

MINUTES
UMATILLA COUNTY PLANNING COMMISSION
Meeting of Thursday, August 27, 2015
6:30 p.m., Umatilla County Justice Center, Media Room
Pendleton, Oregon

COMMISSIONERS

PRESENT: Randy Randall, Gary Rhinhart, Tammie Williams, Suni Danforth, Don Marlatt, David Lee

ABSENT: Don Wysocki, Cecil Thorne.

STAFF: Tamra Mabbott, Bob Waldher, Gina Miller.

NOTE: THE FOLLOWING IS A SUMMARY OF THE MEETING. A RECORDING OF THE MEETING IS AVAILABLE AT THE PLANNING DEPARTMENT OFFICE.

CALL TO ORDER:

Chair Randall called the meeting to order, and read the opening statement.

NEW HEARING:

REQUEST FOR A PUBLIC HEARING FOR LAND USE DECISION #LUD-185-15, BLUE MOUNTAIN CHRISTIAN FELLOWSHIP, applicant/property owners.

During the public comment period, a "Request for a Public Hearing" was submitted on July 27, 2015. The request is to develop an 80 foot by 80 foot cemetery on church-owned property. The area of the Blue Mountain Christian Fellowship property proposed for the cemetery is located on the south side of Sunquist Road (County Road No. 512) at the northeast corner of Tax Lot #1100, in Township 6N, Range 35E, Section 21A. The situs address for this property is 52322 Sunquist Road, Milton Freewater, OR 97802. Criteria of approval are found in Umatilla County Development Code 152.059 (B), 152.617 (II).

Staff report: Bob Waldher, Senior Planner, presented the staff report; see file for statement. The applicant wants to place a cemetery for church members on their property. When the public notice was sent out to surrounding land owners, a group of them submitted a request for a public hearing to express their concerns with this land use so near to their properties. Mr. Waldher advised of the options available to the Planning Commission; 1) approve the application as is based on evidence provided by the applicant, or 2) deny the application.

Chair Randall asked if there were any biases, declarations of ex-parte` contact, conflicts of interest from any member of the Planning Commission. There were none.

Applicant testimony: Chad Dierstein, 85166 Telephone Pole Road, Milton-Freewater, OR. He is a member of the Blue Mountain Christian Fellowship Church, of the Mennonite tradition. The use of a cemetery is often found in conjunction with their churches. They apologized if their application has offended their neighbors, and for not thinking through their application and the effect it would have. They are open to alternative sites on the property, and other suggestions, like landscaping, to help make people more comfortable with the cemetery being there. They want to be neighborly and would like to have their small cemetery. He discussed why they selected the area they did for the cemetery, and it was because it was a corner out of the way of their facility.

Chair Randall asked about the church and members. Mr. Dierstein replied they have typically 150 members in attendance on Sunday morning. He said that the only persons to be buried in their cemetery would be members; it was highly unusual for non-members to ask to be buried there. They do not plan to access the cemetery from Sunquist Road, only from their parking lot. He said there is a fence on the east side and irrigation ditch from the south side. The north side does not have fencing bordering the road, and the west side has a hedge of bushes.

Commissioner Danforth asked how long the 80 ft. X 80 ft. cemetery would serve the members of their church. Mr. Dierstein replied he estimated it would take nearly 100 years to get to capacity. They would build a decorative fence around the cemetery, and the entire area is in grass currently. Chair Randall asked about limitations on headstones, and Mr. Dierstein said they would be flexible about that.

Commissioner Danforth asked about what options they would be open to. Mr. Dierstein presented some ideas they had put together in anticipation of this meeting. Discussion on the soil testing that had been done for the cemetery sites on the subject property. Commissioner Rhinhart said he would have liked to see some test holes for the water table done.

Commissioner Danforth asked what cemetery they were currently using, and Mr. Dierstein replied that they were fairly new to the area and hadn't had the need for a cemetery yet.

Mr. Waldher stated that there was a letter in the application file from Don Wysocki about soil testing he had done at the subject property. They dug holes 1 foot deep all around the property. Discussion followed on testing depth's for the water table in the area around the subject property. Mr. Dierstein said they had built the church and school on the property over the last four years. Commissioner Danforth asked if cemeteries are always built near their churches, and Mr. Dierstein replied that it isn't universal that all churches have a cemetery nearby. Discussion followed on other Mennonite churches that have cemeteries nearby.

