

MINUTES - TILLAMOOK COUNTY BOARD OF COMMISSIONERS' MEETING

Wednesday, May 5, 2004

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COMMISSIONERS PRESENT: Paul A. Hanneman, Chairperson
Charles J. Hurliman, Vice Chairperson
Tim Josi, Commissioner

STAFF PRESENT: William K. Sargent, County Counsel
Paul Levesque, Management Analyst

STAFF PRESENT FOR PORTIONS OF MEETING: Teri Gaffney, GIS Coordinator; Aaron Suko, Public Works Director; Bill Campbell, Community Development Director

GUESTS: Thomas Harper, Pacific West Ambulance; Delbert Duren, Oceanside Sanitary Service; Gus Meyer, John Gettman; Jerry Dove, Tillamook Anglers; Ron Byrd, Nestucca Anglers; Ray Monroe, SWCD

CALL TO ORDER: By Chair Hanneman at 9:07 a.m.

ITEM NO. 1: WELCOME & REQUEST TO SIGN GUEST LIST: The Chair welcomed everyone to the meeting.

ITEM NO. 2: PUBLIC COMMENTS - NON-AGENDA ITEMS: The Chair noted changes in the agenda.

Mr. Duren asked to speak. Chair Hanneman said that because there was a pending contract, his concern should be listed as a specific agenda item. Mr. Duren wanted to set a time to discuss the rate increase for his sanitary service and his land use violations. Counsel Sargent said the land use issue might not be appropriate since it was in enforcement. Chair Hanneman asked Mr. Duren to discuss the land use issues with Mr. Campbell, and he would schedule the rate increase for the Board meeting on Wednesday, May 12.

ITEM NO. 5: CONSIDERATION OF INTERGOVERNMENTAL AGREEMENT WITH THE OREGON DEPARTMENT OF REVENUE FOR ORMAP GRANT: Ms. Gaffney described how the funds of \$50,959 would be used.

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

The Chair signed the agreement.

ITEM NO. 3: CONSIDERATION OF RESOLUTION DESIGNATING THE WEEK OF MAY 12-22 AS EMERGENCY MEDICAL SERVICES WEEK IN TILLAMOOK COUNTY: Mr. Harper read a prepared statement on EMS services. Commissioner Josi talked about the time

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1 volunteers put in.

2
3 Commissioner Hurliman moved to sign the resolution, Commissioner Josi seconded, passed with
4 three aye votes.

5
6 The Commissioners signed Resolution #R-04-10.

7
8 Mr. Harper presented the plaque to the Board.

9
10 **ITEM NO. 4: DISCUSSION CONCERNING VIEWPOINTS ON NOAA-FISHERIES**

11 **SALMON DECISION AND TILLAMOOK COUNTY PROGRAMS:** Mr. Dove referred to an
12 Oregonian editorial that the recent federal court decision would end natural resource volunteerism.
13 Mr. Byrd, Mr. Monroe and he were present to counter that false impression relative to past and
14 present local efforts.

15
16 Mr. Dove talked about the economic value of sport fishing. Mr. Byrd gave a history of their agency
17 and explained how their program insures native fish through the use of brood stock. Mr. Monroe
18 talked about the magnitude of volunteerism in local stream restoration projects.

19
20 Commissioner Hurliman echoed the value of volunteers and thanked the group. Commissioner Josi
21 talked about SB 1010, the Forest Practices Act, the ODF Management Plan and other government
22 programs that would not go away.

23
24 Mr. Monroe wanted to see a letter from the Commissioners to the Governor, which would reinforce
25 these points. Chair Hanneman asked them to work on a draft. The Board felt the signatures of the
26 three speakers should be on the letter.

27
28 Mr. Sargent lauded the efforts of Mr. Dove's group and the importance of the hatchery programs.

29
30 **ITEM NO. 6: CONSIDERATION OF AGREEMENT WITH STATE OF OREGON**

31 **REGARDING 2004 SURFACE TRANSPORTATION PROGRAM FUND EXCHANGE:** Mr.
32 Oakes said the action was similar to the previous year's. It was in the amount of \$204,866.

