

**MINUTES – TILLAMOOK COUNTY BOARD OF COMMISSIONERS' BOARD
MEETING - Wednesday, November 26, 2008
Page 1**

COMMISSIONERS PRESENT:

Tim Josi, Vice-Chair
Mark Labhart, Commissioner

COMMISSIONER ABSENT:

Charles J. Hurliman, Chair (Vacation)

STAFF PRESENT:

Paul Levesque, Facilities, Fleet and
Contracts Director
William K. Sargent, County Counsel

FILED
80m
JAN 5 2011
4:55a
TASSI O'NEIL
COUNTY CLERK

STAFF PRESENT FOR PORTIONS OF THE MEETING: Curtis Hesse, Administrator, Health Department; Dave Dickman, Director, Human Resources and Nikki Davis, Information Services.

GUESTS: Jerry Dove, Michele Bradley, James Becraft, Ken O'Toole and Gus Meyer.

CALL TO ORDER: By Vice-Chair Josi at 9:00 a.m. in Commissioners' Meeting Room A.

ITEM NO. 1: WELCOME & REQUEST TO SIGN GUEST LIST: Vice-Chair Josi welcomed everyone and reminded them to sign the guest list.

ITEM NO. 2: PUBLIC COMMENTS – NON-AGENDA ITEMS: There were none at this time.

ITEM NO. 3: UPDATE ON STATUS OF RAILROAD IN TILLAMOOK COUNTY: Jerry Dove stated, "There have been absolutely no decisions made as to anything that is going to be done with the railroad or anything that is going to be done with the funds that we might receive". At the last meeting their board, consensus was to push forward on the railroad, but anything can change in the next few days, weeks or months.

Michele Bradley said the Port has the contract with IBIS for an engineering and environmental analysis and in September received their estimate of Thirty-Four Million (\$34,000,000) Dollars. The Port asked them to come back with a more complete picture with contingency costs and that amount was Fifty-Seven Million Three Hundred Thousand (\$57,300,000) Dollars. These estimates were submitted to FEMA. FEMA came up with a general estimate of Fifty Million (\$50,000,000) Dollars that still has to be reviewed by a number of agencies, including the Port. The difference is going to be what the contractor says needs to be done on the bridges. Our match for the Fifty Million (\$50,000,000) Dollars is Twelve Million Five Hundred Thousand (\$12,500,000) Dollars or twenty-five (25%) percent.

**MINUTES – TILLAMOOK COUNTY BOARD OF COMMISSIONERS' BOARD
MEETING - Wednesday, November 26, 2008
Page 2**

Mr. Dove said we have to ask whether the railroad is worth Fifty Million (\$50,000,000) Dollars to the Port, community and tax payers. He referred to an article in yesterday's "Oregonian" where Coos Bay Rail Line is proposing to purchase a line of one thousand one hundred (1,100) miles for Sixteen Million (\$16,000,000) Dollars. Our line is ninety-five (95) miles long. A few months back the Port said it would rebuild the railroad no matter what. Hampton and Stimson Lumber, our two (2) biggest shippers, have publically stated that they do not need the railroad. We have had two (2) major blow outs on the line in the last few years. Ten (10) environmental groups in Oregon wrote a letter to the Governor after the washout asking that it not be rebuilt for environmental reasons. There are people in high places that do not want to rebuild it.

Ms. Bradley said if FEMA deems the project eligible for Fifty Million (\$50,000,000) Dollars and the Port decides not to have the railroad rebuilt, the Port would be eligible for ninety (90%) of those funds as the applicant, or Forty-Five Million (\$45,000,000) Dollars. Ms. Bradley listed other project options including improving the industrial park, upgrading the digester, a convention center, improving infrastructure and building out to the certified sites.

Mr. Dove said they have not received a final answer as to what their legal obligations are if they do not rebuild it. He discussed the advantages of using the money for some of the projects Ms. Bradley mentioned. If they get the funding it will be months before they can do anything with it. They will probably hold a public hearing for input.

Ms. Bradley pointed to some pictures showing the progress on the clean up of debris at the tunnel. Mr. Dove said their crews are still working. FEMA is paying the Port for the tunnel work and a very good fee for the use of their equipment. Ms. Bradley said the steam train is still making dinner runs in December.

