

MINUTES - TILLAMOOK COUNTY BOARD OF COMMISSIONERS' MEETING
Wednesday, December 1, 1999

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[Filed with County Clerk 1-13-00]

COMMISSIONERS PRESENT:

Sue Cameron, Chairperson
Tim Josi, Vice Chairperson
Gina Firman, Commissioner

STAFF PRESENT:

William K. Sargent, County Counsel
Paul Levesque, Management Analyst

STAFF PRESENT FOR PORTIONS OF MEETING: Elizabeth Hess, Sara Charlton, Sue Walker, Leo Schreiner, Marilyn White, Tillamook County Library System; Pat Oakes, Engineering Project Supervisor; Jon Oshel, Public Works Director; Tom Manning, Emergency Management Director; George Plummer, Senior Planner;

GUESTS: Pete Daniels, Milstead & Associates; Kyle Odegard, Headlight Herald; See attached guest list

CALL TO ORDER: By Chair Cameron at 9:10 a.m. in Meeting Room A.

ITEM NO. 1: PUBLIC INPUT - NON-AGENDA ITEMS: There was none.

ITEM NO. 2: RECOGNITION OF ELIZABETH HESS ON HER RETIREMENT FROM THE LIBRARY AFTER 26 YEARS OF SERVICE: Ms. Charlton introduced Ms. Hess and praised her accomplishments. The Board presented the certificate and expressed their sincere appreciation of Ms. Hess's service to Tillamook County.

ITEM NO. 3: CONSENT CALENDAR: Notice of Legalization Hearing for Portions of Sandlake Road & Galloway Road: Commissioner Josi moved to approve the consent calendar, Commissioner Firman seconded, passed with three aye votes.

The notice was signed later in the day.

ITEM NO. 4: CONSIDERATION OF CHANGE ORDERS #13 & #14 TO CONTRACT WITH HBE CORPORATION FOR HOSPITAL REMODELING PROJECT: Mr. Levesque summarized the content of the change orders. Mr. Daniels discussed the need for striking a certain portion of Change Order #13 to reflect the proper owner.

Commissioner Josi moved to authorize the Chair to sign the change orders and initial the change, Commissioner Firman seconded, passed with three aye votes.

The Chair signed the Change Orders.

ITEM NO. 5: CONSIDERATION OF CHANGE ORDER #1 TO CONTRACT WITH ATLAS LANDSCAPE ARCHITECTS/CUSTOM SPRINKLING SPECIALISTS, INC. FOR

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LANDSCAPING AROUND REMODELED HOSPITAL: Mr. Daniels described the substance of the change order. He said there were continuing discussion on the time delay claims. He discussed the unfinished items.

Commissioner Josi moved to authorize the Chair to sign the Change Order, Commissioner Firman seconded, passed with three aye votes.

The Chair signed the Change Order.

ITEM NO. 6: CONSIDERATION OF AGREEMENT WITH OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY RE: WASTE TIRE TURN-IN GRANT AND RESPECTIVE SIGNATURE CARDS: Mr. Oakes provided background information on the tire amnesty day and the need for signatures before December 5.

Commissioner Firman moved to have the Chair sign the grant agreement and the signature cards authorizing Mr. Oshel and Mr. Oakes to sign documents, Commissioner Josi seconded, passed with three aye votes.

The Chair signed the agreement and signature cards.

ITEM NO. 7: DISCUSSION REGARDING DISPOSITION OF ABANDONED CARS IN AND OUT OF PUBLIC RIGHTS-OF-WAY: Mr. Oshel introduced the four separate issues on abandoned vehicles: those on public rights-of-way; those on public land; those on large tracts of forest land; and those on private land abandoned by the owner or with the owner's permission.

Mr. Oshel described the problems with abandoned vehicles on the rights-of-way (r-o-w). There was a discussion on identifying the owner, if the vehicle had been sold and the new owner had not re-registered the vehicle. The Board concluded that this was in part a State law change.

Mr. Oshel described the abatement process on private properties, which does work. He said he did have some money in the solid waste fund for r-o-w vehicles. If the vehicle was on County, State or private forest land, the owners pay. For abandoned vehicles on the r-o-w, a fee could be paid. The Board discussed a sliding fee scale. They asked Mr. Oshel to develop a proposal with the towing companies in the County and come back to the Board with it.

Mr. Manning suggested the State Police be involved in discussions. Commissioner Josi felt there should be penalties for abandoning vehicles. Mr. Oshel said the Solid Waste ordinance already contained penalty provisions, but it was a question of getting Justice Court to impose them.

ITEM NO. 8: UPDATE ON FLOOD SITUATION: Mr. Oshel and Mr. Manning updated the Board on the flood situation. Mr. Manning described the field trip with Oregon Emergency Management personnel and the progress on damage assessment. There was a discussion on the

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preliminary nature of these assessments and how to get accurate figures.

Mr. Manning reported on several log jams. The Board asked him to check with the Port of Tillamook Bay on damage to the railroad and report back to them. They also discussed several cow pads that settled.

Mr. Oshel said all the roads were reopened, except for Brighton Beach, Foss and East Beaver Creek. He described the problems on Foss Road. The County might be eligible for on-system road damage assistance. With damages County-wide totaling \$1.5 million, it did not appear that the off-system roads would be eligible for emergency funds.

