

**MINUTES OF THE
LINCOLN COUNTY PLANNING COMMISSION**

MEETING OF MAY 14, 2018

Chair Johnson called the meeting to order at 7:32 pm and asked for roll call.

OTHER COMMISSIONERS PRESENT

ANDRA BOBBITT
MARK ESTES
DICK CUTLER
JUDITH PELLETIER

COMMISSIONERS ABSENT

PHIL SPULNIK
TERRY BUGGENHAGEN
BOB PORCH

STAFF PRESENT: Planning Director Onno Husing, Senior Planner Hui Rodomsky, Permit Specialist Josh Bacher

1. CALL TO ORDER

With Commissioners present, a Quorum has been reached for the May 14, 2018 Planning Commission Meeting.

2. APPROVAL OF MINUTES

NONE

3. ITEMS FROM THE AUDIENCE

Chair Johnson stated that the items from the audience would be limited to five minutes.

Cindy George introduced herself but did not sign in, stated she brought members from the community of Siletz including tribal members, and that Depoe Bay is now dumping their treated sewage in the fields of Siletz. She went before the **Board of Commissioners** last week and spoke, and was told that it is highly regulated by the DEQ. **Ms. George** stated that she pulled the test results and they are not testing for many chemicals. She stated that the process needs to stop unless they are truly testing for all the chemicals, and they are not monitoring the wells. The State Department of Environmental Quality (DEQ) was to notify Lincoln County, but she understands that they did not notify Lincoln County. She requested that **Director Husing** pull the notification from the DEQ as he should have been notified. There are huge tankers going down the highway and dumping treated sewage from the City of Depoe Bay all over the fields in Siletz.

Alan and Kayleen Davis introduced themselves but did not sign in. She stated that they have asked for years what is being dumped and were told that it is safe. After looking into it, she remarked that it is not safe and their well is there. Fifty percent of the chemicals are not removed, and twenty-five percent of the chemicals remain. The chemicals are going into hay and cattle and cause cancer. She stated that they were never notified. She received letter in 2012 from DEQ that read as long as a well is constructed

properly, there is nothing to worry about and that the DEQ was aware and already monitoring the water of the Siletz River. **Mrs. Davis** does not know if the Siletz Watershed Council was notified. Last year, she counted as many as 12 trucks in a day carrying 5,000 gallons of treated sewage each. Depoe Bay has sent 500,000 gallons. Over the years, there have been millions of gallons poured. There are elk and geese in the fields. **Mrs. Davis** has seen young people in her community with cancer. They are drinking the water and believe that the hay has also been contaminated.

Chair Johnson stated that their input is recorded in the minutes. The **Staff** will have to take on this issue and decide the right process to look into it and what the **Planning Commission** will do. It's important that the audience made their presentation, but there is not much to be done as a **Planning Commission**.

Mrs. Davis stated that the **Planning Commission** can tell them to stop, and **Ms. George** remarked that she thought the **Planning Commission** informs the **Board of Commissioners** of their decision, or make an opinion. She inquired if the rules are developed by the **Planning Commission**.

Commission Estes stated that they are not professional rule developers.

An **unidentified audience member** at the dais remarked that DEQ stated that if DEQ were contacted by the County Commissioners that DEQ would not contest this and not take it to court. If DEQ do take it to court, it would take years, to stop the spreading of sewage until more scientific studies come out. He finished by stating there are no test samples from the bottom of the Siletz River.

Chair Johnson stated that what the **Planning Commission** can do is to carry the information forward to the **Staff** and the **Board of Commissioners** but beyond that, there is nothing to do tonight.

Director Husing noted that **Commissioner Hall** has taken a strong interest in the waste dumping in Siletz, and **Commissioner Hall** asked **Director Husing** to do what he can to understand what role, if any, the County has. He spoke Friday afternoon with **Mrs. Davis**, and spent a few hours today determining who is in charge of the scenario, and what the regulatory history is. He has had a phone call or two with DEQ. **Director Husing** finished by stating based on the materials and statutes he has read, back in 2001, the Oregon Legislature took the entire program and hardwired it into DEQ.

Ms. George stated that the dumping still has to have a LUCS.

Director Husing replied that the dumping does not require a LUCS, and in the six years he has been the Director, he has never been asked to sign off on any of the dumping. He went on to elaborate on the LUCS process, and reiterated that the legislature from 2001 pre-empted local governments from putting land use restrictions on dumping. **Director Husing** finished by stating that the **Planning Department** may get courtesy letters from the public health department that DEQ issued a notice of authorization, but they are not a LUCS, and **Staff** doesn't have a role in the dumping but will pass it along.

