



## PLANNING DEPARTMENT

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**Minutes of the Public Meeting of the  
Morrow County Planning Commission  
Tuesday, July 25, 2023, 6:00 p.m.  
Bartholomew Building, Heppner, Oregon  
(All meetings will be offered through video conferencing via Zoom)**

**Morrow County Planning Commissioners Present:** Chair Stacie Ekstrom, John Kilkenny, Elizabeth Peterson, Wayne Seitz, Karl Smith, Brian Thompson

**Attendance via Zoom:** Mary Killion, Stanley Anderson

**Morrow County Staff Present:** Tamra Mabbott, Planning Director, Michaela Ramirez, Administrative Assistant, Katie Keely, Compliance Planner, Caren Cardenas

**Called to Order:** Meeting was called to order by Chair Ekstrom at 6:02 PM.

### Roll Call

The Pledge of Allegiance was recited.

**Approval of Minutes:** Chair Ekstrom asked if there was a motion to approve the minutes from the July meeting. Commissioner Peterson asked if there could be a correction on page nine last paragraph where Director Mabbott spoke about the standards being met there were two sentences that said the same thing.

Commissioner Kilkenny moved to approve the minutes of the April 25, 2023, meeting with the correction written.

Chair Ekstrom asked for a vote on the approval of the corrected minutes, all approved and the motion carried.

**Public Hearings:** Chair Ekstrom read the Planning Commission Statement and Hearing Procedures and asked if there were any conflicts of interest on part of the Commissioners, there were none.

Presented By: Director Tamra Mabbott

**Continued Hearing from June 27<sup>th</sup> meeting: AC-145-23; ACM-146-23; AZM-147-23 Comprehensive Plan and Map Amendment. Rowan Percheron, LLC, Applicant.** The property is located approximately 9 miles south of I-84 on Tower Road. The application proposes to amend the Comprehensive Plan to allow for rezoning approximately 274 acres from

Exclusive Farm (EFU) Use to General Industrial (MG) and adopt a Limited Use Overlay Zone to limit MG uses to a data center only. The application also includes an exception to Statewide Planning Goals 3 Farmland, Goal 11 Public Facilities, and Goal 14 Urbanization. Applicable Criteria include Morrow County Zoning Ordinance (MCZO) Article 8 Amendments, Oregon Administrative Rules (OAR) 660-004-0010.

Director Mabbott shared a spreadsheet of comments and issues raised from last month's meeting. She also noted the exhibits that were turned in after last month's meeting she asked the Commissioners if they could be motioned to be entered into the record.

Commissioner Peterson motioned to accept the exhibits and Commissioner Seitz seconded the motion.

Chair Ekstrom called for a vote, all approved and motion carried.

Director Mabbott pointed out that since the last meeting, there were lots of concerns about the water source. She spoke specifically about an email from the Port of Morrow and Chris Kowitz, Region Water Master. The water rights permit from the Port of Morrow providing water to the campus would be a permissible use but there were some particulars about it. She added that she had just received an email from 1,000 friends of Oregon. And noted ODFW who were not concerned with impacts to the deer, elk, or Washington Ground squirrel. ODFW refers to the area as a depopulation zone, translated as they had reached their quota and had met their management level.

Counsel Kearns addressed that this is a quasi-judicial and legislative matter, and it should go to the Board of Commissioners for a final adoption because of the Goal exception and the Plan Amendment Zone change. He told the Planning Commission they would do all the listening to the evidence, testimony, and arguments and make sure everyone got a chance to be heard including them. Counsel Kearns spoke about the spreadsheet that Director Mabbott created and did not need to see a reason for a new staff report but there were new letters and comments. This matter will go to the Board of Commissioners and they will weigh out the testimony. The 1,000 friends of Oregon requested they would like to keep the record open until August 22<sup>nd</sup>. He also pointed out that new comments and evidence had been submitted and the applicant had provided red-line comments.

Director Mabbott spoke to the Planning Commission about how they would need to make a motion to keep the record open or to continue it. If they felt like they had enough information to make a final decision they could direct staff to update the findings based on the record.

Chair Ekstrom invited the applicant to come up and present testimony and evidence.

