

MINUTES & NOTICE OF BOARD ACTION

BOOK 156 PAGE 1820

APPROVED November 9, 1994



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 28, 1994
1:30 p.m.

REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

Harris Hall
Main Floor

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

At the beginning of the meeting, Bill Van Vactor, County Administrator, observed that Ordinance 8-94, originally on the September 27 agenda, is now scheduled on the agenda in two weeks. Teresa Wilson, County Counsel, stated that there is also an Order for consideration, following yesterday's Executive Session.

1. PUBLIC COMMENTS

Austin Colcord, 33472 McKenzie View Drive, stated that he has been working with the Fundraising Subcommittee of RCIC's Covered Bridge Subcommittee. He stressed that it is critical to take advantage of the ODOT grant. Colcord expressed confidence that the group will be able to come up with the monies necessary as required by the grant.

Jim Callaway, 3925 Scenic Drive, remarked that he owns approximately 38 acres on Lawrence Road. He observed that he has been unable to get a building permit on this property due to the EFU regulations. Callaway indicated that he has owned the property since 1966 and there are one-acre and five-acre plots surrounding his property.

Burrell Smith, 2150 Laura Court, Springfield, commented on the ODOT grant for covered bridges. He circulated a picture showing the covered bridges being utilized. Smith also distributed copies of an article from The Bridge Tender, the newsletter of the Covered Bridge Society of Oregon, indicating that there is widespread interest in Oregon's covered bridges. He stressed that the out-of-service covered bridges in Lane County need help.

John Neely noted he is without an address since being evicted from his home. He referred to yesterday's (September 27) meeting of the Board, observing that Commissioner Roberts had insinuated at that meeting that Mr. Seaberry's advice may have contributed to the Neely's losing their home. Neely stressed that Seaberry has not been a source of legal advice to the Neely's. He recommended that Roberts make a public apology to Seaberry on this subject. Roberts explained that his comments were based on information garnered from the newspaper. He stated that if that information is in error, he apologizes to Jim Seaberry. Roberts continued that he was still concerned about where the Neely's are getting advice and apologized if that was attributed incorrectly to Mr. Seaberry, indicating that he has a lot of respect for Jim Seaberry.

Jim Seaberry, 3294 Stark Street, Santa Clara, expressed hope that Roberts would be elected to the office he is seeking. Seaberry asked Dumdi to bring the relevant issues back to the floor and cause a good discussion to be brought in from the community. Seaberry asked the Board to consider holding back on the letter it was preparing for him. He asked the Board to look at the Code language he had referred to yesterday and, if it is legal, then get it straightened out.

Paula Iannuzzo, 79716 Delight Valley School Road, Cottage Grove, spoke with regard to the covered bridges. She indicated that she was the past chair of RCIC's Covered Bridge Committee. Iannuzzo stressed that the covered bridges are a destination point for tourists and part of local heritage. She asked that the Board not let all of the work that has gone into this grant go to waste.

Marcia Allen, 31494 Gowdyville Road, Cottage Grove, indicated that she is president of the Cottage Grove Historical Society. She asked the Board to help save the bridges.

Cal Drake, P.O. Box 856, Creswell, thanked the Board for their support of last summer's bridge dance/festival. He asked for continued support of the bridges, as they are irreplaceable and costly to rebuild new. Responding to a question from Rust, Drake indicated that the club has goals in place for fundraising leverage for the grant.

Vernie Jo Johnson, 45241 Goodpasture Road, noted the bridges' cultural heritage. She observed that these out-of-service bridges have no other opportunity to be restored. Johnson indicated that she had been disturbed about the way the RCIC was reviewing the grant applications for the video lottery money. She stressed that it would be prudent of the Commissioners to do something with lottery dollars that would be good for tourism and for timber-dependent communities.

Natalie Inouye, 305 West 7th, remarked that she is Assistant Director of Tourism at CVALCO. She indicated that CVALCO is supportive of the restoration of these covered bridges as they are county-wide identifiable features. Inouye stated that approximately 40-50 people per month come in specifically asking for covered bridge information.

Ed Phelps, 2734 Kalmia Street, asked that the public record be changed to reflect that the name of his company is Phelps and Sons Construction, not Ed Phelps Engineering. He noted that his firm had prepared the original estimate (at no charge) for the bridges at the request of RCIC's Covered Bridge Subcommittee. Phelps expressed concern that approximately 37% of the increase in the revised estimates is for County administration for the repair of the bridges. He indicated his support of funding for this project coming from lottery dollars.

