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MINUTES - TILLAMOOK COUNTY BOARD OF COMMISSIONERS' MEETING  
Wednesday, December 2, 1987  
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COMMISSIONERS PRESENT: Dean J. Kinkade, Chairman  
Gerald J. Creasy, Vice-Chairman  
Gerald A. Woodward, Commissioner

STAFF PRESENT: Neal Lemery, Acting County Counsel  
Karen Richards, Treasurer  
Dorene Sheldon, Recording Secretary

STAFF PRESENT FOR PORTIONS OF MEETING: Don Helwig, Fair Manager;  
Charlie Anderson, Parks Superintendent; Willard Berry, Forester;  
Al Duncan, Surveyor; Jon Oshel, Public Works Director; and Judy  
Wagner, Tax Collector

GUESTS PRESENT: Mike Sims, Headlight Herald; Don Mason, Economic  
Development Director; Robert Houston; Billie Willis, Leo Musaraca,  
John Tuthill, Delbert Duren and Lee Walker

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

UNSCHEDULED: CONSIDERATION OF LETTER TO ED WESTON TERMINATING  
CONTRACTUAL SERVICES AGREEMENT: Commissioner Creasy moved,  
Commissioner Woodward seconded to sign the letter, carried with  
three aye votes.

The Commissioners signed the letter.

UNSCHEDULED: CONSIDERATION OF LETTER TO TILLAMOOK BAY COMMUNITY  
COLLEGE REGARDING COMMUNICATIONS SEMINAR: Commissioner Creasy  
moved, Commissioner Woodward seconded to sign the letter notify-  
ing the college the county would be unable to do the seminar this  
budget year, carried with three aye votes.

The Commissioners signed the letter.

UNSCHEDULED: DISCUSSION CONCERNING VETERANS SERVICES PROGRAM:  
Chairman Kinkade said Mr. Gammon asked for a desk for the Veter-  
ans Services Officer.

There was consensus to let him use a desk. Ms. Richards said a  
disposition form should be filled out for inventory control.

Chairman Kinkade said Mr. Gammon also asked to use county letter-  
head.

There was consensus to not give him county letterhead, because  
the Veterans' budget included a supply line.

ITEM NO. 2: CONSIDERATION OF LETTER AND ORDER CONCERNING 1987-88  
BUDGET: Ms. Richards said the money will be transferred to the  
Contingency fund, and requests for expenditures will be reviewed.

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After discussion, Commissioner Creasy moved, Commissioner Woodward seconded to approve the letter and order, carried with three aye votes.

The Commissioners signed the letter and Order #87-152.

ITEM NO. 3: CONSIDERATION OF TILLAMOOK COUNTY FAIR BOARD APPOINTMENT: Commissioner Creasy moved, Commissioner Woodward seconded to approve the order appointing Elaine Durrer to the Fair Board, carried with three aye votes.

The Commissioners signed Order #87-153.

ITEM NO. 4: PUBLIC HEARING: LIQUOR LICENSE APPLICATION FOR SANDLAKE GROCERY: Ms. Cameron had recommended approval.

Commissioner Creasy moved, Commissioner Woodward seconded to approve the application, carried with three aye votes.

Chairman Kinkade signed the application.

ITEM NO. 5: EXECUTION OF RECIPROCAL LOGGING ROAD EASEMENT FOR FOLEY-SHIFTMAN TIMBER SALE: Mr. Lemery said this is necessary to build a logging road onto county property for the sale. The only access to the county property from a public road is through the Times-Mirror property. The road bed will wander through the two properties, and there will be no charge for the easement.

Commissioner Creasy moved, Commissioner Woodward seconded to approve the easement, carried with three aye votes.

The Commissioners signed and Ms. Sheldon notarized the easement.

UNSCHEDULED: DISCUSSION CONCERNING TIMBER MATTERS: Mr. Berry recommended advertising the Foley-Shiftman sale in the December 16th and 23rd issues of the Headlight Herald for a sale date of February 24, 1988.

Mr. Berry discussed the tree planting contract. There are 15,000 trees to plant on the 50 acres, which averages 300 trees/acre. Planting costs will be \$2,200-2,500. He anticipated the tree planting would begin the first part of February.

After discussion, there was consensus to have Mr. Berry contact local contractors to get bids. The Board directed Mr. Berry review the contract with Mr. Lemery before contacting people.