Bobby Hollis, Chief Commercial Officer at Rowan Digital Infrastructure is part of the project developer. He gave an overview of the questions that were asked in the previous meeting. He introduced his team Martin Romo, Head of Economic Development, and Dave Shifflett, Lead Developer. ERM Tess MacMorris, David Weymann, Richard Peal, Mathew Hughart from Kittleson, Nathaniel Brown from Hubble and Elaine Albrich, Olivia Jamin from Davis Wright Tremaine. They would like to focus on key areas to help with the decision like Tower Road, wildlife, and Goal 14 exceptions and water supply they brought additional details in hopes to get some resolution. They are working on being good stewards for their customers.

Dave Shifflett has been working on this project since early May 2021, he read off slides 4, 5,6.

Martin Romo read from slide 7 a handout -Economic Benefits is handed out.

Mathew Hughart, Kittelson & Associates, 851 SW 6<sup>th</sup> Ave Portland, Oregon. He read from slide eight about traffic information they looked into. He pointed out the graph on the slide about the activity of business traffic. He moved on to slides 9 and 10. He said that they found that the traffic that will be out there is very minimal compared to what is out there today. They are coordinating with Public Works and would like to have some improvements to the roadway.

Richard Peel, Senior Biologist with Environmental Resource Management, read from slide 11 and handed out a Committed to Environmental Stewardship information sheet.

David Weymann 4108 SE 46<sup>th</sup>. Portland, Oregon, Environment Engineer, handed out Know History of Agricultural Use information sheet and read slide 12. He spoke about the most recent memo that had the same information the older one did. The summary given out that reinforces that this soil is not suited for agriculture.

Tess MacMorris, Land Use Planner with ERM, noted her background in renewable energy with Commercial Industrial Developments. She has 6 years of experience in this field. She read slides 13, 14, and 15.

David Shifflett returned to the testimony table and read from slide 16.

Elaine Albrich applicant's counsel read from slides 17 and 18.

Chair Ekstrom asked if there were any questions.

Director Mabbott asked Eric Imes of Public Works to speak about the Road Use Agreement.

Eric Imes, Public Works Director, said he had no issues with the findings and appreciated that they agreed a pavement treatment would be adequate. He informed the audience about milepost eight where County maintenance ends and then becomes an easement, which is something they are working on.

Director Mabbott asked about one of the slides that mentioned emergency vehicles not being able to reach some of the sights.

David Shifflett said that he had reached out to the Sherriff's office but had not heard anything back.

Elaine responded that one of the slides presented had information on who they had reached out to and who they anticipated meeting with.

Commissioner Kilkenny asked if the water agreement started in 2026.

David Shiflett answered no, according to the staff of the Port of Morrow that was when their facility would be completed.

Commissioner Kilkenny stated that he was confused and asked if that would have any effect on their ability to get water.

David Shiflett responded they would have water delivered to the construction site as needed.

Commissioner Kilkenny asked if water would be hauled during construction.

David Shifflett responded that they would have a construction timeline that once they would have approval to break ground their construction period would be eighteen months then they would use water on site.

Elaine commented that they were hoping to get land use approval within the next six months.

Commissioner Kilkenny asked if the year 2026 was not an obstacle.

Dave and Elaine answered no.

Commissioner Kilkenny pointed out the amount of water being used at Bombing Range Road AWS campus.

Commissioner Thompson asked if that was figured into the transportation control of all the dust it would create.

David Shifflett responded yes, that was part of the data collected for the construction traffic.

Eric wanted to add something about transportation, he said if the easement that was spoken about earlier if it wasn't a Morrow County right of way he was not sure he could maintain it. If the easement belongs to PGE Morrow County can not maintain it.

Director Mabbott commented that they had presumed it was milepost nine or ten but it is not an easement of the continuation off of Tower Road.

Commissioner Killion asked how much water would be going to be used. She felt they put out a broad range but no actual numbers. She also asked what their definition was of full campus build-out, whether was it the four buildings, and were all the analyses were based on or single campus build-out.

Elaine responded they had submitted an updated water demand into the record. The committed water supply from the Port of Morrow is twenty-two million gallons a year and that should be sufficient for full campus build-out coupled with the onsite water storage to supplement during the peak cooling season. The analysis they submitted pointed out the worst-case scenario for the full campus build-out within the project footprint including the water demands.