Commissioner Labhart thanked Mr. Dove and Ms. Bradley for their report. He asked when they thought a decision would be made when they get the figures from FEMA. Ms. Bradley said there are other factors involved. FEMA's environmental analysis report is not expected until January 15th. The Port can appeal FEMA's Fifty Million (\$50,000,000) Dollar figure. FEMA is doing a National Environmental Policy Act (NEPA) review with a public comment period in January. Then the Port would have to decide what to do. If they to go a Phase 2 the original Phase 2 Request for Proposal to design/build would have to be altered. They are working with FEMA on that. Mr. Dove said FEMA and Senator Betsy Johnson have bent over backwards to help the Port.

**MINUTES – TILLAMOOK COUNTY BOARD OF COMMISSIONERS' BOARD
MEETING - Wednesday, November 26, 2008
Page 3**

Vice-Chair Josi said this is a huge issue. It would cost millions to abandon the line and asked who would be responsible for that. Ms. Bradley said if it became a trail it would be that person/agency's responsibility. Mr. Dove said they are trying to find someone who has the knowledge, but have not been successful. Ms. Bradley said an abandonment process would go through the Surface Transportation Board.

ITEM NO. 4: CONSIDERATION OF REGENCE BLUECROSS BLUESHIELD OF OREGON (REGENCE BCBSO) MEDICAL GROUP AGREEMENT TO PROVIDE HEALTH CARE SERVICES TO MEDICARE ADVANTAGE CLIENTELE: Curtis Hesse said we already have a large clientele from BlueCross BlueShield. This will add the Medicare Advantage Preferred Provider Program. There are some providers in the county who are not accepting this program, which has left people disenfranchised. They know of several hundred people who no longer have providers. The reimbursement rates are lower than other providers are willing to take but he felt the health department would show a profit or at least make ends meet with the payments.

A motion was made by Commissioner Labhart to approve and sign the Regence BlueCross BlueShield of Oregon (Regence BCBSO) Medical Group Agreement to provide health care services to Medicare Advantage clients. The motion was seconded by Vice-Chair Josi. The motion carried with two (2) aye votes. Chair Hurliman will sign the agreement upon his return.

ITEM NO. 5: CONSIDERATION OF ORDER IMPOSING A 30 FOOT NON-SMOKING AREA AROUND THE COUNTY COURTHOUSE: Paul Levesque said a couple of months ago the Board received a complaint from a department on the main floor that smoke in front of the courthouse was infiltrating into that department. There is an employee in that department who suffers from a respiratory ailment and cigarette smoke aggravates that condition. The commissioners recommended that the complaint go to the management team for a recommendation.

Mr. Levesque said there is a long history of complaints that involve the north and south entrances, the little door on the north side of the Courthouse, the ramp in back of the courthouse, the judges' chambers and other offices that have air conditioners that pull the smoke in, which all occurred under the current ordinance. State law and our ordinance prohibit smoking within ten (10') feet of an entrance. The smoke entering the courthouse was from smokers who were legally smoking.

The management team made two (2) recommendations; that there be a no smoking area extended to the outside edge of the sidewalk and that some accommodation is made for smokers to relocate to another area.

**MINUTES – TILLAMOOK COUNTY BOARD OF COMMISSIONERS' BOARD
MEETING - Wednesday, November 26, 2008**

Page 4

Mr. Levesque said he was asked to prepare an order. He had Travis Porter measure to the outside edge of the sidewalk, which is twenty-nine feet six inches (29' 6"). Mr. Levesque rounded it up to thirty (30') feet. To address the issues on the other sides of the courthouse the order proposes a thirty (30') foot buffer on all sides of the courthouse. The draft of the order was circulated for the commissioners' review. Since that time County Counsel Sargent began to look at the law. On January 1st the Oregon Indoor Clean Air Act comes into effect. In the Act, under ORS 433.850, there is a provision that says "An employer shall provide a place of employment free of tobacco smoke for all employees." So, even if people are smoking beyond ten (10') feet of the entrance it is arguable that the county is not providing a smoke free place of employment for all employees. Under that law an employee could make a claim against the commissioners for failure to provide a place of employment that is free of tobacco smoke.

