

NOTICE OF BOARD ACTION

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.

September 2, 1992
1:30 p.m.

REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

Harris Hall
Main Floor

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

10. COMMISSIONERS' ANNOUNCEMENTS

Frazier expressed her condolences to the family of James S. Campbell who was killed while fighting a fire in Oakridge. She also requested that State Representative Marie Bell be permitted to speak to the Board regarding her concerns about the Armitage Homeless Camp.

Marie Bell, State Representative for District 41, 1262 Calvin Street, stated that she was speaking as an advocate and representative of District 41, at the request of some of her constituents in the Coburg area who believe that there is an imminent fire danger at the homeless camp due to unauthorized camping. She indicated that she was not speaking about homeless camping, but questioning whether some of the persons camping were indeed homeless. She noted that there are unauthorized fires being lit in the camp, guns are being fired, there are reports of glass and syringes in the water which is being polluted and waste products are not being dealt with. She said she was extremely concerned about pollution in the river and that her constituents are asking that the laws be enforced. She commented that the County and the State have authorized these illegal activities by not enforcing the laws, and asked who would accept the liability if a home is burned or if there's a death due to drunk driving by occupants of the camp on that road. She suggested dealing with the homeless issue by transferring these people to the park across the river which has toilet facilities, running water and driveways through it so it can be patrolled by the police.

Rust commented that he has personally visited the site at least half-a-dozen times and was a little surprised at Bell's characterization of the camp. He knew that some of the clean up which has occurred was the work

of the campers. He stated that Commissioner Frazier and he are co-chairs of a committee to deal with this on an on-going basis. He invited Bell to attend the next meeting of the committee. Rust said that illegal fires should be the highest priority and would advocate moving immediately to see that illegal fires are not set. Rust noted that when the October date was set, it was thought that there would be some transitional planning and that the County and the State would share in that responsibility.

Rust said that the County had studied the cost of implementing sites such as outlined by Bell and suggested that Bell work with the County through the legislative process to make siting such camps a little more affordable.

Roberts said he has been to the area, seen where the camping site was and did not think that transferring it to Armitage Park was a good solution. He said that the County suggested the October date as one on which the state should act, and the state has exclusive responsibility over that while the County has none.

Frazier commented that she thought that the authority and liability clearly lies with the state. She said it might be best for the County to back up Bell in some form of action. Frazier also said she had talked to the Coburg Police Chief who said he has seen a lot more out-of-state persons at the site. Frazier suggested that the County advocate the State Fire Marshall or whoever is responsible, to take steps to check on the fire danger.

COMMISSIONERS'S ANNOUNCEMENTS (Continued)

Roberts distributed copies of an article in Newsweek, which he thought might be helpful in preparing for the September 21 meeting.

Cornacchia requested approval to use some staff time in Public Works. He remarked that Game Farm is now being used as an alternative route for large semi-truck travel and he was requesting that he be allowed to discuss the matter with Public Works and then come back to the Board. The Board approved this request.

Dumdi shared with the Board a letter of commendation received by the Public Safety Department from the US Department of Justice. Dumdi also announced that a letter was being sent to a member of the West Lane Planning Committee requesting him to submit his resignation to the Commission due to lack of attendance at meetings.

Dumdi announced she had a received a letter from Robert Bumstead, Conservation Chairperson of the McKenzie Flyfishers, commenting on some positive aspects of the riparian vegetation proposal.

Dumdi brought the attention of the Board a notice published in the Oregonian yesterday regarding an initiative petition requesting a charter amendment authorizing city jurisdiction over county roads within cities.

Roberts noted that Lane County has done basically the same thing via Urban Transition.

Dumdi announced that last week she attended the Oregon Coastal Zone Management Association summer meeting over a three-day period, during which two very interesting presentations were made, one on fish spawning and the other regarding environmental concerns in the Pacific Northwest.

Dumdi also shared a newspaper report dated August 12, 1992, from the Virgin Islands which she visited three weeks ago. It read "Dead Field Trip Postponed" and stated that was how she found out that the Grateful Dead concert was postponed.

#11. PUBLIC HEARINGS

- a. SECOND READING AND PUBLIC HEARING/Ordinance No. 10-92/In the Matter of Amending Chapter 16 of Lane Code to Revise Riparian Vegetation Setback and Management Regulations

Dumdi read the ordinance into the Record.