Commissioner Killion asked if it was not the message they initially had presented.

Elaine explained they had continually modified their application as they had been answering questions and had conversations with the Port of Morrow about their delivery capacity. So, the answer to her question was yes, the numbers from the initial application are different. Exhibit X

Commissioner Killion asked if that was in the initial application.

Elaine asked Commissioner Killion to look at Exhibit X.

Commissioner Killion said she couldn't believe putting out nine miles of pipe to that point would create zero impact to Tower Road and how were they going to prove that point to her.

Elaine responded that in the agreement with the Port of Morrow, they would be responsible for extending that wet line and working with staff from Planning and Public Works to get permits.

Commissioner Killion responded that that was not included in the construction analysis for traffic in the report.

Elaine pointed out that the construction of the water delivery system within the public right of way was not evaluated as part of the traffic impact associated with the construction of the facility.

Commissioner Killion wanted the other Commissioners to hear that it was not part of that. She explained to imagine nine miles of road being torn up and how that would affect the employees going out to work.

Commissioner Kilkenny asked about the one-hundred-fifty feet easement and if that had been submitted in the record.

Elaine responded that no it hadn't but they could.

Director Mabbott commented that she thought maybe it was a sixty-foot easement, the standard county row.

Eric said it changes throughout the eight miles, he couldn't say for sure. This particular right of way had come up many other times. To his recollection, it changed from one hundred to one-hundred-fifty depended on where you were.

Commissioner Kilkenny said that is a lot of traffic and that one-hundred fifty is a lot.

Commissioner Thompson pointed out that some of it was sixty and some of it was one-fifty according to the tax lot map.

Commissioner Kilkenny commented that it was different.

Eric said that his goal was to move it as far away from the edge of the pavement as possible. He said he would not let them tear up eight miles of road all at the same time.

Commissioner Kilkenny wanted to clarify that even working on one-hundred fifty feet you could be well off the road and not affect traffic at all.

Commissioner Thompson asked if the land going out there was part of Threemile.

Elaine said they had someone at the meeting who could address the questions.

Commissioner Thompson said that two years ago the commission was asked to approve a solar farm at the airport. Was this the best that can be done with this property? There is a person in this application that is the Operations Manager who was on the board (commission) at that time and stated that there was no water available and that was why they should put solar panels all around the airport and now the same person that made that statement said they had 22 million gallons of water available. He asked if that had anything to do with the decision they could make.

Director Mabbott said they are separate applications; The commission's decision today is based on what they see today on the record. Today they had seen that the Port of Morrow said they had the water and they have a letter from Chris Kowitz stating that they can use the water. If the Commission would like more information that could be provided.

Commissioner Thompson said that was convenient. He said he wasn't against it but that's what they were told and now they have water.

Commissioner Kilkenny commented that in one of their slides, they mentioned they had secured an agreement for power and then somewhere else, he understood that renewable power can't be used for a one-percent source, they stated that it was going to be offset to go along with this project it was going to one-hundred percent renewable power.

Elaine stated they have interconnections requests and discussions with a power supplier and with respect to renewable energy, there is commitment to renewable energy.

David commented that they had not addressed that issue yet and it is their corporate policy and philosophy to offset through what are known as power purchase agreements. That is how they meet their criteria and defer to Bobby Hollis who is much more well-spoken on this subject.

Commissioner Kilkenny said that the City of Boardman had brought it up in their letter of support they stated that they were going to be one-hundred percent renewable power.

David explained that was their corporate philosophy. They are funded through what is subscribed by article nine which is a European standard for meeting sustainability.

Bobby (last name) explained that they partner with companies that seek to source one hundred percent renewable energy, that is what large-scale customers have done. At this point, they didn't even know what sources they would be using because it depended on the timing. They want to make sure everything is lined up.

Commissioner Kilkenny asked if that was anywhere in the application.

Bobby Hollis responded no.

Director Mabbott noted that the transmission line, they were in the Pacific Power territory so their only option was to purchase power from them and that was an attribute for the site. This application does not approve a transmission line and that would be a separate and in addition to this.

Elaine said that it was adjacent to the property.

