

**APPROVED BY ORDER # 1-06-13**

**MINUTES OF THE  
LINCOLN COUNTY BOARD OF COMMISSIONERS  
MEETING OF JANUARY 4, 2006**

**CALL TO ORDER**

Chair Terry Thompson convened the adjourned session of the Lincoln County Board of Commissioners. Present at the meeting were Commissioner Don Lindly, Commissioner Bill Hall, County Counsel Wayne Belmont, and Recorder Liz Sample. Also present were Attorney Dennis Bartoldus; Assistant County Counsel Rob Bovett; Joel Gallob from the *News-Times*; Karl Kowalski, Seal Rock resident; Kiera Morgan from KNPT radio; and Planning Director Matt Spangler.

**ROLL CALL - ESTABLISHMENT OF A QUORUM**

Commissioner Lindly was absent from this meeting. A quorum was established.

**RECOGNITION/PROCLAMATION**

Commissioner Hall read a resolution proclaiming January 2006 "School Board Recognition Month" in Lincoln County. Laurie Urquhart, secretary to the school board, thanked them for the proclamation. She mentioned that this honor is celebrated throughout Oregon. Commissioner Hall made a motion to adopt Resolution # 06-04-01A proclaiming January 2006 "School Board Recognition Month" in Lincoln County.

**MOTION TO ADOPT RESOLUTION # 06-04-01A  
PROCLAIMING JANUARY 2006 "SCHOOL  
BOARD RECOGNITION MONTH" IN LINCOLN  
COUNTY**

**ADOPTION OF CONSENT CALENDAR**

Chair Thompson introduced the Consent Calendar items. There were no items highlighted or deleted. Commissioner Hall made a motion to approve the Consent Calendar in its entirety. Chair Thompson seconded the motion. The vote was taken and the motion passed unanimously.

**MOTION TO APPROVE CONSENT CALENDAR  
OF JANUARY 4, 2006**

**CONSENT CALENDAR ITEMS**

**Minutes of the Board of Commissioners Meeting**

1-06-01 Execution and recordation of BOC Meeting Minutes of December 21, 2005

Commissioner Appointments & Resignations

Execution and recordation of:

- 1-06-02 Changes in membership of the Community Services Consortium Community Action Advisory Council
- 1-06-03 Appointment of new members to the Lincoln County Vegetation Management Advisory Board

License Applications or Renewals

Tax Foreclosure, Right-of-Way, Sales and Deeds

General Budget Resolutions

Acting as Governing Body of County Wide Service Districts

Documents and Recording Matters in the Commissioners Journal

Execution and recordation:

- 1-06-04 Accepting Oregon Parks and Recreation grant funds for the purpose of making improvements to Morgan County Park
- 1-06-05 Designating newspapers for publications of facsimile of ballot under ORS Chapter 254
- 1-06-06 Lease agreement between Yaquina Bay Development Corporation, dba Newport Business Plaza East, and Lincoln County for property located at Newport Business Plaza East in South Beach

Recordation:

- 1-06-07 Oregon Community Development Block Grant Program, Project # M05035, Lincoln County Microenterprise Assistance Program

Execution:

Intergovernmental Agreement between the State of Oregon Youth Authority and Lincoln County for services not to exceed \$4,995 in reimbursement

**PUBLIC HEARING**

**First public hearing relating to a petition to annex certain territory into the Seal Rock Rural Fire Protection District (South Beaver Creek area).**

Assistant County Counsel Rob Bovett mentioned that this is the first of two public hearings on this matter. He pointed out the subject area on a map before the Board. In order to effectuate this type of annexation, the petition must be signed by over 50% of the electors registered in the area that is proposed to be annexed, as well as signatures of landowners representing over 50% of the acreage. Both standards were met. Mr. Bovett pointed out the current boundaries of the district, and then the boundaries with the proposed new territory. The request for annexation began a couple years ago. The Board is called to decide whether this area could be benefited by being annexed into the territory. A draft order was prepared that will set the second public hearing on this issue for February 8, 2006.

