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**Clatsop County
Board of Commissioners
Minutes**

Wednesday, December 08, 2021

REGULAR MEETING: 6:00 PM

ROLL CALL

PRESENT

Commissioner Courtney Bangs
Commissioner John Toyooka
Commissioner Pam Wev
Vice Chair Lianne Thompson
Chair Mark Kujala

AGENDA APPROVAL

Motion made by Vice Chair Thompson, Seconded by Commissioner Toyooka to approve the Agenda as amended.

Voting Yea: Commissioner Bangs, Commissioner Toyooka, Commissioner Wev, Vice Chair Thompson, Chair Kujala

BUSINESS FROM THE PUBLIC

Pud Puhl, 89429 Lewis & Clark Rd, Astoria, said he wanted to know why the Commission could not hold a public meeting. He also disagreed with the proposed changes to the roadmaster's authority and the legalese made it difficult for him to figure out what they wanted. The roadmaster has lied to him about efforts to make the Lewis and Clark main line into a County road. He confirmed for Chair Kujala his comments were in reference to Public Hearing Item 9: Ordinance 21-05.

Chair Kujala asked Mr. Puhl to make his comments during the public hearing.

Mr. Puhl asked why the hearing was being livestreamed through Zoom instead of being conducted in person. He added that he believed the roadmaster would be given too much authority and he completely disagreed with the proposed changes. The Commission claims to be transparent, but he had not seen any transparency from this Commission, especially when it came to Lewis and Clark and the main line. He had a lawyer try to get information from the County and he understood that the County withheld information, so the lawsuit was dismissed by Judge Matyas. The same thing happened several years ago with a previous Commission that did not release information until after the fact and then it was too late to do anything. He was trying to stay ahead of the game with the Commission as far as transparency. The roadmaster had lied to him and a neighbor and there was no recourse, so he wanted to know why there would not be a public meeting in person.

Chair Kujala explained that the County's use of Zoom was part of the COVID-19 protocols, and the Commission would hold a public hearing on Ordinance 21-05.

1 **CONSENT CALENDAR**

2 *Motion made by Vice Chair Thompson, Seconded by Commissioner Bangs to approve*
3 *the Consent Calendar.*

4 *Voting Yea: Commissioner Bangs, Commissioner Toyooka, Commissioner Wev, Vice*
5 *Chair Thompson, Chair Kujala*

- 6
- 7 1. Board of Commissioners Minutes 11-10-21 {Page 49}
 - 8 2. Legislative Consulting Agreement with PacWest Communications {Page 53}
 - 9 3. FY2021-2022 Homeless Liaison Position Funding {Page 63}
 - 10 4. Purchase New IP Phone equipment {Page 66}
 - 11 5. Deed of Dedication for Westport Park Boat Ramp Road {Page 71}
 - 12 6. Approve Contract with Sunset Presort for mail services {Page 75}
 - 13 7. 2022 ReConnect Grant Program Authorized Representatives Resolution and
14 Order {Page 80}
 - 15 8. Approve Agreement for new Internet/Phone Service at the County Emergency
16 Operations Center (EOC)

17 **PUBLIC HEALTH UPDATE[**

18 Director Lalich provided updates on the newest COVID-19 variant, vaccination statistics,
19 and pandemic response operations.

20 Vice Chair Thompson said Public Health Staff already had full-time jobs and for the last
21 year had to deal with this life-threatening situation. She understood that until enough
22 people were vaccinated, the pandemic would likely become endemic.

23 Director Lalich clarified that the idea the pandemic would become endemic was not new
24 information. Epidemiologists and public health professionals had been discussing that
25 possibility for the last few months. Many diseases started out as a pandemic and are
26 now endemic. The focus should be on appropriate mitigation and prevention strategies
27 that allow people to live with COVID-19, manage and care for those who are exposed
28 and vulnerable, and carry on without additional layers of regulations. Wearing masks is
29 not new. The Public Health Department had been promoting wearing masks during flu
30 season for at least 15 years. Getting vaccinated and staying home when sick are not
31 new strategies.

32 Commissioner Toyooka noted the Centers for Disease Control (CDC) and others have
33 stated vaccines do not stop people from getting sick, do not stop transmission of the
34 variants, and just reduces the severity of symptoms. Therefore, COVID-19 could
35 already be considered endemic.

