

**MINUTES**  
**UMATILLA COUNTY BOARD OF COMMISSIONERS**  
Meeting of March 28, 2016  
1:30 a.m., Room 130, Umatilla County Courthouse  
Pendleton, Oregon

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**Commissioners Present:** Chair George Murdock, Vice-Chair Larry Givens and Commissioner Bill Elfering

**County Counsel:** Doug Olsen

**Members and Guests Present:** Jeff Kleinman, Norm Kralman ,Ryan Stoner, Richard Jolly, Judy Price, Ann Jolly, Janis Handley, Harrison Handley, Jesse Thompson, Granella Thompson, Robin Severe, Cindy Severe, Dave Price, Mike Denny, Patrick Gregg, Richard Nerzig, Eric Hallingstad, Bruce Walker, Deanna Ferguson, Sheldon Ferguson, Micah Engum, Jörg Beland, Steve Corey, Jeff O’Harra, Jerry Baker, Mike Lanegan, Jake Divine, Mike Collins, Greg Shannon, Rod Anderson.

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**CALL TO ORDER**

The meeting was called to order at 1:30 p.m. Commissioner Elfering chaired the meeting. He welcomed all and reminded those present that the meeting is a public forum. He read the statement regarding land use hearings into the record as well as the purpose of the meeting; appeal of Conditional Use Permit Request, #C-1252-15 and Land Use Decision #LUD-194-15, BayWa r.e. Wind, LLC, Richard Nerzig, Project Manager, Applicant: Property Owners, Ferguson Ranch, Inc. & Smith Frozen Foods. Commissioner Elfering outlined the hearing schedule: first would be staff summary of the applications, followed by testimony -- proponents first, then against. Questions can be asked by the Board and staff during testimony. When called, please step forward and announce your name and address, if you represent someone else or if you have docs or physical evidence to be part of the record. He clarified about how the sheets were marked as to how people will be called.

He asked for any abstentions. None were heard. Commissioner Givens pointed out clarification. Carol Johnson, Planning Department, noted a letter was received Friday, 3/25/16, from Tyson Raymond which is not part of the packet. In addition, testimony in written form was received today from Jeff O’Harra; he cannot stay and provide testimony but wants testimony part of the record. These would be pages 737-38, the Raymond letter (item 50) and item 51 is testimony from Jeff O’Hara. **Commissioner Givens moved that those two items be entered into record as exhibits #50 and #51. Seconded by Commissioner Murdock. Carried, 3-0. Commissioner Givens also moved the original Exhibits #1-49 of the application be entered into the record. Seconded by Commissioner Murdock. Carried, 3-0.**

Tamra Mabbott, Planning Director, noted that Cindy Severe (member of the audience) requested the order of testimony be kept the way it was submitted.

## Land Use Hearing Appeal - called to order at 1:30 p.m.

Staff report was presented by Carol Johnson, Planning Department. She outlined the purpose of the meeting is appeal of Planning Commission decision, applicant is Chopin Wind LLC. She referred to maps posted on the wall and projected on the screen. Conditional Use standards are in County Development code 152.616HHH – and apply to the project as presented in staff report and findings. There is also a request for approximately 5 miles of underground transmission line. Substation is located within UGB for Weston (she referred to map on the screen). The Planning Commission approved on 2/28/16 and meetings are included in the Commissioners’ packets. She noted representatives from both sides were present.

Commissioner Elfering asked for any proponents, or those in favor of the project?

Steve Corey, PO Box 218 or 222 SE Dorion Ave. Pendleton. He is one of two attorneys (Pat Gregg) who will speak on behalf of applicant. Chopin Wind is a San Diego, California based company, part of BayWa Wind. He noted basically the same company under a different name (WKN) appeared before the Board in 2011. Project has been downsized to a 10 megawatt project. They feel project is presentable and doable and responsible to citizens of county. They intend to construct underground transmission lines , which is more expensive, but the company is willing to do that. At the Planning Commission hearing of 3 hours, the vote was 7 to 1 in favor of the project. He reiterated the county staff report is a well done document, there are some conditions included and the company agrees. It is hoped the application is reaffirmed. Richard Nerzig, Project Manager from San Diego will elaborate and remark on the appeal aspect and can answer questions.