Chair Johnson stated that the **Planning Commission** can take a motion that they see the dumping is a real problem, and that the county needs to look into it along with the state.

A brief discussion ensued between **Mrs. Davis**, **Ms. George**, the **Planning Commission**, and **Director Husing** regarding monitoring the dumping, DEQ, the Land Use Compatibility Statement process, soil samples, testing the water, giving land to the Siletz tribe, and the geographical location of the dumping.

Chair Johnson asked for any other input for topics not on the agenda, and there were none.

4. PAST ACTIONS REVIEW FOR PLANNING COMMISSION

NONE

5. UNFINISHED BUSINESS

NONE

6. ACTION ITEMS

NONE

7. PUBLIC HEARING

7.1 Case File #09-PC-18: Oregon State University is requesting conditional use approval of a private utility facility to construct a Utility Connection and Monitoring Facility (UCMF) on property zoned Rural Residential. The UCMF will be part of the Pacific Marine Energy Center South Energy Test Site (PMEC-SETS) project. The ocean test site, located approximately seven miles offshore, will allow for the testing of up to 20 wave energy converters. The power generated at the ocean test site will run to shore through buried subsea transmission cables. The shore side cable landing site will be Driftwood Beach State Recreation Site (Driftwood), and the power will be transmitted through buried cables from Driftwood to the UCMF. At the UCMF, the power will be monitored and conditioned before being fed into the Central Lincoln People’s Utility District (PUD) distribution system.

The UCMF is proposed to be located on proposed Parcel 1 of the accompanying partition case file #01-PAR-PC-18.

Chair Johnson asked for the ex-parte contacts and **Commissioner Bobbitt** replied that she is employed by Oregon State University, and personnel in her research institute have worked on the testing, but her employment would not influence her decision. **Commissioner Pelletier** stated that she is employed by Oregon State University but her employment would not influence her decision. **Chair Johnson** asked for the **Staff Report**.

STAFF REPORT

Senior Planner Rodomsky introduced herself and presented the **Staff Report** for **Case File #09-C-PC-18** and noted that it is accompanied by **Case File #01-PAR-PC-18**. She emphasized that the **Planning Commission** will hear more on the background of the entire wave energy project from the applicants, but to focus on the landward side of the project, and the Planning Commission’s task is to determine whether the landward use meets and is compatible with Lincoln County Code. The **Applicant** is requesting to construct a Utility Connection and Monitoring Facility (UCMF) to be located on the proposed parcel 1. The subject property is zoned RR-2 and she elaborated on the geographical characteristics of the proposed parcel 2 and existing uses. **Senior Planner Rodomsky** summarized the actual conditional use request. The UCMF is the landward base of the wave energy testing devices that are set in the ocean, and the cables connected to those devices will be buried under the ocean and will carry electricity generated by the waves. The cables will come onshore at Driftwood Beach State Recreation Site, but the cables will stay underground in concrete vaults at that site. The buried cables will be spliced with the vaults, splicing marine cables to terrestrial cables. Next, the cables will go east across Highway 101, in the ODOT Right of Way, go south toward the Wenger Road property, and surface

inside one of the three proposed buildings. All three buildings will be in a fenced compound. **Senior Planner Rodomsky** referred to the letter that the DEQ submitted to **Staff** today. DEQ recommended a condition that the **Applicant** meets storm water requirements of construction and post-construction permits. She finished by asking that the **Planning Commission** add an advisory condition to meet DEQ requirements, and asked for questions.

A brief question and answer period occurred between the **Planning Commission, Senior Planner Rodomsky,** and **County Counsel Jerry Herbage** regarding size of the planned buildings, lot coverage, permits for state agencies, noise ordinances, and the potential to close Driftwood Beach State Recreation Site temporarily for construction.

Chair Johnson asked for the any other questions for **Staff**, then for the **Applicant** testimony.

APPLICANT TESTIMONY:

David Dodson, Justin Klure, and **Dan Hellin** signed in and introduced themselves.

Mr. Hellin began to give background on the entire wave energy project, started the slideshow, and stated that we are looking at a wave energy test facility 7 miles offshore. He stated there are not a lot of wave energy test facilities in the world, and the leading one is in Scotland. They are trying to develop a facility where people can come in and test devices, as there is nowhere on the mainland United States for developers to test these devices. The test sites would have 4 berths with dedicated sub-sea cables running to shore, and the cables off-shore would be buried. The **Applicant** is going to alter Driftwood's parking lot and build a new one. **Mr. Hellin** referred to the project slide and elaborated on the physical placement of the cables.

