state agencies like the TSP, but unlike the TSP is not regulatory. The Recreation Element still has a couple of things that need to be worked out before going before County Court. There are a couple of findings that need to be reworded a bit, and some information can be updated because now there is better information out there. There are a few places in the Recreation Element where a North Central Oregon Strategic Plan is mentioned, but staff has not been able to locate that document. The Recreation Element also still contains some Speedway language, but that will continue to stay in there until there is official withdrawal of that project. The Parkland Overlay Zone is currently applied to Anson Wright Park and Cutsforth Park, but still needs to be applied to the OHV park. There was also some renumbering done based on language changes. Staff recommend that the Planning Commission approve it as is so it can be forwarded to County Court.

Opened the Public Hearing.

No one spoke in favor, neutral or opposition.

Closed the Public Hearing.

Commissioner Rice stated that he feels comfortable with letting staff make the necessary changes so as not to hold up this document and forward to County Court.

Commissioner Renfro moved for approval with anticipated changes. Commissioner Key seconded his motion. The motion carried.

**Audience Participation:** None

**Other Business or Correspondence:**

The Director informed the Commission that the Navy has just started the Environmental Impact Statement (EIS) process for the Bombing Range. The combined EIS will be for the Navy and the Oregon National Guard. The director asked the Commission if any of the Commissioners would be able to attend the scoping meetings that are scheduled for October 27 in Boardman at the Port of Morrow and October 28 in Hermiston. This will be a very interesting process because the Navy is a challenge to work with and gives new meaning to "absentee landowner". There will be a big impact to this county whatever happens.

Commissioner Renfro inquired about what might happen.

Director McLane stated that the Oregon National Guard has approached the Navy to use the Bombing Range for bombing drills and small to large arms live firing. About 6 years ago the Navy just started the scoping on the EIS, it takes the Federal Government awhile to get things going. Having the Oregon National Guard here for drills will bring troops here to the area, currently they are being sent out of state for training. This will be cost effective for the state. The director said there would be drawbacks because there are issues around water at the Bombing Range of both quality and quantity, and there is no mechanism to build any housing facilities for the troops. Which is why the Oregon National Guard would also like to use the Army Depot for the full range of training facilities and for the barracks and kitchen facilities. Currently the County does not receive any tax benefits from the Federal Army and Navy lands. But now they want to put people here, to live in our County, that would be a real benefit for the County. We as a County need to hold the Navy accountable to make this happen. The Navy does support this, but higher up in government you go, the slower it tends to get. There is also the issue of the Washington Ground Squirrel on the Bombing Range, which prompted the EIS from the Environmental Assessment. The Director stated that she would send a packet for next meeting for some information on EIS for the Commissioners.

Commissioner Key stated that he was not here for the last meeting, and that he looked though the minutes, and wanted to tell the Commissioners that they did a good job. Director McLane agreed that all the Commissioners came fully prepared and they all did a great job.

Commissioner Key wanted to inform the Commission for the reason that he was not at the last meeting was because he was in San Diego for a Marine Corps reunion and graduation ceremony.

**Adjournment:**

Meeting was adjourned at 8:08 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, October 26, 2010 at 7:00 p.m. at Heppner City Hall in Heppner, Oregon.

Respectfully Submitted,  
Layne Womack



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

### **Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, October 26, 2010 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Mifflin Devin, Jim Key, John Kilkenny, John Renfro, Tucker Rice, David Sykes, Rod Taylor, Jeff Wenholz

**Members Excused:** Pamela Docken

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner

The Pledge of Allegiance was recited.

The Minutes of the October 12, 2010 hearing were provided with the Commissioners' packets. Commissioner Rice moved to approve the minutes of October 12, 2010. Commissioner Devin seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Continued deliberation on the Remand of Planning Commission Decision on Condition of Approval 1 of CUP-N-213: Invenergy, owner of the subject wind energy project. Subject property is approximately 3,000 acres located north of Cecil, Oregon, west of Highway 74 at approximately Milepost 10. Zoning is Exclusive Farm Use (EFU). The Planning Commission will be reviewing the decision they made at the May 25, 2010, hearing regarding noise studies to determine compliance with Condition of Approval 1 of the subject conditional use permit.**

Commissioners Taylor, Renfro and Kilkenny recused themselves from continued deliberation.