Richard Nerzig, Bay Wa Wind, 4365 Second Drive, San Diego, California. This is a 10 mgw project, he is the lead developer. Six wind turbines are to be placed on the subject property along with collection lines underground and a substation. Lines are to be underground at the request of locals. To clarify, county roads would not be widened any further. They will never dig out the underground line and put them above ground. The operations office will be in Athena or Milton-Freewater. He gave history of BayWa in US and noted other projects recently completed. Chopin Wind fully meets the standards for approval with minimum negative impact. The Planning Commission passed the application by vote of 7-1. He commented about recently passed legislation in Oregon about renewable energy resources. This project reflects that.

The project received appeal of seven points. He will respond to each of them.

1. Negative impacts to traditional farming. Two roads will be used with minimum impacts; they are adequate as agreed by County Public Works. They will work with landowners and stakeholders during the project.
2. Use of high value farm ground. He asked Micah Engum to handle this item. Micah Engum, PO Box 669, Pendleton. He had three maps to submit to the record to illustrate his points. **Commissioner Givens moved to enter the three maps into the record as Exhibit #52. Seconded by Commissioner Murdock. Carried, 3-0.** He continued: the Development Code requires the project stay in compliance with statutory rules. This applies to project impacting high value soils. He replied the project does impact high value soils – 2 “orange area” Walla Walla silt loam and the “red” area is Athena silt loam. He gave definition from state statutes. Orange area on the map is for irrigated – main subject area. However, the majority of impact is not classed as “high value”. Soil types have been addressed. In looking at “red” area off Staggs Road, access would be along boundary and field edge – entering existing farm road and existing

field edges. If it was moved, there would be more negative impact than leaving it the way it is. Road layout was consulted with resident farmer for best route. Total impact estimated for high value farmland is 3.1 acres during the life of the project. The project was downsized from 99 mgw to 10 mgw along with transmission lines to be placed underground. In response to a question from Commissioner Givens, Mr. Engum advised yes siting standards would be limited to 10 megawatts. Discussion continued about roads, Ferguson, Stagg and also Watts. The map showed a small corner of Watts Road is to be used. They are existing roads and all project roads are fully available to farmers during the life of the project.

Mr. Nerzig came back to address the first appeal item noting Public Works confirmed existing haulage roads were a good choice for the project. He asked that the February 8 email from Tom Fellows, Public Works Director, regarding Staggs Road is approved for the project to be part of the record (if it wasn't already). Confirmed by Ms. Mabbott it is Exhibit 49.

3. Claim of Noise Modeling is Faulty. Mr. Nerzig advised the OAR and county code has no requirement for a preliminary noise study. Chopin Wind is considerate of noise to locals. Turbine model is in compliance and it is in the best interest to remain in compliance. Since the Planning Commission it is noted that terrain further reduces noise impact. Submitted to the record, noise consultant study with additional copies for the Board. **Commissioner Givens moved to enter the updated record as Exhibit #53. Seconded by Commissioner Murdock. Carried, 3-0.**

Bruce Walker, Acoustical Engineer, 676 W Highland Dr., Camarillo, California. He noted the Noise Modeling Report is based on criteria; level is 36 decibels. Composite spectrum is under the level. In summary, source data applied show about 7 dcb more than emissions. There has only been one complaint - that the data is 6 years old; that is incorrect as the data is from 2014. In addition, newer turbines are much quieter and models predict noise will be lower than projected. Terrain also helps buffer sound. Fergusons home is most affected, but still lower than likely. Discussion continued about noise level monitoring or not, ambient noise (Mr. Walker noted between about 37 to 39 dcb was read in the room). Six wind turbines at distance of two miles would be about 29 dcb. Distance to next property owner is about 2 miles (the Curtis residence). Commissioner Elfering asked how noise complaints would be handled. Mr. Walker advised that monitoring would be needed.