Opponent testimony: Tim Brown, 52390 Sunquist Road, Milton-Freewater, OR. He owns the property to the east from the subject property. They moved there in 2004, and

said he would not have bought the property if there had been a cemetery there. He talked about the different kinds of irrigation that has been used on his property over the years. One of his concerns was the testing of the property for the water table, and doesn't feel that was adequate. He pointed out the creek ditch on the southeast corner of the property. The water is leaching out under that corner and used to run through the proposed site of the cemetery site. He referenced an old land use case, #LUD-095-09, and that a soil erosion problem had been noted in that case. He did not think this property was appropriate for a cemetery. It is an old river bed that runs through that would make digging difficult and there is visible ground water on different corners. He is concerned that this use will contaminate his well, and that there was not a proper study done. He also had concerns about the aesthetics impacting their property values.

Chair Randall asked the neighbors present if there were any compromises possible to allow the applicant to have a cemetery. Mr. Brown said he would not support anything that would devalue his property.

Opponent testimony: Robert Bromps, 52337 Sunquist Road, Milton-Freewater, OR. Mr. Bromps stated that they have lived at this location since 1994. He noted that they had to put their septic system very deep as the ground is very rocky in the area. He stated that he does not want to look at a cemetery out his front window. Mr. Bromps also said he would not support any alternative sites for the cemetery on the subject property, as he has great concerns about irrigation and groundwater access.

Opponent testimony: Tara Bromps, 52337 Sunquist Road, Milton-Freewater, OR. Mrs. Bromps does not work and is home all day. She stated that she doesn't want to look out her front windows and see a cemetery every day. They have concerns that having a cemetery next door will prevent them from being able to sell their house.

Opponent testimony: Ryan Daggett, 52668 Sunquist Road, Milton-Freewater, OR. Mr. Daggett said he shares the same concerns as his neighbors about property values, the water table and being able to build his retirement home there. He also expressed concerns about light saturation and vandalism.

Opponent testimony: Chris Banek, Sunquist Road, Milton-Freewater, OR. Mr. Banek stated that there are other options than to build a cemetery in the proposed location. He discussed the location of other cemeteries in relationship to residential neighborhoods. He doesn't want to look out his windows and see a cemetery either. He noted that his other concerns, property values, and water issues, were addressed by previous speakers but are also of great concern to them. He wants to be able to hand his property over to his kids someday, but not with a cemetery right there. Mr. Banek talked about how a church does not need to have a cemetery nearby, and that the applicant has a nice church, and school and that should be enough at that location.

Public agencies: no comments.

Applicant rebuttal: Mr. Dierstein thanked all the neighbors for their testimony and said

he would take their comments back to the church and discuss the concerns that were raised. He said that they want to be neighborly, and are open to relocating the proposed site.

Commissioner Williams noted that the applicant was gracious to offer to be open to alternative locations, and to offer landscaping. Commissioner Lee asked about the membership of the church, and Mr. Dierstein advised there were approximately 150 people that attended regularly. Mrs. Mabbott advised that the Planning Commission could choose to continue the hearing to allow the applicant to conduct further soil testing and perhaps meet with the neighbors to resolve the concerns. Discussion followed within the members of the Planning Commission on how this proposal would impact property values in the future.

Commissioner Rhinhart moved to continue the hearing to allow the applicant time to discuss options with the church board and to get further soils testing completed for alternative sites on the subject property. Mrs. Mabbott advised that a continued hearing would be heard in either September or October. The motion was seconded by Commissioner Williams. Motion carried 6:0 to continue the hearing.

MINUTES:

Chair Randall asked to adopt the minutes from the April 23rd, June 25th and July 23rd hearings. Minutes were adopted by consensus. Chair Randall called for a 10 minute recess until the next hearing.

NEW HEARING:

WHEATRIDGE WIND ENERGY FACILITY: Planning Commission will review the Wheatridge Wind Energy, LLC Application for Site Certificate (ASC) submitted to the Oregon Department of Energy, Energy Facility Siting Council (EFSC). Planning Commission will focus their attention on Exhibit K of the ASC but may consider all relevant issues. Planning Commission role is to make a recommendation to the Board of Commissioners who will submit comments to EFSC.