At the last hearing, Planning Director McLane had been instructed based on her notes and consensus from the Planning Commission, to draft the document that would lay out the Commission's findings. Staff had provided the document to the Commission to review before the hearing. The Director asked if there was anything that needed to be added or stricken from the document.

Chair Sykes asked the Commission to make sure that the time line for the compliance period and monitoring period was what the Commission wanted. Commissioner Wenholz agreed that the document captured the discussion that the Commission had. Commissioner Wenholz asked staff what happens if they are not in compliance after the time period, and that there is not anything that will direct that in the document.

Director McLane responded that in item #12 of the document it says what can happen, and maybe it does need to be clearer. Commissioner Wenholz still wanted to know what happens if they are not in compliance, and that the Commission should be prepared and discuss this now.



Chair Sykes asked since there are four different monitoring stations, would they be all together or separately in compliance. Chair Sykes commented that there would be nothing negative about flushing it out now. Commissioner Devin asked what the options could be, the Commission can not just shut down one tower, could staff redo the CUP for each tower instead of the whole project.

Director McLane responded that the wind towers have been permitted as a whole project, it would be a cumbersome task and take a lot of staff time to permit each individual tower. The compliance is determined at the houses, not whether or not a specific wind turbine is in compliance.

Chair Sykes asked staff that if the County Court authorizes the 3<sup>rd</sup> party, shouldn't Planning Commission be the one to pick who is going to do it. Commissioner Rice stated that he was not in favor of Planning Commission taking on that task, and that it should be left to staff to find a 3<sup>rd</sup> party and County Court authorizing it.

Chair Sykes wanted to make sure it is the houses that are being monitored not the towers. Director McLane agreed that it will be the houses, and that the 3<sup>rd</sup> party will collect data and determine whether it is wind farm noise at each house and if they are in compliance.

Chair Sykes asked for consensus on keeping item #12 the same, same language as presented, the Commission all agreed. The Commission then commented on Director McLane doing a good job preparing the document.

Director McLane informed the Commission that since the document was written on Commission consensus, and if the Commission agrees, they can now move to action. Chair Sykes polled each member of the Commission as to whether they had any outside influences on their opinions. Each member of the Commission said they had not.

Commissioner Wenzholz moved to recommend approval of the Morrow County Planning Commission Findings of Fact Conclusions of Law CUP-N-213 Remand on appeal of Planning Commission Decision Review of Condition of Approval 1. Commissioner Devin seconded his motion. The motion carried.

### **Forest Update Todd Buchholz, USFS in Heppner, will provide the Planning Commission with an update of forest activities.**

Director McLane introduced Todd Buchholz from the USFS in Heppner, and since the Commission and staff will be updating the Comprehensive Plan very soon, thought it was a good idea to get an update of forest activities in Morrow County.

Mr. Buchholz informed the Commission of the various activities happening on Umatilla National Forest land, such as the CTUIR renaming the "squaw" place names on Warm Springs ceded lands within the National Forest. The Umatilla National Forest received \$8 million in stimulus money that went towards new vault toilets, maintenance for trails and campgrounds, and to hire some youth crews to do some of the maintenance this last summer. Another project that was recently started was the paved trail around Bull Prairie lake for handicapped access, but still needs some more work there. There have been some timber sales from danger trees and from small Categorical Exclusion areas. The Forest Service will be doing some fuels reduction around Penland lake, because of the Healthy Forests Initiative, which will be hopefully easy and simple. Mr. Buchholz wanted to thank the Commission for their part in the OHV Park, the off