Mr. Nerzig – clarified. The map they are referring to, he pointed out the 6 turbines and the 36 dcb terrain map overlay; also the Ferguson residence shows less than 36 dcb, also the 2 mile boundary and the next residence is past that and under 36 dcb. He noted they are well within compliance with noise level as an issue.

4. Concern about bonding amount placed by the project. Mr. Nerzig noted an updated bonding schedule has been made; it is approximately double the value of decommissioning the project and inflation factor is tied to it. The New Bonding Schedule was submitted to the record. **Commissioner Murdock moved to include the document as Exhibit #54, second by Commissioner Givens. Carried, 3-0.**
5. Wildlife study is not correct and data is not current. Mr. Nerzig noted ODFW collection data is factually accurate and information obtained is current and viable. He read a letter from ODFW about the study. He also asked a wildlife expert to read additional testimony into record.

Eric Hollinsted, Biologist for Western Eco Systems Tech. Since 2008 he has reviewed similar projects. He read portion of a technical memo about validity of baseline data. A table is included about the three projects listed on the EFSC website to show projects currently under review. The footprint of this project was downsized. Raptor nesting survey is to be done. A study is scheduled for April and May. Discussion continued about turbine blades, length, speed of wind and etc. Questions were directed to the engineer. Slowest rotational speed is between 100 mph and 130 mph at highest wind speed – for this specified turbine. Commissioner Givens clarified his question has to do with birds. Mr. Hollinsted advised there is bird mortality affected by wind turbines. He feels the data is defensible – they stand behind their conclusions. He talked about migration routes and terrain. He felt the factors are the same from 2010 to 2016. Commissioner Givens noted weather and climate can also be a factor in migration. He wondered if studies need to be carried on further and perhaps reassessed. Mr. Hollinsted advised six turbines in a small area as this project – he felt changes would be minimal. In response to a question from Commissioner Givens about possibly relying to any extent on other area wind turbine project data, Mr. Hollinsted advised this was done in 2011. The conclusion was no significant population impacts were expected in the Columbia Basin area. This was for a larger footprint. The technical report was submitted for the record. **Commissioner Givens moved to enter the technical memo as Exhibit #55. Seconded by Commissioner Murdock. Carried, 3-0.**

Mr. Nerzig noted about the West Tech memo that there is correspondence from ODFW about no significant changes in the last six years from data collected – they are comfortable that the area has not been affected.

Pat Gregg, PO Box 218, Pendleton, attorney at Corey Byler Rew, represents Chopin Wind LLC. He continued with items 6 and 7.

6. Question of Goal 1 compliance. This is citizen involvement issue. They feel Goal 1 is a comprehensive plan for citizen involvement and there was no specific violation – just a general comment.
7. Accumulative Affects – of what? He feels that between county codes and state statutes there are very specific guidelines to be followed regarding wind energy. The Planning Commission adopted the staff report and code has been complied with. Squarely before the Board of Commissioners is whether the applicant, CUP, LUD, towers and lines based on the record legally complied with requirements.

Back to bonding issue, Commissioner Givens asked Mr. Nerzig to clarify. He felt figures for six turbines seem a bit low and \$6,000 for removal of concrete might be low as well. The crane aspect, \$24,000/each. Mr. Nerzig took into account salvage value in his experience and demolition contractors would be in line with the amounts listed in the bonding schedule. It is steel, 3” at bottom and 1” at top – hundreds of tons – very valuable. Useful life is somewhere between 20-30 years. Nerzig said this contract ends in 20 years. At that time, it would be decommissioned with towers taken down at end of a contract, or a repower, new turbines, or returning property to original character.

Commissioner Elfering noted two others have asked to speak.

Jörg Beland, 4365 Executive Drive in San Diego. Lead Engineer. He worked on changing over-ground to underground line. Also substation placement and other items needed for construction. It is a soundly developed wind farm.