Kent Howe, Planner, Public Works Department, presented this item to the Board, and gave a history of the background pertaining to this ordinance. He noted that two alternatives presented today are identical as far as development setback, development plan, enhancement plan and restoration requirements and that they differ in that Alternative B divides the setback area into a primary and a secondary area. Graphics were displayed to compare Alternative A and B.

Dumdi opened the Public Hearing.

Jim Goodpasture, 45311 Goodpasture Road, stated that he supported the proposed setback in the riparian vegetation management regulation and prefers Alternative B. He indicated there were two changes he would like to see in the proposal: 1) consideration of a no fee/minimum fee for someone who wishes to undertake a voluntary management plan to rehabilitate their property; also a mechanism to provide various generic plans with different results for people to choose from when doing so and a list of indigenous plants and possible sources to acquire them; 2) under Alternative B the cutting of vegetation with less than three inches in diameter at two-feet would not allow for replacement of larger vegetation if it becomes diseased or dies. Goodpasture felt that continuous cropping at the two-foot level will eventually kill the vegetation due to root death; the cutting level should be above two-feet but not over eight. He distributed copies of his statement to the Board.

Becky Solomon, President of McKenzie Valley Residents Association, stated she was representing the board of that association. She indicated that in general the Board of Directors supports

Alternative A as proposed in the Lane Code for the changed setback ordinance. However they had several concerns: 1) the enforcement policy was strictly complaint driven. There could be some inequity in this type of enforcement; 2) there is no language in the ordinance regarding a grandfather clause for anyone who had developed their property prior to this new ordinance; 3) she concurred with Bill Goodpasture's remarks regarding the riparian setback enhancement; 4) there is some conflict between the recommended 30-foot fire break around residence in rural areas and the setback area. She asked if 30-feet of vegetation is removed from around a house, will the owner still be in compliance with the setback laws?; 5) how will the County educate the public regarding this new code; 6) disclosure to new property owners. How can they be educated so they can avoid violating the code. She distributed copies of her statement to the Board.

Cornacchia queried Solomon regarding her remarks on Alternative B, that it significantly changes the allowable removal of vegetation. Solomon said under Alternative B there are two zones, primary and secondary. At present, removal is accomplished as set out in Alternative A, and as it exists in the Code, on a percentage basis. Alternative A just clarifies the existing code in that sense. Alternative B actually divides the area into two sections and makes it so that the property owner could remove less vegetation from the area, and her Board does not agree with that.

Jim Baker, 51013 McKenzie Highway, representing the McKenzie Guardians and the Oregon Natural Resources Council, said that his groups recommended Alternative B because it allows a viewshed which is an important factor in waterside property and stabilizes banks. However, they strongly recommended that there be no fee for enhancement plans from non-violators but supported substantial fees and fines for violators.

Louise Bilheimer, 286 East 18th, State Conservation Coordinator for the Oregon Rivers Council, offered support for Alternative B of the ordinance because it offered better protection overall. There is a concern, already expressed today, which is that cropping some species over time will eventually cause root death and consequent death of the vegetation. The Council supports the testimony of others today that there should be a fee differential at a minimum and ideally, no fee, when people voluntarily present an enhancement plan. There should be fees for violators. Bilheimer said that the Council is willing to assist the County, or private individuals, in helping to educate the public to the need for this ordinance.

Rust commented on Bilheimer's statement regarding the death of vegetation from steady cropping. He asked if the Council thought that in the six-foot window of space the vegetation would die there. Bilheimer replied yes, where the vegetation is cropped, it will eventually die off.

Bill Goodpasture, invited the Board to visit his home across the Goodpasture Bridge which is supporting osprey, geese and beaver. He said he does not believe that bureaucracy should become involved in this area. He stated he has been taking care of his property and it is in harmony with the environment. He stated that his biggest worry was fire danger, but that there were no regulations in place for this danger. He is vehemently against the bureaucracy interfering in any way with how property owners care for their land.

Rust commented that he thought Alternative B was in line with what Goodpasture related he was doing for his property and that the County wanted to work with responsible people like Goodpasture.