36 Director Lalich responded that after two years, public health officials were still learning
37 how the virus mutates. There were plenty of vaccines, but treatments were still being
38 allocated. She expected oral treatments to become available but noted that there would
39 always be people who were more vulnerable than others. There was evidence that in
40 Clatsop County, the community-wide efforts and mitigation strategies were working.

1 Vice Chair Thompson stated she believed in getting vaccinated and wearing masks
2 because she was in the cohort that was vulnerable, and she did not want to give
3 COVID-19 to anyone else who was vulnerable. She expected the same courtesy in
4 return.

5 Commissioner Toyooka said people had questions because there was so much
6 information out there. Information from six different sources might give six different
7 answers.

8 Director Lalich responded that she had seen other infectious diseases come forth and
9 the fear, confusion, stigma and misunderstandings still continue. There would always be
10 different beliefs and opinions that the County must work with. COVID-19 is a new
11 infectious disease that will not likely go away, so individual choices must be recognized.

12 Commissioner Bangs said she appreciated Director Lalich's perspective and
13 compassion.

14 Chair Kujala believed it was a wise decision to hold meetings in a virtual format, but
15 everyone was anxious to get back to in person meetings.

16 Director Lalich confirmed for Chair Kujala that if the current trend continued, in person
17 meetings could begin next month. However, she recommended that a hybrid
18 environment be offered for accessibility reasons. Masks will continue to be required in
19 certain environments.

20 **COMMISSIONER'S LIAISON REPORTS**

21 Commissioner Wev reported that the Oregon Geographic Names Committee approved
22 Clatsop County's recommendation to rename an island in the Columbia River to Lark
23 Island. The U.S. Army Corps of Engineers would be putting signage on some of the
24 islands to indicate which islands are accessible to boaters and what uses are allowed.
25 The Housing Authority was building a 42-unit affordable housing apartment complex in
26 Warrenton and had plans to renovate the Owens Adair building to include additional
27 units built on the existing parking lot. Next week, the Housing Authority would hold a
28 meeting with the Owens Adair residents because she had received a lot of questions
29 about the work being done on the parking lot. The most recent Coastal Zone
30 Management meeting included a discussion from the Association of Counties about the
31 short session. The meeting also included a discussion about interest in wind turbines
32 along the coast. The wind turbine industry is pushing for federal leases, and she was
33 trying to figure out which federal and state agencies were involved. Current zoning
34 Codes do not include cable landings from offshore turbines, so the County will have to
35 address this in the near future. The meeting included a discussion on short term rental
36 issues as well. There was an interest in more regulation among all of the north coast
37 counties. The north coast counties compete with each other for tourism, so the more
38 coordinated the counties could be, the better it would be for the industry.

39 Vice Chair Thompson reported that the Association of Counties and League of Oregon
40 Cities had been coordinating with coastal counties to address housing issues. The
41 Commission should also address housing in the Strategic Plan. She spoke with Staff
42 about how the County could also coordinate with other entities to address housing. She
43 attended a meeting in Seaside to discuss affordable housing. She also attended

1 Seaside's 80th Birthday of the Pearl Harbor Day of Remembrance event, where she
2 shared that the County was seeking contributions to the Vietnam War Memorial. She
3 reported that at the annual leadership summit for business leaders and public sector
4 leaders, she learned that Intel was the last company in the United States to build
5 computer chips. The County needs adequate housing, broadband, and childcare. She
6 met Karla Chambers of Stahlbush Island Farms who presented at the Strengthening
7 Oregon Manufacturing event. At the last session, called Looking Ahead – Opportunities
8 for Oregon, Eric Forrest of Big Foot Beverages discussed COVID-19's disproportionate
9 impact on rural Oregon. The County has to get organized because otherwise, the gap
10 between rich and poor, urban and rural would continue to grow. There was a lot of talk
11 from the I-5 corridor about diversity, equity, and inclusion. Racism must be addressed,
12 but a different kind of privilege is not the answer. She reported that the Citizen Advisory
13 Committee from the southwest neighborhood wrapped up their work. After listening to
14 the committee meetings, she believed that her friends and neighbors needed to look for
15 an alternative legal structure like a homeowner's association, a special district, or an
16 incorporation in order to get the level of services they wanted.

