

APPROVED BY ORDER # 5-07-556

MINUTES OF THE

LINCOLN COUNTY BOARD OF COMMISSIONERS

MEETING OF APRIL 25, 2007

CALL TO ORDER

Acting Chair Terry Thompson convened the adjourned session of the Lincoln County Board of Commissioners at 9:30 a.m. Present at the meeting were Commissioner Don Lindly, County Counsel Wayne Belmont, and Recorder Judy Eames. Also present were Kiera Morgan from KNPT radio, Gail Kimberling from the *News-Times*, and Onno Husing, Director, OCZMA.

ROLL CALL - ESTABLISHMENT OF A QUORUM

RECOGNITION/PROCLAMATION

Commissioner Lindly read the proclamation for "Positive Youth Development Month" in full. Debra Jones, Program Director for the Housing Authority of Lincoln County, outlined the member organizations of the Youth Development Coalition of Lincoln County, including Yachats Youth & Family Activities Program in Yachats, Housing Authority's Oceanspray Family Center in Newport, Neighbors for Kids—Kids Zone in Depoe Bay, Lincoln City Parks & Recreation Department in Lincoln City, Girl Scouts of Santiam Council, Community Services Consortium, and Oregon State University Family Care Connection operating throughout Lincoln County. These organizations provide leadership in the area of community involvement in the education and well-being of youth. Ms. Jones pointed out that this, in turn, creates better citizens. The commissioners thanked Ms. Jones and all the volunteers enriching children's lives, including those providing child care programs as well as after-school activities, ensuring that "the lights stay on and doors stay open after school." Commissioner Lindly made a motion to execute and record Resolution # 07-25-04A in the matter of proclaiming the month of May 2007 "Positive Youth Development Month" in Lincoln County. Commissioner Thompson seconded the motion. A vote was taken and the motion passed unanimously.

**MOTION TO EXECUTE AND RECORD
RESOLUTION # 07-25-04A IN THE MATTER OF
PROCLAIMING THE MONTH OF MAY 2007
"POSITIVE YOUTH DEVELOPMENT MONTH" IN
LINCOLN COUNTY**

Commissioner Lindly read the proclamation recognizing May 1, 2007, as "Law Day" in full. Mindy Baxter, Teen Court Coordinator for Lincoln County, echoed the need for programs to support local youth with opportunities to gain knowledge and skills that will serve them throughout their lives. She commended the Peer Mediation program in Sam Case School that allows students to mediate their grievances, the Lincoln County Bar Association for its scholarship opportunities, and the Mock Legislature Program, coordinated by Donna Foster, for providing these types of opportunities. She introduced Donna Brown, a high school student interested in law as a career, and Duncan Jones, who has been a volunteer attorney with Teen Court for five years. Both students expressed their appreciation for the opportunity to participate in and understand the legal system. Mr. Jones noted that it is important for teens going through the legal process to

realize there are consequences to making a mistake, but that mistakes can be rectified. Tony Johnson, who has volunteered as Teen Court Judge for 7-1/2 years, stated that Teen Court not only provides an arena in which to learn about society's legal system, it's an opportunity for both the volunteers and the youth being sentenced to learn empathy for others. Ms. Johnson noted that she has seen friendships develop in Teen Court that carry over into school; these friendships most likely would not have happened otherwise. Alan Peterson, Lincoln County Juvenile Director, commented on the importance of enabling students to learn about the foundation of law, to participate firsthand, and to learn respect for the process. He expressed his appreciation for all the adult volunteers that make the program succeed. The Commissioners thanked the youth and adults for their work. Commissioner Lindly made a motion to execute and record Resolution # 07-25-04B proclaiming May 1, 2007 "Law Day" in Lincoln County. Commissioner Thompson seconded the motion. A vote was taken and the motion passed unanimously.