Mr. Levesque said the thirty (30') foot buffer came from the management team, but there are provisions in the administrative rules, effective January 1, for creating a smoking lounge. He was not proposing a smoking lounge, but thinks the criteria helps inform the thirty (30') foot buffer. In response to Vice-Chair Josi's request, Mr. Levesque listed the many requirements for a smoking lounge, including a ventilation system that is air tight and extends outside of the building to a point that is not less than thirty (30') feet from any doorway, window or air intake.

Mr. Levesque said the order would be effective for county employees but members of the public smoke out there. He proposed the commissioners adopt the order and begin an amendment to Ordinance #58 to make a provision to enforce it for the public as well. Posting signs will be important until the public becomes accustomed to the new rule.

Mr. Levesque said he included, in today's proposed order, an additional finding about the Oregon Indoor Clean Air Act and that the Order becomes effective January 1st. This gives some time to work with employees who smoke to find another location to accommodate smoking. There is room on the south and west lawns where the picnic tables are set up.

Vice-Chair Josi asked Jim Becraft if he would like to speak to the issue. Mr. Becraft said he is working on a tobacco control project and prevention and education project for Tillamook County. He congratulated the county managers and county commissioners for addressing this issue. Tobacco is the leading cause of preventable death in this country. Half of all smokers will die of tobacco related diseases. In order to take care of our people we need to prevent youth from starting to smoke, protect non-smokers and do all we can to help smokers quit. All diseases have vectors that carry it, e.g.

**MINUTES – TILLAMOOK COUNTY BOARD OF COMMISSIONERS' BOARD
MEETING - Wednesday, November 26, 2008**

Page 5

mosquitoes carry malaria. We are dealing with a powerful business in our country that is killing our people. One of the best practices in tobacco control is to ban smoking from public places. About eighty (80%) percent of Oregonians do not smoke.

Mr. Levesque said what was driving Ordinance #58 and this order has been second hand smoke. A number of employees are under the impression that this order is to get them to stop smoking, which is not the case. It is to protect employees, which by law, the county, as the employer, has the obligation to do.

Mr. Levesque said Tillamook County General Hospital, the Tillamook Smoker and School District #9 have all prohibited smoking on their entire campuses. This thirty (30') foot buffer is a compromise to meet the county's obligation under the new law and accommodate the needs of the employees.

Vice-Chair Josi opened the meeting to public comment. Karen Dye asked if the order only applies to the employees in the courthouse, and the Oregon Indoor Clean Air Act encompasses all the county facilities, would that issue be addressed later. Mr. Levesque said the current order only addresses the courthouse because the commissioners were requested to deal with the current complaints at the courthouse. If the commissioners direct him to do an ordinance amendment we might want to look at all county facilities. Vice-Chair Josi said he would take it one step at a time.

Mr. Dove verified that the order applies to all tobacco and said he likes the county hospital's ordinance that says no smoking on any of the premises.

Nikki Davis introduced herself as a county employee and smoker. She found a copy of the order in her e-mail box on Tuesday. In talking with the smokers in the courthouse they said that previously they had a boiler room they could smoke in, then they had the ten (10') foot outside of the courthouse requirement and then after complaints about the back parking lot they moved to the north end by the door. They personally paid for the umbrella, which is all that they have in the winter to keep them somewhat dry. They try to be very considerate of the employees and not let the smoke come into the courthouse. One of the issues is when the windows are open it comes in. They try to keep the doors shut all year. If they have to move out further their request is to provide them with some sort of covering and shelter from the wind and rain to help prevent them from becoming any sicker. They all realize smoking is bad for them. Some are trying to quit and some are not ready to try yet. They feel they are being zeroed in on and ostracized as employees and people who smoke and that it is such a bad thing. They request that the order be postponed until some sort of shelter can be created.