17 Commissioner Bangs reported that the forest industry presentation given at the work
18 session reminded her how important it was for her to attend the Forest Trust Land
19 Advisory Committee (FTLAC) and Board of Forestry meetings. She had logged in her
20 thoughts and comments on the State's Forest Management Plan (FMP), which would
21 impact Clatsop County. She appreciated that Commissioner Thompson also attended
22 those meetings. She was interested to see what would happen with the NEPA process
23 and the HCP. She had noted in the FMP conversation that she wished the State had
24 conversations with the County about the HCP. She believed the forest industry and
25 environmental groups would also be interested in the wind turbine situation because
26 they are working so hard to protect the marbled murrelet sea birds.

27 Commissioner Toyooka reported that he had discussed the Comprehensive Plan and
28 housing with his constituents. He looked forward to begin working with the Planning
29 Commission on infrastructure to increase the housing and to make affordable and
30 market based housing.

31 Chair Kujala reported that in October, the Deschutes County Commission allocated \$6.6
32 million in American Rescue Act funds to childcare. Public/private partnerships are
33 working with daycares like Lil' Sprouts, Warrenton Prep and Seaside Daycare. A
34 number of different parties would have to incorporate to develop a sustainable funding
35 model, which would be a challenge. He was optimistic that the County would put
36 something in place.

37 **COUNTY MANAGER'S REPORT**

38 Assistant County Manager Steele reported that she sent Commissioners an updated
39 letter of support for a housing project in downtown Astoria. She asked the
40 Commissioners to let her know if they supported having the Chair sign the letter and
41 submit it to the City of Astoria. The December 15th work session packets would be sent
42 out in the next day or so. SERA Architects would discuss the Strategic Facilities Plan at
43 the work session. Prior to the meeting, SERA has requested the Commissioners think
44 about the questions posed on Page 11 of the work session packet.

1 **PUBLIC HEARINGS**

2 9. Ordinance 21-05: Revisions to Subdivision and Partition Regulations and Road
3 Construction Standards - 1st Reading {Page 84}

4 Director Henrikson presented the Staff report on Ordinance 21-05. She noted
5 that after the Agenda packet was prepared, the Public Works Department
6 recommended an additional revision, which County Counsel has deemed a minor
7 change.

8 County Engineer Keranen stated his department had received public comments
9 about Section 3.9860 Roadway Construction and Serial Partitions. The intention
10 was to get the road constructed for all future lots that could be developed.
11 However, the revisions implied that the development restriction would be
12 permanent and that no more partitions could be done. Therefore, he
13 recommended that Number 4 be changed to Number 5 and add a new Number 4
14 that stated, "Alternatively, an applicant may record a temporary development
15 restriction on the larger parcels with the condition that full right-of-way or
16 easement width shall be reserved on the initial partition. Any required future road
17 improvements shall be completed prior to the sale of those parcels or the
18 recording of any future partitions."

19 Commissioner Bangs said the Measure 56 notice sent to residents alluded to the
20 fact that the changes could potentially impact the value of their land. She asked
21 what potential impacts this could have in the unincorporated area.

22 Director Henrikson responded that State statute required specific language be
23 included in Measure 56 notices. Staff did not have to send the notice but erred on
24 the side of caution because of the changes that might require someone who is
25 partitioning their property to build a wider road, which is a greater expense than
26 what is required now.

27 Commissioner Bangs asked if the County would be liable for any taking. She also
28 wanted to know if there were currently any permits on the dockets that would be
29 impacted.

30 Director Henrikson stated the ordinance would go into effect 30 days after it is
31 adopted. Any applications that are submitted after the ordinance goes into effect
32 would be subject to the new requirements.

33 County Counsel Lyons-Antley added that no taking would be created.

34 Commissioner Bangs asked if the changes were recommended by the State.
35 She wanted to know where the information was coming from, noting the
36 information was not included in her Agenda packet.

37 County Counsel Lyons-Antley explained the Agenda packet states additional
38 materials were available on the County's website instead because there was so
39 much information that the packet would have been over 1,000 pages.