Commissioner Killion asked since the right of way was already in place and asked Director Mabbott for clarification if there was a right of way already in place for the transmission line to reach the parcel.

Director Mabbott responded that the county was not sure of the exact location of the right of way or if it was an easement.

Elaine explained the existing transmission line right of way accommodated an existing 230 Kv transmission line that runs from McCarty grassland switch station along the frontage of their parcel. This was included in the application. There are two options one was to use the existing transmission line and two use the existing right of that could be upgraded to accommodate and that was a location advantage.

Commissioner Killion asked were all the studies done without that impact included the water delivery system. Are they putting that on the Port to provide all the impact? If so, why aren't they included in the packet.

Elaine responded they have accounted for the water delivery to the project site through construction.

Commissioner Killion responded that she had just said it wasn't.

Elaine said she wanted to break down the questions so she could answer them. There was water for the dust during construction. Then there is going to be water delivery through the pipe from the Port of Morrow. That was in the presentation and they are continuing to negotiate that with the Port and they hope to be done before they go to the Board so it can be put into the record. Then the obligation is on the Port to design, engineer, construct and permit within the right of way for the delivery system out to Tower Road.

Commissioner Killion wanted to clarify that it was not included in the intact studies given tonight.

Chair Ekstrom replied that it could not be in the official record because David it is still in red line editing.

Director Mabbott wanted to point out that the water line was not part of this (application) and it could be included as a Condition of Approval forwarded to the Board of Commissioners. She wasn't sure if it was more of a Road Use Permit or if it is more of a complicated Land Use Permit.

Commissioner Thompson commented that was what Commissioner Killion was trying to point out that the construction of the pipeline was not part of the transportation study and felt she made a good point. He also pointed out that the sixty-foot right of way to one-hundred-fifty was a big difference.

Commissioner Kilkenny added that was a big difference.

Director Mabbott asked if that was a finding that the County is obligated to address under Goal 12 or if it is because it is a separate facility and a separate permit and you are not asking for the water permit.

Elaine responded to the latter.

Director Mabbott translated that if the application is approved tonight they have to file a separate application for the water line and that is not part of the approval tonight.

Commissioner Kilkenny commended the applicant because they had presented the historical use of the land. He now understood what the land had been used for and what it is likely to be used for. What he didn't understand on this application was to approve this application that there was no other land available.

Elaine responded there were no other reasonable places.

Commissioner Kilkenny asked if the Port was ready to make a statement they did not have any property available in the Port of Morrow.

Elaine responded that it was against the siting criteria. The siting criteria were developed what was reasonable under the alternative analysis for the Goal exception.

Commissioner Kilkenny asked her to explain.

Elaine continued the last hearing they spoke about the eight sighting criteria that Rowan developed against which it would evaluate whether available land was reasonable as a reasonable alternative. Tess presented them here tonight. Rowan looked at Umatilla and Morrow County for ground and essentially went through the tier and this is touched more on the Land Use Tech Memo that was submitted. They had further inquiries from the last hearing they looked into the Depot.

Commissioner Thompson commented about the parcel with the solar panels.

Commissioner Killion commented that she had asked that question and at that time the site was the only one available. Tomorrow other sites could be available and that was her concern. She felt that as a Commissioner it was her job to protect land that was EFU zoned. She didn't have problems with data centers.

Elaine didn't know what the question was.

Commissioner Killion pointed out that there could be more property available tomorrow or the next day.

Elaine responded that there could be. But the test is that you're evaluating it against what is available at the time. She stated that their application had been deemed complete. She asked if there were other alternatives in mind they could talk about it.

Director Mabbott pointed out that the letter from 1,000 Friends stated the same as what they were talking about.

Chair Ekstrom asked if there were more questions or if there was anyone in favor that would like to present.

Scott Neil, 62383 South Fargo, North Dakota. President of Real Estate for Three Mile and also a family member spoke about Marty's vision of sustainable farming, dairy, energy plants, and solar vision and also applying that to other needs such as data. We figured that the location we were approached about was out of the way and the impact would be on Three Mile. He thanked everyone for all the efforts that they put into this application.

Commissioner Killion asked how were they going to spin this one to look pretty.

