

**WALLOWA COUNTY  
BOARD of COMMISSIONERS  
STATE of OREGON**

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STACEY FREGULIA, E.A.

COMMISSIONER SUSAN ROBERTS  
COMMISSIONER TODD NASH  
COMMISSIONER JOHN HILLOCK

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July 15, 2020

**Wallowa County Board of Commissioners (BOC)  
Red Barn Solar #2020-02 and Rainbow Trout Solar #2020-01  
10:00 a.m. Thornton Conference Room  
Wallowa County Courthouse**

**MEMBERS PRESENT:**           **COMMISSIONER TODD NASH  
COMMISSIONER SUSAN ROBERTS  
COMMISSIONER JOHN HILLOCK**

**STAFF PRESENT:**           **MORGAN FORNEY, EXECUTIVE ASSISTANT,  
PAIGE SULLY, COUNTY COUNSEL**

**OTHERS PRESENT:**       **MIKE ENG, JULIANA MINN, ELLEN BISHOP**

**10:00 a.m. – Chair Hillock called the hearing to order.** Chair Hillock stated the members of the Board of Commissioners are elected by the voters of Wallowa County. He introduced the current members of the Commission; Commissioner Susan Roberts and Commissioner Todd Nash. Also present, are Morgan Forney, Executive Assistant to the Board and Paige Sully, Wallowa County Counsel. He stated that today's hearing is a quasi-judicial hearing in which the commissioners will hear Appeals 2020-01 and 2020-02, appeals of Planning Commission matters CUP 20-01 and CUP 20-02.

Chair Hillock also stated that pursuant to Wallowa County Ordinance Article 7.025 and 7.030, this matter will be heard on the record, which means no new evidence or facts will be entertained by the Commission in coming to a decision in this matter. Newly submitted facts or evidence will be disregarded and will not be included in the record of this appeal proceeding. Parties with standing may present legal argument and authority in addition to what is in the record on appeal.

Chair Hillock presented that Pursuant to Wallowa County Ordinance Article 7.045(1), the Board of Commissioners may:

1. Deny the appeal and affirm the decision of the Planning Commission;
2. Grant the appeal and overrule the decision of the Planning Commission;
3. Modify the decision of the Planning Commission; or
4. Remand the matter to the Planning Commission in whole or in part, with instructions to take additional actions.

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Chair Hillock then stated the hearing schedule as follows:

1. Presentation by the Appellant
2. Presentation by any third parties in support of Appellant's position
3. Presentation by Applicant
4. Presentation by any third parties in support of Applicant's position
5. Presentation by any third parties who may hold a neutral position
6. Rebuttal presentation by Appellant, limited to issues raised by Applicant or third parties in support of Applicant.
7. Deliberation and decision by the Board of Commissioners

Chair Hillock also mentioned that because this matter will be heard on the record, the Board has determined that a time limit on oral presentations is in order. Attorney for the Appellant and Applicant will be permitted 20 minutes total to present their arguments, in total for both appeals combined. Appellant may reserve time for rebuttal argument if necessary, but must limit their rebuttal to only those issues raised by Applicant or third parties in support of Applicant in this hearing and may not exceed 20 minutes total presentation. All other participants will be limited to five (5) minutes total to make their presentation, without exception. You will be asked to stop after 5 minutes and we ask that all participants adhere to this rule. You must limit your presentation to legal matters only, and will not be permitted to introduce new factual evidence into the record.

Chair Hillock opened the floor for a presentation from the Appellant.

The Appellant's representative, Juliana Minn, asked if the commissioners had received a copy of the staff report. The commissioners all confirmed they received a copy.

Juliana stated that the Appellant would like the appeal to go back to the Planning Commission and be reassessed so that proper rules are followed.

Chair Hillock asked if there were any questions for Julia. None were brought forth at this time.

Chair Hillock asked if there were further presentations from third parties in favor of the Appellant's position. None were brought forth at this time. Commissioner Hillock asked Mike Eng if he had anything to contribute. Mike stated that he would just like to observe and better understand the appeal.

Chair Hillock asked if there was a representative for the Applicant to give a presentation. None were present at this time.

Paige Sully stated that she was advised by email from the Applicant that they will not be appearing and will rest on the materials that were submitted.

Chair Hillock asked if there were any third parties wanting to give a presentation in support of the Applicant. None were brought forth at this time.

Mike recommended that the Commission and involved parties be proactive and

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further understand the appeal and the new authorization for the Solars.

Chair Hillock asked if there were any rebuttals. Julia stated that the Appellant would like to see that current rules and procedures are adhered to.

County Counsel, Paige Sully recommended to Chair Hillock that the Board make a decision based on the standings and merits. Commissioner Hillock made a point that the Applicant didn't exist prior to filing the appeal. Commissioner Roberts stated that there was an Attorney present but did not know who was filing the appeal. An individual or member of the L.L.C. needed to be present with their attorney.

Paige Sully stated that an attorney has been present at the local level, but the client has not attended. Paige also mentioned that counsel acts on behalf of the client, not to replace the client.

Commissioner Roberts asked Paige Sully to confirm that there was no attendance of the Appellant at the local level. Paige confirmed that only an attorney was present and not the client.

*Commissioner Nash moved that the  
Board of Commissioners find no standing.*

*Commissioner Roberts seconds the motion.*

*The vote was unanimous in favor of the motion.*

Chair Hillock mentioned that he wanted to move forward and discuss the merits that the Appellant presented. Commissioner Roberts stated that the Appellant made valid points. Commissioner Roberts also mentioned that the Commission and County Planning did not have updated rules at the local level.

*Commissioner Roberts moved to remand the appeal  
back to the Planning Commission with instructions that  
the Commission follow the new criteria and present with  
no new evidence.*

*Commissioner Nash seconds the motion for the  
purpose of further discussion.*

*The vote was unanimous in favor of the motion.*

Chair Hillock asked for any further discussion. Commissioner Roberts checked the criteria that was used to approve the appeal and determined it met the criteria but did not follow the new rules. Commissioner Roberts stated that she feels it is important that the Commission follows the new guidelines correctly.

Paige Sully mentioned that it would require the Planning Commission to evaluate the obligation as it was submitted to them in light of the correct criteria and not allow either party to add new evidence.

The Board of Commissioners instructed Paige Sully, County Counsel, to address the

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findings.

Paige Sully stated that she would proceed with addressing the findings and recommended that the Commissioners put further review, adoption, findings, and conclusions of law on the Agenda for the next Board of Commissioners Hearing, August 5<sup>th</sup>, 2020.

**No further discussion was brought forth before the Board of Commissioners at this time.**

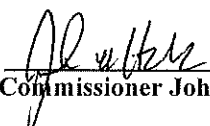
**Adjournment:** The official meeting recessed at approximately 10:28 a.m.


**Respectfully Submitted by:**  
*Morgan Forney, Executive Assistant*

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**Commissioner Todd Nash**

  
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**Commissioner Susan Roberts**

  
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**Commissioner John Hillock**

  
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**ATTEST: Morgan Forney, Executive Assistant**