40 Vice Chair Thompson said there were issues with the adequacy of the
41 transportation system in rural areas. Her neighbors had made some creative

1 adaptations to address some of the funky roads. She wanted the County to help
2 neighbors with proper drainage.

3 Chair Kujala opened the public hearing and called for public testimony. Seeing
4 none, he closed the public testimony.

5 *Motion: "Conduct the first reading of Ordinance 21-05: Revisions to Subdivision*
6 *and Partition Regulations and Road Construction Standards by title only."*

7 *Motion made by Vice Chair Thompson, Seconded by Commissioner Wev.*

8 *Voting Yea: Commissioner Bangs, Commissioner Toyooka, Commissioner Wev,*
9 *Vice Chair Thompson, Chair Kujala*

10
11 County Counsel Lyons-Antley conducted the first reading of the ordinance.

12 10. Extension of Short-Term Rental Moratorium {Page 86}

13 Director Henrikson presented the Staff report on the recommended extension to
14 the short-term rental moratorium.

15 Chair Kujala opened the public hearing at and called for public testimony.

16 Rick Smith, Ray Brown Rd., Falcon Cove, stated he encouraged the
17 Commissioners to support the extension because of all the questions raised by
18 residents, short-term rental (STR) owners, and others up and down the coast. He
19 did not feel the questions had been properly addressed. Letters were submitted
20 to the Board in January by a group of 75 property owners detailing their
21 opposition to STRs and issues with coastal residential zoning. It looked like
22 Commissioners had favoring interests in business owners who lived outside the
23 county or outside the state and did not have voting rights.

24 Chair Kujala closed the public hearing.

25 *Motion: "Approve the Resolution and Order extending the moratorium on the*
26 *licensing and processing of new short-term rental applications to April 28, 2022."*

27 *Motion made by Vice Chair Thompson, Seconded by Commissioner Wev.*

28 *Voting Yea: Commissioner Bangs, Commissioner Toyooka, Commissioner Wev,*
29 *Vice Chair Thompson, Chair Kujala*

30
31 **BUSINESS AGENDA**

32 11. Ambulance Service Area Advisory (ASAA) Committee Reappointments {Page
33 95}

34 Emergency Manager Brown presented the Staff report on the recommended
35 reappointments to the ASAA Committee.

36 *Motion: "Approve appointing Chief Mark Reckmann for a 3-year term and*
37 *reappointing Duane Johnson and Jill Tillotson to the Ambulance Service Area*
38 *Advisory Committee for another 2-year term."*

39 *Motion made by Vice Chair Thompson, Seconded by Commissioner Toyooka.*

40 *Voting Yea: Commissioner Bangs, Commissioner Toyooka, Commissioner Wev,*

1 Vice Chair Thompson, Chair Kujala

2
3 12. Contribution to Vietnam Veteran's War Memorial – State Capitol Grounds {Page
4 102}

5 Assistant County Manager Steele presented the Staff report on the
6 recommended contribution to the Vietnam Veteran's War Memorial.

7 Vice Chair Thompson stated she brought this recommendation to the
8 Commission several years ago and continued to do so until it could be approved.
9 She personally supported this contribution to the Memorial.

10 Commissioner Bangs asked if Staff ever figured out what contributions were
11 being made by other counties.

12 Theresa Dursse, Clerk of the Board, said she followed up with three Counties
13 and confirmed that each County donated \$5,000.00.

14 Commissioner Wev noted that the Memorial was in honor of both the fallen and
15 those who served. She believed this Memorial was long overdue.

16 *Motion: "Approve a \$5000.00 contribution to the Vietnam War Memorial Fund*
17 *along with the budget adjustment to remain in compliance with Oregon Budget*
18 *Law per ORS 294.464 and authorize the Chair to sign."*

19 *Motion made by Commissioner Wev, Seconded by Vice Chair Thompson.*

20 *Voting Yea: Commissioner Bangs, Commissioner Toyooka, Commissioner Wev,*
21 *Vice Chair Thompson, Chair Kujala*

22
23 13. Appeal of Hearings Officer Decision – Brotherton/McConahay CUP {Page 105}

24 Planner Sisson presented the Staff report on the appeal of the denial of the
25 Brotherton/McConahay conditional use permit.