33
34 Commissioner Josi moved to approve the agreement, Commissioner Hurliman seconded, passed
35 with three aye votes.

36
37 The Commissioners signed the STIP agreement.

38
39 **ITEM NO. 7: CONSIDERATION OF ORDER TERMINATING TAX FORECLOSURE**

40 **REDEMPTION RIGHTS ON CERTAIN PROPERTY IDENTIFIED AS TAX LOT 3N10 28**
41 **CA 3800 & M2480:** Mr. Levesque reviewed the Board's actions taken on the matter at the

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1 Wednesday, April 28th meeting.

2
3 Commissioner Josi moved to sign the order, Commissioner Hurliman seconded, passed with three
4 aye votes.

5
6 The Commissioners signed Order #04-46.

7
8 **ITEM NO. 8: CONSIDERATION OF ORDER DIRECTING THE SHERIFF TO**
9 **ADVERTISE AND SELL A CERTAIN PROPERTY LOCATED AT 35535 SCHOONER**
10 **WAY IN NEHALEM:** Mr. Levesque said the order directed the Sheriff to sell the same property
11 identified in Agenda Item #7.

12
13 Commissioner Josi moved to sign the order, Commissioner Hurliman seconded, passed with three
14 aye votes.

15
16 The Commissioners signed Order #04-47.

17
18 **ITEM NO. 9: CONSIDERATION OF ORDER WITHDRAWING PARCEL #14 FROM THE**
19 **MAY 7, 2004 SHERIFF'S SALE OF TAX FORECLOSED PROPERTY:** Mr. Levesque said
20 this parcel was offered the previous year and did not sell. One of the adjoining owners had made an
21 offer for the minimum bid price, and the other adjoining owner did not object to the sale.

22
23 Commissioner Hurliman moved to sign the order, Commissioner Josi seconded, passed with three
24 aye votes.

25
26 The Commissioners signed Order #04-48.

27
28 **ITEM NO. 10: CONSIDERATION OF ORDER AND TAX DEED TO IDA JOHNSTON FOR**
29 **A PORTION OF LOT 2, BLOCK 4, PARKWAY MANOR ADDITION, TILLAMOOK:** Mr.
30 Levesque said this was the property identified in the previous agenda item.

31
32 Commissioner Hurliman moved to sign the order and deed, Commissioner Josi seconded, passed
33 with three aye votes.

34
35 The Commissioners signed Order #04-49 and the deed..

36
37 **ITEM NO. 11: CONSIDERATION OF RESOLUTION FOR MAKING COUNTY**
38 **ELECTIONS UNDER P.L. 106-393 FOR O&C LANDS RELATED TO SAFETY-NET**
39 **PAYMENTS:** Commissioner Josi moved to sign the resolution, Commissioner Hurliman seconded.

40
41 Commissioner Josi said he recommended the County continue with the 15% election on O&C

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1 Lands; Commissioner Hurliman said he was fine with that.

2
3 Motion passed with three aye votes.

4
5 The Commissioners signed Resolution #R-04-11.

6
7 **ITEM NO. 12: CONSIDERATION OF RESOLUTION FOR MAKING COUNTY**
8 **ELECTIONS UNDER P.L. 106-393 FOR NATIONAL FOREST LANDS RELATED TO**
9 **SAFETY-NET PAYMENTS:** Commissioner Josi said he recommended the County stay with the
10 15% election but that 45% be allocated to Title III and 55% to Title II.

11
12 Commissioner Hurliman said that rather than increase the allocation, the County should draw down
13 the reserve on Title III but keep as much in Title II as possible for roads in that program because of
14 the high cost of the latter projects. Commissioner Josi said he would acquiesce to that view.

15
16 Commissioner Josi moved to stay with the current 15% election and the 50/50 allocation,
17 Commissioner Hurliman seconded.