Chair Randall called the hearing to order and asked for declarations of ex-parte` contact, biases, conflicts of interest or abstentions.

Staff report: Tamra Mabbott, Planning Director, displayed a map of the proposed wind energy project on the screen. She advised that the Planning Commission was charged with making a recommendation to the Board of Commissioners on this project. Since this is a 500 MW project, it is under the authority of Energy Facility Siting Council (EFSC), with the Board of Commissioners appointed as a special advisory group. Mrs. Mabbott explained the EFSC process of considering an application for a wind energy facility.

Mrs. Mabbott introduced Wendie Kellington, attorney, who completed a legal analysis of the proposed wind energy facility and the issue of the transmission line for the county.

Ms. Kellington explained that the Planning Commission must decide if the application contains enough information to show that it meets the county's identified applicable substantive criteria. She identified three criteria, having a meaningful impact on the decision to approve or deny, that the Planning Commission would need to primarily consider that would impact a decision; the county requirement for a map showing the location of all components of a wind energy facility, the identification of a route and a plan for transmission facilities connecting the project to the grid (substation locations, transmission locations, intra-connection connecting to the project itself, and connecting the project to the grid beyond), and demonstrate compliance with the "no significant change/no significant cost" to agricultural practices standard. Primarily, this standard outlines whether or not the proposed project will the proposal force a significant change in accepted farming practices on surrounding lands devoted to farm or forest use, and will it significantly increase the cost of accepted farming and forest practices. The farm practice standard is both a direct and a cumulative impact standard. The testimony at this hearing that will be most helpful will include information on the impacts of 292 turbines added to the proposed area, substations including additional facilities to tie into, the effect of options for intra-connection as well as interconnection (gen-tie) lines.

Ms. Kellington displayed a map showing all the existing and proposed wind energy projects in a 10 mile area to show cumulative effect. She discussed some possible clear and objective conditions that could be suggested by the Commissioners. One suggested condition would be to ask EFSC to require the applicant to upgrade and co-locate on existing transmission facilities on Buttercreek Highway. Ms. Kellington advised that county code requires an evaluation of the entire facility, including interconnection. She advised that transmission does not already exist for the project but that it is necessary. Some form of transmission will have to be built. The application stated that the time and control of interconnection is established by other parties, and they would need to begin construction when interconnection facility is ready. Ms. Kellington stated that this was further evidence that interconnection is a part of this project. She said that if the transmission facility were to never be ready, the project would not be constructed. In order for the application to be evaluated, all components must be shown. She said that since the application was not proposing transmission, the applicant's premise was saying that transmission would not need to be evaluated under state law. Ms. Kellington stated that this was incorrect and that in order for this facility to exist, there has to be transmission as part of the proposal. She likened it to a proposal to build a shopping center but no parking for the center.

Ms. Kellington stated that the county code required that all components of the wind energy facility, including transmission routes, must be shown in the application. She stated that the application suggested that transmission could be a condition of approval. Ms. Kellington stated that transmission could not be a condition of approval because transmission needed to be evaluated for farm impact standards and if transmission was

not a part of the application it would never be run through the applicable approval criteria. Compliance must be evaluated against the applicable criteria.

Ms. Kellington explained that county standards were approved by the state, and that EFSC must apply the county land use standards. In order for EFSC to approve the proposed application, they would be required to take an "exception". She described the proposed project on maps displayed overhead, and that this project would be located in both Morrow and Umatilla counties. The project would closely border the Urban Growth Boundary (UGB) of the city of Stanfield and the Strawberry substation. Mrs. Mabbott stated that the map being shown had been completed by county staff, but the "pink" line showing a possible route for transmission was provided by Umatilla Electric Cooperative (UEC). Mrs. Mabbott stated that UEC is not applying for any transmission lines as a part of this project application at this time. The county provided notice to the underlying land owners of the "pink" transmission line provided by UEC, and those same landowners would not have been notified about this project if it hadn't been for the county notice. The Commissioners agreed that the public needed to be informed and involved in this application.