Director Mabbott asked Commissioner Killion to phrase her question so that it went with the criteria that were highlighted in the spreadsheet and asked if her question was whether or not the application complied with the requirement to provide an analysis of alternatives and whether it would have a negative impact on farming.

Commissioner Killion said ok let's go with that.

Greg Harris, 29009, Hermiston, OR, Farm Manager at Three Mile for 23 years. His task many years ago was to look at the whole 41,000 acres that they could develop. This piece was never one that was going to farm and water rights once they get to 41,000 they were done so they don't have to expand the water rights. It is also written in a settlement agreement, it's a final order.

Commissioner Kilkenny asked to be more specific about why this ground.

Commissioner Thompson asked if it was because of the water rights, and the soil suitability of the ground. What about the circle next to it from it is it any different. If you had another 200 acres of water rights could you grow everything else you grow now?

Greg Harris responded that they had other grounds that were much more suitable than the grounds in question. He also said that it had too much sand and it is tough to farm rock. Other pieces are more suited for farming. The data center that is being built right now was on grounds they used to farm. The ground in question will not harm the animals because they feed off our circles. This ground will never be farmed and I would prefer that a data center be built on it.

Chair Ekstrom asked if there were any more questions

**In support:** Susan Christensen, 27 SW Frazer Avenue, Pendleton, OR. She is the Executive Director of Greater Eastern Oregon Development Cooperation. Their mission is to create and maintain jobs. She would like to encourage and support rural fire as a community partner.

Chair Ekstrom asked for anyone else in support or opponent, there were none. Any in neutral.

**In neutral:** Johnathan Tallman, Boardman. Great discussion in the dialogue he said. He commented about the power from the Boardman to Hemingway line it was just awarded a PUC permit and all the people impacted would have to give imminent domain. He asked why is it that they needed a second power line and all those properties were going to have to give up their imminent domain and lose property value for another cooperation. He had an issue with the transportation and felt that the traffic would be slow, but loved that there would be more business for the community. He asked how would this be paid for and he believed there would be a big issue with the water.

**In neutral:** John Jinings, 1110 MK Avenue Ste 108, Bend Oregon, 97872. He is the Community Service Specialist for the Department of Wildlife Conservation Development representing with Dawn Herts. They support economic development but they have some concerns. The data centers provide much employment when they are constructed. His concern was the uses allowed on rural land are protected under Goal 3 for farm use. Looking around the counties there is evidence there is a lot of land that is available where an exception has been made. He felt there was plenty of land available for what they would like to use it for. He argued that there is plenty of land available that wouldn't require a Goal Exception. He pointed out that he wasn't sure where the water source was coming from. He then said that if the water line was going to be the only source that it should have its permit.

Chair Ekstrom asked if there were any more questions.

Director Mabbott asked Jon if the water utility is in the right of way and is it permissible under Goal 3.

John Jinings responded that it looked that way. Particularly if it has one user.

Chair Ekstrom asked if there were any questions.

Commissioner Killion asked John because he had the same question and that was where the water was originating from.

Director Mabbott pointed out that was in one of the exhibits they handed out. It was an exhibit of emails that was sent from Chris Kowitz from the North Central Region Manager, Miff Devin, and

Mark Patton from the Port of Morrow. Miff identified the water rights and said that the Port of Morrow intended to deliver water from their conveyance from the point of delivery. There is a permit in addition to ground water rights and doesn't point out where exactly it originates and didn't know how to answer the question.

Counsel Kearns advised the Planning Commission not to do their own research and decide if the applicant has provided a burden of proof.

Chair Ekstrom asked if there were any more testimony, but there wasn't. She then invited the applicant back for a rebuttal.

Director Mabbott asked the Chair if they could adopt the five handouts into the record that the applicant handed out. The handouts were The Economic Benefits, Prioritizing Traffic Safety + Emergency Responders, Committed to Environmental Stewardship, No History of Agricultural Use, and Sites Comparative Advantages.

Chair Ekstrom asked for a motion to accept the five documents into the record. Commissioner Thompson motioned to accept the five documents into the record provided by the applicant.

Kilkenny seconded the motion.

Chair Ekstrom called for approval, it was unanimous, the motion carried then asked for a five-minute recess.

Chair Ekstrom announced that there was one more person that would like to speak on behalf of the opponent.