18
19 Commissioner Josi reviewed the previous year's requests and the amount given to local schools.

20
21 Motion passed with three aye votes.

22
23 The Commissioners signed Resolution #R-04-12.

24
25 Chair Hanneman recessed the meeting at 9:57 a.m. and reconvened at 10:18 a.m.

26
27 **ITEM NO. 13: BOARD CONCERNS - NON-AGENDA ITEMS & ANNOUNCEMENTS:**
28 **Review of Comprehensive Plan Amendment and Ordinance Amendments relating to Goal 5:**

29 Mr. Campbell gave a presentation (attached) on the matter. He reviewed the meeting and hearing
30 schedules. He made reference to a map to identify the lands affected by Phase I. He described the
31 hardship variance procedures. He went on to describe Phase II, which would occur in the summer
32 and would affect rural residential areas.

33
34 There was a discussion regarding the importance of stewardship in Phase II. He distinguished
35 between existing ordinance and the proposed changes. The proposed changes had nothing to do with
36 tax deferral programs.

37
38 Chair Hanneman expressed a concern about language in the proposal that the County would support
39 tax deferral programs. Commissioner Hurliman wanted to insure flexibility to deal with changes in
40 science.

41

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1 Mr. Campbell thought the two-phase process provided flexibility and believed it had support from
2 DLCD. He discussed the importance of the policy and how it could be modified during the hearing
3 process.

4
5 Chair Hanneman said the draft was difficult for the public to assess because of the non-binding
6 language versus the regulatory language.

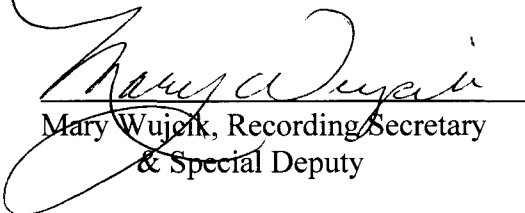
7
8 Mr. Campbell also provided an overview of the proposed ordinance, for which the Chair thanked
9 him.

10
11 **ITEM NO. 14: PUBLIC COMMENTS:** There were none.

12
13 The Chair read the announcements and adjourned the meeting at 11:08 a.m.

14
15 **RESPECTFULLY** submitted this 16 day of June, 2004.

16
17 County Clerk: Tassi O'Neil

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19 
20
21 Mary Wujcik, Recording Secretary
22 & Special Deputy



23
24 **APPROVED BY:**

25
26
27 
28 Chairperson Vice Chairperson Commissioner

29
30

CALL TO ORDER: Wednesday, May 5, 2004

BOARD OF COMMISSIONERS

1. **9:00 a.m.** Welcome & Request to Sign Guest List
2. Public Comment - Non-Agenda Items
3. Consideration of Resolution Designating the Week of May 16-22 as Emergency Medical Services Week in Tillamook County/Metro West Ambulance Services
4. Discussion Concerning Viewpoints on NOAA-Fisheries Salmon Decision and Tillamook County Programs/Ron Byrd, Jerry Dove and Ray Monroe

LEGISLATIVE – ADMINISTRATIVE

5. Consideration of Intergovernmental Agreement with the Oregon Department of Revenue for ORMMap Grant/Teri Gaffney
6. Consideration of Agreement with State of Oregon regarding 2004 Surface Transportation Program Fund Exchange/Pat Oakes
7. Consideration of Order Terminating Tax Foreclosure Redemption Rights on Certain Property Identified as Tax Lot 3N10 28CA 3800 & M2480/Paul Levesque
8. Consideration of Order Directing the Sheriff to Advertise and Sell a Certain Property Located at 35535 Schooner Way in Nehalem/Paul Levesque
9. Consideration of Order Withdrawing Parcel #14 from the May 7, 2004 Sheriff's Sale of Tax Foreclosed Property/Paul Levesque
10. Consideration of Order and Tax Deed to Ida Johnston for a Portion of Lot 2, Block 4, Parkway Manor Addition, Tillamook/Paul Levesque
11. Consideration of Resolution for Making County Elections under P.L. 106-393 for O&C Lands related to Safety-Net Payments
12. Consideration of Resolution for Making County Elections under P.L. 106-393 for National Forest Lands related to Safety-Net Payments
13. Board Concerns - Non-Agenda Items & Announcements
14. Public Comments

ADJOURNMENT

On **Wednesday, May 19**, the Commissioners will be holding their weekly Board Meeting at **6:30 p.m.** in the Nehalem City Hall, 35900 8th Street, Nehalem, OR.

