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MINUTES - TILLAMOOK COUNTY BOARD OF COMMISSIONERS' MEETING  
Wednesday, May 6, 1987  
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COMMISSIONERS PRESENT: Dean J. Kinkade, Chairman  
Gerald J. Creasy, Vice-Chairman  
Gerald A. Woodward, Commissioner

STAFF PRESENT: Fred G. Young, County Counsel  
Karen Richards, Treasurer  
Dorene Sheldon, Recording Secretary

STAFF PRESENT FOR PORTIONS OF MEETING: Jon Oshel, Public Works Director; Lynda Willard, Senior Planner

GUESTS PRESENT: Mike Sims, Headlight Herald; Lee Walker; Bruce Engelhardt; Richard Thompson

ITEM NO. 1: CALL TO ORDER: By Chairman Kinkade at 10:00 a.m. in the Justice Courtroom.

UNSCHEDULED: DISCUSSION CONCERNING SPECIAL TRANSPORTATION FUND: Commissioner Creasy said the letter is an application for the balance of Tillamook County's designated special transportation funds. Funds will be put into a contingency line in the Special Transportation budget and used for emergency transportation needs.

The Commissioners signed the letter later in the day and Chairman Kinkade signed the application form.

UNSCHEDULED: CORRECTION OF APRIL 29, 1987 MINUTES: Commissioner Woodward said the motion to increase gate fees for the Parks Department to Nestucca Valley Sanitary Service was amended to include the rate increase for all franchisers. He said the amended motion should be a new motion.

Commissioner Woodward moved, Commissioner Creasy seconded to correct the April 29, 1987 minutes to read "Commissioner Creasy moved, Commissioner Woodward seconded to have the rate increase for the Parks Department for all franchisers, passed with three aye votes," passed with three aye votes.

UNSCHEDULED: DISCUSSION CONCERNING VERN SCOVELL'S PROJECT: Mr. Young met with Mr. Scovell and said things were not going well with the State Land Board. There is a strong possibility the Attorney General's opinion on whether a decision by LCDC is binding on the State Land Board will be no. Attempts have been made by Mr. Scovell to work with the State Land Board on the mitigation issue, but they have not cooperated. Mr. Scovell's perception is Mr. Zajonc and his staff are intentionally delaying the resolution and permit and are not acting in good faith.

Mr. Young said Mr. Scovell requested the Board's assistance in attempting to expedite the issues raised by the State Land Board.

Commissioner Creasy moved, Commissioner Woodward seconded to have Mr. Young draft a letter for the Board's signature to Governor Goldschmidt and Gail Ackerman, the Governor's Assistant for Natural Resources, with copies to the coastal legislators, passed with three aye votes. The letter will point out the problems with the proposed Attorney General's opinion.

ITEM NO. 2: UPDATE BY GUIDE SHOP ON OBLIGATIONS OF EASEMENT AGREEMENT: Mr. Engelhardt represented Mr. Peterson at the meeting. Mr. Engelhardt said construction on the drainfield has begun and he requested a six-month extension of the easement agreement that expires May 9, 1987. Funding is available and plans are approved to begin lodge construction in September, but septic and water systems must be completed first.

Ms. Willard said the conditional use will expire May 9th. Community Development has not received a request for an extension of time for the conditional use. A building permit has not been received, so there is not an actual "go ahead" with the Department. The building permit and septic tank permit could be appealed within ten days of the department signature.

Commissioner Creasy moved, Commissioner Woodward seconded to grant the six-month extension of the easement agreement, contingent upon receipt of a building permit application and conditional use extension application, passed with three aye votes.

ITEM NO. 3: PUBLIC HEARING: CONSIDERATION OF WAY OF NECESSITY ORDINANCE: Mr. Oshel said by Oregon Statute, a Way of Necessity is under the jurisdiction of the Board of Commissioners and the Board has statutory authority to surrender that jurisdiction to Circuit Court. The proposed ordinance surrenders that jurisdiction.

Mr. Oshel explained the Way of Necessity procedure.

As there was no public testimony, Chairman Kinkade closed the public hearing.

Commissioner Creasy moved, Commissioner Woodward seconded to read the ordinance by title only, passed with three aye votes.

Chairman Kinkade read the ordinance by title only.

The ordinance will be read again May 20, 1987 by title only and voted on at that time.

ITEM NO. 4: CONSIDERATION OF JACK CREEK GRANT PROJECT COMPLETION REPORT: Commissioner Creasy moved, Commissioner Woodward

seconded to sign the completion report, passed with three aye votes.

Chairman Kinkade signed the report.