road riders really seem to be abiding by the rules, which is a success because of the park. There has been a lot of hunters out there lately, and off road vehicles are a big draw for this area. There was a Youth Camp for kids from the area, and an Environmental Education Coordinator, which will be a full time position is going to be hired. With regards to land management planning, there might be some potential new Wilderness Areas, and Vegetation Management Areas. There is some newly acquired BLM lands in the south part of the County. Mr. Buchholz also informed the Commission that the three National Forests will now be under one Land Management Plan, a draft of that should be available soon, late spring 2011. This new plan will dictate how the USFS will do the planning for next 15-20 years, and there will be public meetings and ways to get engaged. There is currently no budget until after the election, but he anticipates the same budget as the last couple years, not taking into account inflation. The USFS is still employing local contractors for forest service needs such as cattle guards. The USFS has been talking to Zeachem for the potential use of bio fuels from National Forest lands.

Director McLane stated that the Planning Commission approved the CUP for the OHV Park, and recently approved updates to the Parkland Overlay Zone and Recreation Element and the Parks Master Plan.

Chair Sykes asked Mr. Buchholz if the attitude has changed at all with regards to fuel management on National Forest land. Mr. Buchholz replied that with regards to the Healthy Forests Initiative, when it comes to saving people and houses its ok, but as soon as timber sales come in to it, then no. But the attitude is slowly changing a bit.

Commissioner Key commented that the USFS should utilize livestock grazing more to knock down the underbrush. Mr. Buchholz agreed with Commissioner Key and said that grazing is not a issue in the Heppner District, and that it seems to be managed really well. He also went on to comment that the Forest Service has many tools in the tool box, but the tools have been taken away. The people in the District actually manage their cows really well.

Burke O'Brien, Morrow County Public Works Director, asked Mr. Buchholz why the cost of transportation to move fuels from the National Forest land to places such as the Co-Gen plant seem to be fixed in stone. Director O'Brien also inquired why the road into Bull Prairie hadn't been fixed before they put in the paved trail around it. Mr. Buchholz agreed that the factor concerning the transportation needed to be looked at, and the reason why the road into Bull Prairie had not been fixed first is that the money was not intended for that, but for the trail around the lake.

Director McLane stated that since staff and the Commission will be beginning the process of updating the Comprehensive Plan soon, we will be tapping into the agency for some help in updating information, specifically in the Forest Lands component.

#### **Other Business or Correspondence:**

##### **Transportation System Plan major update discussion**

Director McLane informed the Commission that we just did a minor update to the TSP, but now it is time for the major update. The document is intended to marry transportation and planning. The memo that the Commission received has the new project list, which will be completed as funding is available. Based on activity at the Port of Morrow, the TSP should be more robust when it comes to rail. We should include new maps of the rail like we did with forest roads in the past. Included should also be the planned connections into and around the Army Depot,

and lone to Boardman road. We do need to put together by the end of the year a technical advisory committee, then the revised TSP can be adopted by June, so by late February or early March, we should have a draft done.

Director O'Brien commented that the 20 year plan can be looked at as leftover projects from the 5 year plan that did not get done. County Commissioner Rea commented that just because it is in the 20 year plan, that does not mean it couldn't go to the 5 year plan.

Director McLane reported to the Commission that the two Interchange Area Management Plans (IAMP) with the Port are going to be going on concurrently with the TSP update. The funding source said that the Port must do the IAMP's for the funding. The Director also stated that we will not be redoing any traffic number counts, just update the project lists, and rail and Army Depot stuff. The adoption will be about the same time on the TSP and IAMP's, and that they need to reference each other. The new project list that was given to the Commission with their packets is a re-prioritized list, not necessarily new projects.

Commissioner Taylor asked Director O'Brien if any traffic counts on Rhea Creek Road have increased due to the OHV Park. Director O'Brien said that there has not been much impact.

Chair Sykes asked Director O'Brien about the unit train traffic at the Port of Morrow, where will it go, and there can be opportunity because of impacts. Director McLane informed the Commission that ZeaChem came by to update staff, and when the full facility is built, they would be hauling material by Poleline Road to Patterson Ferry to the new intersection on HWY 730 then into the Port. Director O'Brien commented that there would not be a big traffic change from 5 years ago on Paterson Ferry Road.

