

November 28, 1979
1:30 p.m.

REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

Harris Hall

23. COMMISSIONERS' ANNOUNCEMENTS AND BUSINESS

- a. Welcome to Visitors from Coburg Elementary School.

Chairman Freeman extended a warm welcome to third graders from the Coburg Elementary School and their teacher.

24. PUBLIC WORKS

- *a. PUBLIC HEARING AND ORDER 79-11-28-19 Vacating a Portion of Welch Creek Road (Fox Hollow Road), County Road No. 464

Bob Ezell, Public Lands, stated that recent legalization action had established the recorded right-of-way of Fox Hollow Road as traveled. The present action would vacate a portion which goes almost through a property owned by Mr. Quick (Tax Lots 1201 and 1000). Freeman asked if the property owners had been notified and was answered in the affirmative. The public hearing was opened.

Herb Hasselman, 31205 Fox Hollow Road, said he wondered why this particular area was being vacated and why the vacation point was stopped where it was. Ezell answered that they were doing it for the convenience of the property owner, but that part of it would have to be vacated later because of the need for a survey of the intersection.

The public hearing was closed. Rutherford moved approval of the order; t'Hooft seconded; all voted aye and the motion carried.

- b. PUBLIC HEARING AND ORDER 79-11-28-20 Surrendering a Portion of Mosby Creek Road to the City of Cottage Grove

Ezell noted that the County had requested the City of Cottage Grove to relocate a city water line in connection with reconstruction of a portion of Row River Road. Since the city did not have the funds, the County entered into an agreement with the city to bear the costs of the relocation and the City would in return accept jurisdiction over a portion of Mosby Creek Road in its existing condition and be responsible for maintenance. The public hearing was opened but no one spoke. Rutherford moved that Lane County, in accordance with ORS 373.270, offer to the City of Cottage Grove surrender of jurisdiction over Mosby Creek Road from Airport Road to Currin Connector; Rust seconded; all voted aye and the motion carried.

- c. CONTINUED PUBLIC HEARING AND ORDER 79-10-31-12/Establishing a Way of Necessity for Gary Parks

Assistant Legal Counsel Van Vactor said that the County can locate a right-of-way, and that another right-of-way, County Road 386, still exists according to the research he has made. He said there were four

options: 1) refer the matter to the West Lane Planning Commission; 2) order a different way; 3) locate the way as requested by the applicant; and 4) accept the report but modified to locate along Taylor Road. Rust noted that none of the four options included the potential of denying the applicant. Van Vactor said that it was possible to deny only in the sense that he already has convenient and practical access. There is no option to deny access completely. The public hearing was opened.

Stan Long, 101 East Broadway, representing the applicant, asked how the decision would be implemented. He said the gentleman's agreement had been honored to this time and said that he thought the simplest option was number four. Rust inquired if Taylor Road exists as a normally used road. Long said that his contention was that it does exist but that the County Counsel did not agree. Now that ambiguity had been cleared up by the state. Long said the applicant was asking for Taylor Road just to Highway 101 but not on through to Clear Lake. Rust said he saw this as the establishment of a new County road. Long said that option four would establish it as a public way. That would not make the County responsible for improving it immediately. Rust noted that making it a public way would not limit the use of it to Mr. Parks and that a number of undeveloped properties could use it as access for more development at Clear Lake. Long said future decisions were entirely within the County's province.

Susan Pease, 795 Willamette, representing Mr. Homer Wilkins, with property adjacent to and north of Mr. Parks, had questions about the rezoning of Mr. Parks property and a right-of-way of only 20 feet in width. Homer Wilkins stated that there was no record of a road when he bought his property and that he has been paying taxes on the whole parcel. He thought there was a good chance that a portion of County Road 386 had been vacated in effect. Rutherford inquired about the 20-foot width and the proximity of homes to the center line of the right-of-way. Wilkins said the road that was called 386 ran through his place and is under water two months of the year. In answer to a question he said he had bought his property in 1974 or 1975.

Gary Parks, Box 1908, Eugene, said it was true that there was water standing where Wilkins said. That was not the part that he wanted to use, and it was Friendly Acres Road that was 20 feet wide. He said he would have to build the road up a lot higher than it is now. Rutherford remarked that it was very narrow, and Parks said that the second house was actually sitting on the existing road. t'Hooft asked how much of Parks' property was affected by high water, and he said none since his property is higher up. Rust asked if he did not have to have a residence there in order to get a way of necessity. Parks said that he had asked for residence. Rust wanted to know if he had any intention to provide access in order to subdivide his property. Long noted that the County had control over subsequent land use undisputedly. That control could be exercised when the property owner made a proposal. Rust contended that establishing a public road puts it in a different category. Long said that the present decision has to rise or fall on its own merits.