Harrison Handley, 52989 Highway 204, Weston, across from Pacific Power substation in the subject area. He talked about road condition. He worked for the County Road Department for 22 years. Also he talked about underground fiber and culverts. Good road construction – contracts are negotiated and standards he feel would be met. He and his wife are satisfied with it – he favors putting the wind farm on Ferguson’s property.

Commissioner Elfering advised there are two others to add information (neither for or against).

Jerry Baker, PO Box 662, Athena. He has worked with Eric Hallingstad at West. He will do raptor surveys and will do other assessments about wildlife in the area.

Jeff O’Harra – brought information. 53000 Hwy 204, Weston. He is classified as neutral. He read a letter about Staggs Road in opposition to its use for the project. He felt it would be adding to the burden of the county Road Department; Ferguson Road is a better road to use and is already maintained. However, he does support Fergusons’ right to use their property as they see fit.

#### Opposition.

Jeff Kleinman, 1207 Sixth Ave, Portland. He is an attorney and represents Blue Mountain Alliance. He noted that new evidence was submitted from applicant and that the hearing be continued or the record held open, under ORS 197.763 and land use proceedings. Mr. Klein submitted his written comments. **Commissioner Givens moved to submit written testimony submitted by Mr. Kleinman as attorney for Blue Mountain Alliance, Exhibit #56. Seconded by Commissioner Elfering. Carried, 3-0.**

Mr. Kleinman planned to outline legal issues and will introduce others for testimony in opposition. He feels the appellant has not met burden of proof of approval in this case. He summarized codes, standards and state laws in ORS, conditional uses in EFU – to not change farm practices on specific lands. The Board of Commissioners has authority to add conditions to the project (including access points of Staggs Road and Ferguson Road). It is felt Fergusons should have the burden of access since it is the benefit on their property.

There is not an adequate noise study; he feel a study needs to be done by a neutral party and it needs to have “teeth” for enforcement with costs to be borne by the applicant. There should be consequences for violations.

Regarding underground line, it needs to be stated as a condition and spelled out, also that it is to remain submerged forever.

Regarding County Code, the appellant must show compliance with requirements. 2-mile set back requirement is set out in HHH6a3 – from rural residences, the code distinguishes about distance

setbacks – they do not create compliance with noise requirements of code HHH6a7 regarding turbines/towers. Noise monitoring is needed at time of construction and after turbines are in place. He also talked about fixed locations of the six turbines and to be advised of the models and known manufacturers (referred to pg 5 of his letter).

Regarding protection of wildlife habitat and avian habitat, he feels the appellant has not met the burden of proof.

In addition, the surety bond with inflation factor they feel is not adequate.

On page 6 of his letter, he felt the issue is unaddressed about a joint management agreement between the County and City of Weston whereby the County administers the City's requirements. He felt findings are not adequate and are not supported. The point approval criteria for a portion of the application, the applicant has failed to address requirements. Until they are addressed and substantial data in record of compliance, the application cannot be approved. The County cannot defer approval of these requirements to a later date by saying the appellant shall do these things. A subsequent proceeding with proper notice would be needed in that event.

On page 7 of his letter, condition #22, specific language is needed about keeping the underground line as such and never moved over-ground.

Up until today, the appellant stated there would be between 4 and 6 towers. He feels there should be no more than six. Regarding noise monitoring, it should be done independently at the applicant's expense and it is unfair to place the burden for enforcement on citizens. DEQ cannot be relied upon for enforcement. He noted standards are objective. Without withdrawing Blue Mountain Alliance's opposition, he asked for Board consideration.

Commissioner Murdock commented, generally, technical standards and relative about accepted farm practices. He feels the definition of accepted farm practice standard needs to be clarified. Mr. Kleinman responded, it is what is normal in the area to be considered accepted farm practice. If there is an existing accepted practice in line with statute and code before towers and accepted farm practices may change after installation. It has to do with conditional use.