Commissioner Renfro commented that there was the same dollar amount on each project on the list, and inquired if that was because of funding sources. Director O'Brien agreed that it was.

Commissioner Kilkenny directed a question at Director O'Brien concerning the roads being used for Shepherds Flat Wind Farm. Director O'Brien said the haul routes should be Ely Canyon Lane, and that the developer pays for the upgrades to the haul routes to public works, as of now it will be worked out before hand, and hopefully they are not afraid to put up some bucks ahead of time. Director O'Brien mentioned that a Planning Department Policy regarding this might need to be pulled into the TSP.

Commissioner Wenzholz inquired to Director O'Brien about getting some funding from the users of Tower Road, specifically the PGE Coal Fired Plant and Threemile Canyon Farms, since one entity created a large impact. Director McLane and Commissioner Rea both agreed that the taxpayer money goes towards roads, and Threemile and the PGE Plant are both one of the largest taxpayers in the County. Director McLane went on to ask the Commission for a volunteer to serve on the Technical Advisory Committees for the TSP and IAMP from the Planning Commission to serve for this action. Commissioner Wenzholz volunteered for the TSP TAC and for the IAMP TAC.

### **Comprehensive Plan update**

The Director informed the Commission that staff need to continue to work towards a scope of work for the Comprehensive Plan, it will be done slowly because we have the TSP and IAMP's. By the December meeting staff might have some sort of scope worked out, then we can work on it as a whole, but in pieces, then adopt it as a whole document.

**Handout**

Director McLane passed out a handout on the top 20 Counties with a high percentage of higher education. Thought it was interesting that the Counties with a University were not ranked among the highest.

**Space Age Industrial Zoned Land**

Director McLane informed the Commission that in 1962 during the space race, Morrow County was to become "Cape Canaveral West." This clearly never happened and there is an effort to get the statute repealed that authorized this use, and more importantly, the state land lease. The question is what would make more sense out there. So the Commission may see a rezoning project come out of it.

**Bombing Range Environmental Impact Statement packet**

Director McLane informed the Commission that the scoping open house is tomorrow night in Boardman at the Port, then in Hermiston at the Convention Center. The County is trying to engage The Navy does not want the county to act as a cooperating agency. The Navy thinks we don't have a role, and don't need to be involved. We have a list going of proposed impacts, and other stuff to take to the table with them.

**2011 Calendar**

The Director asked the Commission what they about taking some tours around the County. Specifically at the Port of Morrow, Threemile Canyon Farms, and the Coal Fire Plant. If this was done around June 28 meeting, there would be a lot of light available. Or it could be another day, we are not locked into Planning Commission days. Commissioner Kilkenny suggested a wind farm tour during construction. This was approved by consensus of the Commission. Dates and times for tours will be coordinated at a later date.

**Planning Commissioners with terms expiring**

Both David Sykes and Jeff Wenholz will see their terms expire on December 31, 2010. Staff still needs to post it and advertise it. The Commissioners will be getting letters in the mail soon.

The Commissioners and staff were commenting on the noise remand, and wondering what happens if it is appealed, and if it is a land use decision at that point. Will it go to LUBA or not. The Planning Director informed the Commission that we will see if it comes down to it, and that the path is not clear.

**Adjournment:**

Meeting was adjourned at 9:10 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, December 7, 2010 at 7:00 p.m. at The Port of Morrow Riverfront Center in Boardman, Oregon.

Respectfully Submitted,  
Layne Womack



## PLANNING DEPARTMENT

P. O. Box 40 • Irrigon, Oregon 97844  
(541) 922-4624 or (541) 676-9061 x 5503  
FAX: (541) 922-3472

### **Minutes of the Public Hearing of the Morrow County Planning Commission Tuesday, December 7, 2010 7:00 p.m.**

**Morrow County Planning Commissioners Members Present:** Pamela Docken, Jim Key, John Kilkenny, John Renfro, Tucker Rice, David Sykes, Rod Taylor, Jeff Wenzholz

**Members Excused:** Mifflin Devin

**Morrow County Staff Present:** Carla McLane, Planning Director; Layne Womack, Associate Planner

The Pledge of Allegiance was recited.