Delbert Pifer, 05519 Friendly Acres Road, Florence, said he lived in that area and represented people who lived there and also in Indian Village. He said his group did not want a lot of use of Friendly Acres Road, where there is only approximately 45 feet between aprons of the driveways. To the north of Friendly Acres Road is Forest Service property that comes down to Highway 101 and there was a sand dunes road there. His group would like to see option four and have old County Road 386 vacated. Freeman asked if he had talked with the West Lane Planning Commission about it and Pifer said no. Rutherford said that he thought at the September 4 meeting the Board had referred the matter to the West Lane Planning Commission for a reply in 90 days. Pifer said that Road 386 was one-half to three-quarters of a mile from Taylor Road. Susan Pease read a letter from George Price dated August 2 which said that the right-of-way was too narrow. The public hearing was closed.

Rutherford inquired of Counsel if there was a possibility of granting a private road. Van Vactor said there was a way to do it which would amount to an easement, but that it would probably be clouded because a perpetual right-of-way would take private rights. t'Hooft said that as a citizen he thought he would resent being precluded from using land that was public. He preferred option one.

Rust moved to refer the request to West Lane Planning Commission; t'Hooft seconded. Rust stated that a dunal aquifer study was being made in that area, and he thought that it should be completed and a recommendation come from Environmental Health before the property could be developed. He thought West Lane Planning Commission was in a position to guard the area. Rutherford disagreed. t'Hooft stated that the West Lane Planning Commission had designated this area as one in which they intended to rezone. He thought the Board should remain uninvolved meantime. Rutherford thought that referring it would simply delay the matter and he preferred option four. He said that it would be possible to charge them to take it up as soon as possible. Rust inquired about a finding that the area is not being farmed and that it is not a residence. Rutherford thought that WLPC would favor Taylor Road. t'Hooft said that he would favor asking WLPC if they want to consider this. Rust stated that the Board could ask the Board of Viewers to look at the possibilities again. George Price said that he had issued a facility permit for County Road 386. Del Pifer said that if that right-of-way was opened to 60 feet width it would encompass three or four houses. Freeman said that he would like option four.

On the question, t'Hooft voted aye; the other Commissioners voted no and the motion failed. Freeman moved to accept option four; Rutherford seconded. Rust moved to amend to locate the right-of-way along Taylor Road and to designate it a perpetual right-of-way for Parks; Rutherford seconded. Van Vactor noted that this action would cloud the right-of-way, and that the Attorney General has held that utilities can not be located on a perpetual right-of-way. On the amendment, all voted aye; on the main motion all voted aye and the motion carried.

25. ENVIRONMENTAL MANAGEMENT

- a. SECOND READING, PUBLIC HEARING AND ACTION/Ordinance No. RN 122-79
Naming Certain Private and Public Roads: "Williamson Lane," "Bricker Lane," "Reed Lane"

It was noted that all property owners had been notified. The public hearing was opened. Clarence Miller, 11760 Highway 36, Mapleton, spoke in favor of Bricker Lane. The public hearing was closed. t'Hooft moved approval of the ordinance as presented; Rutherford seconded; on a roll call all voted aye and the ordinance was adopted.

- b. CONTINUED SECOND READING, PUBLIC HEARING AND ACTION/Ordinance No. 752
Rezoning Certain Land in Section 31, Township 17 South, Range 5 West, W.M., From Agriculture, Grazing and Timber Raising (AGT-5) District to Rural Residential (RR-2) District With Possible Exception to Statewide Land Use Goal #3 (Agriculture)
Applicant: Daryl Sole, ZC 79-179
Location: Huston Road, Adjacent to Veneta City Limits

Joe Hudzikiewicz, Planning Division, presented background material and stated that the agriculture goal must be addressed since there were Class II or III soils. Public need and other criteria would also need to be addressed. The Lane County Planning Commission had recommended denial of the rezoning. He cited a letter from the City of Veneta expressing concern about these developments because there were no water facilities available at this time. He said the city requested the following conditions if the rezoning were granted: dedication of a 40-foot strip along the northerly edge of the property for East Bolton Road street right-of-way; any new street created that might be annexed to the city in the future to be a minimum 60-foot right-of-way; and installation of street improvements at the time of development, or execution and filing as a deed restriction and agreement for public improvements with Lane County and the City of Veneta stating that the owner would agree to participate in street improvement projects in the future. The public hearing was opened.