**MINUTES – TILLAMOOK COUNTY BOARD OF COMMISSIONERS' BOARD
MEETING - Wednesday, November 26, 2008**

Page 6

Mr. Dove asked if the smokers would be willing to put up the money to build the shelter. Ms. Davis said at one time they were offered a bus stop but were told that since it would degrade the looks of the building they could not have it. If it came down to economics and money she would personally be willing to donate some money and come and work on something on the weekends. Mr. Levesque said he has tried three (3) times to get a bus shelter and it is not a question of a bus shelter of not being acceptable or appropriate but they are unavailable unless we pay between Three Thousand (\$3,000) to Five Thousand (\$5,000) Dollars for it. Ms. Davis said it was privately owned and was given away. Mr. Levesque asked who said it was not acceptable. Ms. Davis was not sure. Ms. Davis and Mr. Levesque agreed that rumors abound.

Ms. Davis said they feel a lot of the problem is from the general public who do not pay attention to the "No Smoking" signs on the front steps.

Commissioner Labhart gave some history about the complaints from employees and non-employees about smoking in front of the courthouse. He read portions of the minutes of the management team meeting. The management team recommended that the commissioners focus on the courthouse first and to restrict smoking within a "reasonable" perimeter surrounding the courthouse and provide a designated smoking area for those who smoke. He felt Mr. Levesque made a good case for the thirty (30') feet based on the upcoming statute.

Commissioner Labhart read a portion of the hospital's policy that prohibits all persons from smoking inside any of the hospital's buildings or on any property the hospital leases or owns. The new transit center has a new policy of thirty (30') feet. He also read from School District 9's policy.

Commissioner Labhart supported the order with the thirty (30') foot restriction and then to consider an ordinance amendment that might affect all public buildings under county jurisdiction. He also agreed not to implement the order until January in order to meet with the smokers to try to find a place that complies with the rules and regulations where employees and non-employees can smoke without the smoke entering the courthouse.

Vice-Chair Josi agreed with Commissioner Labhart in principle. He asked Mr. Levesque if the issue could be resolved by January 1st. Mr. Levesque said he would do his best but it depended on whether he could get consensus from those who smoke and locating a suitable site. Vice-Chair Josi said he would like to approve the order to take effect January 1st with the understanding that if we don't have a facility developed by that time the order comes back to us before January 1st for the commissioners to consider delaying it for a certain number of days. Commissioner Labhart agreed. Mr. Levesque verified that the proposed relocated site be outside the thirty (30') foot buffer.

**MINUTES – TILLAMOOK COUNTY BOARD OF COMMISSIONERS' BOARD
MEETING - Wednesday, November 26, 2008**

Page 7

A motion was made by Commissioner Labhart to approve the order imposing a thirty (30') foot non-smoking area around the county courthouse. The motion was seconded by Vice-Chair Josi. The motion carried with two (2) aye votes. The Commissioners signed Order #08-097.

Commissioner Labhart felt the commissioners should give direction to staff to begin the process of developing an ordinance amendment to comply with the state law which becomes effective January 1st that will apply to all county owned, leased or rented facilities. Vice-Chair Josi said that gives him some heartburn.

ITEM NO. 6: BOARD CONCERNS – NON-AGENDA ITEMS & ANNOUNCEMENTS:

Commissioner Labhart said these are tough times financially but we have a lot to be thankful for and we will come out okay. He wished everyone the best Thanksgiving. Vice-Chair Josi read the announcements.

ITEM NO. 7: PUBLIC COMMENTS: There were no public comments.

There being no further business Vice-Chair Josi adjourned the meeting at 9:52 a.m.

RESPECTFULLY SUBMITTED this 5 day of January, 2010.

County Clerk: Tassi O'Neil

Susan L. Becraft
Susan Becraft, Recording Secretary
& Special Deputy

APPROVED BY:

Mark Labhart
Chair Commissioner

Vanni Li
Vice-Chair

Chris J. Herbin
Commissioner- Chair



**NOTICE OF MEETING AND AGENDA
of the
TILLAMOOK COUNTY BOARD OF COMMISSIONERS**

Also sitting as the Board of the
SOLID WASTE SERVICE DISTRICT &
THE 4-H AND EXTENSION SERVICE DISTRICT
to be held

Wednesday, November 26, 2008, at 9:00 a. m.