Ms. Kellington said that there are no reasons that the county is aware of that this project could not connect to an existing transmission line on the Buttercreek Highway. The only two possible transmission lines that have been discussed are the ones provided by UEC. She discussed the application's analysis area and how it does not include any areas surrounding the Strawberry substation, Stanfield substation or the two possible transmission routes. Ms. Kellington talked about Exhibit "K" in the application and how it described the intra-connection corridor as being primarily in Morrow County. She discussed the concerns that have been raised about this application on how it fails to comply with county requirements because there is no proposal for transmission routes, both intra and interconnection, that can be subject to evaluation. Other concerns have been raised about the unacceptable direct cumulative impacts of a 500 mw windfarm, and how it will attract other transmission lines and substations and this may compromise high value farming operations. The application also fails to show an option of transmission through colocation along Buttercreek Highway. Ms. Kellington also discussed other significant and cumulative impacts to farming practices and costs from wind turbine locations and required intra-connection transmission.

Commissioner Rhinhart asked about a contract from whoever is going to be purchasing this energy. Ms. Kellington said that this information was not disclosed by the applicant. He said that this was just as important as having transmission information. Chair Randall said that the electric companies are required to purchase a minimum of renewable energy per federal guidelines, so he didn't think that the applicant would have trouble selling energy. Mrs. Mabbott advised the Commission that she was handing out comment letters from interested parties to be entered into the record. She wrote out three possible recommendations that the Commission could make to the Board of Commissioners; 1) Concur or not concur with the legal analysis provided by Wendie Kellington, stating that a transmission line must be permitted as part of a project application or proof of an existing line they will connect to provided in order to satisfy county HHH standards of

approval, 2) EFSC not approve the application until transmission is part of the application or transmission is permitted, 3) recommend that the developer meet with landowners and transmission line developers to identify a suitable path for the transmission line.

Chair Randall asked to adopt the additional letters of comment, recommendations from Mrs. Mabbott and informational packet into the record.

Public testimony: Art Prior, Eagle Ranch, 32327 Oregon Trail Road, Echo, OR. Mr. Prior stated that the “pink” line proposed by UEC goes right through the center of their irrigated farm land. It would create obstacles to farm around and lower their property value, and create economic loss for them. He would like to see a route that did not go through their property, and they don’t think it’s necessary and will continue to protect this. Commissioner Rhinhart asked if the line would be owned by UEC, and if they don’t know this, how can UEC proposed to cross land they don’t own. Mr. Prior said that the applicant is using UEC as an “imminent domain” avenue to be able to cross private land. He is not opposed to the wind farm, but he doesn’t want it creating obstacles on his farm land. He stated that the process taken by Wheatridge has been somewhat behind the scenes and doesn’t understand why they won’t disclose a transmission route that is acceptable to the county and citizens alike. Commissioner Danforth asked for specific details on how it would interrupt his practices, and Mr. Prior replied that he couldn’t really answer because he did not have enough information from the applicant to know where the line would be going and how big the line would be. They have underground pipe and electrical wiring and a potato storage building existing in the area shown on the UEC map that would be impacted. They utilize aerial application of chemicals, and the presence of poles from the transmission line would prevent this. Mr. Prior said if a power pole was placed in the middle of an irrigated field of \$5-10,000 ground that would be a loss to him. Commissioner Danforth confirmed that a power line would interfere with their aerial application of chemicals.

Public testimony: Bob Levy, 31471 Andrews Road, Echo, OR. Mr. Levy stated that he was present on his own behalf and has submitted written testimony and a petition from a group of land owners in the Echo area where the proposed transmission lines go through. He said there is a detailed description on the front page of the petition of what they are requesting. Mr. Levy read from a prepared statement, see record in file, and displayed maps on the overhead screen. One photo showed a road where one of the proposed lines was to go. Mr. Levy stated that this line would cut off the ends of irrigated circles and this would significantly impact their farming practice. He said that it would also impact the growing dairy farming going on in Umatilla County as a dairy cannot be placed near these lines as they affect the milk cows. The next slide Mr. Levy displayed showed where a proposed line would have to either go right over an existing home or right through another irrigated circle. They would also possibly have to rebuild a distribution line from UEC on this proposed route. He said there are 5 existing homes in the proposed route for the transmission line, and that none of these property owners would have been notified if it hadn’t been for the county notice. The next slide showed the existing transmission lines on Buttercreek Highway, and Mr. Levy noted that there

had been no consideration given in the application to utilizing this existing route. He said this is a major failing in the system that existing corridors are not utilized instead of building new lines. There is also a Bonneville line available that could be rebuilt to accommodate this new project. Mr. Levy said there are 8 wind projects in the BPA system that need to get to Longhorn or Stanfield to connect to the grid. The problem is that no one wants to share a line, such as the Buttercreek Hwy line. He said that there is a great need for study of the cumulative impacts of all the wind projects in the area.