Vernie Johnson, 45241 Goodpasture Road, commented that the Board should be aware of the mandate coming from the people. Rural people are very upset at the loss of personal freedoms in the name of public use, endangered species and water quality when the basic violators are excluded. In this ordinance, farmers, foresters and EWEB are excluded. All levels of government should cooperate to produce a plan which would be applied equally. This ordinance does not deal with the pollution from the Weyerhaeuser pulp mill and pesticides used by agricultural interests which pollute the river. The Forest Practices Act is specifically mentioned as being excluded. Johnson said that most of the polluted waterways are in the urban growth boundary and that the County is responding to special interests groups. She suggested that the County look at the state watershed enhancement plan which is voluntary, good, healthy and promotes cooperation rather than polarization.

Priscilla Oxley, 48148 Conley Road, identified herself as a riverfront property owner. She said that those property owners who have the pleasure of living on waterways have a responsibility beyond that of a person who just sits on a normal lot. She supports Alternative B which in her opinion does the best job of balancing the needs of the property owner and the needs of the river. She suggested that there be a provision for helping people who buy, inherit or just decide that they want to enhance their property. This should not be a costly alternative. Violators should be dealt with effectively.

Robert Haas, 40973 Deerhorn Road, had a comment regarding a brochure from the Fire Department. In it is an item which says if the property does not have city water available for firefighting, it should have access to within 16 feet of the river. Alternative B does not provide for anything of this nature, because two-foot of growth is needed, which does not conform to this requirement. He said what is needed is a coordinated plan by all agencies which have responsibility for the river, so that property owners can look at it and know exactly what to do without being in violation of county ordinances or state laws. Looking at Alternative B based on height

rather than overview, the clearing does not allow a riverview in many cases. He suggested an adjustment in this aspect of the plan.

Rust asked whether Haas would favor allowing the property owner to raise or lower the six-foot window proposed according to the viewshed opportunity. Haas commented that as each property is different the size of the window would need to be changed according to the angle of the property, and he was not sure the six-foot window would work. Haas said he preferred Alternative A because there is no restriction in height.

Paul Hoobyar, representing the Oregon Guides and Packers, supported Alternative B. He agreed that there should be a differential regarding voluntary enhancement plans and that there should be no fee for voluntary action and a fee for violators.

Bob Bumstead, 3570 Glen Oak Drive, representing the McKenzie Flyfishers, also supported Alternative B. He commented that most of their concerns have already been addressed by speakers today and agreed that there should be no fee for voluntary enhancement plans. One issue of concern not yet addressed, is in Section 2 B1, the minimum of 50-feet which could be cleared from a lot under 200-feet. He said on lots which are curved or pie-shaped, it is conceivable that all vegetation could be taken off the curve, if the lot had only 50 feet on the river. He would like to see some adjustment to the 50-foot minimum. He also suggested that definitions be included in the document so that property owners are clear about what certain terms mean.

Jim Hutchison, 825 Stevens Drive, said he supported Alternative B as it was a stronger plan especially with regard to water quality and bank erosion. He considered that the two-foot retention of brush and vegetation was a little low and suggested a different height.

Jeff Ziller, 3150 East Main Street, District Biologist, Oregon Department of Fish and Wildlife (ODFW), supported either of the alternatives proposed, with the addition of some incentives to educate the property owners of the county on how to better manage their riparian areas. He offered the assistance of the department to that effort.

Rust asked Ziller his opinion on which feature of Alternative B is a drawback to wildlife preservation. Ziller replied that under Alternative B there is no provision which allows plants to regenerate themselves into the full canopy. He noted that there may come a point at which while there is two feet of vegetation on the lower end, all of the other trees have been removed because of safety problems, so the property ends up with a two foot canopy which is less than what the Department would like to see for some birds and species and shading.

Frazier asked Ziller regarding the recommendation of zone designations along Class I streams, if that would include UGB areas also. Ziller said that ODFW would like to see that but understood the tradeoffs.

Vern Bloomhaven, 47182 Goodpasture Road, said he believed that the ordinance was to promote a viewshed from a house on a lot on a stream or river. Bloomhaven supports Alternative A.

Frazier asked Bloomhaven for his comments on the fire break area. He replied that there was a conflict with accommodating the recommended fire screen and being in compliance with the ordinance.

Cornacchia explained that in directing staff regarding this ordinance it was never the intent of a majority of the Board to further limit the 25 percent removal. The main intent was to deal with property owners who had removed more than that, leaving no option of having the vegetation restored. When the concept of the window in Alternative B was suggested, there was no intent to limit the amount of vegetation, but to try to expand the viewshed of landowners. Cornacchia stated that Alternative B seems to be a further restriction on what is presently allowed. A solution would be to lengthen the lineal frontage of the viewshed. Cornacchia commented that he thought that Alternative B would retain vegetation but allow more viewshed, but after these discussions he understands that it does the opposite.

