

MINUTES & NOTICE OF BOARD ACTION

BOOK 150 PAGE 1875

APPROVED

6.9.92

LANE COUNTY BOARD OF COMMISSIONERS

This document, upon approval in a public meeting by the Board of County Commissioners, serves as official minutes of such meetings as required under the Open Meetings Law, ORS 192.650.

Pursuant to notice made by mailing agendas to news media, a selected list of jurisdictions and individuals in Lane County, a meeting of the Board of County Commissioners was held.

Questions should be directed to The Board Office Specialist 3, ext. 4203.

May 6, 1992
1:30 p.m.

REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

Harris Hall
Main Floor

Chair Ellie Dumdi presided with Steve Cornacchia, Marie Frazier, Jack Roberts and Jerry Rust present. Judy Haldeman, Recording Secretary.

12. COMMISSIONERS' ANNOUNCEMENTS

None.

13. FIFTH READING AND DELIBERATION/Ordinance No. PA 1013/In the Matter of Amending the Eugene-Springfield Metropolitan Area General Plan to Adopt the Gateway Refinement Plan, Adopt Related Amendments to the Metro Area General Plan Diagram, Adopt Related Rezoning of Properties Within the Springfield Urban Growth Boundary, Adopt Related Amendments to TransPlan, Adopt Related Amendments to the Public Facilities Plan; and Adopting a Savings and Severability Clause.(Michael Copely) (NBA & PM 1/8/92, 1/14/92, 1/29,92, 4/1/92 & 4/15/92)

Dumdi read this ordinance into the record. Jacquelyn Mikalonis, Senior Administrative Analyst, presented this item to the Board. Cornacchia commented that a group was meeting to discuss the triggering mechanisms for the two roads, Game Farm Road and Pioneer Parkway. He stated that Springfield City Council still had two actions to take regarding changes made by Lane County and the additions presented by the trigger group. Stephen Vorhes, Assistant County Counsel, suggested that the Board defer action on this ordinance until a later date. MOTION: To approve the Fifth Reading and move deliberation to a later date following action by the Springfield City Council. Cornacchia MOVED, Roberts SECONDED. VOTE: 5-0.

14. DISCUSSION/Mass Gathering Permit. (William Van Vactor, County Counsel)

- Preemption
- Procedures

Bill Kloos, representing the applicant, stated that he had filed a land use application initially. He commented that he agreed completely with the County attorney's opinion which stated that it was clear that the Legislative intent was that preemption was intended and that only the mass gathering permit was needed.

Mike Farthing, representing the appellants, commented that the legislative history is not clear and that land use is not superseded by the mass gathering permit. He stated that people should be given the opportunity to review the off-site impacts by using the land use code in this case.

Rust commented that for a temporary gathering the state, and therefore the County, has an interest in health, safety, fire, sanitation, traffic and emergency issues and he would agree with Legal Counsel opinion that the land use regulations at the local level have been preempted by the statute. He stated that it was not the role of the Board to regulate speech, content or types of people who wish to gather, but rather the very legitimate concerns for health, safety, etc.

Roberts commented that the arguments by County Counsel were compelling. He stated that the 2-pronged test asks: are the regulations on their face incompatible and what did the Legislature intend. He stated that if the County ordinance is not inconsistent with the statute then he believes that the County must comply with both. He commented that the state statute was intended to preempt local land use though he would concur that this is not good law.

Frazier excused at 2:40 p.m.


Dumdi stated that she shared the concern of other Board members about the narrow vision of the Legislature regarding this statute. She stated that she is concerned about the impact this mass gathering will have on the community and that she would vote no. MOTION: That land use authority has been preempted by state statute. Cornacchia MOVED, Roberts SECONDED. VOTE: 3-1, Dumdi dissenting. Cornacchia added that he was heartened by the comments made by Kloos with regard the conditions being met by the applicant. Cornacchia asked if the permit could be revoked if the conditions were not complied with and Vorhes stated that it could be revoked if the process is spelled out in the permit process, though he could not guarantee that there would be no liability. The Public Hearing on this issue will be held May 20 at 7:00 p.m. in Harris Hall.

15. OTHER BUSINESS

ORDER 92-5-6-15/In the Matter of Settling the Claim of Dennis Knobla

MOTION: Approval. Roberts MOVED, Cornacchia SECONDED. VOTE: 4-0.

There being no further business, this meeting adjourned at 3:30 p.m.



Judy Haldeeman
Recording Secretary