

**CITY OF COOS BAY
PLANNING COMMISSION MINUTES
Tuesday July 23, 2019 at 6:00 P.M.
Coos Bay City Hall, 500 Central Avenue, Coos Bay**

ATTENDANCE

COMMISSIONERS: Chairman: Berg, Commissioners: Amy Aguirre, Jim Berg, Bill Davis, Chris Hood, Jeff Marineau Rex Miller.

STAFF: Carolyn Johnson, Community Development Administrator; Debbie Eler, Planner; Jacob Callister, LCOG;

SIGNED-IN GUESTS: Rick Skinner, PO Box 4114, Coos Bay, OR; Ashley Andydri(?) 1140 E St., Coos Bay, OR; Todd Goergen, PO Box 97, Coos Bay, OR; Sam Baugh, 665 Telegraph Dr., Coos Bay, OR; Jan Hodder, 63840 Fossil Point Rd., Coos Bay, OR; Mike Graybill, 63840 Fossil Point Rd., Coos Bay, OR

Commissioner Berg called the meeting to order at 6:00 p.m.

Commissioner Hood said that he had not attended the first hearing, but all the information was made available to him and he has reviewed the record (staff report, submitted documents, and draft minutes). He also stated that he worked for Jordan Cove approximately seven years ago with the organization's first project, which was importing energy. He believes he can make an informed and impartial decision.

Commissioner Marineau said that, over the past 12 years or so, he had also worked with Jordan Cove, but he was not currently affiliated with them in any way.

Commissioner Miller stated his company has worked on property owned by Jordon Cove, doing weed control, but his client was not Jordon Cove.

Mike Graybill asked how anyone from the audience could challenge or contest the possible conflict of interest statements made, if there was no public comment allowed at this meeting.

City Attorney Nate McClintock stated that if any member of the public wished to contest any of the possible conflicts of interest mentioned, they were certainly free to speak and do so.

Mike Graybill asked if he did indeed contest a possible bias on the part of Coos Bay Planning Commissioners, would that only apply to today's Planning Commission meeting, or to the entire process.

Mr. McClintock replied that it would apply to this meeting and the particular Commissioner(s), and the Planning Commission itself would ultimately decide if there was indeed a bias present.

Jodie McCaffrey of North Bend, OR, addressed the Planning Commission. She asked if Rex Miller had been involved with Jordan Cove in the past, performing oyster surveys.

Commissioner Miller said initially, yes.

Ms. McCaffrey also voiced a concern about Commissioner Marineau. She asked if that group had been involved with any economic studies in the Port of Coos Bay.

Commissioner Marineau replied that work was real estate evaluation work, not economic analyses.

A. Comprehensive Plan Amendment 187-18-00153: Jordan Cove Energy Navigation and Efficiency and Reliability of the Coos Bay Deep Draft Navigation Channel. Comprehensive Plan Map Amendment to the Coos Bay Estuary Management Plan to 1) change the designation of approximately 3.3 acres from 52-NA to DDNC-DA; 2) change text in the Comprehensive Plan to take a reasons exception to statewide planning goal 16 to authorize the proposed map amendment; 3) an Estuarine and Coastal Shoreline Uses and Activities Permit for “New and Maintenance Dredging” in the DDNC-DA Estuarine Zone; and 4) an Estuarine and Coastal Shoreline Uses and Activities Permit to allow an accessory temporary dredge transport pipeline in the 52-NA, 53-CA, 54-DA and 55-CA Estuarine Zones. The applicant, Jordan Cove Energy Project (JCEP), proposes amendments to the City’s comprehensive plan and zoning map to create an area for dredging and 2) dredging, or “Navigational Reliability Improvements” (NRIs) within the Coos Bay Deep Draft Navigational Channel in a specified area. The applicant’s intent is to increase the operational window to safely transit any vessel through the Channel. The NRIs, which are described in more detail in the staff report (Page 2), are designed to increase the environmental operating windows for all ships entering Coos Bay by softening critical turns, relocating aids to navigation and reducing the required Channel directional changes. Minimizing delay is a need identified by the applicant. The Coos Bay Estuary Management Plan (CBEMP) addresses compliance with Statewide Planning Goal 16 - Estuarine Resources. Goal 16 requires that all areas within an estuary be classified into management units in the estuary management plan. There are three “aquatic” management units in the CBEMP: Natural Aquatic (NA), Conservation Aquatic (CA) and Development Aquatic (DA). This application proposes an amendment to change an area of the Coos Bay Estuary from Natural Aquatic (NA), which is more restrictive, to Development Aquatic (DA), which is less restrictive.