Commissioner Rhinhart asked Mr. Levy if the wind projects had increased the energy costs for his farming practices, and Mr. Levy said it had not yet, but he anticipated it would in the future.

Public testimony: Robin Severe, 82422 Vansycle Road, Helix, OR. Mr. Severe discussed the issue of public safety in terms of the danger of fire being generated by wind farms. He stated that he has testified twice before EFSC to ask for a risk assessment requirement for fire danger from wind farms, and nothing has been done to date. Mr. Severe asked the Commission to require a risk assessment as a condition of approval from the Special Advisory Committee recommendation to EFSC for this project. He spoke about two fires in Umatilla County that have occurred as a result of wind projects, but according to EFSC there has never been a turbine related fire ever reported for this county. Mr. Severe urged the Planning Commission to consider a fire risk assessment as a Condition of Approval.

Public testimony: Tom Rugg, 45422 Stewart Creek Road, Pilot Rock, OR. Mr. Rugg stated he would be addressing the topic of Met Towers and aviation safety. He said in his experience with flying in the area, Met Towers are virtually invisible to a pilot. There is no requirement for being marked if less than 200 feet in height. Due to recent fatal accidents, the National Transportation and Safety Board (NTSB) is recommending that Met Towers be lit and clearly marked for aviation, both the towers and guy wires that support them. Mr. Rugg read from a recent NTSB report on the lack of safety for Met Towers to aviation. He urged the Planning Commission to include this matter in their consideration for the conditions of approval for the application.

Commissioner Danforth asked what the height was that required marking, and Mr. Rugg replied that anything below 200 feet did not require marking of any kind. He noted an accident in Walla Walla County that resulted in a death.

Public testimony: Dave Price, 80488 Zerba Road, Athena, OR. Mr. Price stated that he was speaking for the Blue Mountain Alliance. He noted that this project has a lengthy history going back nearly 2 years. He said that he had researched the legal definition of the term “wind energy facility”, and found that it included all the components such as the wind turbines, substations and transmission lines inside and out of the project. Mr. Price said there is very little information provided by the applicant that it makes it very difficult to determine how this project would impact the local resources of Umatilla County. He said that it was imperative to regard an entire project as one, including transmission capability for both intra and inter-connection. Nowhere in the application did it

demonstrate compliance with Umatilla County development codes, specifically Chapter 152.616 (HHH)(5), application requirements. Mr. Price discussed the feasibility and viability requirements for the siting process, and noted that this project failed to meet these requirements. He referenced Section B on page 19 of the application, requesting a 6 year start date for construction. He urged the Commission to not allow this request, as conditions change over time. In closing, Mr. Price said that the application does not contain enough information to evaluate all the components of a wind energy facility and thus does not comply with the Umatilla County Development Code, and he opposed the 6 year construction start date.

Public testimony: Cindy Severe, 82422 Vansycle Road, Helix, OR. Mrs. Severe asked to submit comment letters into the record from 3 other people that were not able to be in attendance at this meeting. Mrs. Severe discussed applicable, substantive criteria. She talked about the hearings that she participated with in 2011 that brought about the existing siting standards for a wind energy facility in Umatilla County, and that those criteria are legally binding in effect today. She noted that the applicant was unable or unwilling to supply the necessary information and be compliant with the standards for the County. Mrs. Severe read aloud from a prepared statement, see file for statement.

Public testimony: Jerry Reitmann, 69115 Eller Road, Ione, OR. Mr. Reitmann said that he is one of the owners of the proposed project. He asked to speak with the other people that came with him at the end.

Public testimony: Robert Lazinka, no address stated. Mr. Lazinka stated that a glaring omission in the application process is that the applicant is not asked to provide a report of the impact of the project on taxpayers. There is no discussion about the economics of the project included in the process.