ITEM NO. 5: CONSIDERATION OF APPLICATION FOR DANCE HALL PERMIT:  
Chairman Kinkade said the charity dance will be sponsored by the Tillamook County CBer's August 27, 1987.

Commissioner Creasy moved, Commissioner Woodward seconded to approve the dance hall permit and waive the fees, passed with three aye votes.

The Commissioners signed the permit.

ITEM NO. 6: CONSIDERATION OF TRANSFER OF FUNDS FOR CLERK'S OFFICE: Commissioner Creasy moved, Commissioner Woodward seconded to approve the transfer of funds from travel to office expense and supplies in the Clerk's budget, passed with three aye votes.

The Commissioners signed Order #87-61.

ITEM NO. 7: CONSIDERATION OF TRANSFER OF FUNDS FOR LAND SALES:  
Commissioner Creasy moved, Commissioner Woodward seconded to approve the transfer of funds from survey contract to office supplies for the land sales budget, passed with three aye votes.

Ms. Richards said funds will be used to purchase the log books approved at last Friday's meeting.

The Commissioners signed Order #87-62.

SITTING AS THE BOARD  
OF THE HEBO SERVICE DISTRICT:

ITEM NO. 8: MISCELLANEOUS SERVICE DISTRICT MATTERS:  
Commissioner Woodward gave Mr. Young a draft of an order for sewer hook-up fees, and Mr. Young revised it for clarity. Commissioner Woodward will take the new draft to the Hebo Budget Committee for their approval. It will be presented to the Board after the Committee's approval.

Commissioner Woodward asked Mr. Thompson to deliver a key to P.U.D. so they can get in to read the sewer pump meter, and Mr. Thompson said he would.

Mr. Thompson said the original contract was for \$6/hour for no more than 10 hours a week, unless work deemed it necessary. The new contract says he will operate the plant one hour a day for \$200/month plus \$50 vehicle expense. Mr. Thompson had told Mr.

Adams that anything over that would be at a rate of \$6/hour, and it was not included in the new contract.

Mr. Thompson was concerned about the liability clause. Mr. Young said the indemnification clause is used to distinguish between an employee and an independent contractor.

Commissioner Woodward asked if the plant was working well. Mr. Thompson said yes, but there is an odor which he thinks is coming from the recirculating tank. He said annual repairs for the chlorinator and treatment plant will be done soon.

Commissioner Creasy moved to add the \$6/hour for work done over Mr. Thompson's basic job responsibilities. After further discussion, Commissioner Creasy withdrew his motion.

Commissioner Creasy moved, Commissioner Woodward seconded to pay Mr. Thompson \$6/hour for additional work on the system, subject to Mr. Adam's approval, passed with three aye votes.

Mr. Young will prepare a new contract.

Mr. Thompson said Mr. Adams gave him a list of work that needed to be done. Ray Jones will be available next week to do the work.

SITTING AS THE BOARD OF THE  
SOLID WASTE SERVICE DISTRICT:

ITEM NO. 9: MISCELLANEOUS SERVICE DISTRICT MATTERS: Mr. Oshel has received proposals and Rydel gave a presentation on composting last week. It is an exciting option, but there can be problems with composting also.

Sheryl Hogeland and Mr. Oshel attended an air quality hearing done by DEQ staff regarding Marion County. With Mr. Oshel's engineering ability, he was able to get the information necessary through the technical reports to show that impacts would be very small. However, he was not impressed with the staff's ability to explain the air quality standards to the public.

SITTING AS THE  
BOARD OF COMMISSIONERS:

ITEM NO. 10: MISCELLANEOUS PUBLIC WORKS: Wheelchair Viewpoint at Cape Kiwanda: Mr. Oshel received a request from Keith Delaney to build a wheelchair viewpoint at the Cape Kiwanda parking lot. Mr. Anderson said it would not interfere with his plans. Mr. Delaney said he could get people to build the viewpoint, but requested the county pay for materials. Mr. Oshel said it was a good idea, if materials were less than \$5,000.

Commissioner Creasy told Mr. Oshel to apply for funding through the Special Transportation Fund and Mr. Oshel said he would.

Grading Roads at Nedonna Beach: Mr. Oshel received a request to grade several gravel roads in Nedonna Beach.

Commissioner Creasy moved, Commissioner Woodward seconded to approve the work order to grade gravel roads in Nedonna Beach, passed with three aye votes.

The Commissioners signed the work order.

Selection to Serve on Committee: Mr. Oshel said he was selected to serve on a tri-agency committee which selects projects to be funded by federal forest highway funds. He would like to serve if the Board had no objections. The Board had no objections.