Commissioners' Meeting Room A
County Courthouse, 201 Laurel Avenue
Tillamook, Oregon

BOARD OF COMMISSIONERS

Charles J. Hurliman, Chair
E-mail: churlima@co.tillamook.or.us

Tim Josi, Vice-Chair
E-mail: tjosi@co.tillamook.or.us

Mark Labhart, Commissioner
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201 Laurel Avenue
Tillamook, Oregon 97141
Phone: (503) 842-3403 FAX: (503) 842-1384

ANY QUESTIONS? Contact
Paul Levesque (503) 842-1809
E-mail: plevesqu@co.tillamook.or.us

COUNTY WEBSITE: <http://www.co.tillamook.or.us>

WATCH THIS MEETING ON TV: TLCTV Channel 35

Monday – 1:00 p.m.
Thursday – 1:00 p.m.
Sunday – 1:00 p.m.

Tuesday – 8:00 p.m.
Friday – 8:00 p.m.

Wednesday – 9:00 a.m.
Saturday – 9:00 a.m.

NOTE: The Board of Commissioners reserves the right to recess to Executive Session as may be required at any time during this meeting, pursuant to ORS 192.660(1).

NOTE: The Tillamook County Courthouse is accessible to persons with disabilities. If special accommodations are needed for persons with hearing, visual or manual impairments who wish to participate in the meeting, please contact (503) 842-3403 at least 24 hours prior to the meeting so that the appropriate communications assistance can be arranged.

CALL TO ORDER: Wednesday, November 26, 2008 9:00 a.m.

BOARD OF COMMISSIONERS

1. Welcome & Request to Sign Guest List
2. Public Comment – Non-Agenda Items
3. Update on Status of Railroad in Tillamook County/Michele Bradley, Jerry Dove

LEGISLATIVE – ADMINISTRATIVE

4. Consideration of Regence BlueCross BlueShield of Oregon (Regence BCBSO) Medical Group Agreement to Provide Health Care Services to Medicare Advantage Clientele/Curtis Hesse, M.D.
5. Consideration of Order Imposing a 30 Foot Non-Smoking Area Around the County Courthouse/Paul Levesque
6. Board Concerns – Non-Agenda Items & Announcements
7. Public Comments

ADJOURNMENT

BOARD MEETINGS AND ANNOUNCEMENTS

The Tillamook County Courthouse and Administrative offices in the Jail and Justice Facility will be **CLOSED** on **Thanksgiving Day, Thursday, November 27, 2008**. In addition, the County's holiday schedule and the AFSCME Union Agreement designate the Friday after Thanksgiving as a holiday. Therefore, the County offices in the Courthouse and Administrative offices in the Jail and Justice Facility will be **CLOSED** on **Friday, November 28, 2008**, to allow employees this time off. However, the State Circuit Court and the Tillamook County Library will be open on Friday.

The Commissioners will hold an Executive Session on **Monday, December 1, 2008, at 1:30 p.m.** pursuant to ORS 192.660(2)(i) to conduct a performance evaluation. The Executive Session will be in the Commissioners' Meeting Room B of the Tillamook County Courthouse, 201 Laurel Avenue, Tillamook. The Executive Session is not open to the public.

The Commissioners will hold a Workshop on **Tuesday, December 9, 2008, at 1:30 p.m.** for a presentation by the County Treasurer and Personnel Director on current and future budget shortfalls. The Workshop will be held in the Commissioners' Meeting Room B at the Tillamook County Courthouse, 201 Laurel Avenue, Tillamook. The Board of Commissioners reserves the right to recess to Executive Session as may be required at any time during this meeting, pursuant to ORS 192.660(1) and (2)(d) to conduct deliberations with persons designated by the governing body to carry on labor negotiations. If called, the Executive Session will not be not open to the public. The Workshop is open to the public.

Commissioners' Staff Meetings are held on Monday except for the second week each month when it is held on Tuesday. The next Tuesday, Staff Meeting will be held on December 9, 2008.

The Commissioners' evening meeting schedule is as follows:

December 17, 2008

Cape Kiwanda Community Center

January 21, 2009
February 18, 2009
March 18, 2009
April 15 2009
May 20, 2009

Manzanita City Hall
County Courthouse
Cape Kiwanda Community Center
Manzanita City Hall
Cape Kiwanda Community Center

All evening meetings will begin at 6:30 p.m.

