

MINUTES & NOTICE OF BOARD ACTION

BOOK 153 PAGE 0310

APPROVED March 17, 1993



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.

February 17, 1993
1:30 p.m.

REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

Harris Hall
Main Floor

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

11. COMMISSIONERS' ANNOUNCEMENTS

None.

12. PUBLIC HEARINGS

- a. PUBLIC HEARING AND ORDER 93-2-17-10/In the Matter of Authorizing Conveyance of East Alton Baker Park to the City of Eugene, and Authorizing Conveyance of Eastgate Alton Baker Park to the City of Springfield, and Entering into an Intergovernmental Agreement with the City of Eugene, City of Springfield, and the Willamalane Park and Recreation District for Such Conveyances and Delegating Authority to the Acting County Administrator to Sign the Agreement.

OR

ORDER 93-2-17-11/In the Matter of Appointing Members to the East Alton Baker Park Citizens Planning Committee (CPC).

Bill Van Vactor, Acting County Administrator, presented a historical perspective of this issue viewed in the context of Urban Transition; i.e. assigning services to the most logical provider. He noted that in 1987, the City of Eugene and Lane County entered into an Intergovernmental Agreement to transfer Alton Baker Park, including the portion under consideration today, in 18 months after the issue of golf had been resolved. He stated that the Eugene and Springfield City Councils had both approved the transfer pursuant to an Intergovernmental Agreement, with the City of Eugene requesting

that a condition in their deed be that their use be consistent with Measure 20-01.

Bob Keefer, Parks Manager, stated that since 1980, when Lane County lost the use of gas tax for parks, and in the early 1980s when the recession hit and the parks lost the use of the general fund, the parks have suffered. He noted that Lane County Parks are now trying to balance obligations with resources. He observed that in the Urban Transition process, it was identified that metro parks should be the responsibility of the local urban governments. He stated that in 1987, Lane County put together the Parks Strategic Plan. He noted that in 1990, the West end of Alton Baker Park (approximately 140 acres) was transferred to the City of Eugene. He commented that in October, 1991, staff had proposed the transfer of the Eastgate Section and the West D Street property to Willamalane via the City of Springfield. The proposal was delayed until the golf course decision was made, which happened in May, 1992. He expressed concern regarding Lane County's ability to maintain the park as there is no budget for the maintenance. He stated that the community is best served by transferring the park to the cities who have the resources.

Teresa Wilson, Acting County Counsel, reviewed the individual provisions of the proposed Intergovernmental Agreement, particularly as they related to Measure 20-01, noting she believes the Agreement matches the spirit and the language of Measure 20-01. She highlighted:

Recital E: Wilson stated that the definition is language lifted directly from Measure 20-01, Sec. 3a.

Recital I: She stated that this recital acknowledges Measure 20-01 and the purposes behind it.

Recital J: Wilson commented that the finding is directly taken from Measure 20-01.

Section 4(a): She explained that this language is derived from Sections 4a and 4b of Measure 20-01 and the definition section in 20-01, 3c, for golf course.

Proposed Section 4(d): Wilson stated that this section will be in the final agreement and relates to fees. It will provide that any fees which are imposed in East Alton Baker Park will be used for Alton Baker Park generally as reflected in Measure 20-01.

Section 6: She noted that the Agreement provides that the transfer will take place prior to March as Measure 20-01 will go into effect and then Lane County cannot transfer until after the Citizens Planning Committee produces a plan. She stated that during that lapse of time the park would be unmaintained. Wilson also commented that the transfer places the responsibility for appointment of the CPC with the jurisdictions who will then be implementing the plan. She noted County Counsel's recommendation to make the transfer.

Section 7(d): Wilson explained that this section goes beyond the requirements of Measure 20-01.

Section 9-10-11: She indicated that these sections reflect pre-existing intergovernmental relations with the University of Oregon, BMX and water rights.

Wilson summarized that there is a strong basis for agreement among the parties and that the Agreement meets the spirit of Measure 20-01 and allows its implementation.

Roberts inquired whether, under the language of the Deed that has been requested by the City of Eugene, including the covenant that they will comply with the provisions of Measure 20-01, if that gives private individuals standing to bring a lawsuit at least as great as the standing they would have under the charter amendment itself. Wilson responded affirmatively. With regard to the Intergovernmental Agreement, Roberts also asked if its terms were not complied with, would private parties have standing to bring a lawsuit. Wilson responded that they would have some standing - none different than with the charter amendment. She noted that a citizen's best ability to litigate occurs under the land use context upon adoption of the CPC Plan and that the charter amendment does not elevate a citizen's ability to litigate.

In response to a question from Cornacchia, Wilson stated that the purpose of the last sentence in that paragraph dealt with facilitation of the transfer. Cornacchia stated, for the record, that it is his belief that the County created a relationship between the public and BMX that has been satisfactory and he has no desire to amend that lease for any purpose at this time. Also in response to a question from Cornacchia, Van Vactor stated that, relative to Paragraph 9, a new permit would be issued to the University of Oregon by the City of Eugene as the old one is specific with Lane County.

