RE: Proposed changes to AM 2014-10 and AM 2014-11 Coos County Zoning Ordinance, I believe that Planning Director Jill Rolfe has not been on board with state regulations in her presentation of these changes as “housekeeping updates and administrative changes to bring the Ordinance in line with current state guidelines.” This is for the large part untrue. It is clear to me that many of the proposed changes are biased toward corporate interests, especially those of Veresen and Jordan Cove, L.P. As a result, the proposed changes are against the interests of the county’s citizens and are in violation of our due process rights, as guaranteed by both the U. S. and Oregon constitutions. They also clearly contravene State Planning Goal 1, “To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.” (OAR 660-015-0000(1)) The particulars of my complaint are specified below.

Chapter 1, Section 3.255 (2) The text states that the complainant must be a citizen of the county outside of the city limits or an attorney representing such a citizen.

My comment: "Outside of the city limits" should be removed from this requirement. This singles out a large portion of Coos County residents who pay taxes into the county and who should have say as to whether violations are occurring within the county. The only requirement should be that the person owns property within the county — period. People living within the City limits who pay taxes into the county should have notification rights also concerning County matters. That has not been occurring to date, leaving out a large portion of the population.

Chapter 1, Section 4.600 (3) The proposed changes are to eliminate notice of planning committee meetings in the local newspaper and to shorten the time of posting notice at the courthouse from 14 to 7 days.

My comment: The planning department should be making efforts to increase communication with the public rather than decreasing it. Very little information is shared with the general public before meetings and hearings, and this needs to be changed.

Chapter 1, Section 4.700 (6) The proposed change is to delete the requirement for disclosure of ex parte contacts and conflicts of interest at public meetings.
My comment: This would be a very serious mistake. There is clear evidence of both ex parte contacts and conflicts of interest in the relationship between some county officials and Jordan Cove project representatives. Eliminating this requirement simply "sweeps it under the rug." It would violate the State Open Meetings law, and would simply encourage more cronyism than is already occurring.

Chapter 2, Definitions Planning director has added the following new definition: Commercial Power Generating Facility -- A facility that converts energy into a usable form of energy (such as electricity) and conveys that energy to the public. Commercial power generating facilities typically convert mechanical energy into electrical energy. A commercial power generating facility does not include a net metered facility as defined in ORS 757.300 or a facility (either grid-connected or stand-alone) that produces an equal amount or less energy than is consumed by the use(s) to which the facility is accessory over the course of a calendar year, provided that the power generating facility is located on the same tract as the use(s) to which it is accessory and the power generating facility, tract, and use(s) are all under common ownership and management.

My comment: this definition is a veiled attempt to exempt the proposed Jordan Cove South Dunes power plant from the permitting and licensing requirements of a commercial power plant by defining its characteristics as being NOT those of a commercial power plant. Instead, by definition, it is a "net metered facility...that produces an equal amount or less energy than is consumed by the uses to which the facility is accessory...". The definition goes on to state that the facility "is located on the same tract as the use(s) to which it is accessory" and "that the facility, tract and use(s) are all under common ownership." This is exactly the case with the Jordan Cove project, which of course has already been issued a county land use permit. The South Dunes power plant should be recognized as a commercial power generating facility and treated as such by the county and state.

3.1.250 Coastal Shorelands Boundary In this section the coastal shorelands boundary is identified.

My comment: Language should be added that states, "The Boundary of the Coastal Shorelands Boundary shall not be changed without a public notice and review process pursuant to Chapter 5 of this ordinance." There is a history of the planning director accepting maps from Jordan Cove showing a variety of coastal shorelands boundaries.

3.1.250 (2) Errors in Zoning District Maps The section states that when errors in transcription, interpretation, or clerical mistakes are found, the Planning Director shall have the authority to correct those errors on the official map using the same process as Section 3.1.150.