Public testimony: Clinton Reeder, 47647 Reeder Road, Pendleton, OR. Mr. Reeder discussed the history of how the wind farm siting standards were adopted by the county. He favors the 2-mile setback standard and thinks that it is working for the county and this standard must be protected. Mr. Reeder spoke about the need to long term development of energy infrastructure for the country. He said it makes good sense to utilize existing corridors for energy transmission. One of the primary questions is what best suits the character of the community in terms of wind development. He said that EFSC should not be allowed to operate independent of the county standards; it must be a cooperative effort. Mr. Reeder talked about the problem of confidentiality agreements that wind developers impose on the property owners they lease land from. This contract prevents data collection about health impacts from the people most affected by the wind farms. He said there should be an escape clause in every land lease agreement made with wind developers, so property owners have a way out if they cannot tolerate living next to wind turbines. The wind farm owner would be required to buy them out. Mr. Reeder said that the primary focus should be the neighbors of a wind farm, and mitigation terms should be imposed to protect them. They are receiving no benefit from the wind farm. Mr. Reeder discussed adverse health affects from wind farms, such as sleep interruption and low frequency sounds. He also spoke about the dangers of fire associated with wind

farms, and agreed that a fire risk assessment should be included in the conditions. Mr. Reeder said that enhancing the character of the community should be the primary goal of everyone in that community, for that determines the character of society itself.

Public testimony: Jerry Reitmann, Ione, OR. Mr. Reitmann said he is a wheat farmer here and in Gilliam County. He has several wind farms on his property. He got into developing wind farms to increase the tax base to help keep the schools funded. Mr. Reitmann discussed the history of how this project came about and how they developed the funding and location for the project. They worked with UEC on the lines and UEC said they would determine where the lines would go. Mr. Reitmann stated they believed that they were operating within how the permitting process works. He said he understands the concern about not having information in their application about a transmission line, but they will never own the transmission line and will only have rights to run power from Point a to Point b. The utility will decide where the line will go, and the utility will not go where it is not wanted. Their primary focus has been to get to the Longhorn substation at Boardman because it can handle 1250 MW of power and the Stanfield substation is inferior and can only handle 600 MW of power. They did acquire rights to the Stanfield substation as a backup plan. They do not expect EFCS to allow them to build without a transmission line being permitted. Mr. Reitmann said that UEC wanted to build a corridor, and would build a line with added capacity that would be available to others. He is optimistic about gaining a compromise along the Bombing range access and that will open a corridor to south Morrow County. He understands the concerns that people have about wind, but he feels that they have played by the rules and didn't try to mislead people. He said there is a very collaborative process in Morrow County and there has been a planner and County Commissioner at every land owner meeting, and he would like to see a similar process in Umatilla County.

Rob Friddel, 215 SE 30th Place, Portland, OR. Mr. Friddel is the project manager and put together this application. He discussed the options for the two substations, and described where the various aspects of the project would be located. He said that they do not know at this time where they will hook up to the grid. The Longhorn and Stanfield substations will be BPA and they haven't made any decisions yet about this. They are leaning heavily towards going west to the bombing range route to the Longhorn substation, but are staying flexible in case they have to go to the east. The intra-connection lines exist solely for the use of the project. There will be overhead 230 kV lines that will be suspended from H-frame or similar monopoles. He referenced Exhibit K and that was used for their land use analysis on the assumption that it could never be a bigger impact. Mr. Friddel stated that the UEC lines are mutually exclusive and will not overlap. UEC wanted the lines shown as conceptual lines, and it is shown simply to illustrate where they would hook up to UEC lines to convey power to the grid. He stated that their lines stop at the Strawberry substation or substation #3. Anything after that would be owned and operated by UEC.

Commissioner Rhinhart asked if they had any agreements in writing with UEC to this affect. Mr. Reitmann said they have made a request on their system and have paid deposits, and have signed letters of understanding to the design. Commissioner Rhinhart

said he is concerned that they do not have a complete application without the transmission system to review. Mr. Reitmann said that the reality was that BPA could take up to 3 years to build a substation and they would need \$80 million dollars to build it. He described how the market is driving their project and how the investors are taking the risks. He commented on who will eventually own this company and the project.