Cornacchia recognized Dan Plaza, Willamalane Park and Recreation District, who stated that Willamalane believes Alton Baker Park should remain as it is today - open, natural and passive; and that Willamalane wants to be the steward and protect this resource. He commented that Willamalane had met numerous times with 20-01 coalition leaders and at last Wednesday's meeting, the coalition had taken the position that the CPC should have the final authority to adopt the master plan. He noted that Eugene and Willamalane took the stand that because of the liability associated with Alton Baker Park, the City and the District must have final adoption authority. He stated that after the coalition met in caucus, they agreed to give final authority to Eugene and Willamalane, noting that if there were any concerns, those concerns would be referred back to the CPC for modification. He commented that the coalition also took the position that any changes to the 190 agreement be referred to a referendum for sections 4 and 7 only; and that Eugene and Willamalane expressed concern about the legality of this action and agreed to have legal counsel review this to determine its feasibility. He stated that Willamalane was counseled later that

ORS 190 contracts were not subject to referendum. Plaza also noted that at that meeting, the Coalition had agreed to the transfer prior to March 3. Plaza stated that he sincerely believes that the Coalition, Willamalane and the City of Eugene all have the same vision for the park. He asked that the Board make the conveyance to the City of Eugene and Willamalane.

In response to a question from Cornacchia, Van Vactor stated that, regarding ORS 190 contracts, Mr. Cline had stated two reasons why he didn't believe the clauses would be legal: 1) that it would be a clause binding future City Councils and 2) that Willamalane Park and Recreation is a special district and their powers do not include referendum powers.

Cornacchia opened the Public Hearing.

Trish Rosewood (Bender), 3450 Pearl Street, expressed concern that local governments were trying to transfer the park prior to the effective date of Measure 20-01. She stated that the intergovernmental agreement is unacceptable and inconsistent with the intent of 20-01, due to its ability to be amended at will by any of the four agencies. She commented that under the agreement, the CPC functions only as an advisory group. She urged the Board to keep the park in County ownership.

Sharon Teague, 1404 1/2 Villard, stated that she represents the Alton Baker Park Coalition. She explained that there is nothing wrong with the transfer as long as 20-01 goes along with it. She indicated that the City of Eugene has delayed the process and bargained in bad faith. Teague observed that she envisioned the CPC applying for grants and urged the Board to reject the intergovernmental agreement.

Junior Robertson, 2421 Onyx, observed that there are several possible scenarios: 1) A negative scenario will be the outrage displayed if the IGA is accepted, and 2) positive scenario would be for the Board to honor the will of its constituents and reject the IGA and let 20-01 go into effect. He stated that the CPC applicants are talented and up to the challenge presented to them.

Dan Stotter, 2408 Harris, commented that the issue is democracy. He stated that the only reason to go forward with the transfer prior to March 3 is to avoid 20-01. He indicated that his concerns were: 1) the IGA can be amended at will, while the charter amendment requires a vote of the people; 2) the protection of the existing configuration of the park is not maintained; 3) the authority of the CPC is drastically changed to become merely advisory; and 4) it fragments East Alton Baker Park into Willamalane and the City of Eugene.

Dave Sweet, 1237 Ferry, urged the Board to proceed with the transfer to Eugene and stated that environmentalism is sweeping the nation.

Hilde Cherry, 87 Rockridge, urged the Board to let 20-01 go into effect.

Charlie Ogle, 2540 Woodland Drive, stated that he represents the Many Rivers Group of the Sierra Club. He distributed material to the Board. He expressed concern about the transfer in that it is circumventing the provisions of 20-01. He noted that the voters enacted the measure and there should be specific adherence to its language. He stated that there is a vast difference between language and spirit. He urged the Board to have respect for the voters and the democratic process. He indicated that Paragraph 17(a) would allow modification after a public hearing by only one party.

Nita Prefontaine, 1907 West 17th, #B, commented that the County knows the City will not have to follow 20-01. She stated that the Board is not paying attention to what voters requested. She noted that if the County gives the park to the City, encouragement would be provided to vote against these officials. She stated that a City car had been seen driving on Pre's Trail during a tour.

Jack Craig, 2159 Emerald, distributed his statement to the Board. He expressed concern about the audibility of the public address system in Harris Hall. He urged the Board to support the Register Guard editorial to let the measure take effect and then try to solve any problems.

Jake Wilson, 2660 Emerald, commented that he is against the IGA and had nothing new to add that hadn't already been said.

Robin Lodewick, 2526 University, stated that the voters put their trust in elected officials and that the elected officials should put trust in the people.

Charles Biggs, 2405 Willakenzie Rd. #1, expressed concerns about the Day Island Landfill; but stated that he would like to see the transfer go forward.

Gerald Morsello, 440 West 17th, stated that the Board is elected to facilitate the will of the majority of the people.

Eric Zemper, 2222 Willamette, #32, noted that he was a former member of the Alton Baker Park Task Force and that it is obvious that there is a major perception problem. He stated that he was not against the transfer, but that the timing was terrible. He commented that volunteer groups would help maintain the park if the County kept it for a few more months. He indicated that if it is transferred now, it may be costly in terms of future legal costs. He urged the Board to let 20-01 go into effect.