Chair Thompson inquired about the isolation of some of the properties. Mr. Bovett responded that some of the markings on the map are actually large undeveloped swamp areas. He mentioned that he has been encouraging property owners to "tighten up" their boundaries by using section lines. Chair Thompson asked if the Board can adjust the boundaries of the proposed annexation to tighten up the lines and include some of the undeveloped areas that will most likely be brought to the Board for annexation in the future. Mr. Bovett recommended the Board accept the proposed annexation. Minor adjustments can be made at the second hearing, if necessary. County Counsel Belmont asked if it was fair to state that the areas not included in the annexation are largely undeveloped, to which Mr. Bovett responded that most are, but some are developed at a lesser intensity than others.

Dennis Bartoldus, attorney representing the Seal Rock Rural Fire District, and Karl Kowalski, Seal Rock resident, approached the Board to comment. Mr. Bartoldus mentioned that the fire district has been looking for a site for a new fire station. He added that the district wouldn't be opposed to taking in additional property (other than what was proposed) as long as it "didn't push them below the requirements" (meaning below the minimum required number of property owners and land area needed to proceed with the annexation). By annexing most properties at once, the fire district has an easier time of determining which properties are part of the district in times of emergency.

Chair Thompson inquired about the number of fire stations south of the Newport bridge. Mr. Bartoldus described the boundaries of the Seal Rock Fire District. He described the process of looking for a possible new fire station. With the addition of a third station, the coverage will be more comprehensive in the area between the Yaquina Bridge to the Alsea Bridge. Mr. Kowalski discussed mutual aid between fire districts. He added that the new station would be more of a "satellite station."

Mr. Bovett stated that he prepared a draft Order for the Board's consideration to set the second public hearing related to the annexation. Chair Thompson opened the hearing for public comment, of which there was none, beyond what was already stated. Chair Thompson closed the public hearing. Commissioner Hall made a motion to execute and record Order # 1-06-08 setting a second public hearing on February 8, 2006 regarding a petition to annex certain territory into the Seal Rock Rural Fire Protection District. Chair Thompson seconded the motion. A vote was taken and the motion passed unanimously.

**MOTION TO EXECUTE AND RECORD ORDER #  
1-06-08 SETTING A SECOND PUBLIC HEARING  
ON FEBRUARY 8, 2006 REGARDING A  
PETITION TO ANNEX CERTAIN TERRITORY  
INTO THE SEAL ROCK RURAL FIRE  
PROTECTION DISTRICT**

**DECISION/ACTION**

County Counsel Wayne Belmont stated that there are three orders before the Board today that require action. The Board had previously discussed these items. Mr. Belmont updated the Board on where Lincoln County stands on litigation with the State of Oregon. The County has not been officially served, but has been noticed of the possibility of being joined in an action concerning our continued processing of Measure 37 claims with the other 32 counties in Oregon that were not parties to the original Marion County case. Polk County is the only one of the 32 counties to have been served thus far. Chair Thompson commented on the time and money spent that might be spent on the potential litigation. Counsel Belmont responded that this will become time consuming, which is why staff was upfront from the beginning about the ambiguity of the measure. Planning Director Matt Spangler commented on the time spent on Measure 37 claims in the Planning Department. Chair Thompson responded.

Counsel Belmont noted that there is a disclaimer in all Board Orders concerning Measure 37 claims about the pending litigation and the ambiguity of the measure. Also included is language concerning necessary state waivers. Chair Thompson commented further on the measure.

The Board acted on three Measure 37 claims, all of which had staff recommendations to approve the waivers. Counsel Belmont described the location of the property on the first claim. Commissioner Hall made a motion to execute and record Order # 1-06-09 regarding the Measure 37 claim of Sterling Grant and Timothy Grant, claimants, Case File # 18-LURCC-05. Chair Thompson seconded the motion. A vote was taken and the motion passed unanimously.