Regarding noise, Mr. Kleinman reiterated that Cindy Severe will provide that testimony.

Commissioner Givens talked about the term "reasonable". Mr. Kleinman responded in the law it can be difficult, but in this case, it refers to the use of the roads and what burden of use.

Commissioner Elfering talked about the portion regarding the City of Weston code and if non-compliant. Mr. Kleinman advised this is about the substation. It is in Weston's UGB. Tamra Mabbott asked about continuance to address new evidence, but record can be kept open (that is Board's decision) to allow submittal of anything. Seven days the record is open, with time to review and rebut.

**Commissioner Givens moved to enter conditions of approval as outlined by Mr. Kleinman as Exhibit #57. Seconded by Commissioner Murdock. Carried, 3-0.**

Norm Kralman, 52151 Fruitdale Road, Milton-Freewater (lives at Tollgate, mile 16 marker). Presented a written letter to add to the record. **Commissioner Givens moved to enter Mr. Kralman's testimony as Exhibit #58. Seconded by Commissioner Murdock. Carried, 3-0.** Mr. Kralman commented that the room is full of people interested and concerned. This system allows all to be honest and for this Board to make a just decision. He has read minutes, findings, and listened to audio version from first hearing on 1/28/16. Main points are he feels the applicant is intending to meet intent of the process. On page 2, he referred to a quote about 6 years have passed, which is outdated and should not be considered. Regarding meeting the standard - that action needs to be based on hard facts. He is concerned that a few Planning Commission members are new and do not have a lot of experience in the wind industry. He also pointed out aesthetically the difference between The Dalles/Biggs area for the very large number of turbines as compared to our "pristine" farm ground landscape (he showed pictures – not entered into the record). He wants to be sure the right thing is done based on proper facts and standards and noted accountability needs to be there.

Jesse Thompson and wife, Granella Thompson, 51949 Johnson Road, Weston. Ms. Thompson handed out packets including pictures of roads, map, testimony, corners to be restored and letters from landowners they represent today. **Commissioner Givens moved to approve entering the packet from Thompsons as Exhibit #59. Seconded by Commissioner Murdock. Carried, 3-0.** Mr. Thompson noted other landowners are listed in the packets. Twelve landowners operate farming operations on Staggs Road. They are opposed to the project using Staggs Road. It is not open in the winter, it does not need widening, there are two culverts. Staggs Road works well for them. He referred to county code as it relates to farm use – it is an unnecessary burden.

They feel Ferguson Road should be used as the primary beneficiary of the project. He referred to a google map, pictures of field roads, etc. The project would have significant negative impact to Staggs Road. He went through his farming practice and timing of use of the roads as he has always done, spring through end of fall. He noted all the farm operations and pea operation heavily use Staggs Road and coordinate as they have always done. He referred to pictures of Ferguson Road and the farm. He then talked about Ferguson's operation. Ferguson Road they feel would be a better fit for the project. He also talked about York Road – it is more suited for handling heavy equipment. Ms. Thompson referred to pictures of a corner near Pine Creek, Johnson Road. She also talked about Schrimpf Road. According to the application, there would be very negative impacts on the route using Staggs Road. The roads are narrow (22 feet wide) and have square corners. They feel Fergusons should be able to use their land as they see fit, but they should use Ferguson Road for this project. She feels the CUP should be have added conditions about underground lines to never be moved aboveground and to use Ferguson Road vs. Staggs Road. She then noted the names of the landowners whom they represent and have given permission in submitting their letters; she read two letters (one from Charles Doughdrill, Elsie M. Kilgore Trust, PO Box 1240, Fraser, Colorado and one from Gary Edwards, Staggs Farm LLC, 11130 SW Wood Duck Place, Beaverton OR) submitted after the Planning Commission hearing which were not included in the Board's packets.

Thompsons noted winter closure on Staggs Road is from December 1 to March 31, at entry point of Staggs Road is posted. Staggs Road is the only field access.

Commissioner Elfering called for a 10-minute recess at 4:13 p.m.