#### **Minutes**

The minutes of the October 26, 2010, hearing were provided with the Commissioners' packets.

Vice-Chair Wenzholz moved to approve the minutes of October 26, 2010. Commissioner Rice seconded his motion. The motion carried.

Planning Commission Chair Sykes read the Planning Commission Hearing Procedures.

**Amend Conditional Use Permit CUP-N-245: Wade and Debora Aylett, applicants, Jedediah Aylett, owner. Property is described as Tax Lots 300 and 1101 of Assessor's Map 4N 27 28. The property is zoned Exclusive Farm Use and is located approximately one-half mile west of the Umatilla Army Depot Interchange with Interstate 84. Request is to amend aggregate permit to include an asphalt batch plant for a one-time project.**

**Criteria for approval include the Morrow County Zoning Ordinance Article 6**

Commissioner Key stated that he is a neighbor to the applicant, but that will not change his judgment regarding the application.

Planning Director McLane presented the staff report to the Commission and gave some background information on the Department of Geology and Mineral Industries (DOGAMI) numbers and the sequence they follow. She explained that one difference between concrete and asphalt permitting has to do with whether any orchards are in the immediate area. Morrow County does not have many orchards. The subject area has been historically used for quarries. Director McLane stated that this request is to approve operation for nearly 24 hours a day for 70 to 90 days for a specific Oregon Department of Transportation (ODOT) project. After the project is finished, the regular operating hours of the concrete and asphalt plant would be Monday through Saturday, 7:00 a.m. to 5:30 p.m. The number of truck trips will not trigger the Traffic Impact Analysis 400-trip threshold. The area is in the Lower Umatilla Groundwater Management Area (LUBGWMA) for water quality and a critical groundwater management area

(CGWMA) for water quantity. The applicants have already shown proof of water rights. There is a conditioned 18-month time line for a lapse of either plant. The Director informed the Commission that the Planning Department received e-mail comment from Umatilla County Planning Director Tamra Mabbott with concerns about use of the road that the aggregate operation uses that goes into Umatilla County.

Chair Sykes asked what the orchard in the area have to do with an asphalt plant. Director McLane explained that this is probably because of air quality issues and air emissions.

Chair Sykes inquired about the time line of the project being about 70 to 90 days long. Director McLane answered that the applicant would be starting the project sometime in the spring.

Commissioner Rice asked if it was necessary to identify the name of the project in the staff report. The Director stated that we certainly could, but that the time frame for the project is provided and that should suffice for making a decision.

Opened the Public Hearing.

In favor.

Applicant Wade Aylett, Rock Solid Sand and Gravel. Mr. Aylett said that this project is going to help the area, and improve the highways. He told the Commission that ODOT asked him to get the required permits for this specific project.

No one spoke in neutral or in opposition:

Closed the Public Hearing.

Vice Chair Wenholz moved to approve the amendment to CUP-N-245. Commissioner Taylor seconded his motion. The motion carried.

**Audience Participation:** None

**Other Business or Correspondence:**

**Road Policy and Weed Policy for Wind Farms**

Director McLane provided the Commission with copies of both Road and Weed Policy Statements directed toward renewable energy projects. Public Works developed the policies to be shared with the wind developers and the Planning Department during the permitting process to ensure some policy coordination. Weed Manager Dave Pranger included some weed-control items that can be suggested or required for renewable energy projects. She stated that permitting is one thing, and going into the construction phase is quite another. She told the Commission that the County is getting much better at the coordination and different policies involved in permitting a wind farm or renewable energy project and that this document can help staff ask the right questions in the permitting and development phases.