Mr. Callister offered those present a staff report on Coos Bay Comprehensive Plan Amendment 187-18-00153: Jordan Cove Energy Navigation and Efficiency and Reliability of the Coos Bay Deep Draft Navigation Channel.

Commissioner Hood asked if the phrase “other applications” were specific to the JPEC, or were they referencing the entirety of Coos Bay dredging efforts. He wondered how they could look at only this portion of the entire Coos Bay dredging project.

Mr. Callister responded they were limited by law to apply decision-making to this specific application.

Commissioner Hood asked if there was a reason that in the Key Criteria portion of the staff report, public interest was linked solely to the commercial aspect of the project. He wondered why environmental or social aspects did not seem to be considered.

Mr. Callister said not necessarily, but public interest could and would be expanded to include environmental and social concerns.

Commissioner Hood asked about OAR 660-004-002(8)(b) - Dredging to maintain adequate depth to permit continuation of the present level of navigation in the area to be dredged.

Mr. Callister responded that OAR 660-004-0022(8)(b) appears to be the Department of Land Conservation and Development's (DLCD) attempt to balance the interests of protecting coastal resources and economic and navigation interests, and the rule was likely intended to preserve only the navigation rights that are in existence when the Exception application was filed.

Commissioner Hood asked how many agencies would require review before dredge permits could be issued.

Mr. Callister referred to Condition of Approval #4 from the staff report, which read: "Prior to the commencement of any dredging associated with an Estuarine and Coastal Shoreline Uses and Activities permit, JCEP shall obtain, and provide evidence of, all necessary ODEQ, DSL and Federal Section 404 authorizations. JCEP shall provide the City with copies of these approved authorizations for the record."

Commissioner Hood asked if any of said permits had been obtained.

Mr. Callister said no.

Commissioner Hood opined that the full staff report, and indeed the entire process, was lacking in answers to questions he needed to know to make an informed decision about the project. In particular, he took issue with Condition of Approval #6, which states: "As a general condition, dredging associated with an Estuarine and Coastal Shoreline Uses and Activities permit shall only occur during the ODFW approved in-water work window (IWWW) which occurs between October 1 and February 15. JCEP shall remove all equipment associated with dredging activities at the expiration of the IWWW. This condition shall remain in effect for all dredging periods that may span multiple years and multiple IWWWs." He wondered why, if the in-water work was restricted to the IWWW, was there already massive dredging work being done currently within Coos Bay.

Mr. Callister offered that the IWWW laid out above was proposed by the applicant Jordan Cove.

Commissioner Miller referenced Condition of Approval #7, which reads: "Prior to the commencement of any dredging associated with an Estuarine and Coastal Shoreline Uses and Activities Permit, JCEP shall submit for review and approval by the City of Coos Bay Public Works/Community Development Department, the Best Management Practices, and compliance with CBMC Chapter 9.20 to minimize impacts." He wondered who at City of Coos Bay would be able to speak to the best Management Practices mentioned in the Condition.

Commissioner Miller referenced Condition of Approval #13, which states, "Prior to the issuance of an Estuarine and Coastal Shoreline Uses and Activities Permit, JCEP shall provide the City of Coos Bay Community Development Administrator evidence of an approved Final EIS." He asked if it were true that JCEP had floated an Environmental Impact Statement (EIS) in the past that was not accepted by City of Coos Bay.