Meeting reconvened at 4:26 p.m. Commissioner Elfering asked Cindy Severe to proceed with her testimony. Cindy Severe, 82422 Vansycle Road, Helix, Oregon. The new items are: 3<sup>rd</sup> item, DEQ document re: noise control regulations, and 4<sup>th</sup> item, document re: Public Service Commission of Wisconsin. The rest of the items are already on the record. **Commissioner Givens noted the packet submitted is intermixed with new evidence. He moved to enter the packet submitted into record in its entirety as Exhibit #60. Seconded by Commissioner Murdock. Carried, 3-0.**

Ms. Severe spoke to the noise model. She has relied on wind industry experts, documents and scientific data. She read her testimony; in summary, the applicant has not met the burden of proof. Seven items have not been met; she then listed them.

1. Statistical science. This is not a measurement for wind turbines – it was to be used for factory noise.
2. Problems related to measurement standards. Amplitude - mechanical tones – highly intrusive and can cause documented ill health. It is like helicopter blade slap.
3. Turbine choices of models. Without naming a specific turbine model to identify noise issue, it is difficult to address.
4. Excessive noise – DEQ, Division 35 noise control regulations (included in packet submitted earlier). LFN (low frequency noise) impacts public health. A 29-year old study by the Department of Energy regarding LFN is still valid. (Doc #4, Shirley Winn Farm in Wisconsin).
5. Application phase is different than operational in relation to noise issues. She pointed out Morrow County wind farm project negative impacts. Also there is need for enforcement and need to have fail-safe to keep applicant accountable.
6. 2 mile set back. Applicant must meet standards required.
7. Failed to meet burden of proof – assessment uncertainties in models. Also referred to Brush Canyon project and comments by Mr. Shuba, of the Department of Energy (Doc #6).

Dave Price, 80488 Zerba Road, Athena. He submitted testimony to the Planning Commission on 1/28/16. Three main points: compliance of applicant based on revised code/ordinance. With information of the Planning Department, it met compliance requirements of code at that time. One concern is about the 2-mile set back. There are several residences close to the 2-mile set back. The Planning Commission discussed it – and safeguards are there to deal with it. What about changes in location of the turbine of planned vs. built, it affects wind producing requirements. Bottom line is that conditional use should be foremost in considering moving turbines around. Location is tight to the 2-mile set back. Secondly, at the 1/28 meeting, there was concern about the wildlife aspect. Information came from the original application and the contractor assured all that information was acceptable with exception of the raptors. In response to a question by Commissioner Givens about the distance of the last residence to the closest turbine, Mr. Price advised it is 2 ¼ miles; he believes it is Vansycle. Six turbines of themselves is not that big a project, but it is one more development and combined with others.

Mike Denny, 1354 SE Central, College Place, WA. He represents the Blue Mountain Audubon Society. Since 1997, he has been involved in wind projects through the gorge and in this area, from the very start. Over years, he is concerned of cumulative effect of migratory birds and bats. Regarding bats at the Stateline project, it was discovered that September is bat migration (nocturnal) in this region. He has studied birds and bats since about 1978. Topography is not the

only thing to consider. It also has to do with feeding (on moths – which migrate just like monarch butterflies) as well as weather/climate. Regarding birds – bulk of his studies – co-authored 5 books. Bird migration, population and species distribution. There have been drastic changes in last 10 years. New species are coming into the area based on many factors. He is concerned about the precedent set of this small project – only six turbines, but adding to other small farms creates a “checkerboard” pattern and, in addition to the long strings on the gorge and out of Wallula, birds migrating and moving are within turbine rotor sweep. He asked for conditions of no turbines along immediate edges and that they be pushed back some from the edges. They would also like an Audubon Society member on the TAC committee. He also talked about losses of a few species that have left the area, but does not know where they went. Commissioner Givens asked about volunteer groups who would monitor bird counts. Mr. Denny replied he has asked for a 5-year study of bird numbers.