**In favor:** Corey Sweeny, 215 ---Drive, Heppner. He is also the Mayor of the City of Heppner. He, the City Manager, and a representative from Hubble met with Rowan. Many questions were asked and answered. Both he and the City Manager were in full favor of the project. Yes, there will be traffic but Tower Road is built better than many highways. He said that this would be a big benefit to the communities in Morrow County. He is in favor of the project.

Elaine read from slide 21 of the presentation.

Director Mabbott suggested that Counsel Kearns could help with the One Thousand Friends question. She also advised the Commissioners that they were not obligated to continue the hearing but they could if they liked.

Commissioner Kilkenny asked once again to clarify that the water piece was not part of this application.

Director Mabbott replied the water conveyance was not part of the application and that the Goal 11 exception allows them to use municipal water at this piece of property.

Commissioner Kilkenny asked if this did not include the construction part.

Director Mabbott replied that there were three comments about what permits were needed that they needed for that water line. She pointed out that Elaine had some of that information in the presentation.

Commissioner Peterson commented that she felt they had done a good job of selecting these grounds because of their suitability.

Chair Ekstrom asked if there was any input on keeping the hearing open as requested by the One Thousand Friends of Oregon letter.

Commissioner Thompson asked if they could condition the approval because he still had a problem with a private company being able to put a power line across residents' property. If they could rather use an existing power.

Counsel Kearns replied that he would only agree if there is a prohibition in state law but as he understood they could put in a whole new power line. It does require a Goal Exception though.

Director Mabbott responded that the answer to Commissioner Thompson's question was no because they didn't have the authority under the land use regulations to limit the specific location of a transmission line off of this property.

Commissioner Thompson asked if the staff was satisfied with where this is at on this because they were the professionals.

Director Mabbott asked if he was speaking specifically of the transmission line.

Commissioner Thompson replied no, the project in general.

Director Mabbott thought they could approve and write findings to approve or deny it. She also pointed out that the burden of proof was on the applicant. The bar to approve is very high and it wasn't for her to decide.

Commissioner Thompson said the Planning Staff usually give them recommendations.

Director Mabbott replied that she hadn't done that when it comes to legislative actions.

Peterson said that they, the applicant, had met the Morrow County regulations and the state law.

Director Mabbott replied she didn't want to say yes or no. She felt it was up to the Planning Commission to decide.

Counsel Kearns commented that the applicant could use the power that exists on residents' property or in existing easements because it was in the vicinity of their site. The Planning Commission had to decide whether the siting criteria were overly restricted or reasonably narrow or not.

Commissioner Kilkenny pointed out that the grounds are EFU and he felt that it was incorrectly zoned because the grounds are so isolated and of no use to farm. He asked Director Mabbott if they could consider that in their decision.

Director Mabbott replied sure. They were asking not to protect it for farm use.

Commissioner Killion commented that given the application she couldn't see how they could approve it without knowing many criteria given had only general information. She had no problem letting a private owner use their property for what they wanted but no one was really going to know the impact of the water and the power situations. She commented that all the requests over the years have been very minimal for approval and when they were approved there was a swap of acreage. She asked Director Mabbott to submit some documentation for the meeting.

Director Mabbott wasn't sure if she had asked for the entire zoning of land that was not zoned EFU. She asked if that was the land she asked to be researched. She went on to say that there were fourteen thousand acres of SpaceAge Industrial Zoning and that are did not allow data centers.

Commissioner Thompson said that there would have to be a willing seller.

Commissioner Peterson said they had run into the last time.

Chair Ekstrom motioned to close the public hearing.

Commissioner Smith seconded it.

Chair Ekstrom motioned to close the public hearing and not to continue.

Commissioner Killion was opposed.

Director Mabbott said there would be new evidence for the record that could be submitted at the Board of Commissioners hearings.

Commissioner Seitz wanted to make sure that he understood that the water had nothing to do with the zoning change.

Director Mabbott thought it would be tangential.

Commissioner Seitz asked if they would approve the zoning and if they couldn't get any water what would happen.

Director Mabbott responded that would kill it and the same with the transmission line.

Commissioner Killion pointed out that to get the Goal Exception they had to prove they could get the water so how can it be conditional on that. She wanted clarification.