My comment: add "and pursuant to section 1.1.700." This will ensure there is public oversight of administrative changes to zoning maps, which will minimize the problem highlighted in my previous comment.
4.11.100 Special Development Considerations and Overlays

Purpose statement

My comment: There has been some difficulty locating airport overlays and these maps and all overlay maps need to be readily accessible to the public particularly as related to special considerations and hazard zones. It is difficult to make reasonable comments when the public does not have access to the necessary information. A tsunami overlay needs to be created for the County and should be part of any ordinance changes.

411.200 Overlay Zoning

My comment: I request that specific language and map overlays regarding tsunami threats be included in the Flood Plain definition and Coastal High Hazard Area and that specific overlays be completed and made easily accessible to the public.

5.0.175 (1) Application Made by Transportation Agencies, Utilities or Entities: 1. A transportation agency, utility company or entity with the private right of property acquisition pursuant to ORS Chapter 35 may submit an application to the Planning Department for a permit or zoning authorization required for a transportation project without landowner consent otherwise required by this ordinance.

My comment: No one but a property owner or a person who is representing the property owner should have a right to take out a land use permit on property. ORS Chapter 35 was intended for PUBLIC USE facilities and should not be used by private entities and/or private utilities. These types of facilities should not be allowed the right of eminent domain or the right to take out permits on property within the Coastal Zone without landowner consent. The planning director’s attempt to extend eminent domain rights to utilities and “entities” is obviously being done to accommodate the Jordan Cove and Pacific Connector project. Plaintiff contends that no one could confuse such a proposal with the “housekeeping changes” that the planning director contends that these proposals represent.

5.0.175 (4) This section applies to applications submitted prior to the effective date of this section and to all unfulfilled conditions of approval of previously approved applications which requires the signatures or consent of the property owners at the time of the application submittal, provided that property owners were provided with notice of any hearing on the application pursuant to ORS 197.763.

My comment: This proposal is nothing short of criminal and a clear violation of landowner rights especially in relation to the Pacific Connector Project, which it is clearly designed to facilitate. Even though the planning director said she would withdraw this proposal in response to a public outcry, she has not done so to date. It stands as an example of just how corrupt the Coos County land use planning process has become, and how far astray it has drifted.

5.0.550 Review of Planning Director Decisions

Proposed change is from 15 to 12 days to file for review of Planning Director Decisions.
My comment: Twenty one (21) days is the norm for legal proceedings on land use issues to appellate courts in Oregon and should be the county's timeline also. Even under expedited land division notice requirements appellants are given a minimum of 14 days from the date of mailing. See: ORS 197.375. Coos County should provide no less than 14 days.

5.0.600 Hiring Hearing Officer

My comment: There needs to be a hearing about hiring a hearing officer. Use them sparingly. Need criteria before hiring a hearing officer. Present hearings officer is clearly biased against private citizens and toward Jordan Cove. The Planning Commission should be presumed to hear all appeals.

5.2.600 Expiration and Extension of Conditional Uses

c. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

and

5.3.360 Expiration and Extension of Variances

c. Approval of an extension granted under this section is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.

My comment: The first problem with the proposed changes is that they ignore the likely possibility that significant changes have been made to the application since it was originally permitted. In such cases, a clause should be added that the extension is subject to BEING DENIED and a new application permit process required. This has not been the case in several extension of Jordan Cove land use permits, one of which was originally appealed by myself and others to the state LUBA and which is now presently before the Oregon Appellate Court. Such action could help avoid prolonged appeals processes like this. The other problem with these proposed changes is that the state reference compliance codes were eliminated by the planning director in the stated proposed change. The planning director should advise the board of commissioners that state law is the basis for the County Code, a fact which can't be ignored by deleting the references as has been done in this case.

I have numerous additional concerns with the proposed changes submitted by the Planning Director, but these should suffice to make clear my allegations of improper practices.

Very sincerely yours,

Jonathan Hanson
County Rate Payer and Environmental Stakeholder