**MOTION TO EXECUTE AND RECORD
RESOLUTION # 07-25-04B PROCLAIMING MAY 1,
2007 "LAW DAY" IN LINCOLN COUNTY**

Commissioner Thompson read Resolution # 7-25-04C "Recognizing Oregon's Leadership and Progress Regarding Emergency Preparedness, and Encouraging the Oregon Legislature to Take a Similar Leadership Role in 'After the Emergency' Preparedness" in full. He explained that the purpose of the resolution was to recognize the proactive leadership of past legislators, including John Kitzhaber, Ron Cease, and Lisa Naito, in preparing for natural disasters and other emergencies and to encourage the current Oregon legislators to follow that legacy by taking a proactive leadership role in developing a recovery plan for rebuilding after a major earthquake, tsunami, or other significant disaster. Commissioner Thompson commented that work is continuing on a bill that will deal with nursing homes and care centers after an emergency. Onno Husing, Director of Oregon Coastal Zone Management Association (OCZMA), noted it is well documented that a Cascadia seismic event takes place every 300-500 years and that attention needs to be drawn to potential problems stemming from a natural disaster. He commented that the county will have to do much of the preparation on its own, as there is very little monetary assistance available to cities within the county for adequate preparation. Commissioner Lindly noted that Herman Welch, Mayor of the City of Waldport, had addressed the Lincoln County Budget Committee the week before concerning the vulnerability of his city to a natural disaster and the need for stocking designated facilities with food, water, and other supplies. Commissioner Lindly stated that the Board of Commissioners hopes to establish a small fund in the budget to match any funds the cities, school district, fire districts and other entities can provide for post-natural disaster preparedness. Counsel Belmont added that he and Finance Director Mike Rich will be working on a plan that will include money for this purpose in the county's 2007-2008 budget before its adoption on June 20. Mr. Husing urged the lodging industry to do its part in preparedness activities. Commissioner Lindly made a motion to execute and record Resolution # 07-25-04C in the matter of recognizing Oregon's leadership and progress regarding emergency preparedness, and encouraging the Oregon legislature to take a similar leadership role in "after the emergency" preparedness. Commissioner Thompson seconded the motion. A vote was taken and the motion passed unanimously.

**MOTION TO EXECUTE AND RECORD
RESOLUTION # 07-25-04C IN THE MATTER OF
RECOGNIZING OREGON'S LEADERSHIP AND
PROGRESS REGARDING EMERGENCY
PREPAREDNESS, AND ENCOURAGING THE
OREGON LEGISLATURE TO TAKE A SIMILAR
LEADERSHIP ROLE IN "AFTER THE
EMERGENCY" PREPAREDNESS**

ADOPTION OF CONSENT CALENDAR

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

MOTION TO APPROVE CONSENT CALENDAR OF APRIL 25, 2007

CONSENT CALENDAR ITEMS

Minutes of the Board of Commissioners Meeting

4-07-552 BOC Meeting Minutes of April 18, 2007

Commissioner Appointments & Resignations

4-07-553 Issuance of an OLCC liquor license to R&B Inc., dba Surfriider Resort

General Budget Resolutions

07-25-04D Approval of grants for the Human Services Fund Budget and appropriations for the FY ending June 30, 2007

Documents and Recording Matters in the Commissioners Journal

4-07-554 Amendment #8 to IGA # 117539 between the Department of Human Services and Lincoln County Health and Human Services increasing school-based funding by \$10,500

4-07-555 Amendment #42 to IGA # 113007 between the Department of Human Services and Lincoln County Health and Human Services adjusting funding for individuals moving in and out of treatment

DECISION/ACTION

Application for Lincoln County's Property Tax Program Grant for Fiscal Year 2007-2008

After noting that Lincoln County's application for its Property Tax Program Grant for FY 2007-2008 had been presented by County Assessor Rob Thomas at two public hearings the previous week, Commissioner Lindly made a motion to approve the application. Commissioner Thompson seconded the motion. The vote was taken and the motion passed unanimously.

MOTION TO APPROVE RESOLUTION #07-25-04E REGARDING THE APPLICATION FOR THE PROPERTY TAX PROGRAM GRANT FOR FISCAL YEAR 2007-2008

DISCUSSION/INFORMATION

Recommendations for Special Transportation Fund Allocations for Fiscal Year 2007-2008

Lincoln County Transit Coordinator Cynda Bruce and Special Transportation Advisory Committee (STAC) members Norma Duvall and MaryLou Boice presented the committee's recommendations on the allocation of \$75,229 to service providers for FY 2007-2008. These funds will be received by the county from the Special Transportation Fund. The recommended allocations are: \$4,561 to the Senior Companion Program; \$3,000 to Senior & Disabled Services; \$65,668 to Lincoln County Transit; and a \$2,000 administrative allotment. Both committee members expressed regret that the allocations to Senior Companion Program and Senior & Disabled Services could not be higher, but the committee felt the majority of the money was needed to maintain the Transit vehicle fleet in operational condition. After hearing from Suzette Boydston, Senior Companions Program Manager, the committee members agreed to meet with Ms. Boydston to review the proposed allocations. Ms. Bruce will report back to the Board at a later date.

Recommendations for Land Use Regulation Compensation (Measure 37) Claims

Planning Director Matt Spangler gave a brief synopsis of the handling of Measure 37 claims being brought before the commissioners. Hearings were previously held on each claim, and Planning Department staff reports and recommendations have been submitted to the commissioners.