Jon Wu, 259 East 5th Avenue, representing Daryl Sole and William Phillips, said he understood that the only objection to the request was the failure of the applicant to address public need and he questioned whether public need would have to be addressed when there is conformance with the Plan. He said that applicant had no objection to complying with the requests from the City of Veneta. As to the best use of the land, he said it was not suitable for grazing, that the timber had been cut in 1976 and with something like 100 homesites nearby under five acres in size, it was not suitable for timber raising. Rust stated that Counsel had advised the Commissioners that public need had to be considered. Wu said he thought conformity with the Plan was the answer to that but that what is available on the market in the area is homes that are already built. Rust and Rutherford requested him to address Statewide Goal #3. Wu said the development proposed would have no long-term disadvantageous effects on the area but eventually quite otherwise. The request was consistent with the existing environment and the impact would be quite normal. Freeman asked if the area had been logged and Wu replied yes.

t'Hooft inquired about surrounding property and whether there was marketable timber within the city limits. Wu said that he did not know of any. Rutherford described the area briefly as he knows it. t'Hooft inquired about drainage and Wu said that this had been anticipated and that five sites for subsurface drainage had been approved. Freeman asked if there had been any attempt to replant trees. Wu said that it was not a practical consideration.

Bill Phillips, co-applicant, said he had met with the Veneta City Planner on November 20. The basic concern of the city was for the dedicated road. He said that any concern about drawdown of the city water table was not serious because of the location of the city well which was quite far away. He said there was no dwelling on the site now - what showed on the map was a septic site - and that this had been gone through with the Planning staff. He thought the real question was the best use of the parcels.

Daryl Sole, co-applicant, stated that there was standing water in the winter on the property because of an insufficient culvert. He said if the rezoning takes place that there would be a considerable improvement in appearance and that the only thing seen from the road would be one additional house for himself.

In opposition Vicki Natah, 87864 Huston Road, stated that the standing water she was concerned about was on the back piece of property which drains onto her property. She also stated that the City of Veneta had approved a new well to be drilled close by. Rutherford interjected that he wanted to clear up something about the city water supply. There had been a moratorium because of the lack of water but now a bond issue had been passed and water would be available. However, sewers were another question. Natah continued by questioning public need, saying that there were 30 lots of up to five acres each within a 10-mile radius on the market, as well as 10 houses for sale inside the city limits. She asked why do the rezoning if people do not want to live there, and if this property were to be rezoned there would be requests from all of the other people surrounding.

In rebuttal Phillips said there was a lot of property available but in smaller parcels. The standing water in the winter season he planned to deal with. The public hearing was closed.

Rutherford moved approval of the ordinance; Freeman seconded. Rutherford said he thought that the applicants had spoken to the exception process and had agreed to meet the requirements of the City of Veneta. He said the Planning Commission's denial was based on lack of dealing with the public need and that he thought that had been demonstrated. Rust stated he did not think the applicant had demonstrated public need and that if it did exist it had not been demonstrated why this parcel met the public need better than another. The timber goal was not addressed he said. He stated that there was very little development inside the city and that the city was trying to provide services in an orderly manner. t'Hooft stated that there was a large zone of AGT-5 and only a little nook of RR-2. There was a possibility the whole area should be zoned RR-2. In terms of public need he did not feel that it had been answered.

On the question Rutherford voted aye; the other Commissioners voted no and the rezoning was denied.

27. EXECUTIVE SESSION as per ORS 192.660 (Commissioners' Conference Room)

- a. Litigation; b. Personnel Matters; c. Negotiations

Rust moved to adjourn to Executive Session for a brief time as per ORS 192.600 for the purposes of litigation, personnel matters and negotiations; t'Hooft seconded; all voted aye and the motion carried.

The regular meeting resumed at 5:37 p.m.

