



## JOSEPHINE COUNTY RURAL PLANNING COMMISSION

### MINUTES OF MEETING

NOVEMBER 7, 2016

#### 1. CALL TO ORDER

The Rural Planning Commission met in regular session on Monday, November 7, 2016. The session was called to order by Chair Goodwin at 6:00 p.m. at the Anne Basker Auditorium, 600 NW 6th Street, Grants Pass, OR 97526. A quorum was declared.

Members Present: David Church, Jocelyn Richardson, Chair Margaret Goodwin, John Chambers, Gary DeSimone, Ron Wright, and Christine Gardiner.

Members Absent: (None.)

Staff Present: Director of Community Development Julie Schmelzer; Recording Secretary Melissa K. Older

#### 2. PUBLIC LAND USE LEGISLATIVE HEARING

Chair Goodwin explained the public hearing was held October 31, and no further testimony was allowed. She expressed the purpose for the meeting was to deliberate on the proposed text amendments. There were no questions or discussion.

##### 2.1 Text Amendments to the Josephine County Rural Land Development Code

If approved the decision would allow a series of proposed text amendments to address marijuana production in the Rural Residential zones, and, other amendments deemed necessary for neighborhood compatibility, environmental protection, and to meet county goals, as allowed by state law.

Chair Goodwin stated that this hearing would be deliberation and motion only. Chair Goodwin asked if the two commissioners who were not at the previous meeting would be abstaining from the deliberations. Commissioner DeSimone and Commissioner Wright indicated they would abstain.

Chair Goodwin asked to move into deliberations. She asked each commissioner to state their findings and the reason for the findings.

Findings were as follows:

*Commissioner Gardiner:* Mrs. Gardiner stated she has concerns about marijuana grows in residential zones. Would like for the Planning Commission to see the difference between marijuana and cannabis. Cannabis is medicine and she is concerned about the amendments. She is asking the Planning Commission to not take action at this time and not move it forward at this time.

*Commissioner Richardson:* Mrs. Richardson stated that Goal 8, pollution control, and Goal 10, planned organized development, are very important and would like for other communities to form community action groups. She commented the OLCC rules on fences, and fencing to meet OLCC rules for cannabis, and setbacks, should match other rules. Neighbors need to talk to neighbors. She referred to RLDC 61.050.A and quoted 'farm uses shall not interfere with use of adjoining residential properties'. The

proposed amendments do attempt to meet state and local criteria, however, allowing commercial, not personal or medical grows, in the Rural Residential does not meet the intent of Goal 10 or 61.050 of the RLDC.

*Commissioner Church:* Mr. Church stated that the cultivation of marijuana plants is generally legal in the State of Oregon, subject to ORS Chapter 614 and the applicable OAR 845 from the State Liquor Control Commission. He finds that there is no demonstrated reason why the cultivation and production of marijuana plants should be considered any different than the cultivation of any other agricultural product. He finds that Josephine County has in place a Rural Land Development Code that adequately regulates agriculture production in Rural Residential as well as Farm and Resource Zones. In regard to the OLCC Rule 845-025-1470(c) which requires an 8-foot high sight-obscuring fence around marijuana grow sites, he finds the current RLDC and the State/County Building Codes adequately regulates fencing and fence setbacks. He further finds that the regulation of camping and related activities will be an exercise in futility, and that no further regulations in this area are needed at this time. He finds that there is no good reason to regulate odors from either the indoor or outdoor growing of marijuana. These odors are no different than odor from dairy farms, dairy barns, horse barns/pastures or even pig farms. He finds that setbacks for marijuana plants do not need to be any different than for any other type of crop. The existing setbacks in Article 72 are adequate. He finds that code enforcement of the RLDC should not be any different than currently is in the code. He finds no compelling reason to create the "Williams Area Overlay" for that particular CAC. If those rules are needed for the population of the Williams area, then they should be applied equitably to all the citizens of Josephine County. He finds that the existing regulation of lighting in Article 75 is adequate to protect neighbors and the night sky. He finds that the new erosion control regulations proposed for Article 83 are in the best interest of the County to protect rivers and streams from excessive soil run-off

*Commissioner DeSimone:* Mr. DeSimone - Abstained

*Commissioner Wright:* Mr. Wright - Abstained

*Commissioner Chambers:* Mr. Chambers stated that he doesn't like regulation. No one he knows likes regulation, or if they do, they don't tell him about it. Regarding comments on Measure 91 and prohibition - A few people made comment that the proposed regulations are "prohibition" and not in keeping with the intent of Measure 91. He disagrees. Prohibition was when it was illegal; it's now legal. As for state regulation, it was frequently mentioned that the state is still trying to figure out who is regulating what and how much. The logical conclusion was to wait until state regulation settles before regulating for the county. However, those state rules will be continually changing probably for years. This is a new industry; tobacco and alcohol were also once new industries and provided prosperity in their areas. There are tens of thousands of acres of agricultural land, and since the last hearing of this commission, industrial land became available for cultivation and processing. We will have a huge weed industry whether it is allowed on Rural Residential or not. As for being a good neighbor; it was mentioned that only 100 complaints have been received and with 80 thousand people in Josephine County, that's only .14% of the people that have complained. I believe 80 thousand is the incorrect pool to use. In regard to odor, his wife and him were driving to Williams to visit family and he caught the whiff of marijuana in a field somewhere nearby. His wife asked, "What's that?" And before he could answer, she said, "It smells like someone ran over a skunk." I didn't mind the smell. She did. In regard to lighting; no one commented in opposition to the lighting regulations. Fences and setbacks; generally, the fences and setbacks in the proposed regulations are not just for marijuana, but for all purposes. In conclusion, Chambers recommended the amendments as proposed, with some modification restricting total acreage.