David Peterson, attorney, 888 SW 5th Ave, Suite 1600, Portland, OR. Mr. Peterson referenced the presentation from Ms. Kellington. He explained the difference between the gen-tie lines that are owned by the applicant and how it is a part of the project. The sole purpose is to move power from the turbines. The interconnection lines will be owned by UEC and will go to a BPA substation. He said that the gen-tie lines do not need to be a part of the energy facility application, and he has provided some Oregon statutes and administrative rules to support this. He reviewed these statutes and administrative rules for the Commission. He said that the gen-tie lines are not a related and supporting facility, and is not proposed by the applicant and will not be constructed in relation to the energy facility. The intra-connection lines are proposed by the applicant and are a related and supporting facility and have been included in the application. Mr. Peterson referenced a memorandum from Ms. Kellington dated August 17, stating that all transmission facilities are related and supporting facilities and he contends that this is not true. He said that Ms. Kellington stated that the energy facility should not be defined by state law, but instead by the county code, specifically Chapter 152.616 (HHH) (5V and 5C3). He said this is not the case, and that energy facilities are cited by state law by EFSC. They use the state definition in their application and why the project is described as it is.

He discussed the options analysis and corridor assessment. He said that the transmission line is an energy facility by itself and therefore the gen-tie line is not a related and supporting facility so there does not need to be a corridor analysis for this application. He said that the public will be able to participate in the process when UEC decides they need a gen-tie line and will apply for this through EFSC. They have followed the law, and have not done anything inappropriate. The application is therefore properly composed and complete.

Commissioner Rhinhart commented that he is concerned about the lack of a transmission line in this application and that they had to go to someone else to build it. Mr. Peterson said that the opposite is true and by going to a utility to build the transmission line that will serve more than one project will reduce the amount of lines. He said that UEC is a local cooperative and is very sensitive to the needs of the farmers they serve.

Commissioner Lee asked about the letter of intent, and Mr. Reitmann said they had made a request to put transmission into their system just like any other facility. They have a letter of understanding between them and UEC describing their expectations of the route and who will pay for what. Mr. Reitmann said that UEC has also sent a letter to the County Commissioners outlining the principles of the project and a letter was also sent to the landowners who were noticed by the county. He read aloud a letter from Steve Eldridge, UEC, into the record. Mr. Reitmann read aloud a letter of principles from

UEC into the record. He said he is gambling that UEC will be a responsible party and will provide transmission lines as they have promised. He understands the animosity against wind, but he believes UEC and they will have to permit their own line and that is why they are not a part of their application. Commissioner Rhinhart stated that he agreed that transmission lines are better owned and maintained by the utility. Mr. Reitmann discussed why an existing line was not considered, and stated that the Navy was an obstacle with that line.

Andrew O'Connell, 6007 NE 30th, Portland, OR. Mr. O'Connell referred to a comment from Mr. Levy about why they weren't using an existing corridor with BPA. He discussed why this route didn't work for them or for Mr. Levy. They tried to avoid going over land owned privately, but the Federal agency would not agree to the project. BPA is very sensitive about approaching developers.

Mrs. Mabbott asked if the applicant would like to enter the 2 UEC letters into the record, as these letters were not submitted into the record by the applicant.

Commissioner Danforth asked if there was anything where the intra-connection corridor was, and Mr. Reitmann replied that there was nothing but pasture. She asked if that was the only option, and they explained they chose this route because it was out of sight from the road. She asked what type of pole they would use, and the applicant replied that it would depend on which substation they would connect to. There will also be a temporary access road. Commissioner Danforth asked about an impact study. The applicant replied they did an impact study for option #3, including a cultural study.

Public testimony: Tim O'Rourke, 1213 NW, Pendleton, OR, attorney with Corey, Byler and Rew. Mr. O'Rourke represents land owners that have been approached by wind developers. He said that some issues, like fire safety, are dealt with by the landowner and their attorney with the developer. He said it is important for the landowner to have representation by an attorney. His client's have had very positive experiences with wind development on their lands and it has sometimes made the difference between keeping and losing their farms. He discussed subsidies for wind development and for agriculture. He said that wind farms have been a great asset for landowners who have low value farm soils.