Mr. Berry said Bay City is planning a timber sale adjacent to the one Pearson just finished. The county owns a 60' section adjacent to it on the south side, and he would like to sell it in conjunction with Bay City's sale. There is approximately 80,000 BF, with a potential revenue of \$8,000. He said the legal de-

scription is a portion of N½ of the NW¼ of Section 35, Township 1N10W.

Commissioner Creasy moved, Commissioner Woodward seconded to have Mr. Berry work on a contract for the 80,000 BF in conjunction with the City of Bay timber sale, carried with three aye votes.

Mr. Berry said the Foley-Shiftman sale has never been designated as forestland. Commissioner Creasy said he wasn't sure if it should be forestland. Mr. Berry said the land is too steep to develop.

ITEM NO. 6: FIRST READING OF THE PROPOSED AMENDMENTS TO COUNTY ORDINANCE #34 RELATING TO COUNTY CLERK FEES: Chairman Kinkade read the ordinance by title only.

Mr. Lemery said Ms. Veltri felt it would be more appropriate to have a certain date for the fees to come into existence. He also must add an emergency clause, so it will take effect immediately.

Ms. Willis said the PLCP, recording and administrative fees should be listed separately on the receipt. Mr. Lemery agreed, because the PLCP funds can be used only by the Surveyor.

Chairman Kinkade said the public hearing will be December 16, 1987 at 10:15 a.m.

ITEM NO. 8: CONSIDERATION OF ORDER ADOPTING DOG LICENSE FEES FOR 1988: Commissioner Creasy moved, Commissioner Woodward seconded to approve the order, carried with three aye votes.

The Commissioners signed Order #87-154.

Ms. Richards said veterinarian's fees have increased. Ms. Veltri said the statute sets the fees, and she thought she was charging the maximum amount. She will check the statute.

ITEM NO. 9: DISCUSSION CONCERNING TAXES FOR INDUSTRIAL PARK TRAILER: Mr. Levesque said the Board is waiting for a response from Mr. Lemery's letter requiring the Feyereisens show proof of insurance coverage.

ITEM NO. 10: DISCUSSION CONCERNING NORTHWEST OREGON HOUSING AUTHORITY TAXES ON NUNNERY: Ms. Levesque said NOHA made application, and it had not been rejected by the Assessor. The Assessor was on vacation that week, but his staff couldn't confirm it would be accepted. It wasn't in the reject file, so his staff assumed it was accepted. The acceptance of that application; however, only applies to future tax years over the next 10 years.

Mr. Levesque said, because of the date of the application, taxes were assessed for 1987-88 totaling approximately \$3,000.

Mr. Levesque said there were three options: 1) The Commissioners could cancel the tax, but there is no authority for them to do it. 2) The assessment could be appealed to the Department of Revenue on the basis that the exemption by statute should be automatic. This alternative would require more research. 3) NOHA could deed the property to the county as a gift, and outstanding taxes would be canceled. The county would then lease the property back to NOHA, with a requirement that there be indemnification for any claims against the county by virtue of its ownership.

After discussion, Commissioner Creasy moved, Commissioner Woodward seconded to direct Mr. Levesque to do the research and Mr. Lemery do the appeal to the Department of Revenue, carried with three aye votes.

ITEM NO. 7: DISCUSSION CONCERNING WHALEN ISLAND PARK WATER SYSTEM: Mr. Anderson said Tillamook County was #9 out of 10 applicants for the RVG grant, and there are no other funding sources.

Mr. Lemery said the county is responsible for the water system, which is very bad. Nothing says the county can't charge a reasonable fee for the services. The seven residences have been getting free water for decades. He said the system should be hooked up to the Tierra Del Mar water system. If state funds aren't available, the county will have to do it. An ordinance should set up a financial mechanism for the residents to pay.

Mr. Anderson said it must be determined where the money will come from and what county department will be the lead agency. He felt a public meeting should be held to get the residents' input.

Chairman Kinkade asked if grants were available. Mr. Mason said yes, but the county has already established this year's technical assistance grant project. He said an imminent threat grant may be possible, but the residents must have low or moderate incomes.

After further discussion, Commissioner Creasy moved, Commissioner Woodward seconded to schedule a public meeting in early January regarding the Whalen Island water system, with the Health Department as the lead agency. Mr. Lemery will draft the order.

ITEM NO. 11: DISCUSSION CONCERNING JACK CREEK WATER DISTRICT: Mr. Lemery said there is a municipal corporation that should be running the water district, but it has been inactive the last several years. No bills have been sent in two years. The county became involved because of the federal grant to build the water system.