Commissioner Elfering asked for comments from any public agencies. None were heard.

#### Rebuttal of Testimony.

Commissioner Elfering noted the Board would like to continue the hearing to a later date for rebuttal parties. He asked if those rebutting would like to continue to a later date? They left the room 5:10 to discuss the action. The Board wants to continue to a later date to allow time to review and set a date and time. That would allow more preparation for rebuttal.

Patrick Gregg addressed continuation. They oppose continuation. He feels it is merely recitation of items before the Planning Commission. Nothing new was presented. In looking at the County Code, standard of continuance is section 152.771 – prior to conclusion of initial evidentiary hearing. This is an appeal. They feel there is not a basis to grant continuance – rebuttal will be brief. They would like a considered decision today. They respectfully oppose continuance.

**Commissioner Givens moved to continue the hearing until April 13.** Commissioner Murdock asked a procedural question – he would like more time to contemplate for deliberation what he has heard today; he does not want to hear more. Commissioner Elfering noted that rebuttal could be heard today, then the Board could continue and come back April 13 and close the record.

Mr. Kleinman advised the written record has to remain open for at least 7 days for consideration of new evidence submitted today and allow proper time for response is a right of the parties. Doug Olsen advised the Board they can close the record for oral testimony but keep the record open for written testimony.

Commissioner Murdock noted that in deference to many people who traveled a long way, the hearing should proceed for rebuttal remarks. Commissioner Elfering directed the hearing to proceed.

#### **Motion died for lack of a second.**

Mr. Nerzig: Rebuttal. Comments about use of Ferguson Road vs. Staggs Road. He pointed out Ferguson Road is farmed by more than 1 farmer – something like 3 or 4. Also, concern was voiced that the cost of the decommissioning bond is insufficient. He noted an increased bond schedule was presented today including inflation factor. Turbine locations are not fixed; analysis of turbine models and positions is done as the normal course of identifying final selection. Regarding intent of the code – it meets the intent and specifications of the code or exceeds them. Regarding comments about cumulative effects on birds and bats, he noted analysis of cumulative effects is not part of standards or County Code;

furthermore, it is cultivated land so habitat is not an issue – however, a raptor study has been committed to as well as avian and bat mitigation plan has been submitted to wildlife agencies. Appellants do not raise any new issues today. They rely on reports; staff report and conditions imposed address concerns and will agree to step up to conditions. Regarding roads, appellants have tried to work with them. Furthermore, the county Public Works Director, Tom Fellows, notes Staggs Road is the best option for the County if the project goes forward. Regarding noise, that is fiction – the study more than amply shows that. High county standards have been met or exceeded. The applicant requests decision and approval by the Board.

Mr. Gregg talked about the City of Weston and a question about their code and claimed non-compliance regarding the substation. That is not before the Board today. “De novo” is for a fresh look – the application does not include anything about Weston’s code – not in notice of appeal – that is not an issue for discussion. He read legal instruction of the code – to that extent, it should not be considered. He also noted Weston has submitted a letter that they had no comments.

### Deliberation

Mr. Olsen noted the Board needs to set a timeframe for written submissions and specific date for deliberations. The only timeframe for deliberations is the morning of April 13 and there is need to allow proper time for comments and response. Comments by Appellants will be due in 7 days, or April 4; Applicants reply would be due on April 11. Deliberation and decision can be made on April 13. **Commissioner Murdock so moved. The motion also included: the hearing is to continue to April 13, 9 a.m. Room 130. Seconded by Commissioner Elfering. Carried, 3-0.** Further clarification by Ms. Mabbott , comments from appellants will be due by April 4. Applicant’s comments are due April 11. For the record, the hearing is to continue to April 13 for deliberation, 9 a.m., Room 130. Seven days for the opponent to comment and then 7 days to respond by applicant. There will be no new testimony on April 13.

The meeting adjourned at 5:28 p.m.

Respectfully submitted,

*Melinda Slatt,*

Executive Secretary,

Umatilla County Board of Commissioners