ITEM NO. 9: MISCELLANEOUS PUBLIC WORKS: There was none.

ITEM NO. 10: MISCELLANEOUS SOLID WASTE SERVICE DISTRICT MATTERS: There was none.

ITEM NO. 11: PUBLIC HEARING: OA-99-05: A LEGISLATIVE ACTION TO AMEND TILLAMOOK COUNTY LAND USE ORDINANCE 33. THE PROPOSED AMENDMENT WOULD AMEND ARTICLE III SECTION 3.332 (4)(h): PACIFIC CITY/WOODS LOW DENSITY RESIDENTIAL ZONE (PCW-R1) STANDARDS. THE PROPOSED AMENDMENT WOULD REDUCE THE MAXIMUM HEIGHT STANDARD IN PACIFIC CITY HEIGHTS SUBDIVISION AND PACIFIC CITY HEIGHTS FIRST, SECOND THIRD, FOURTH, FIFTH, SIXTH AND SEVENTH ADDITIONS. AN EMERGENCY IS ALSO BEING DECLARED TO PERMIT IMMEDIATE APPLICATION OF THESE PROVISIONS: Mr. Plummer and Mr. Affolter were present for the staff report. Mr. Plummer distributed the proposed language for the ordinance amendment. The Planning Commission had recommended denial.

Mr. Affolter discussed the issues of administrative complexity, tort claims and the fact that additions 6 and 7 did not presently have the same height restrictions that the CC&Rs on the 1-5 additions had. Counsel Sargent said he was not concerned about a legal "takings" issue if the regulations were enacted.

Chair Cameron opened the hearing for the public. She read a letter from Paul Carlson and Sharon Axtell in favor of the amendment.

Venita Gilbert, 35515 Lower Loop Road, said the administrative procedures for determining applicable heights was the same with or without the amendment, so there was no administrative difficulty. She supported the amendment.

Bob Martin, 7350 Summit Road, said the Board of Commissioners had said this would protect views and clear up the issue of defining what the CC&R's called "storey and a half." He urged Board approvals. He said people now building were disregarding the requirement.

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George Kirkham, 3555 High Road, showed pictures of buildings that were not "story and a half". He asked for Board approval of the amendment.

Barbara Bruning, Pacific City Heights, said she was on the steering committee and the reason the committee did not pursue the issue was at the direction of the Planning Director. She said the Assessor's office had detailed information and wondered why Community Development could not have the information on their computers. She wondered why people on the oceanfront had their protection and why the people in Pacific Heights could not.

Peter Schuller, Lot 22, 7th Addition, said it was all about view. He said that the lay of the land made 24 feet problematic. They paid a premium price for the right to build to 35 feet. They lived in the 7th addition and were building to 32 feet. If their home was destroyed, they could not rebuild to existing height, if the amendment was adopted. He asked the Board not to approve the amendment unless they exempt the 7th Addition and permanently grandfather all existing houses. He said homeowners could pay for a survey and variances for view could be enacted.

Karen Twedt, 35550 Lo-Mar Lane, 7th Addition, said she was uphill from Mr. Schuller and his house did not block her view. She supported a 24-foot limitation but with a grandfather clause. She said the comprehensive plan process had involved a request to protect views. There should be no exemption for the top of the hill.

Jane Watkins, Pacific City Heights, said the 35-foot height would create a domino effect. They built in 1972 at 24 feet. She recommended using the R-1 area as the boundary. She supported the amendment.

Peter Beck, 35530 Salal Lane, said they were a rural area with a fire department that only had a 35-foot ladder. This should be considered.

Hearing no further testimony, Chair Cameron closed the public hearing and asked for input from the Board.

Commissioners Firman and Josi said they were not interested in delaying a decision. Mr. Affolter clarified the steering committee's actions on this issue. He then summarized the reasons the Planning Commission had denied the amendment.

Counsel Sargent clarified for Commissioner Firman the potential for tort claims. He said the Board should not make their decision based on potential litigation. Mr. Affolter discussed the administrative issues and Counsel Sargent addressed the difficulty of administering different heights.

Mr. Plummer described the administrative process for determining where height restrictions would apply. Commissioner Josi said he took the Planning Commission's recommendations seriously. He

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said the administrative complexities were a concern, but not an overriding concern. It was a quality of life issue and indicated that a precedent was being set in that if one gave a compelling reason, then there would be a precedent. He would be voting for the amendment, but with a grandfather clause.

Commissioner Firman said she could argue either way. She agreed with Commissioner Josi and with a grandfather clause. She wanted to recess the meeting for staff to work out the grandfather provisions.

Chair Cameron said she was not comfortable passing it that day without the details on grandfathering worked out. She was concerned about enforcing the CC&R s and how it would affect other similar requests. Commissioners Firman and Josi said that CC&R s were not the issue.

There was consensus to have Counsel Sargent work with staff to develop a grandfather clause and come back to the Board the following week when a decision would be made at the Board meeting in Garibaldi.

ITEM NO. 12: NON-AGENDA ITEMS & BOARD CONCERNS; There was none.

Chair Cameron adjourned the meeting at 11:22 a.m.

RESPECTFULLY submitted this ____ day of _____, 1999.

County Clerk: Josephine Veltri

Mary Wujcik, Recording Secretary
& Special Deputy

APPROVED BY:

Chairperson

Vice Chairperson

Commissioner