MEMORIAL DAY is an observed holiday for Tillamook County, as well as the Circuit Court. All the offices in the Courthouse will be closed on **Monday, May 31, 2004**.

PERIODIC REVIEW – TASK 10 RIPARIAN ORDINANCE UPDATE

PROCESS OVERVIEW MAY 5, 2004

The proposal being presented for public input, public review, public hearing and public decision consists of two parts or phases, these phases blend an inventoried ESEE analysis process with the more generic state safe harbor provisions. The generic approach will be undertaken first with the more time consuming and difficult inventoried ESEE analysis process to follow:

- Phase 1 – includes the application of standard measures in accordance with State Statutes and Administrative Rules for all commercial forest and commercial agricultural lands, inclusive of SFW20 zoned lands, in Tillamook County. Phase 1 accounts for approximately 98.5 percent of the county land area.
- Phase 2 – includes the application of the inventoried information, an ESEE analysis of each zoned area and determination of the appropriate level of protection given the relative importance or significance of the resource and/or conflicting uses. Phase 2 will be applied to rural residential, rural commercial, rural and general industrial, recreational management, water dependent development, mineral aggregate resource, estuary, and airport zoning to include rural unincorporated communities and coastal shorelands.
- A central theme of the draft plan element and draft ordinance is its stewardship element. Tillamook County through the Soil & Water Conservation District, volunteer watershed councils, the Tillamook Estuary Partnership, and other related organizations invested in habitat restoration and enhancement and fish restoration and enhancement are representative of the growing stewardship ethos in the county.

Comprehensive Plan text, Policies and Ordinance:

- The plan text provides the framework for the policy elements that provide the legal basis and consistency of the proposed zoning ordinance with the plan objectives.

- The plan text identifies those rivers that have an average annual flow of 1,000 cubic feet per second (cfs) or greater. They are the mainstem Nehalem River from mouth through Tillamook County; and the Lower Nestucca River from its mouth to its confluence with Three Rivers. These areas, by administrative rule are subject to a minimum riparian setback of 75 feet. Rivers that do not have an average annual streamflow of 1,000 cfs, by administrative rule are subject to a minimum riparian setback of 50 feet.
- Those lands in Tillamook County designated as commercial forest or Exclusive Farm use are categorically exempt from the provisions of the proposed ordinance, 4.085, except those activities that are not associated with commercial farm or forest activities.
- The ordinance, through a Hardship Variance, provides an opportunity for a property owner to place a non-farm/non-forest dwelling within the 75 foot riparian setback.
- Riparian setbacks are applied to intermittent streams that have a definable channel, connectivity to a perennial waterbody, and that have been inventoried and demonstrate fish presence during one or more periods of the year.
- The acreage governed by this element of the proposed ordinance is 653,600 acres: 142,000 acres of federal lands, 315,000 acres of state lands (principally ODF), 158,000 acres of private timberlands, and 33,600 acres of private agricultural lands.