BOARD OF COMMISSIONERS'
MEETING

Wednesday, November 26, 2008

PLEASE PRINT

Name Address Item of Interest

Jerry Dove POTB

Michele Bradteq POTB

JAMES BECRAFT POLICY, TOBACCO

GENO'TOOLE H-H

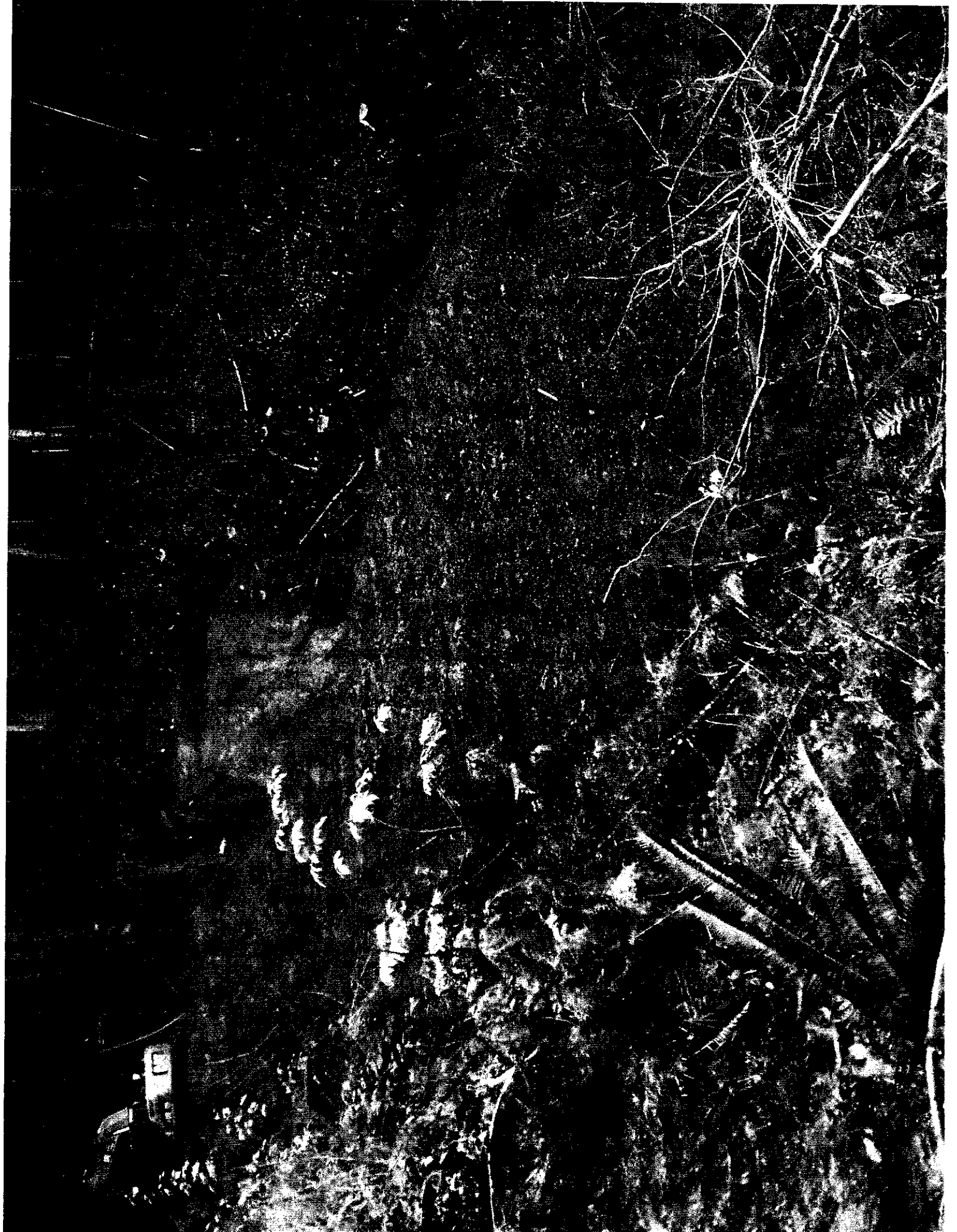
Gus Meyer General

CURTIS HESSE HEALTH DEPT #4

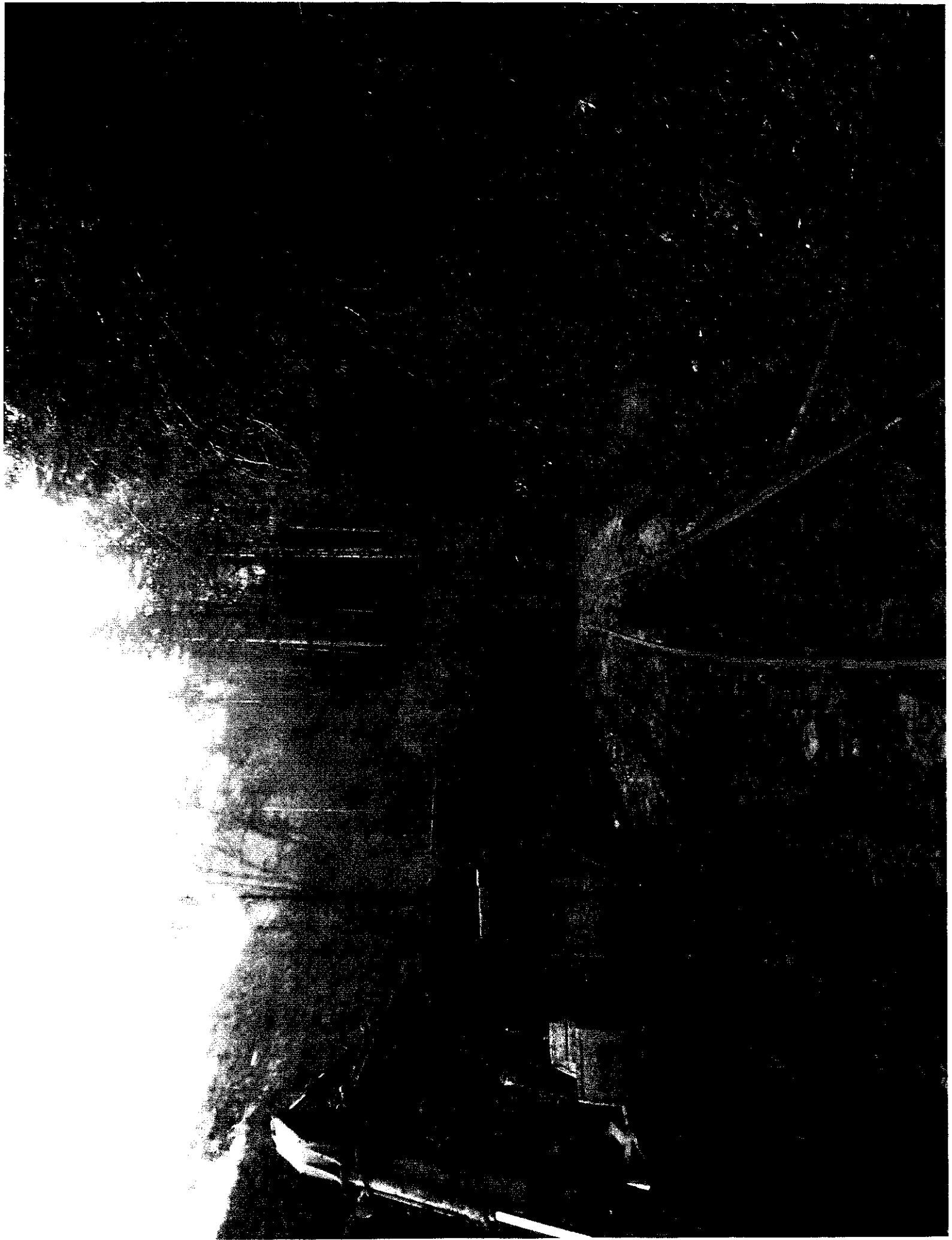
DAVE DICKMAN HR

NIKKI DAVIS

(Please use reverse if necessary)







Tunnel 25
approx 11/15/08