Case File # 94-LURCC-06, Michael and Johanna Harrington and Fred and Cindy Towne, Claimants

The claimants are seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Timber Conservation (T-C) zone. The subject parcel of property is 20 acres in size and is located off of Highway 20 at 391 Hayes Creek Road, further identified on Lincoln County Assessor's Map #10-9 (Index) as tax lots 9801 and 9802. The claimants acquired their original interest in the property in an unrecorded land sales contract on September 25, 1970 and have remained the owners since that time. They seek compensation in the amount of \$135,000 for the reduction in fair market value of their property due to land use restrictions. No land use regulations were in effect at the time of the property's acquisition in 1970, and Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations. This would allow the owners to create four .5-acre parcels. The Board gave consensus to move this claim forward.

Case File # 96-LURCC-06, Mary Lou Wiles, Claimant

Claimant is seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Timber Conservation (T-C) zone. The subject parcel of property is 32.01 acres in size and is located at 688 Wright Creek Road, south of Toledo, further identified on Lincoln County Assessor's Map #11-10-29C as tax lot 1700. The claimant acquired an interest in the property in 1970, and has maintained an ownership interest since that time. She seeks compensation in the amount of \$100,000 for the reduction in fair market value of their property due to land use restrictions. No land use regulations were in effect at the time of the property's acquisition in 1970, and Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations. This would allow the claimant's requested remedy of dividing the property into an additional three parcels with an allowed home site on each parcel. The Board gave consensus to move this claim forward.

Case File # 102-LURCC-06, Kenneth Wetten, Timothy Dorsey, and Donald Thill, Claimants; Gary Hamilton; Agent

Claimants are seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Agricultural Conservation (A-C) and Timber Conservation (T-C) zones. The subject parcel of property is 105.91 acres in size and is located at 5258 Highway 20, further identified on Lincoln County Assessor's Map #11-10-07 as tax lots 500 and 800. Claimant Wetten acquired his interest in the property in 1988; claimant Dorsey acquired his original interest on October 31, 1997; and Claimant Thill acquired his interest on August 1, 2001. The claimants seek compensation in the amount of \$490,000 for the reduction in fair market value of the property due to land use restrictions. The A-C and T-C zones, in their present forms, were enacted in 1994, after the date of acquisition of claimant Wetten, but before the acquisition of interest by claimant Dorsey in 1997 and claimant Thill in 2001. Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations for claimant Wetten. This would allow claimant Wetten's requested remedy of using the property for a use permitted at the time of his acquisition. The claims of Mr. Dorsey and Mr. Thill were found to be invalid pursuant to ORS 197.352(3)(E), in that the land use regulations in question were enacted before the dates of their acquisition of any interest in the subject property. The Board gave consensus to move this claim forward.

Case File # 103-LURCC-06, Stimson Lumber Company, Claimant; W & H Pacific, Agent

Claimant is seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Timber Conservation (T-C) zone. The subject parcel of property is 1,175 acres in size and is located in sections 24, 25, 26, 35 and 36 of Township 6S Range 9W, further identified as tax lots 1000, 1100, 1200, 1201 and 1202 on Lincoln County Assessor's Map #06-09-24. Claimant acquired its interest in the subject property in 1981. Claimant seeks compensation in the amount of \$8.57 million for the reduction in fair market value of the property due to land use restrictions. The current T-C zone regulations at issue were enacted by Lincoln County in 1994, after the date of acquisition of claimant. Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations for the claimant. This would allow the claimant to divide and site dwellings on the property in accordance with the provisions of the T-C zone in effect on January 26, 1981. The Board gave consensus to move this claim forward.

Case File #104-LURCC-06, Stimson Lumber Company, Claimant; W & H Pacific, Agent

Claimant is seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Timber Conservation (T-C) zone. The subject parcel of property is 628 acres in size and is located south and east of the Siletz River in sections 20 and 21 of Township 8S Range 10W, further identified as tax lots 1000 and 1001 on Lincoln County Assessor's Map #08-10, and tax lot 100 on Lincoln County Assessor's Map 08-10-20. Claimant acquired its interest in the subject property in 1981. Claimant seeks compensation in the amount of \$4.7 million for the reduction in fair market value of the property due to land use restrictions. The current T-C zone regulations at issue were enacted by Lincoln County in 1994, after the date of acquisition of claimant. Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations for the claimant. This would allow the claimant to divide and site dwellings on the property in accordance with the provisions of the T-C zone in effect on January 26, 1981. The Board gave consensus to move this claim forward.