**Public Information meeting: Wednesday, May 5, 2004, 7-9 PM,
Board of Commissioners hearing Room, Second Floor,
Tillamook County Courthouse**

**Public hearing: Tillamook County Planning Commission,
Thursday, May 20, 2004, 7:00 PM, Circuit Court, Tillamook
County Courthouse**

Draft materials can be found @ www.co.tillamook.or.us

PERIODIC REVIEW – TASK 10
RIPARIAN ORDINANCE UPDATE
PROCESS OVERVIEW FOR WORKSHOP

MAY 5, 2004

OVERVIEW OF THE DRAFT ORDINANCE

Applicability: This Section applies only to those lands zoned Farm (F-1), Small Farm Woodlot 20 (SFW-20) or Forest (F) and only for those activities that are not associated with normal farm practices as identified for exclusive farm use or forest practices as regulated by the Northwest Forest Management Plan or the Oregon Forest Practices Act. Section 4.080 applies to all other lands.

Purpose: To develop and implement a program promoting landowner stewardship for the Preservation, Conservation, and Enhancement of riparian areas along our rivers and streams. To protect and preserve the riparian areas for fish and wildlife, reduce natural hazards to public and private property, minimize erosion, provide for economic viability, and allow for human enjoyment while contributing to the overall water quality.

- ◆ The language used in the draft is similar to the language found in OAR 660-023-0090 which establishes guidelines when using fish presence and average annual flow as a criteria. This draft will only apply to non-farm and non-forest practices. This will not affect farm structures such as barns, milking parlors, etc. These structures are addressed through SB1010.
- ◆ Recommended riparian corridors are 75 feet for the entire length of the Nehalem River within Tillamook County and the Nestucca River to its confluence with Three Rivers, where the average annual flow is equal to or greater than 1000 cubic feet per second (cfs) and 50 feet along all lakes, and inventoried streams shown to have fish present with average annual stream flow less than 1,000 cfs. When riparian wetlands are involved, the riparian corridor will be measured from the upland edge of the wetland. For those areas where the ordinary high water line is not clearly defined, the two year recurrence interval flood elevation shall be established.
- ◆ Vegetation removal will be allowed to maintain clear vision areas along roadways and the removal of roadside hazards, construction of a minor roadway improvement within an existing right-of-way, on lands designated for agricultural or forest use outside UGBs, mowing or maintenance of existing lawn and pasture, and routine repair, operation, or maintenance of bridges and roadways.

- ◆ Vegetation removal will be allowed for the following reasons upon consultation with Staff: removal of invasive vegetation and replacement with native plant species (*we may want to consider making this an outright allowed use*), removal of trees that pose an erosion, safety, or fire hazard to existing uses allowed by the underlying zone, removal of trees for maintenance of utility lines, and pruning and limbing of riparian vegetation to retain views and vistas.
- ◆ There are three categories of uses subject to a Development Permit which were outlined in the OAR:
 - (a) Streets, roads, and paths;
 - (b) Drainage facilities, utilities, and irrigation pumps;
 - (c) Water-related and water-dependent uses.
- ◆ The existing Development Permit process has been incorporated into the draft ordinance and provides clear and concise guidelines for review.
- ◆ There are provisions for the placement of dwellings and structures within 50% of the 75 foot setback provided that the applicant can show that equal or better protection for identified resources will be ensured through restoration, enhanced buffer treatments or similar measures.
- ◆ There are provisions for hardship variances, and allowing the outright replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.
- ◆ Also, we have linked the draft with Article VII for non-conforming uses, Section 3.060, Flood Hazard Overlay Zone, and Section 3.090, Shorelands Overlay Zone.
- ◆ Finally, the administrative procedures are outlined in the draft ordinance.

4/29/04

WE agree That IDA Johnston
WILL purchase Tax Lot # 1510 ZSDA 16200
for 50⁰⁰

It has been discussed Between both adjacent
property owners of Tax ^{Lot} 16100 and Tax Lot 16000.
That Tax lot owner of 16000 IS NOT
interested in purchasing the Tax Lot
1510 ZSDA 16200.

IDA Johnston Owner of Tax Lot 16100.
Jo & Mathew McCoy owners of Tax Lot 16000.

We agree on above statement of purchase.

503-842-6807 →

John McCoy 4/29/04
Math McCoy

I agree on Above Statement of Purchase

IDA Johnston 4/29/04

541-517-2944

No Further Entry
MSM