Counsel Kearns responded that it could be conditioned because that is a requirement that they have to get water.

Director Mabbott added it would be a condition of approval. There is a feasible path forward for them to get water but this approval is not approving that water line.

Commissioner Kilkenny commented that both the water and the water line, secured the water itself.

Commissioner Thompson commented that if they don't get the water they don't build.

Commissioner Killion asked how do they assure that if something is built and then deal with the consequences later.

Counsel Kearns responded that if they built the facility and then they would have to get building permits unless they got a condition of approval that said they had to get water.

Commissioner Killion said that is why she asking all the questions so that this is prevented. She said she could see them getting water without getting it from the Port.

Commissioner Kilkenny asked if could they procure that they get the water from the Port as a condition.

Director Mabbott responded that they presented that was their source so if it was another source then they don't have an application approval. The applicant would have to amend the application to propose another source.

Commissioner Kilkenny stated that would be a condition then.

Commissioner Peterson stated they would have to be sure they had water and power before they build. They were not going to spend millions of dollars if they don't have that.

Commissioner Kearns advised that they could condition it so that there were no permits given until they can prove they have water. The commission can condition it to this source of water or they would have to amend it until they do.

Commissioner Kilkenny commented that they had also stated the route so they could condition the route as well.

Counsel Kearns replied the applicant hadn't said what route and that they had segmented this project. He also said they couldn't pull permits until this source of water is approved and connected.

Commissioner Killion asked if they could condition it on the request that they replace the Farm Use Land with Exclusive Farm Use Land as they had done in the past.

Counsel Kearns replied no, that they would have to approve or deny but that is the scope beyond this proceeding.

Commissioner Killion commented that commissioners in the room commented that the land is mislabeled. She also asked if they could make it a condition to swap out land from the SpaceAge Industrial.

Counsel Kearns responded that the property did not belong to the applicant.

Commissioner Killion stated that she would like everyone to look at Morrow County's history to see how often this had been done. She worried about using this precedent that was being set for EFU land.

Commissioner Kilkenny responded personally if they wanted to use farmland where they were growing potatoes and corn he would have denied the application last meeting. That is why it is a hard decision to make now because of that.

Commissioner Thompson agreed. He said it overreaches in a lot of ways and is concerned about taxes, easements, and water. He felt that they were lied to about the water.

Commissioner Killion stated that she felt that was the same criteria they used for the other transmission lines. It kind of put them in a position of any time something was being proposed and let them do it because it was handy.

Chair Ekstrom asked for any additional discussion.

Commissioner Seitz said that they were violating their rights and that we were not letting them use their land as they want to use it.

Commissioner Killion said she felt the same way in telling people how to use their land how they want to because she owns EFU land too and would like to be able to use it how she wants.

Commissioner Thompson said he would much rather have them put the center where they are wanting to put it.

Commissioner Kilkenny said that it is in an Industrial area and that is a better place than to put it downtown Boardman.

Chair Ekstrom invited the Commission to make a motion.

Commissioner Thompson asked Director Mabbott what would that motion look like.

Director Mabbott replied that if they were inclined to approve it they would recommend the Board approve the application subject to the conditions including the extra condition about the water line. Also, direct staff with counsel to draft findings based on evidence on the record.

Commissioner Kilkenny asked if there were any other suggestions or conditions.

Director Mabbott replied that prior to construction the applicant enters into a Road Use Agreement with Morrow County Public Works to fund two hundred sixty-seven thousand dollars to pay for chip seal on the first nine miles, and, prior to construction applicant should prepare in coordination with Morrow County Public Works and Morrow County Sheriffs construction traffic management plan; prior to construction shall provide notice to the Threemile Canyon Farms of its construction traffic schedule and coordinate with Threemile Canyon Farm to minimize any potential farm traffic during harvest, the applicant must obtain all state, local, and federal permits and approvals for the data center campus construction and operation and including but not limited to DEQ twelve hundred seat permit, DEQ onsite permit, DEQ basic air contaminant discharge permit, and secure basic permits for the water line conveyance. The commission could also mention permits to secure water lines and transmission lines.

Commissioner Killion commented that she felt that the applicant came close to presenting enough evidence and felt they were setting a very dangerous precedent. She was very disappointed with this and moving forward.