Case File #106-LURCC-06, Elmer and Kathleen Ostling, Claimants; Dawn Pavitt, Agent

Claimants are seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Timber Conservation (T-C) and Agricultural Conservation (A-C) zones. Commissioner Lindly stated that he knows the Ostlings, but has no conflict of interest in hearing the claim. The subject parcel of property is approximately 116.56 acres in size and is located at 5071 South Beaver Creek Road, further identified as tax lots 600, 700, and 800 on Lincoln County Assessor's Map #13-11-09. Claimants acquired their interest in Tax Kit 600 in 1989, at which time acknowledged county code provisions applicable to the property allowed one dwelling used in conjunction with forest management or by conditional use. Claimant Kathleen Ostling first acquired an interest in tax lots 700 and 800 in 1984. At that time, acknowledged county code provisions applicable to tax lot 700 of the A-C 20 zone permitted the creation of 20-acre parcels and the placement of one farm on each resulting parcel. Tax Lot 800, zoned T-C, was subject to the same provisions as tax lot 600, allowing on one homesite with an approved forest management plan or by conditional use. Claimants seek compensation in the amount of \$425,000 for the reduction in fair market value of the property due to land use restrictions. The current A-C and T-C zone regulations at issue were enacted by Lincoln County in 1994, after the date of acquisition of claimants. Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations for the claimants. This would allow claimants to divide tax lot 700 into three, 20-acre parcels, and establish one homesite on each resulting parcel, and establish one homesite each on tax lots 600 and 800 in accordance with the provisions in effect at the time the claimants acquired the subject property. The Board gave consensus to move this claim forward.

Case File #110-LURCC-06, Joseph and Cathy Steere, Claimants

Claimants are seeking compensation for or modification or removal of land use regulations that restrict the placement of dwellings in the Agricultural Conservation (A-C) zone. The subject parcel of property is approximately 17.63 acres in size and is located across from 3870 S. Immonen Road, further identified as tax lot 403 on Lincoln County Assessor's Map 8-11-24. Deed records submitted with the claim document acquisition by the claimants' family in 1963; the claimants acquired deed title in 1996. Claimant Joseph Steere addressed the commissioners, advising that he has documents which show he acquired interest in the subject property in 1991 through an unrecorded contract; the contract was recorded in 1993. Mr. Spangler recommended that this claim be moved forward after staff reviews the documents and, if it is ascertained that interest by the claimants was obtained in 1991, to make changes in staff recommendations. The Board gave consensus to move the claim forward.

Case File #111-LURCC-06, Nancy Vandercook and John Vandercook, Claimants

Claimants are seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Timber Conservation (T-C) zone. The subject parcel of property is approximately 160 acres in size and is located northeast of Ona Beach, further identified as tax lots 7100, 7101, 7102, 7103 and 7104 on Lincoln County Assessor's Map #12-11-17. Mr. Spangler noted that the staff report needs to be amended to reflect that there were two letters received in opposition to the claim. Claimants acquired their interest in tax lot 7100 by bargain and sale deed on December 25, 1983; their interest in tax lot 7101 on December 25, 1975; and in tax lots 7102 and 7103 on December 24, 1976. Claimant John Vandercook acquired an interest in tax lot 7104 on July 2, 1980, and claimant Nancy Vandercook acquired her interest in tax lot 7104 on July 15, 1980. Claimants seek compensation in the amount of \$900,000 for the reduction in fair market value of the property due to land use restrictions. The current T-C zone regulations at issue were enacted by Lincoln County in 1994, after the date of acquisition

of claimants. Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations for the claimants. This would allow the claimants to establish one single-family dwelling used in conjunction with a forest management plan on tax lots 7100 and 7104 and allow the claimants to divide the other parcels (tax lots 7101, 7102, and 7103) into a total of 12 five-acre parcels, each with a homesite as permitted at the time of acquisition of these properties. The Board gave consensus to move the claim forward.

Case File #112-LURCC-06, Betty Coates, Claimant; Dennis Bartoldus, Agent

Claimant is seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Agricultural Conservation (A-C) zone. The subject parcel of property is approximately 47.21 acres in size and is located at 1584 Moonshine Park Road, further identified as Tax Lot 202 on Lincoln County Assessor's Map 9-9-28, and tax lot 1200 on Lincoln County Assessor's Map 9-9-29. Claimant acquired her interest in tax lot 1200 in 1958 and in tax lot 202 in 1962. Claimant seeks compensation in the amount of \$700,000 for the reduction in fair market value of the property due to land use restrictions. Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations for the claimant. This would allow claimant to create three 5-acre or larger home sites, which is the claimant's desired resolution. The Board gave consensus to move the claim forward.