Mr. Callister returned the current EIS from JCEP was in a draft state, and had encountered some pushback.

Commissioner Miller said an accepted EIS would be crucial to his yes vote for the project.

Commissioner Miller referenced Condition of Approval #14, which reads, "City of Coos Bay Public Works has identified an existing utility that is installed under the Bay in the vicinity of the proposed navigational reliability improvements. Prior to the commencement of any dredging associated with an Estuarine and Coastal Shoreline Uses and Activities permit, JCEP shall provide evidence to the Coos Bay Community Development Director, that the proposed dredging activity shall not impact this existing utility." He wondered why this Condition was not more specific, so Commissioners would know exactly what it is that may be dug up by the proposed dredging.

Mr. Callister said that Condition of Approval #14 could definitely be more specific than as it is currently written. He offered to the Planning Commission that a decision or decisions on the JCEP would have to be made on a closed record, and if the Planning Commission were to continue this matter to deliberate further, it would require a reopening of the record, e.g. more public hearings on the matter.

MOTION #1: Commissioner Miller moved to recommend Council approve the proposed text amendment to the City of Coos Bay Comprehensive Plan to take a reasons exception to Statewide Planning Goal 16 Estuarine Resources to authorize the map amendment.

SECOND: Commissioner Marineau

VOTE: Motion passed 4:2, with Commissioners Hood and Aguirre voting against

MOTION #2: Commissioner Miller moved to recommend Council approve the proposed a map amendment to the Coos Bay Estuary Management Plan to change the designation of approximately 3.3 acres from 52NA to DDNC-DA.

Mr. Callister requested clarification that a motion to approve or deny implies that the Commission used the "Approval" or "Denial" column as outlined in the Staff Report Summary to support the decision.

AMENDED

MOTION #2: Commissioner Miller moved to recommend Council approve the proposed a map amendment to the Coos Bay Estuary Management Plan to change the designation of approximately 3.3 acres from 52-NA to DDNC-DA. with the noted facts and findings under approval.

SECOND: Commissioner Marineau

VOTE: Motion passed 4:2, with Commissioners Hood and Aguirre voting against

MOTION #3: Commissioner Marineau moved to recommend Council approve the proposed estuarine and coastal shoreline uses and activities permit for "New and Maintenance Dredging" in the DDNC-DA Estuarine Zone based on the facts and findings as noted in the matrix grid under approval.

SECOND: Commissioner Davis

VOTE: Motion passed 4:2, with Commissioners Hood and Aguirre voting against

MOTION #4: Commissioner Marineau moved to recommend Council approve the proposed estuarine and coastal shoreline uses and activities permit to allow an accessory temporary dredge transport pipeline in the 52-NA, 53-CA, 54-DA, and 55-CA Estuarine Zones. based on the facts and findings as noted in the matrix grid under approval.

SECOND: Commissioner Miller
VOTE: Motion passed 4:2, with Commissioners Hood and Aguirre voting against

MOTION #5: Commissioner Miller moved that Motion #1 be amended to include the clarification that the approval is based on the facts and findings as noted on Matrix page 5 & 6 for OAR 66-004-0020(d), OAR 660-004-0022(1)(a), OAR 660-004-002(8)(b) for approval.

SECOND: Commissioner Marineau
VOTE: Motion passed 4:2, with Commissioners Hood and Aguirre voting against

MOTION #6: Commissioner Miller moved that Motions #1 through #4 include Conditions of approval 1-14, as referenced on pages 8 and 9 of the July 23, 2019 "Conditions of Approval Summary for application 18718-000153.

SECOND: Commissioner Marineau
VOTE: Motion passed 4:2, with Commissioners Hood and Aguirre voting against

Adjournment: Chairman Berg adjourned the meeting at 8:08 p.m.



Jim Berg, Chairman
Planning Commission
City of Coos Bay
Coos County, Oregon

ATTEST: 
Debbie Erler, Planner 1