Mr. Lemery said last week a storm destroyed the water tank. Chairman Kinkade said the state isn't willing to do much about repairing the system, because of the lack of support by the district.

Mr. Lemery recommended the county dissolve the district.

Mr. Lemery said the county should pay \$500 to the Krakes for the easement.

Mr. Musaraca said he also had an agreement with the county to receive \$500 for an easement.

After further discussion, Commissioner Woodward moved, Commissioner Creasy seconded to direct County Counsel to begin the process of dissolving the district, carried with three aye votes.

SITTING AS THE BOARD OF THE  
SOLID WASTE SERVICE DISTRICT:

ITEM NO. 13: DISCUSSION CONCERNING SOLID WASTE FRANCHISE IN OCEANSIDE: Mr. Duren explained the background of his situation. Kirk's Cottages were sold this summer and he had carried the service since he received the franchise. Ms. Strang, the new owner, said she would like service and then she canceled about two weeks later. She told him it was too expensive, and she was having an employee carry the trash. Mr. Duren didn't feel that was allowed in the terms of his franchise agreement with the county. He wrote a complaint to Mr. Oshel on August 24 regarding Ordinance #4. Mr. Oshel didn't agree with Mr. Duren's interpretation. Mr. Durren then asked OSSI to write a letter to the county on its interpretation. Mr. Duren disagreed with Mr. Lemery's response to that letter.

Mr. Duren read Section 7.01 of Ordinance #4 which stated "...no private person shall provide service for compensation except as authorized by a collection or disposal franchise..." He felt the employee was being compensated for the service of hauling the garbage.

Mr. Duren said Ms. Strang also owns the Terrimore Motel in Netarts. The employee comes from Netarts, out of another franchise area, into his franchise area, to pick up the trash, and take it back to Netarts. Then it is hauled to the landfill. Mr. Duren felt that was in violation of the Ordinance. He asked the Board for a decision based on how it viewed the problem.

Mr. Tuthill said under Ordinance #4, Section 10, Mr. Duren made the complaint regarding a nuisance. Mr. Tuthill said by allowing an employee to go from one franchise area to another franchise area, returning the trash to the original site, storing it, and then hauling it to the dump is in violation of the ordinance.

Mr. Tuthill asked the Board to recognize the violation and proceed with the remaining steps as outlined in the abatement of the nuisance.

Mr. Tuthill said Mr. Lemery's interpretation of collection for compensation isn't what is occurring. Mr. Tuthill felt the compensation doesn't have to be in the form of money paid for a particular act. An employee isn't in a position to go about the county to his employer's various locations, pick up the trash, bring it to a central location, store it and then take it to another location. It is an indirect compensation as part of his work. Mr. Tuthill said he wasn't saying the employer couldn't haul the trash.

Mr. Oshel said if the county agreed with Mr. Tuthill's interpretation, it would involve a major change of the way the county does business. Mr. Tuthill said the way the county has been doing business hasn't been in line with the Ordinance. Mr. Oshel said if the Board agreed with Mr. Duren's position, the Board may want to consider modifying the Ordinance.

Mr. Walker said the intent of the Ordinance was to eliminate exactly what is happening to Mr. Duren. Mr. Walker said he made the same complaint, got no response, and dropped the issue.

There was more discussion on hypothetical situations.

Mr. Oshel felt the interpretation of the Ordinance in this case was if the person hauling the solid waste was an employee of the owner of both motels, it isn't a violation of the Ordinance. He would investigate the issue of the solid waste being stored.

The Board agreed with Mr. Oshel's interpretation.

Mr. Tuthill asked if there had been an investigation of the employee's activities to see whether he engages in any other activities. Mr. Oshel said the employee does other work for the employer besides hauling solid waste.

Mr. Tuthill asked the Board to put in the form of a motion that it will not proceed any further with the complaint that has been filed by Mr. Duren. Mr. Lemery didn't feel that was necessary. Mr. Tuthill said he needs to have a definite position taken by the Board so he can take the next step, a Writ of Mandamus. Mr. Lemery said the Board heard the complaint and doesn't have to do anything further.

After further discussion, the Board directed Mr. Lemery to draft a letter for the Board's signature.

ITEM NO. 14: MISCELLANEOUS SERVICE DISTRICT MATTERS: Ms. Oshel said he is sending a memo to the Board making recommendations on