26 County Counsel Lyons-Antley said the Commission needs to decide whether
27 they want to review the case or to summarily affirm the Hearings Officer's
28 decision. A review would allow the Applicants to address the Commission, but it
29 would be atypical to allow the Applicants to provide testimony. If the
30 Commission does affirm the Hearings Officer's decision, the case can be
31 appealed to the Land Use Board of Appeals (LUBA).

32 Commissioner Bangs stated she was frustrated that the County was denying a
33 new home during a housing crisis. She preferred to review the case but also
34 supported Staff's decision. She needed further exploration in order to make a
35 decision because she did not understand how land could be farmed if no one
36 was living on that land. She also wanted to help the Applicants build a house.

37 Chair Kujala said he believed the Commission should review the case. He
38 recommended a limited review or a de novo hearing.

39 Vice Chair Thompson noted that Commissioners took an oath to uphold the law,
40 even when the law is illogical, unreasonable, or no longer current.

1 Commissioner Wev stated that when the legislation was implemented, the intent
2 was to maintain as much farmland as possible in Oregon. This property is top
3 grade farmland, and the burden is on the Applicant to maintain the integrity of
4 the farmland. She believed that if this decision was appealed to LUBA, it would
5 be upheld. The Staff report is terrific, and the Applicants were given an
6 enormous amount of time to fulfill the requirements of the application. She
7 understood that the Commission could review certain aspects of the application.

8 County Counsel Lyons-Antley responded that the development ordinances did
9 provide several review options.

10 Commissioner Wev said she did not believe a de novo hearing would be
11 constructive. She recommended the Commission review the issue of whether or
12 not there could be a viable farm enterprise on the property and offer the
13 Applicants the opportunity to change their application. The Applicants must
14 submit a farm plan. She did not believe LUBA would uphold any exceptions the
15 Commission made on this property because the facts are too clear.

16 Commissioner Bangs asked if the Applicants would be allowed to build upon
17 submission of a farm plan.

18 Planner Sisson clarified that the criteria requires that the property cannot be
19 farmed in order to build a home on the property. Staff believes the property can
20 be farmed, so in order for the Applicants to build a home, they need to
21 demonstrate that the property cannot be farmed. There are other avenues in the
22 Code that provide for a dwelling customarily provided in conjunction with farm
23 use. Therefore, the Applicants could submit a new application for that use
24 instead of pursuing this appeal. If a new application is submitted, the Applicants
25 must demonstrate that the property had been generating \$80,000 a year for
26 three of the last five years.

27 Vice Chair Thompson reiterated that current State law was designed to protect
28 high value farmland because otherwise, everyone would buy farmland and
29 convert it to housing. She was not willing to violate the law and denied the
30 proposed review because Staff had already done the work. However, the
31 County needs more buildable lands, so she supported changing the laws.

32 Commissioner Bangs said she did not want to break any laws but did want to
33 discuss how the Commission could help a landowner develop. She did not
34 believe that six acres could generate \$80,000. Twelve years ago, she tried to
35 participate in a community supported agriculture (CSA) program, but it was
36 nearly impossible. She was not ready to make a decision. She wanted further
37 conversations with Staff.

38 Commissioner Toyooka stated there were tons of homes in the area. He asked
39 how the other landowners built homes on similar lots.

40 Planner Sisson explained that the zoning surrounding the property, particularly
41 to the east and south where there are a lot of homes, is within the Knappa Rural
42 Community boundary, which is residential zoning. Type 1 development is
43 allowed outright on those lots. This property is in the Exclusive Farm Use (EFU)

1 zone and its proximity to the residential zone makes it a good candidate for a
2 zone change. Spot zoning is not allowed, but the County could approve a
3 change to one of the zones that the property is contiguous with. The Residential
4 Agricultural (RA-2) zone is to the west and the Knappa Swenson Rural
5 Community Residential zone is to the east. The RA-2 zone would be the more
6 likely candidate because the rural community boundary would not need to be
7 moved. Moving the rural community boundary would require Comprehensive
8 Plan amendments. The Applicant could apply for a zone change or the
9 Commission could apply new zoning.