25. ENVIRONMENTAL MANAGEMENT (Continued)

- c. APPEAL of Hearings Official's Conditions of Approval of a Conditional Use Permit

Applicant: Weyerhaeuser Company, CUP 79-274
Appellant: Arline Hill (420 Residents by Petition)
Location: Two Miles West of Dugan Lane, Cottage Grove

Joe Hudzikiewicz, Planning, presented this appeal for a Conditional Use Permit for an industrial solid waste landfill. Among the conditions set by the Hearings Official were conformity with the general plan; a compatibility with the surrounding area by means of screening, etc.; control of seepage from the area, which could be taken care of by precautions in the planning and by monitoring by the Department of Environmental Quality; and precautions about fire danger. He also introduced a letter of appeal with 20 signatures of residents from the area. Assistant County Counsel Van Vactor reminded the Board of the need to address the statewide goals. The public hearing was opened.

Arline Hill, appellant, stated that there were houses below the proposed site and that there was concern about traffic on the road and about water quality because of draining of leachate into wells into the area. She stated that most of the signers of the letter of appeal lived on Dugan Lane, Dugan Road and Kenady Lane. Rutherford asked what her concern was about the leachate, and she replied that she was concerned about the pH level. She was also concerned because the monitoring plan covered only the first year of operation. Freeman inquired if there was timber on the property, and Hill said that there was timber on their property which adjoined.

Pete Lightcap, 77698 Dugan Road, said that one of the concerns was that the site was planned for 50 years of use, a long time to put material in there without knowing what the effect would be. His property used spring water and was down the slope from the proposed site. He also cited hazardous road conditions because of curves, and that too needed to be investigated. t'Hooft stated that a Conditional Use Permit was not for 50 years although the company plans might be for that period.

Tom Neely, 31362 Lynx Hollow Road, said he lived at the end of the road and was concerned about both the water situation and the road.

There is a school bus turnaround at the end of the road and two bad corners to go around.

Thelma Spores, 77680 Dugan Road, said their property was at the crest of the hill, and they were worried about water. They had a good spring, and water was valuable. They were also concerned about truck traffic on the road. She wondered what could be done if the water should become contaminated and whether an inspection would be made after the first year.

In opposition, Dan Morgan, environmentalist for Weyerhaeuser Company, described what Weyerhaeuser's plans were. He said the present landfill would last only for another three years. The need was for placing 30,000 cubic yards per year consisting of fly ash, log pond dredgings, yard scrapings, and some rocks and dirt. Rutherford inquired where the site was, and Morgan said that it was two and one-half miles out the Weyerhaeuser logging road southeast of their mill site and toward Cottage Grove Reservoir. Options for the company would be County landfills at Cottage Grove or at Short Mountain, but the Cottage Grove site would be a 20-mile round trip from the mill, and the Short Mountain site would be a 40-mile round trip.

Rust inquired if there was any provision for a holding pond to catch runoff from the landfill site. Morgan said that this was being considered but that the site was a long distance from any water that might be harmed. Potential use of the site would be for 50 years, but every time an expansion was desired, the company would have to get a new permit and the permit had to be reviewed every five years. Rutherford inquired about monitoring, and Morgan said that the company would be doing the monitoring itself during the entire use of the site.

Rust stated that he had to leave the meeting and would like to see this subject carried over since it was very complicated.

Morgan said that the Department of Environmental Quality had approved the site. There was a possibility of using the site for wood scraps only at the beginning which would permit the use of the existing site to be extended to six years from now instead of three. He showed transparencies of the site plan and said that it had been checked with virtually every authority, including the County Solid Waste Division, and satisfied all the criteria they had been able to find out about. Freeman suggested that proof of quality control could be added to the Conditional Use Permit. Rutherford remarked that the nearest residence was about one mile away. Morgan said that the Weyerhaeuser trailer would be about 1,000 feet away and that the site was about one mile from the nearest residence not owned by Weyerhaeuser. The company would report quarterly on the number of cubic yards put on the site to the DEQ.

Hill said that their house was at the bottom of the hill where the trucks would be going up and that the drainage ditch from the site came down over a corner of their property. Just below their house was their well and the neighbor's spring was just half a block from that. The public hearing was closed.

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t'Hooft said that Weyerhaeuser had put on a comprehensive presentation and suggested that the water problem be addressed by Environmental Health, and that Public Works might determine whether the road was adequate to handle the traffic and whether it should be posted for a specific speed. He moved to continue to December 19, but the motion died for lack of a second. Rutherford remarked that there were definite concerns but that from contact in the past and cooperation with DEQ, he thought the company was on solid ground. t'Hooft moved to continue for one week for a report from Public Works and possible rebuttal by the company; Freeman seconded; all voted aye and the motion carried.