Chair Johnson confirmed the location of Driftwood on the slide.

Commissioner Estes inquired why the location of the airport moving directly east was not chosen, instead of moving 7 miles directly south, and **Mr. Hellin** replied that rocky reef runs all the way down the coast, and it would not be environmentally feasible.

Mr. Hellin stated that everything would be located under the parking lot of Driftwood so there is no impact on the habitat, and referred to a slide featuring the location of the cables. He noted they would install a manhole cover for each concrete vault in the parking lot. He passed the presentation over to **Mr. Dodson.**

Mr. Dodson introduced himself and stated the Boldt's property is 20 acres, referred to the Overall UCMF Location slide, and noted the property was a Christmas tree farm. He elaborated on parcel 1 that the **Applicant** is interested in.

Chair Johnson confirmed the locations of parcel 1 and parcel 2.

Mr. Dodson referred to the Specific UCMF Location slide, and elaborated on the geographical aspects of the parcels. The **Applicant** chose it because it is close to the road for easy access as there will be infrequent delivery of equipment from semi-trucks. He referred to the Proposed Site Plan slide and elaborated on the single-story buildings and the site plan. They propose an 8 foot tall chain link fence with green slats and Evergreen shrubs to provide additional screening. Buildings will be constructed of masonry block with sloping green metal roofs.

Mr. Dodson stated that Wenger Lane is currently an asphalt roadway roughly 12 feet wide with a small portion paved close to Highway 101. The **Applicant** proposes to pave 700 feet on Wenger Lane at 20 feet wide, so it would be wider and paved for easier access to the site with less dust. All utilities would be located underground. The site does contain 2 freshwater wetlands, but the **Applicant** is staying out of those wetlands. **Mr. Dodson** remarked that many companies interested in testing at the facility are

located elsewhere in the world, and there would be remote monitoring, which would not generate much traffic. Vehicle trips to the facility would be considerably lower than the 2 single family dwellings that would otherwise be permitted on property sized 4+ acres and zoned RR-2. He stated that conditional uses are considered allowed uses but there may be some compatibility concerns. The **Planning Commission's** job tonight is to review the application and see if the proposed use is a compatible use allowed here. The **Applicant** proposes 8 vehicle parking spaces, and **Senior Planner Rodomsky** has provided the **Planning Commission** with a list of parking space requirements. The parking area is designed to allow semi-truck to enter the facility, loop around, unload then exit. Large deliveries are anticipated to occur a few times a year during normal business hours. Any exterior lighting would be designed to avoid glare onto neighboring properties. **Mr. Dodson** elaborated to the conceptual design for buildings and referred to the Conceptual Building Elevations slide.

A brief question and answer period ensued between the **Planning Commission**, the **Applicant**, and **Director Husing** regarding modifying new test units, containerized equipment, transferring the energy to Central Lincoln PUD, and reaching out to the neighbors to discuss the proposal.

Mr. Dodson stated that the **Applicant** has developed several illustrations to show what the project might look like and referred to the applicable slides. He finished by summarizing the application, and elaborated on noise, odors, traffic, and using a quiet pack for the back-up power generators.

Chair Johnson asked if there were any more questions.

A brief question and answer period ensued between the **Planning Commission** and the **Applicant** regarding existing shrubs, height of the foliage, physical characteristics and access of the road, DEQ recommendations and regulations, wetlands, and the zoning just north.

Chair Johnson asked for testimony in support of the application.

PUBLIC TESTIMONY

Tim Couch, a neighboring property owner, signed in and introduced himself and stated that he wanted to come and say they are in full support of the project. His view out back will be less enchanting but he feels that this is a science that deserves pursuit; it is an opportunity to lead in wave energy research.

Chair Johnson asked if he thought the project would disrupt his home, and **Mr. Couch** replied it will not disrupt as much as two new homes. **Commissioner Estes** asked which road **Mr. Couch** enters on, and he replied that he enters on Camrose Drive and referred to his home site on the slide.

Chair Johnson asked for anymore testimony in support of the application.

Phil Bertholl, a neighboring property owner, signed in, introduced himself, and stated that he submitted 3 letters of opposition. He wanted to ensure there was written testimony, and referred to his property on slide. He asked to rescind his letters of opposition and stated that he is happy now.

Chair Johnson asked what had changed, and **Mr. Bertholl** replied that a former neighbor was a chainsaw artist, and if the application is approved, it guarantees that he has a silent neighbor.

An audience member remarked that she was initially concerned about light and noise pollution.