10 Commissioner Wev noted the Staff did an area analysis, which is common for
11 these types of cases. The analysis is included in the Staff report. She believed
12 Staff was very competent when assessing the issues in the area.

13 Vice Chair Thompson asked if there would be any legal issues with a rezoning
14 request.

15 Planner Sisson explained that a zone change application would be complicated,
16 expensive, and would need to be prepared by an attorney or a land use
17 professional. The Applicant would need to demonstrate that the land was not
18 currently zoned appropriately and why the proposed zone would be more
19 appropriate. The process would also require an exception to Land Use Planning
20 Goal 3 to preserve agricultural lands for agricultural uses. To get a goal
21 exception, the Applicant would need to demonstrate why the land would not
22 contribute to Goal 3 and why Goal 3 should not be applicable to the property.
23 The Commission could take legislative action, in which case the County would
24 be the Applicant required to make the appropriate findings.

25 Vice Chair Thompson stated that often, in cases like this, an environmental
26 group will start legal action, accusing the Commission of not following the law.
27 She recommended this appeal be tabled so the Commission could discuss the
28 case further and the Applicant could consider other options.

29 *Motion made by Commissioner Bangs, Seconded by Vice Chair Thompson to*
30 *table the appeal of the Hearings Officer's denial of the Brotherton/McConahay*
31 *Conditional Use Permit to a later date.*

32 Director Henrikson noted the County had 150 days to process applications. The
33 Applicants could allow additional time by granting an extension in writing but are
34 not required to.

35 Planner Sisson added that the 150 days had already passed. In order to
36 accommodate the first appeal with the Hearings Officer, Staff requested that the
37 Applicant grant an extension. The extension expires on December 12, 2021. In
38 order to table this appeal, the Applicant would have to grant another extension.

39 Chair Kujala confirmed that the Applicant agreed to extend the deadline.

40 Planner Sisson stated the maximum possible extension the Applicant could grant
41 was a total of 365 days. Therefore, the County must make a decision in the next
42 few months.

1 County Counsel Lyons-Antley said the Application was deemed complete on
2 April 16, 2021. She confirmed for Chair Kujala that a date certain did not need to
3 be stated at this time. She recommended the appeal be continued to the next
4 regularly scheduled meeting on January 12, 2022.

5 Planner Sisson asked what information the Commission wanted Staff to present
6 at the next meeting.

7 Chair Kujala responded that he wanted more information on the viability of the
8 farmland.

9 Commissioner Bangs said the only information she requested was assurance
10 that every avenue for helping the Applicants develop had been exhausted.

11 Director Henrikson clarified that the Commission needs to decide whether to
12 affirm the decision or review the application.

13 Vice Chair Thompson stated she planned to deny the application. She wanted to
14 know what it would take to rezone the property and if the Applicant was willing to
15 go through the rezoning process.

16 Commissioner Bangs requested financial impact statements, one that reflected
17 the financial impacts of denying the request and one that reflected rezoning
18 costs.

19 Director Henrikson reiterated that the only question before the Commission was
20 whether or not to hear the appeal. Exploring alternatives would be a separate
21 process. The goal exception application costs \$5,000. The rezoning application
22 costs \$5,000. Then, there would be attorney or land use planner fees. Staff
23 would not be able to determine the financial impacts of denying a request or
24 holding a hearing. Any data Staff brings to the Commission must be specifically
25 tied to the decision the Commission is being asked to make.

26 Commissioner Bangs said she would contact Staff to request other information.

27 Vice Chair Thompson believed everyone knew that buildable land located inside
28 a growth boundary is more expensive than land that is not located inside a
29 growth boundary. Additionally, land that is not buildable is much less expensive.

30 *Voting Yea: Commissioner Bangs, Commissioner Toyooka, Commissioner Wev,*
31 *Vice Chair Thompson, Chair Kujala.*

32 Chair Kujala stated the appeal had been tabled until the January 2022 meeting.

33 Planner Sisson confirmed he would get the deadline extension in writing from the
34 Applicant.

35 **GOOD OF THE ORDER**

36 There were none.

37 **ADJOURNMENT**

38 There being no further business, the meeting was adjourned at 8:24 pm.

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Approved by,



Mark Kujala, Chair