- d. APPEAL of Hearings Official's Denial of a Special Exception
Applicant: Michael Sullivan, SC 79-283
Location: Horse Creek Road, McKenzie Bridge

Hudzikiewicz, Planning, stated that the property concerned was near McKenzie Bridge on Foley Road and that there were no unusual circumstances justifying a special exception. The owner wanted a building site for a relative who would share the work on timber raising and share the farm. The proposal was to create a one-acre parcel from a three-acre parcel in an FF-20 District. The public hearing was opened.

Patricia Skaggs, representing the applicant, said that the property was bought in 1973 in two parcels, and at that time, one acre parcels were permissible. The owner's intention was to build a small home after the children were gone and put the large house up for sale. Most of the property in that area was in small homes, and in 1973, the zoning was not in there. No one appeared in opposition.

The public hearing was closed. Rutherford moved to overturn the Hearings Official and grant the special exception; t'Hooft seconded. t'Hooft noted that the property was acquired at a time when it would have met the Code requirements and that it was not natural resource land. He also noted that, although the land was originally in two parcels, it had come under the law making contiguous tax lots under the same ownership considered as one for purposes of resale. Hudzikiewicz noted that the unusual need or circumstance was the well being of the applicant. On the question, all voted aye and the special exception was approved.

- e. APPEAL of Hearings Official's Modification of a Conditional Use Permit
Applicant: Jerry Bingham, CUP 79-296
Location: 2699 Garden Avenue, Springfield

Hudzikiewicz, Planning, stated that this was an attempt to correct an error that had been in the conditions of approval over the years starting in 1963. Under the current use permit, the Hearings Official had dropped the time limit but retained the other conditions of the permit which included dedication of a strip of the property for an extension of Garden Avenue. The property under the present ownership does not abut Garden Avenue and appeared on a Board order by mistake. The public hearing was opened.

In opposition, Pandall S. Hledik, appearing for Wildish Land Company, stated that the company still wanted to develop Tax Lot 2600, and he requested that the conditions be appropriately applied and enforced. Hudzikiewicz stated that the requirement for dedication was appealed, and the Planning Commission granted a waiver.

t'Hooft moved to continue the public hearing for Legal Counsel to research a remedy; Rutherford seconded; all voted aye and the motion carried.

f. CONTINUED THIRD READING, PUBLIC HEARING AND ACTION/Ordinance No. 764
Portions of Siuslaw-Lake Creek Subarea and Possible Exception to
Statewide Land Use Goal #3 (Agriculture)

Phil Bredesen, Planning, stated that this public hearing was continued so that two people who wished could testify. The public hearing was opened.

John Radsloff, Tax Lot 302 (20-16-12), said he had been at the first meeting in June in Mapleton and that he thought that the economic situation of owners could be considered. Then he heard that it was not considered applicable. He said he thought something was wrong with the system.

Tom Doster, Tax Lots 400 and 500 (18-9-7), 12421 Highway 26, Mapleton, said he wanted to build a trailer court on his property.

The public hearing was closed. Rutherford moved that those shown on the list as having plan conformity or low potential plan conformity be granted the zoning requested; t'Hooft seconded; all voted aye and the motion carried. Assistant Legal Counsel Van Vactor noted that these are tentative votes leading up to the overall vote on the ordinance.

t'Hooft moved to grant Jean Cauthern, Tax Lots 200 and 300 (16-9-21), zoning FF-20; Rutherford seconded; all voted aye and the motion carried.

t'Hooft moved to grant Oren Posner, Tax Lot 1200 (18-7-5), zoning RG; Freeman seconded; all voted aye and the motion carried.

t'Hooft moved to modify zoning for Millard McVay to RR-2 for Tax Lots 2200 and 2400 (16-7-18) while keeping FF-20 for Tax Lot 2401; Freeman seconded; all voted aye and the motion carried. t'Hooft moved to deny items of plan nonconformity and to have a memo sent to all those in this category concerning the alternative rural plan; Freeman seconded; all voted aye and the motion carried.

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Rutherford moved approval of Ordinance 764 as modified by the items listed above and previous modifications already adopted; Freeman seconded; on a roll call Freeman, Rutherford and t'Hooft voted aye and the Ordinance was adopted. (Rust and Weinstein had left the meeting earlier.)

This meeting adjourned at 9:20 p.m.

Reba Charles
Recording Secretary to the Board