*Chair Goodwin:* Chair Goodwin stated she feels that this is the most transparent hearing and thanked Director Schmelzer for all her efforts. Feels there should be a separate hearing for the CAC issues. Code enforcement text amendments are broader in scope than marijuana text amendments. Would like to see a separate hearing for both issues. Strong on property rights and believe people have infringed on the rights of others and we need to protect the rights of property owners. Feels these regulations protect

the rights of all property owners. Prohibition means it is not legal, and reiterated marijuana is legal. Agriculture is a permitted use on residential land and she believes state land use regulations make it prohibitively expensive for farmers just starting out to buy land that's zoned for agriculture. Feels that Director Schmelzer has been very fair with the Amendments. Does not see an issue with fencing; they are the same setbacks that have been existing. Cannot have lights shining into neighbor's property. Does not feel that odor mitigation requirements for only indoor grows between 2.5-5 acres will be effective. Recommendation that ordinance is in order.

Chair Goodwin asked if there were any questions and Commissioner Gardiner said that a CAC would be a great help and holding separate hearings to help the CAC's is a good idea. Gardiner added that in regard to code enforcement, she is torn with both sides. Commissioner Church asked about camping and Director Schmelzer said she talked to the DLCD and they are willing to work with the county on special provisions just for Josephine County; the special provisions were discussed. Commissioner Richardson asked about guesthouses, and if they could be allowed for farm workers. Director Schmelzer talked about guest houses, campers, and campers for medical hardships. She clarified the DLCD has said guest houses are not allowed. Commissioner Church asked what uses have interfered with residential zones. Director Schmelzer explained what 'interfere' means and Oregon's 'right to farm' laws, and that agriculture is protected. Commissioner Richardson asked if there is anything proposed or on the books to protect those that were in a neighborhood prior to the new industry moving into the area. Director Schmelzer said there is not. Commissioner Gardiner stated that she would like to protect our lands and she has concerns with the industrial practices and people should talk to neighbors and asked that the county help resolve conflicts. She said the county needs mediators, not police enforcement.

At 7:12 p.m. Chair Goodwin announced she was recessing the meeting and they would take a seven-minute break. She resumed the meeting at 7:22 p.m.

Chair Goodwin called for a motion to vote on the matter.

Motion by Commissioner Gardiner to recommend a separate hearing to support the Williams CAC overlay and recommend the Planning Department to encourage all other communities to create a CAC in each part of the county. Also, hold a second hearing to review the code enforcement amendment. Second by Commissioner Richardson.

Motion carried: Aye-5 (Church, Goodwin, Richardson, Gardiner, Chambers); Abstain -2 (DeSimone, Wright)

Chair Goodwin called for second motion.

Motion by Chair Goodwin to approve the remaining text amendments as proposed with the exception of CAC Amendment, Code Enforcement Amendment, Odor Mitigation Amendment, and the Camping Amendment. Amend Section 61.050.E to say for lots exceeding 2.5 acres in size in the Rural Residential Zone the requirement can be waived provided one of the adjacent lots the land owner owns or tenant leases uses the production of marijuana and has a dwelling on it. Second by Commissioner Richardson.

Motion failed: Aye-2 (Goodwin, Chambers); Naye-3 (Church, Richardson, Gardiner); Abstain-2 (DeSimone, Wright)

Chair Goodwin called for a third motion.

Motion by Commissioner Church that in regard to the text amendments proposed for the Josephine County Rural Land Development Code, as presented by staff at the hearing on October 31, and as amended at the meeting of November 7 (camping agreement with DLCD), that the Josephine County Rural Planning Commission make no recommendation to the Board of County Commissioners at this time. Second by Commissioner Richardson.

Motion carried: Aye-4 (Church, Goodwin, Richardson, Gardiner); Naye- 1 (Chambers); Abstain-2 (DeSimone, Wright)

**3. OLD STAGE ROAD, CAVE JUNCTION**

Commissioner Gardiner requested this matter be placed on the agenda for discussion. She suggested the Plan Commission review this matter at an upcoming meeting. Director Schmelzer explained it has been suggested this road have improvements made to address safety, and she has brought this matter to the attention of the Public Works Department, and has asked it be included in their Transportation Systems Plan update.

**4. MATTERS FROM THE PLANNING COMMISSION**

Commissioner Church stated that he is resigning effective the end of the year. Commissioner Goodwin asked about videotaping the Planning Commission hearings and that the hearing would cost the Planning Department \$35 an hour. She opened the matter up for discussion as to whether legislative hearings should be videotaped. Director Schmelzer said when the budget is prepared she could make a recommendation for videotaping the legislative hearings.

**5. COMMENTS FROM THE PUBLIC**

(None.)

**6. APPROVAL OF MINUTES**

Commissioner Chambers made a motion to approve the minutes from October 31, 2016. Second by Commissioner Richardson. Church indicated he had not read the minutes.

Motion carried: Aye-4 (Goodwin, Richardson, Gardiner, Chambers); Abstain-3 (DeSimone, Wright, Church)

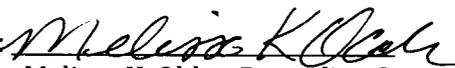
**7. ADJOURNMENT**

There being no other business before the Commission, Goodwin adjourned the meeting at 8:23 p.m.

**JOSEPHINE COUNTY RURAL PLANNING COMMISSION**

  
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Margaret Goodwin, Chair

12/19/2016  
\_\_\_\_\_  
DATE

Minutes prepared by   
Melissa K. Older, Recording Secretary

Reviewed by the Board of Commissioners this 21 day of December, 2016.

  
Cheryl Walker, Chair

  
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K. O. Heck, Vice Chair

  
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Simon G. Hare, Commissioner