Marty Douglas, Governmental Affairs Coordinator, Eugene Water and Electric Board (EWEB), said while EWEB staff leaned toward Alternative B, but he does not know which alternative their Board supports as yet. However, he expressed the support of the utility for either alternative of the ordinance from a water quality standpoint. He feels that there are aspects of the present ordinance which need improvement and this new proposal does that. He offered EWEB's financial assistance in any education program, and stated that they were ready to work with County staff on this aspect.

There being no one else present who wished to testify, Dumdi closed the public hearing.

Cornacchia said he would like to see some protection for property owners who are not responsible for pre-existing alterations. He remarked that the intent of the Board was to deal with ongoing situations of violations and the restoration of vegetation. He supported discussions on some suggestions expressed today: 1) the issue with regard to voluntary enhancement, no fee or fee; 2) a list of native or indigenous vegetation; 3) addressing the issue of fire breaks; 4) a list of definitions, and the use of indigenous and riparian vegetation terms; and 5) the issue of curves on rivers and the potential of all vegetation being removed where there is a

possibility for high erosion. He noted that until there was further discussion on these points as well as Alternative B, he was not ready to approve this ordinance.

Roberts agreed with many things said by Cornacchia, but reached a different conclusion. He said he continues to support Alternative B and would like to see it further explored with regard to height and flexibility. The current ordinance in place has many problems and Roberts would like to have Alternative A approved today which codifies what the existing ordinance does but eliminates the ambiguity, provides for mitigation and presents some opportunities for enhancement. This would give the County a chance for better enforcement. He would like to continue to look at Alternative B as well as the suggestions made this morning, over the next year, either as an alternative or supplemental, and if the Board is comfortable with it, then adopt it or modify Alternative A.

Rust said he supported Roberts' recommendation regarding Alternative A. He mentioned that both ODFW and EWEB have expressed interest in cooperating with the County in a voluntary education program and he would like to accept these offers, as this might give people a better understanding of what the ordinance wants to do and encourage them to take better care for their properties. He agreed with the recommendation by Roberts to make a list of additional issues on which there are questions and work with it and then come back for a resolution.

Frazier commented that many of her ideas paralleled those of Cornacchia. She asked whether there was a list of indigenous species. Kent Howe responded that there was a list to be used as a handout as part of the education process if one is developed in cooperation with EWEB. Frazier also questioned if indigenous plants could not survive in an area or were diseased, if the possibility of replacement by other species had been considered. Regarding EFU use she wanted to know if there were instances where the indigenous species would not be compatible with a particular farm use. She concurred with the pre-existing alterations issue and said specific language concerning this should be incorporated into the ordinance.

Frazier said she is against assessing a fee for a voluntary enhancement plan and does not think that making exemptions for certain property owners is a good idea. Frazier said that if there were natural causes that impacted riparian vegetation, there should be a process to address that.

Dumdi commented that the input of the persons testifying today has been very helpful. Her concern is with a buffer for the protection of the riparian area, and whether Alternative A or B is chosen, that buffer needs to be included for the protection of the river. She prefers that a final decision on this ordinance be postponed in order to address the loose ends mentioned here today.

Cornacchia asked staff their preference regarding adopting a final decision today, and then come back in 30 days with proposed amendments in several areas, or come back in 30 days with the amendments fully developed for inclusion into this ordinance? Howe responded that they would prefer to come back with a full ordinance in 30 days, but that the planning commissions would have to be involved. Roberts' questioned why, and Assistant County Counsel Steve Vorhes replied this is due to the nature of the changes proposed, some are significant, and were not part of the discussion and deliberations of the commissions.

Cornacchia proposed that staff come back in two weeks with options for amendments to the ordinance and then move forward to final approval. He is willing to support Alternative A, with the understanding that Alternative B is going to be developed as part of the work plan of the department for the future. He proposed amendments to the language in Alternative A regarding: 1) public property exclusions, if any (EWEB); 2) pre-existing alteration; 3) natural causes (beavers etc.); 4) fire break and fire safety considerations; 5) definition of indigenous vegetation (explanation, not list); and 6) the voluntary enhancement plan fee structure.