Chair Sykes asked whether this is brought on because of something that went wrong or merely in anticipation. Director McLane said this was brought on by a little of both. For example, Gilliam County entered into a road agreement with the Shepards Flat Wind Farm for county road maintenance before they did enough research to discover that the road was not a county

road. The Morrow County Public Works Director is wary of going into these kinds of agreements, because the standards are already there.

Director McLane updated the Commission on the Noise Appeal. Both parties appealed the decision. The complainants wanted the Planning Commission to tell Invenergy to cease operations and pay all costs associated with the appeals. Neither the Planning Commission nor the County Court has authority to award monetary judgement. County Court will hear the Planning Commission decision.

Commissioner Kilkenny asked Director McLane if Planning and Public Works staff talk to wind developers together early in the preapplication process. She said that we do, and that we try to bring in other entities, such as the Oregon Department of Fish and Wildlife (ODFW), as well. There also is discussion of transmission impacts. Even if the applicant goes through the Energy Facility Siting Council (EFSC) process, planning staff hold preapplication conferences with them because the facilities still have to meet County code.

Chair Sykes asked if an application goes through EFSC and a compliance issue comes up, which body deals with it. Planning Director McLane said that the Planning Department can enforce local permits, but wouldn't want to because EFSC should enforce the rules. The Department of Energy (DOE) should have to enforce the conditions because they imposed them, and they have better enforcement mechanisms in place than the County does. For example, Morrow Energy is doing some small, locally permitted 100-MW projects and Chris Mason is going to do two 10-MW projects. Should the EFSC be permitting these small projects together, or independently locally approved projects? When these situations arise, the Planning Department sits with DOE and discusses it. The developer has to show that each project is independent.

Commissioner Kilkenny asked staff how the local government gets into the EFSC permitting process. Planning Director McLane described the process of how EFSC gets a Notice of Intent from the applicant, then informs the Planning Department. Planning staff tells them what codes apply, and they impose those as conditions. Then the applicant applies, EFSC checks, planning staff checks, we add our conditions of approval, and so on. Shepards Flat Wind Farm triggered changes to our code that added a new section in the conditional use permit (CUP) section allowing approval of a CUP without a public hearing to make the county compliant with State statute. She went on to say that EFSC's role is essentially that of a statewide planning commission.

### **Comprehensive Plan Update Work Plan**

The Commissioners' packets also included a memo from Planning Director McLane and Associate Planner Layne Womack providing a rough time line or sequence of events to begin the update process for the Comprehensive Plan. Staff will first finalize the digital version, then codify it and incorporate all amendments and changes. Once that is finished, a very hefty rough draft should be available to the Commission in notebook form. Then, once staff and the Commission figure out where to start and what is most important, together we can start updating the actual information. Planning Director McLane described the process for digitizing, codifying, and updating the Comp Plan. Maps, such as the ODFW Big Game Map and hazard area maps, also will need updating. Staff will also coordinate with State and Federal agencies and local jurisdictions, and facilitate citizen involvement.

Planning Director McLane also talked about the reading material included in the packets. The first article was from *Oregon Labor Trends* and discussed wind-industry impacts on Oregon jobs. The second was a *National Geographic* article on the electrical grid.

The Director then updated the Commission on the Love's appeal. The land partition, which had been appealed to the Land Use Board of Appeals (LUBA) and the Court of Appeals, has been remanded back to the County. The County took final action on the land partition with no opposition. LUBA chose to combine the records for the appeals on the zone change and CUP. They have now moved into a briefing schedule. LUBA issued an opinion that Love's must come back to the Planning Commission to apply for a limited-use overlay zone in addition to the CUP for the truck stop. If that decision is not appealed to the Court of Appeals, the action will come back to the County Court on remand.

**Adjournment:**

Meeting was adjourned at 9:07 p.m.

The next meeting of the Morrow County Planning Commission to hear regular business is scheduled for Tuesday, January 18, 2010, at 7:00 p.m. at Heppner City Hall in Heppner, Oregon.

Respectfully submitted,  
Layne Womack