Rick Gold, 907 River Road, requested that the Board hold these types of hearings after people's normal work hours. He stated that this issue was another example of people saying one thing and elected officials doing another.

There being no one else present who wished to testify, Cornacchia closed the Public Hearing.

Cornacchia stated that, regarding Paragraph 17(a), he agrees with the concern expressed in testimony; however, he noted that it takes two parties to amend. He asked legal counsel why Paragraphs 4 and 7 could not be "excepted out" of this particular paragraph, except by a vote of the people, noting that it was the intent of the Board to include the full impact of 20-01 in the transfer. Van Vactor responded that the City of Eugene has been advised not to bind future councils. Roberts expressed concern that once the park is transferred it belongs to the City and if there were a countywide vote then the City of Eugene would lose control. Cornacchia concurred. Wilson noted that the Deed Restriction provides that the property conveyed by the deed has to be used in substantial compliance with the charter amendment. She stated that by specifying in the IGA the ability to change sections 4 and 7 by a vote of the people, a problem is caused with the deed restriction. Wilson commented that a deed restriction with public lands cannot be eliminated by agreement of both parties, except by public vote. Van Vactor stated that the "or the vote of the people" language should also be put in the deed restriction so the two are consistent. Roberts asked Teague if they would feel reassured if language was put in the IGA regarding amendments to Paragraphs 4 and 7 being made with the vote of the people. Teague commented that they had requested this previously. She indicated that two other points of concern were: 1) the ability of the citizens to enforce the agreement and 2) the authority of the CPC. Stotter stated that there are substantial differences between a charter amendment and an intergovernmental agreement, noting that there was stronger standing with a charter amendment than with an intergovernmental agreement. Teague mentioned that the City of Eugene's attorney allowed the deed restriction to be put in as he thought it was worthless. Cornacchia indicated that the Eugene City Council had delegated to the City Manager the ability to sign the contract within their discussion, and that Mike Gleason would have the authority to sign with this change after he had canvassed the City Councilors for their opinion. Plaza indicated that, if there were any changes today, he would sign the agreement and have his Board ratify the changes at a future meeting. He also noted that it is his recollection that at the last meeting, the City and Willamalane were in agreement that Paragraphs 4 and 7 could be exempt, requiring a public vote, until the City's legal counsel advised otherwise. Wilson cited a potential language change for 17(a) reading "and in the case of changes to Sections 4 or 7, only after the amendment is approved by voters within the jurisdictions which are executing the amendment".

Roberts noted that the reason for transfer prior to March 3 was that once the charter amendment goes into effect, it delays the ability to transfer for several years, until the CPC is appointed and the plan developed. He indicated that he thinks it is more consistent with the uses that are spelled out by the charter amendment that the parks be city parks rather than county parks.

Cornacchia reiterated that he is uncomfortable making the transfer with Paragraph 17(a) written the way it is. Roberts suggested the following language to add to the end of 17(a): "Provided, however, that no amendment shall be adopted inconsistent with the provisions of the charter amendment or deed restriction", with Wilson noting that 20-01 could be an exhibit to the IGA. Wilson clarified the language to read: "However, no amendment to the provisions of Sections 4 and 7 may be adopted which is inconsistent with the attached charter amendment", noting that she believes this language legally binds the parties to the conditions of 20-01.

Cornacchia stated that he does not believe the voters gave the CPC the ability to override land use laws, noting that it is difficult to overcome the perceptions of people who are cynical. He indicated that he believes this action is legal and correct and continues the integrity of the democratic process, stating that individuals will have the same right to sue as they had before.

Dumdi stated that she agrees with Roberts regarding the view of rural people regarding Alton Baker Park being urban not rural and that she agrees with the amendment being suggested. She reiterated that the Board has no intent of circumventing 20-01.

Van Vactor stated that the City had previously rejected language referring to a vote requirement and remarked that Roberts' suggested language is better. MOTION: Approval of ORDER 93-2-17-10, amending the Intergovernmental Agreement as previously described. Roberts MOVED, Dumdi SECONDED. Cornacchia noted that he does not believe the IGA language diminishes the CPC's authority, only that it clarifies state land use law. He also reiterated his understanding is that it is the Board's intent in transferring Alton Baker Park, that it is transferred with the contents of 20-01 attached. Dumdi commented that if anyone ever mentioned the possibility of a golf course in Alton Baker Park, she would not be involved in any way. Cornacchia stated he may advocate soccer at a later date.

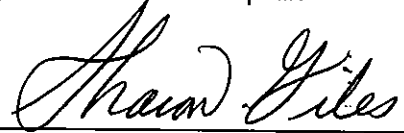
VOTE: 3-0. (As a consequence of this action, ORDER 93-2-17-11 was not considered.)

### 13. OTHER BUSINESS

ORDER 93-2-17-14/In the Matter of Entering into an Agreement for the Sale of Tax Foreclosed Property to the Kingsford Products Company.

MOTION: Approval of the Order. Roberts MOVED, Dumdi SECONDED.  
VOTE: 3-0.

There being no further business, this meeting adjourned at 3:53 p.m.



Sharon Giles  
Recording Secretary