UNSCHEDULED: DISCUSSION CONCERNING FAIR BOARD MEETING: Mr. Young said Ms. Richards and he attended a Fair Board meeting where financial conditions were discussed. The Fair Board is \$13,000 in the red due to overexpenditures on the convention center, with no conceivable way to pay back the general fund before June 30th. Mr. Young explained to them the \$13,000 will have to be paid back to the general fund next year and should be included in their budget. He said the Fair Board has not been prudent in their expenditures.

There are four projects that the Fair Board feels are emergency repairs totaling an additional \$12,000.

Mr. Young recommended the Fair Board go for a levy to address the immediacy of the \$25,000 plus their constant need for building repairs. His impression was they intend to go for a levy for approximately \$100,000. They will come before the Board next week.

Commissioner Creasy felt the extra timber revenues from Willard Berry should be used to pay the \$13,000 to keep it under control.

Commissioner Creasy said the Fair Board suggested possible options to increase their revenue, including selling the timber behind the Public Works building, selling the Swiss Hall and one acre with it, and entering into a lease agreement with Mr. Oshel on the six acres used by Public Works. Mr. Oshel said he suggested that to Mr. Helwig quite some time ago.

Chairman Kinkade recessed the meeting at 11:45 a.m. and reconvened at 2:00 p.m.

ITEM NO. 11: PUBLIC HEARING: OA-87-2(33): AMENDMENTS TO ORDINANCE #33, THE TILLAMOOK COUNTY LAND USE ORDINANCE: Mary and Bob Elledge and Dennis L. Bartoldus signed the speakers list. Staff present were Chairman Dean J. Kinkade, Vice-Chairman Gerald J. Creasy, Commissioner Gerald A. Woodward, Vic Affolter, Lynda Willard, Fred Young and Dorene Sheldon.

Mr. Affolter said the amendments correct and solve some problems in the Ordinance to provide for smoother administration. He said a fair and equitable oceanfront setback line has been determined, with its primary concern the affect on views.

The department felt it would be better if there was some degree of averaging. The new language says if there is no structure on the adjacent lots, the average setback of the four nearest structures will be used. If structures are within 100', the line can be drawn between the most oceanward point of the adjoining structures or it can be the average. Mr. Affolter said this ordinance is patterned after Cannon Beach's.

The amendment also clarifies the reference point. Currently the foundation is used as the reference point, which causes a problem where decks are concerned. The reference point now will be the forwardmost portion of the adjoining structure that is higher than 36" from the ground.

Mr. Bartoldus asked if averaging was done with the four most oceanward points on the adjoining lots. Mr. Affolter said those higher than 36".

Mr. Bartoldus was concerned with the sand shifting problem. He asked if the existing grade is measured where the sand that is blown in is or where the concrete blocks were originally placed. Mr. Affolter said it will be measured from existing grade at the time the building permit application comes in for the new development. It will be a shifting standard.

Mr. Bartoldus asked about deed restrictions that require houses on adjoining lots to set back further than they otherwise would need to. Mr. Affolter said deed restrictions are a civil matter, but it could be a factor in a variance request.

Mr. Bartoldus had questions on building up on decks less than 36". Mr. Affolter said building on less than 36" is like building as if nothing were there. Ms. Willard agreed and said building up from that will not be allowed unless it is on the east side of the imaginary setback line.

Commissioner Creasy said the 36" can fluctuate, depending on how much sand is blown under. He said any time there is a variable, there will be problems. He recommended using the cement foundation as the base.

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Mr. Affolter said using the existing grade is a more consistent and fairer way to determine the level.

Chairman Kinkade said when building a deck with pier blocks, there may not be any two blocks the same height. He said using the footing level on the foundation would be a permanent measurement. Mr. Affolter said neighbors may not appreciate digging holes on their property to measure the footing.

Mrs. Elledge had questions on the 100' distance for averaging. She said the house next to their property is condemned. Mr. Affolter said that house could not be used for a reference point.

After further discussion, Chairman Kinkade said existing grade would be the easiest to enforce and would have less problems involved than other possibilities. Mr. Affolter said there will always be exceptional cases; but, by and large, this procedure will work well.

Commissioner Creasy moved, Commissioner Woodward seconded to approve the Ordinance Amendments as presented by Mr. Affolter, passed with three aye votes.

The Commissioners signed Ordinance Amendments #OA-87-2(33), the Tillamook County Land Use Ordinance.

RESPECTFULLY Submitted this 12<sup>th</sup> day of May, 1987.

Dorene Sheldon  
Dorene Sheldon, Recording Secretary

APPROVED BY:

DJK  
DJR

GJC  
GJC

GAW  
GAW