

MINUTES & NOTICE OF BOARD ACTION

BOOK 154 PAGE 0312

APPROVED November 23, 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.

October 26, 1993
1:30 p.m.

WORK SESSION
BOARD OF COUNTY COMMISSIONERS

Harris Hall
Main Floor

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

1. PUBLIC WORKS

- a. FIFTH READING AND DELIBERATIONS/Ordinance No. PA 1039/In the Matter of Amending the Rural Comprehensive Plan Diagram from "Agricultural Lands" to "Natural Resources" and Amending the Zoning Map from "Exclusive Farm Use" (EFU) to "Quarry Mining" (QM) for Map No. 17-01-20, Tax Lot 201 (Applicant: Henton).

Al Couper, Associate Planner, reviewed this item for the Board. He indicated that the parties had reached an agreement which was presented to the Board just prior to this meeting. He noted that the agents of the represented parties were present. Couper stated that if approval is given, another reading and action will be required, as findings are not prepared.

In response to a question from Cornacchia, Larry Gildea, of the attorneys for the applicant, stated that the written materials presented are an adequate representation, except that he would like three weeks to submit findings. Kloos indicated that he was comfortable with the written material submitted. The Board had a lengthy discussion regarding the desirability and potential impacts of the specific enforcement provisions contained in paragraph nine of Kloos' exhibit to his letter to the Board of October 26, with Roberts and Frazier suggesting that specific conditions not be included and Cornacchia saying he would need those provisions included in order to vote for approval.

Gildea remarked that the enforcement provisions are a substantive part of the ordinance and that procedurally, they follow Lane

County's laws as they currently exist. He noted that it was the intent that on any asserted violation, the appellate process in place at that time would apply. He agreed that it was the consensus of the parties that because of the substantive content of the language, the likelihood of frivolous complaints was remote. With regard to enforcement, Gildea stated that if enforcement was not available with the County because of a lack of resources, mandamus is there. He explained that they have provided for a means of identifying and prosecuting alleged violations of a condition, but the procedural rules that a hearings officer follows are the same as they would always be.

Kloos agreed with Gildea. He noted that in the current agreement, opponents have provided that the penalty for violation will be termination of site review and a reopening of the site review process. Kloos explained that an enforcement mechanism has been crafted that provides an orderly process for complaint resolution. He noted that there are changes from current County code which are important to include. These are: 1) what the director does when the initial investigation is conducted. Under current code, if probable cause is found, he "may" issue a stop work order. In the agreement as written, the director "shall" issue a stop work order if the continuing impacts are significant; and 2) After the hearing on the violation, the hearings official has discretion to add a condition to site review himself that will fix the problem. Kloos noted that it was important to the opponents to have these included in the ordinance. He stated that alternate approaches to enforcement include mandamus, which he would not recommend, and simply going to Circuit Court and asking them to enforce, which is already available by statute.

Couper observed that the enforcement conditions don't add any new powers to the existing enforcement program, they simply specify which options should be used in particular cases. Roberts asked if this process - the ability to pick and choose among the enforcement remedies - is a precedent the County wants to follow. Couper replied that every special use permit has specific conditions to track and the planning department is used to tracking them. He explained that, while it would not be desirable to have each case have its own zoning ordinance to go with it, it is important enough to the current parties to have assurance that the conflicts have been balanced. For the record, Rust observed that the County would be willing to shut down the quarry, if necessary, if the parties aren't able to meet the conditions on an ongoing basis.

Mike Evans, of the attorneys for applicant, remarked that the parties have been working for about 15 months to negotiate an agreement that was acceptable for both sides and that the enforcement provisions are primarily to provide comfort to the neighboring property owners. He commented that the safety valve for the commissioners' concerns is that this is the Goal 5 process and a slightly different process may

be appropriate. Evans noted that site review is an ongoing permit and any modifications remain current. He indicated that he does not feel the County is setting a precedent.


Responding to Cornacchia, Couper noted that the Board could give tentative approval, ratify findings which would come back from the prevailing party and then approve the Ordinance, which includes the findings. Referring to the precedence issue, Frazier clarified with Stephen Vorhes, Assistant County Counsel, that each future Goal 5 resource identification would be an individual process related to the specifics of that particular issue. MOTION: Tentative approval of the Ordinance, directing the prevailing parties to prepare the findings, which are to reflect the materials and information placed before the Board today. Rust MOVED, Dumdi SECONDED. VOTE: 5-0. Cornacchia expressed his appreciation to all of the attorneys. Gildea, in turn, remarked that Couper and Vorhes had been catalysts behind the agreement.

2. COMMISSIONERS' ANNOUNCEMENTS

Rust reported that one of the subjects discussed yesterday at the AOC district meeting was indigent defense, for which a bill had been developed which would return indigent defense back to the counties. Roberts stated that what it would have done would be to put a cap on the amount the state would pay with the balance being taken from state/county shared revenues, noting that control would not be given to the counties. Rust commented that the AOC suggestion had been for a proactive push from the counties to help manage the resource better. Roberts suggested a separate ad hoc group to include the District Attorney, the Public Defender and perhaps a representative from the judges. Cornacchia suggested a timetable beginning after January 1 under the direction of the new chair.

Rust commented that an anonymous memorandum had come to him, on Lane County stationery, regarding heroin being the number one drug problem in Eugene and the possibility of the methadone program being eliminated in March. He indicated he would take this memorandum to Rob Rockstroh and ask for comments.

There being no further business, this meeting adjourned at 2:27 p.m.


 Sharon Giles
 Recording Secretary