2. OTHER BUSINESS

- a. ORDER 94-9-28-1/In the Matter of Approving the Commitment of Video Lottery and Transient Room Tax Funds for the Rehabilitation of the Lowell, Stewart and Currin Covered Bridges and Directing Public Works Staff to Include These Three Bridges in Contracts Developed for Repair of Other Covered Bridges.

Frazier distributed copies of the article from the Los Angeles Times that was referenced and letters of support from the Cottage Grove Historical Society and the Cottage Grove Chamber of Commerce. She observed that there is \$207,000 in grant funds available statewide for out-of-service bridges and \$300,000 worth of projects were submitted. Frazier noted that \$99,344 in projects has been awarded to Lane County. She stated that October 1 is the deadline for the letter of commitment. Frazier asked the Board to join her in making the commitment to provide \$105,000 from video lottery funds and \$214,000 from transient room taxes. She stressed that tourism allows a greater flexibility in the overall economic health of rural communities. Frazier provided an update from Ollie Snowden, County Engineer, which states that the administrative costs for contract administration will be only 3 to 5%.

Responding to Dumdi, Frazier indicated that her suggested breakdown of funds from video lottery dollars would be \$50,000 from the unallocated dollars, \$40,000 from the general county-wide pot and \$15,000 from the RCIC special projects allocation. Frazier remarked that the communities have made commitments to raise funds and provide donated product to get the rehabilitation done on these bridges. Roberts clarified that as monies are collected, they will be reimbursed first to the transient room tax fund. MOTION: Approval of the Order. Roberts MOVED, Dumdi SECONDED. Van Vactor asked for clarification with regard to the approaches not being grant eligible. Frazier responded that the approaches are not included and indicated that the first part of the fundraising effort of the community is to raise \$30,000 of those funds by April 1. Therefore, Van Vactor clarified that, in terms of the local fundraising effort, the first \$30,000 would go toward the approaches, with funds above that going to reimburse the transient room tax. VOTE: 4-0.

- b. DISCUSSION AND ORDER 94-9-28-2/In the Matter of Board Adoption of an Interpretation of Policy Regarding Lane Code 16.212(3)(b)(ii) and Conflicts Between ORS 215.213(2)(b) and OAR 660-33-125(6).

Jim Mann, Planning Supervisor, indicated that one of the attachments to the Order, the first page of Exhibit "B", should be the one which he was distributing and then he reviewed the agenda material for the Board (see material on file). He highlighted the legislative history of HB 3661 as prepared by attorney Dale Riddle, observing that it appears clear that the intent of the legislation was that the marginal lands counties would not be precluded from applying the provisions in ORS 215.213(2)(b). Mann recommended that the Board adopt the Order. He observed that the consequences to doing this may include an enforcement order from LCDC or individual appeals to LUBA. Mann noted that staff recommends requiring applicants to provide the County with a hold harmless agreement.

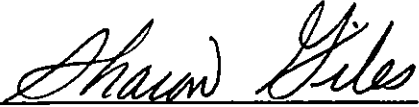
Roberts asked Stephen Vorhes, Assistant County Counsel: If the Board decides to change its direction to the Hearings Official to apply Lane County's current ordinance and not the Goal 3 rules, because the Board believes them to be invalid, does that have to apply also as a direction to the Planning Director to grant permits on that basis, or could the Board take a position that it would like all applications that do not meet both of those criteria to come to the Board? Vorhes responded that the decision and interpretation could be set up to have that effect, or the Board could require that the application go through the Planning Director and Hearings Official and, on the appeal to the Board, the determination would be made. Roberts questioned whether doing that would establish any basis not to approve all applications. Vorhes stated that if the Board is faced with similar facts, it would be difficult not to approve them. MOTION: Approval of the Order. Frazier MOVED, Dumdi SECONDED. Roberts noted that the only part that concerns him is contained in a letter from Celeste Doyle of the Attorney General's office referring to the potential for additional, duplicative litigation which would likely be consolidated with the now-pending litigation. He stressed that if it is the Board's sincere belief that the rules are invalid, then it cannot take any other course than the one being considered. Roberts did express concern that some people may not understand the full extent of the risk. Dumdi offered support for Mann's recommendation with regard to hold harmless agreements which would be recorded in Deeds and Records. VOTE: 4-0. Rust thanked Riddle for his assistance.

- c. ORDER 94-9-27-3/In the Matter of Settling Claims With G.D.J., Inc.

This matter was carried forward from the September 27 Executive Session. MOTION: Approval of the Order. Rust MOVED, Dumdi SECONDED. VOTE: 4-0.

Dumdi distributed copies of a letter she signed yesterday with regard to comments on CDBG rules and guidelines which were due by September 30.

There being no further business, this meeting adjourned at 2:37 p.m.



Sharon Giles
Sharon Giles
Recording Secretary