Case File #113-LURCC-06, Garry and Carol Lowe, Claimants; Dennis Bartoldus, Agent

Claimants are seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Agricultural Conservation (A-C) zone. The subject parcel of property is approximately 16.45 acres in size and is located at 1887 Moonshine Park Road, further identified as tax lot 101 on Lincoln County Assessor's Map 9-9-32. Claimants acquired interest in the subject property in 1979, at which time zoning of the property was A-1 and allowed the creation of 5-acre parcels, each with a single-family residence. Claimants seek compensation in the amount of \$200,000 for the reduction in fair market value of the property due to land use restrictions. Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations for the claimants. This would allow claimants to establish one rural dwelling on the property, which is the claimants' desired resolution. The Board gave consensus to move the claim forward.

Case File #114-LURCC-06, Scott Coates, Claimant; Dennis Bartoldus, Agent

Claimant is seeking compensation for or modification or removal of land use regulations that limit the placement of dwellings in the Agricultural Conservation (A-C) zone. The subject parcel of property is approximately 32.57 acres in size and is located at mile 1.7 on Moonshine Park Road, further identified as tax lots 1203 and 1204 on Lincoln County Assessor's Map 9-9-29. Claimant acquired interest in the subject property in 1980, at which time zoning of the property was A-C 40 and permitted the creation of farm parcels similar in size to other parcels in commercial farm use in the area, as well as one dwelling in conjunction with farm use on each resulting parcel. Claimant seeks compensation in the amount of \$200,000 for the reduction in fair market value of the property due to land use restrictions. Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations for the claimant. This would allow claimant to develop a single-family dwelling on the property (tax lots 1203 and 1204 combined), which is the claimant's desired resolution. The Board gave consensus to move the claim forward.

Case File #115-LURCC-06, Lucille Tryon, Claimant; Dennis Bartoldus, Agent

Claimant is seeking compensation for or modification or removal of land use regulations that limit land divisions and the placement of dwellings in the Rural Residential (RR-5) and Timber Conservation (T-C) zones. The subject parcel of property is approximately 36.6 acres in size and is located at 4646 E. Alsea Highway, further identified as tax lot 503 on Lincoln County Assessor's Map 13-11-26, and tax lot 1300 on Lincoln County Assessor's Map 13-11-26-BD. Claimant acquired interest in the subject property in 1973, prior to enactment of the T-C and RR-5 zones. Claimant seeks compensation in the amount of \$1,000,000 for the reduction in fair market value of the property due to land use restrictions. Mr. Spangler advised that staff's recommendation is for the Board to resolve the claim through non-application of the current land use regulations for the claimant. This would allow claimant to divide the property into a total of 11 parcels, ranging in size from one to five acres, each with a single-family dwelling, as permitted at the time of acquisition of the subject property. The Board gave consensus to move the claim forward.

BOARD OF COMMISSIONERS AS GOVERNING BODY OF COUNTYWIDE SERVICE DISTRICTS

REPORTS

Directors/Program Coordinators

Tom Clancey-Burns, Executive Director of the Community Services Consortium, reported on several programs offered by CSC, including summer youth programs, workforce and education programs, transitional housing and homeless services, employment training and emergency services, housing rehabilitation for low-income families, distribution of 5 million pounds of food to 71 member agencies, the Head Start program, and assistance in guiding clients needing health care to appropriate organizations. An outline of the upcoming Federal review process of the Head Start Program was also given by Mr. Clancey-Burns and Nancy Perin, Director of the Lincoln County Head Start Program.

Commissioners

Commissioners Lindly and Thompson noted the recent death of Toledo Mayor Sharon Branstiter and commented on her tireless advocacy for the community of Toledo and Lincoln County. They expressed their condolences to her family and friends and stated she will be greatly missed.

Commissioner Thompson reported that as part of an undersea cable net improvement project, he will be boarding a Coast Guard Cutter with congressional staff and NOAA staff and will be spending 24-48 hours on the cutter.

CONSTITUENT INPUT

Ken O'Dell, a Lincoln County constituent, presented concerns on the use of video cameras in the Lincoln County Sheriff's Deputies' vehicles and asked for a copy of any adopted protocols for use of the cameras. The commissioners suggested that Mr. O'Dell contact Sheriff O'Brien to obtain information regarding the cameras.

ADJOURNMENT

The meeting adjourned at 11:35 a.m. These meeting minutes were read and approved this 2nd day of May 2007.

LINCOLN COUNTY BOARD OF COMMISSIONERS

BILL HALL, Chair

TERRY N. THOMPSON, Commissioner

DON LINDLY, Commissioner

APPROVED