Rebuttal: Ms. Kellington stated that the application is what the Planning Commission was charged to evaluate. The application does not have any disclosure about transmission lines, and assurances provided by UEC are not enforceable. The Planning Commission is supposed to determine if it meets the criteria. She stated that if there is no transmission, then the project cannot go forward according to land use law. If a project does not have transmission to tie into, then the project does not comply with relevant standards. Ms. Kellington talked about capacity for the project. Testimony indicated that there was likely to be a 230 kV gen-tie line, but this type of line can only carry between 300-500 MW and the project is slated to be 500 MW. In her opinion, the project would never happen without transmission to the grid. The county standards are acknowledged by the state as being in compliance with the goals and the Planning

Commission heard testimony that the transmission line is a part of the project and the county standards require that transmission routes must be identified. Ms. Kellington stated that the reason that the applicant was not identifying transmission lines was because the application is subject to the farm impact standard. She said that the application with transmission would have unacceptable farm impacts and would not meet this standard. But if UEC were to create a transmission line all by itself later on, this same farm impact standard may not apply. It may be a Sub-1(ORS 215.283(1)) use that cannot be denied in farm use zones. Ms. Kellington stated this is the reason that the county code requires transmission lines to be a part of a complete project application, so that a transmission line cannot be separated out from the application and therefore not subject to the same farm impact standards. By making the transmission lines a part of the complete application, then it is subject to the same farm impact standards as the rest of the project components. She advised the Planning Commission that they can find that the application does not meet the standards and is therefore incomplete and can make the recommendation to the Commissions that it be denied, or they can find that the application is complete with that recommendation to the Commissioners.

Commissioner Rhinhart asked Ms. Kellington to confirm that EFSC said they would use the county code. He said that he had heard testimony at this hearing the EFSC would not consider the county code in their consideration of this project. Ms. Kellington said that EFSC does not have the authority to ignore the county code unless they take an exception. She said the Commissioners would be making a recommendation to EFSC and as a Special Advisory commission; EFSC would be bound to follow what the Commissioners say. She did not believe that EFSC would say that the project complies with statewide planning goals and they would have a tough time taking an exception.

Mrs. Mabbott stated that Exhibit K says that the application complies with the majority of the applicable local criteria, and for the criteria that the project cannot demonstrate compliance; EFSC should approve a variance to the applicable criteria or a goal exception. She said there is no standard in EFSC rules that provides for EFSC to apply a variance to a land use standard.

Commissioner Rhinhart asked about a surety bond, and commented that the application had offered a letter of credit. He wanted to confirm that Umatilla County only acknowledges surety bonds, not letters of credit.

Chair Randall closed the hearing and moved to deliberation.

Commissioner Williams said that this was a matter of trust and she was having trouble with the application. She said that UEC was not in attendance at this hearing to provide comment on their proposed transmission line. She is concerned that when it comes to putting in the transmission line, it will be all about the money and the easiest way to put the line in. She wants to make sure that all landowners are informed, and that someone doesn't get condemned in this process by a public utility.

Chair Randall spoke about being on the developer side of things, and understands why UEC wants to be in control of the transmission line. He would have liked to see a UEC representative at this hearing. He also believes that the transmission line needs to be in place before the application can be considered complete.

Commissioner Rhinhart suggested they use Recommendation #2; EFSC not approve the application until such time that a transmission line is part of the application or transmission is permitted prior to the energy facility being permitted. He asked if they could add a requirement that UEC submit an application in at the same time for the transmission line. Mrs. Mabbott said that the applicant would have to amend their application for the site certificate to include the transmission line.

Chair Randall said that he supported all three of the recommendations. He does feel that the application is incomplete, and would like to see UEC meet with impacted landowners.

Commissioner Marlatt stated that he wanted to see the transmission line be a part of the project and needs to be treated the same in front of EFSC. He does not want to see the standards changed for a transmission line and to the landowners impacted. He also questioned the 6-year construction extension. Further discussion followed on these standards.

Commissioner Danforth supports Option #1 for a recommendation. If all of the information is not present, it cannot be evaluated and the application must be deemed incomplete. She said she supports having the surety bond instead of a letter of credit as well. She asked about a fire risk assessment requirement being added, as there has been considerable testimony offered on this topic. Discussion followed on what these criteria would accomplish or what should be required of the applicant. Mrs. Mabbott stated that the HHH chapter already requires an emergency plan, including fire assessment.

Chair Randall said that he was comfortable with all three recommendations. Commissioner Williams moved to accept all three recommendations to the Board of Commissioners, and Commissioner Danforth seconded the motion. Motion passed 6:0.

ADJOURNMENT:

Chair Randall adjourned the meeting at 10:47 p.m.

Respectfully submitted,

Gina Miller
Secretary