Chair Johnson asked for any more testimony in support and there was none. He asked for testimony in opposition.

Cindy George identified herself but did not sign in. She stated that she listened to the presentation and is concerned. She elaborated on test being performed by other countries, giving away the land to

foreign entities and access to the ocean, and asked where the funding was coming from to pay for the project.

Director Husing stated that the bulk of the money is coming from the United States Department of Energy. This is strictly a science-based research project with federal funds. There was collaboration with the fishing industry. The Goal 19 finding was that there was collaboration with the community leading up to the hearing.

Chair Johnson asked for any more testimony in opposition, and there was none.

Chair Johnson asked for **Applicant** rebuttal.

Mr. Hellin stated that the funding is largely from the Department of Energy, State of Oregon, and money that the **Applicant** is raising. Potentially, it could be from clients who want to test a device. There are a number of United States companies, and some European companies.

Chair Johnson asked if there was a request to keep record open, and there was none.

Chair Johnson closed the hearing at 8:53 pm and the **Planning Commission** discussed the case.

A brief discussion ensued between **The Planning Commission, Director Husing,** and **Senior Planner Rodomsky** regarding reaching out to the neighbors, addressing the vegetation, compatibility, adding the DEQ requirements, lighting, and that Wenger is a private road.

Chair Johnson asked for a motion, and **Commissioner Bobbitt** motioned to approve Case File #09-C-PC-18 recommending adding conditionals of approval with items #1 through #8 as indicated in the Staff Report, changing #7 to directing lighting downward, and adding #9 to reflect the DEQ storm water requirements before construction.

Chair Johnson asked about the items in the **Staff Report** and that they should be added to the approval.

Commissioner Bobbitt replied that all other items that were listed in the **Staff Report**.

Commissioner Estes seconded the motion.

Senior Planner Rodomsky asked to clarify whether before construction means prior to issuance of building permit, and **Commissioner Bobbitt** replied in the affirmative.

Chair Johnson asked for discussion on the motion, then a vote.

A vote was taken by the **Planning Commission** to approve **Case File #09-C-PC-18** and add item #9 to reflect DEQ storm water requirements and change item #7 to downward directing lighting, and the vote in favor was unanimous.

7.2 Case File #01-PAR-PC-18: Oregon State University is requesting to partition parcel 20.05 acres in size into two parcels. Proposed Parcel 1 will be 4.42 acres in size. Proposed Parcel 2 will be 15.63 acres in size. If approved, Parcel 1 is to be acquired by Oregon State University for the use of a private utility facility under case file #09-C-PC-18.

The subject property is located at 939 NW Wenger Lane.

Chair Johnson asked for ex-parte contacts, and then asked for the **Staff Report**.

STAFF REPORT

Senior Planning Rodomsky presented the **Staff Report** for **Case File #01-PAR-PC-18** and stated that **Applicants** would like to have a 2 lot partition. There is a potential to develop 6 more lots for a total of 7 lots. The standards for a partition of this nature are all met.

A brief conversation occurred between the **Planning Commission** and **Senior Planner Rodomsky** regarding turning down the previous application, what happens if the wave energy facility is not built, and if the parcel could be split into 2 parcels again.

Chair Johnson asked for **Applicant** testimony.

APPLICANT TESTIMONY:

Mr. Dodson stated that the **Applicant** concur with **Senior Planner Rodomsky** as it meets all the standards. He answered **Commissioner Bobbitt's** question from the previous discussion, which is it that the proposed new parcel will be under Oregon State University's ownership, and they would retain it or sell it and someone could construct a house.

Chair Johnson asked for other testimony in favor of the application, and then opposition. There was none.

Chair Johnson closed the record at 9:05 pm.

Director Husing stated that the partition could have been left this out of the hearing and done administratively. The creation of new parcels in Lincoln County requires septic approval.

Chair Johnson asked for a motion, and **Commissioner Bobbitt** motioned to approve **Case File #01-PAR-PC-18**.

Commissioner Cutler seconded the motion.

Chair Johnson asked for more discussion on the motion, and the **Planning Commission** confirmed the intent to vote.

A vote was taken by the **Planning Commission** to approve **Case File #01-PAR-PC-18** unanimously.

8. PLANNING COMMISSION CONCERNS

Director Husing stated to wish **Commissioner Spulnik** well.

Commissioner Bobbitt confirmed the next meeting of June 11.

9. ADJOURNMENT

Chair Johnson adjourned the meeting at 9:08 pm.

Respectfully Submitted,

Joshua B. Bacher

Lincoln County Permit Specialist