**MOTION TO EXECUTE AND RECORD ORDER #  
1-06-09 REGARDING THE MEASURE 37 CLAIM  
OF STERLING GRANT AND TIMOTHY GRANT,  
CLAIMANTS, CASE FILE # 18-LURCC-05**

Counsel Belmont described the location of the property on the next claim. Commissioner Hall made a motion to execute and record Order # 1-06-10 regarding the Measure 37 claim of Virgil and Doris Myers, claimants, Case File # 21-LURCC-05. Chair Thompson seconded the motion. A vote was taken and the motion passed unanimously.

**MOTION TO EXECUTE AND RECORD ORDER #  
1-06-10 REGARDING THE MEASURE 37 CLAIM  
OF VIRGIL AND DORIS MYERS, CLAIMANTS,  
CASE FILE # 21-LURCC-05**

Counsel Belmont described the location of the property on the next claim. Commissioner Hall made a motion to execute and record Order # 1-06-11 regarding the Measure 37 claim of Robert and Carol Howard, claimants, Case File # 22-LURCC-05. Chair Thompson seconded the motion. A vote was taken and the motion passed unanimously.

**MOTION TO EXECUTE AND RECORD ORDER #  
1-06-11 REGARDING THE MEASURE 37 CLAIM  
OF ROBERT AND CAROL HOWARD,  
CLAIMANTS, CASE FILE # 22-LURCC-05**

**DISCUSSION/INFORMATION**

**Discussion of Planning Director's report and recommendation for Land Use Regulation Compensation (Measure 37) Claim, Case File # 20-LURCC-05, Mary Beal, claimant**

Mr. Spangler described the location of the subject property, zoned T-C, located up Beaver Creek. The claim concerns compensation or waiver claim for the T-C regulations which specify minimum requirements for road and driveway access to dwellings in the T-C zone. He described the claim. Claimant had acquired original interest in 1965, and the regulations subject to the claim were enacted by the County in 1994. Analysis of the claim concludes that the regulations do not prohibit the placement of dwellings on the subject property, but there are restrictions that require specifications that must provide for adequate fire and emergency vehicle access to approved homesites. The regulations in question are for the purpose of protecting public health and safety. The staff's recommendation is for the Board to deny the claim.

Commissioner Hall asked about permits related to the existing home, to which Mr. Spangler responded that there are no existing permits. Whether the Board approves or denies the claim, the homesite is still subject to normal code enforcement proceedings. The applicant is in the process of establishing lawful dwelling permits. A state waiver would be required in addition to the County's waiver.

Counsel Belmont noted that there may be other reasons why this waiver could be denied. He stated his concurrence with the staff recommendation to deny the claim. Chair Thompson asked about the substantiality of the subject dwelling. Mr. Spangler responded.

With Board consensus, staff will prepare a Board Order for approval at next week's Board meeting that will deny the claim. Mr. Spangler added that this is the end of the timeline for this claim. The Board agreed and directed staff to prepare the Order.

**BOARD OF COMMISSIONERS AS GOVERNING BODY OF COUNTYWIDE SERVICE DISTRICTS**

**REPORTS**

Having completed his first year as commissioner, Commissioner Hall delivered an end-of-the-year report. He commented on his satisfaction with the job, and discussed some of the frustrations, challenges, and joys of being a county commissioner. He highlighted some of the key issues with which he dealt this past year, including the Lincoln County Housing Summit, the signing of an agreement with the Siletz Tribal Council, and the Senior Meals Program. He thanked his fellow commissioners for their help, leadership and advice in his first year.

Recorder Liz Sample noted that next week's Board meeting is immediately following a joint session with the City of Depoe Bay City Council, held in the Depoe Bay City Council chambers. The joint session

will begin at 6:00 p.m., with the regular Board meeting to follow. Commissioner Hall mentioned that the Board will be nominating a new chair and vice-chair at next week's Board meeting.

**EXECUTIVE SESSION**

**CONSTITUENT INPUT**  
**ADJOURNMENT**

The meeting adjourned at 10:15 a.m. These meeting minutes were read and approved this **11th** day of **January 2006**.

**LINCOLN COUNTY BOARD OF COMMISSIONERS**

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**TERRY N. THOMPSON**, Chair

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**DON LINDLY**, Commissioner

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**BILL HALL**, Commissioner