Commissioner Kilkenny pointed out to Commissioner Killion that they would have an opportunity that they would have more people to convince.

Commissioner Peterson asked to make the motion that they approve the application with the stipulations being noted.

Director Mabbott asked if she was recommending the Board for approval subject to the conditions.

Commissioner Kilkenny seconded it.

Chair Ekstrom asked for a roll call

Commissioner Anderson, No, Commissioner Kilkenny, yes, Commissioner Killion, No, Commissioner Peterson, yes, Commissioner Seitz, I, Commissioner Smith, I, Commissioner Thompson, I.

Chair Ekstrom announced the motion was approved and the motion carried.

Director Mabbott announced that the Board meeting is on August 16<sup>th</sup>.

Compliance Planner Keely presented on the neighborhood code project update. West Glenn had doubled in trucking companies and has had numerous complaints about them. Gun Club has a trucking company, one animal density call, and many RVs, and almost looked like a compound. Letters were sent to these neighborhoods and invited to a Planning Commission meeting to make them aware of rules that pertained to their zoning. The Planning Commission gave them ideas of what they could do and had not heard anything from any of them. She would be sending out letters to get in touch with her about their violations and if there is no response they would get another letter and could end up in court. We would like to educate them about their options.

Commissioner Thompson asked what kind of teeth you have to enforce this.

Compliance Planner Keely responded it is four hundred twenty-five dollars a day. She spoke about a particular property that had violations.

Thompson asked if they got fined.

Compliance Planner Keely replied no, they cleaned up their property. She only had two properties that went to court but they cleaned up. She mentioned it was their goal was for them to clean up and not have to go to court. She also mentioned that if they didn't comply after her next letter she would have to send out fines.

Director Mabbott commented that the burden of the solution is not ours. She pointed out this neighborhood approach was to go above and beyond. So, the Staff said they were going to send a notice to everyone and she is going to speak with the Boardman Chamber and the Port to see what they could come up with.

Compliance Planner Keely mentioned that there is one trucking company that has a nice yard and some have put up unpermitted shops and have lots of garbage. She explained in the Rural Residential zone that if the truck is their mode of transportation that is allowed but only one is allowed.

Director Mabbott stated she would be bringing code updates in September and would be bringing them up in the August meeting.

Compliance Planner Keely shared with the Planning Commission a litter voucher she has for people that need help with trash and can not clean themselves because of a financial or medical need.

Director Mabbott said they are trying to offer help. She also said some permits had come up and may be revoking permits because of not meeting the conditions. Code enforcement is a challenge and is not it's not very useful if it's not effective.

Commissioner ---- said he was very proud of all the work they had done.

Commissioner Peterson asked Compliance Planner Keely if she could give more information about the RVs that were parked out there, how many were there, and if she thought they were making payments to be parked there.

Compliance Planner Keely responded that she was sure people out there were probably doing that specifically on Gun Club Road. It was pretty obvious that people were living in them. She

also said she would not go out there without being accompanied by a Sheriff. She stated that this was also happening out on West Glenn.

Director Mabbott said that is going to be one of the legislative actions she would bring in August. She said that Oregon had passed Legislature for accessory dwelling units and RVs can be allowed in Rural Residential Exception areas. She is going to present that to the Planning Commission and they could decide to approve or not. She then introduced Caren Cardenas.

Caren Cardenas presented her Heritage Trail slides and gave an update on the sign work.

Chair Ekstrom asked if there was any other business, but there was none. She then asked if there was any correspondence.

Commissioner Seitz asked when were they going to know when they hit the limit for data centers or some of the other projects coming through. Who knows when our resources would be enough.

Commissioner Thompson said when they can no longer get power or water.

Director Mabbott suggested they could have a work session, but had to think about how to structure that because if the zoning allows and the land owner developer figures out all the utilities the use is allowed. She felt it was more of a Port of Morrow question than the Planning Commission. The commission could require a data center to be a Land Use Permit.

Chair Ekstrom asked about our Planning staffing.

Director Mabbott shared that Stephanie Case had transferred to the Veterans Office. Stephen was promoted to take Stephanie's position, and we recently hired a young man as a Planning Tech.

Chair Ekstrom adjourned the meeting at 9:18.