Rust requested that the education issue be added to Cornacchia's list enumerated above.

Cornacchia reiterated his desire for this information to be brought back to the Board in two weeks. Vorhes replied that the time line depends on how verbose the language changes are because they will have be incorporated into Code format for inclusion into the ordinance.

Roy Burns, Manager, Land Management Division, asked the Board to suspend the normal submission for the Agenda process in order to meet the two-week time frame.

This meeting recessed at 4:00 p.m., for 12 minutes, to reconvene in the Commissioners' Conference Room.

- b. SECOND READING AND PUBLIC HEARING/Ordinance No. PA 1018-A/In the Matter of Amending Exhibit "A" Part 3 to Ordinance PA 1018 by Deleting a Portion of the Policy Statement Footnote Concerning Commercial Land Development

Dumdi read the ordinance into the record.

Michael Copely, Associate Planner, Public Works presented this item to the Board.

Rust asked would this treat the zoning request of Boyd Iverson in an unfavorable manner? Copely affirmed this. Rust then asked why was the City unwilling to be responsive to this person's request? Jan

Childs, City of Eugene, responded that the issue is not whether or not a rezoning could be possible, but the replacement of a residential zone elsewhere which is the question at issue in the sentence under discussion.

Rust commented that this property owner had been trying to solve this issue for the last three years, and Rust was interested in either saying yes or no to him and resolving the impasse.

Cornacchia said he agreed with Rust but wanted to be sure that one property owner was not being afforded a benefit or protection which would not be shared by others in that same area. He wanted to know if it was possible to have compromise language which would prevent what the Council wished to guard against, as opposed to saying no because of some future eventuality. Childs replied that the Council, particularly Councilors Erhman and Boles, were very concerned about the domino effect. They believed that the only safeguard was to include a requirement for replacement of residential, as they felt that the question of residential development in this area had been thoroughly discussed specifically when they dealt with the Willamette Subarea Study which the Council adopted in 1988.

Cornacchia hoped that a compromise agreeable to both parties could be worked out. Childs replied that Mr. Iverson has not worked with staff to try to determine how the replacement residential requirement could be used in a way that would allow him to get the zone change for his property and still retain residential in the area.

Roberts observed that there were two issues here. The one he thought was before the Board was the concern that this particular location might lend itself to strip commercial, and the Board has dealt with that. The second issue was that this conversion could be made without Mr. Iverson having to bear the responsibility of finding replacement medium-density residential. Roberts questioned whether the real fear of the Council was that medium-density residential would be exhausted, five units at a time. Childs responded that that is a concern.

Childs suggested that to solve this impasse, the Board might consider convening a meeting of Lane County and City of Eugene representatives to MPC. Rust and Roberts expressed their agreement with this suggestion.

Dumdi opened the public hearing. There being no one present to testify, she closed the public hearing.

It was agreed that a third reading of this ordinance would be held on September 23, 1992, at 1:30 p.m.

7. PUBLIC WORKS

This item taken from the morning meeting.

- b. ORDER 92-9-2-6/In the Matter of Approving a Project Design for Improvement of Marcola Road from Camp Creek Road (M.P. 1.93) to Johnson Road (M.P. 16.08).

Ollie Snowden, County Engineer, presented this item to the Board. He stated it was important to remember that this project would be completed in three sections, 1993-94, 1994-95 and 1996-97, even though the findings and hearing process cover the entire project. He explained that the two major goals of this project were to preserve existing pavement structure and improve safety.

Discussion ensued with Snowden regarding this project design and the guidelines used, specifically as related to "clear zones." Overhead maps of the area were displayed to clarify the intent of the project. Tom Stinchfield, Transportation Planning Engineer, explained that an analysis had been done which found that it would be cost effective to do the widening proposed and that accidents would be reduced by the improvements. The Board will be making a road tour of this area on October 27 and prefers to see the area before making any decision on this project. This order was postponed.

Cornacchia said he was comfortable with the realignment of the curves and that the petition for a stop light at Camp Creek and Marcola Road could be dealt with by installing a "trip" light. Snowden replied that the Traffic Engineer would be doing a more indepth study of the intersection to ensure that installation of a traffic signal would improve the situation.

There being no further business, this meeting adjourned to Executive Session at 5:00 p.m.



Sharon Giles
Recording Secretary