

**APPROVED BY ORDER # 3-08-73**  
**MINUTES OF THE**  
**LINCOLN COUNTY BOARD OF COMMISSIONERS**  
**MEETING OF FEBRUARY 27, 2008**

**CALL TO ORDER**

Acting Chair Don Lindly convened the adjourned session of the Lincoln County Board of Commissioners. Present at the meeting were Commissioner Bill Hall; County Counsel Wayne Belmont; Assistant County Counsel Rob Bovett; PIO Liz Sample and recorder Judy Eames. Commissioner Thompson was excused. Also present were Kendall Cable from *The News Times* and Kiera Morgan from KNPT.

**ROLL CALL - ESTABLISHMENT OF A QUORUM**

**ADOPTION OF CONSENT CALENDAR**

Commissioner Lindly 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. Commissioner Lindly seconded the motion. The vote was taken and the motion passed 2-0.

**MOTION TO APPROVE CONSENT CALENDAR OF  
FEBRUARY 27, 2008**

**CONSENT CALENDAR ITEMS**

*Minutes of Board of Commissioners Meeting*

- 2-08-66 BOC Hearing Minutes of February 13, 2008
- 2-08-67 Joint Session Minutes with City of Yachats City Council on February 13, 2008
- 2-08-68 BOC Meeting Minutes of February 13, 2008
- 2-08-69 BOC Meeting Minutes of February 20, 2008

*Commissioner Appointments & Resignations*

- 2-08-70 Changes in membership to the Lincoln County Fair Board
- 2-08-71 Appointment of Michael Noack to the Lincoln County Extension Service District Advisory Council

**PUBLIC HEARINGS**

**Petition to Vacate an Extension of Alsea Riviera, Case File # V-152**

Lincoln County Public Works Director James W. Buisman gave his report as required under ORS 368.346 concerning the petition to vacate a public easement filed by Troy Cummins, Case File # V-152. Affidavits of service, posting, and publication were entered into the record. The public easement in question is an extension

of Alsea Riviera Drive East located in Section 28, Township 13 South, Range 10 West, Willamette Meridian. The petition to vacate indicates that the existing easement, granted to the public for road purposes, is of no particular use. The petitioner stated that approximately 15-20 years ago, a gravel road apparently connected the north end of Alsea Riviera Drive East to the south end of East Sjostrom Drive, but that this connection no longer exists. No public easement exists through tax lot 2800, which lies directly north of the subject property. Petitioner asserts that there is no longer any right of the public to construct this connection in the future. The petition contains signatures of 100% of the abutting owners. The County Planning Director submitted no comment after reviewing the petition, and no comments were received from any interested parties concerning the petition. Mr. Buisman noted that there are no reported public easements on Tax Lot 2800; tax lot 2702 is subject to several private and public utility easements of record. He advised that it was his opinion the request is in the public interest and recommended that the petition to vacate be granted.

Commissioner Lindly opened the public hearing. Kurt Carstens, Attorney at Law, 407 N. Coast Highway, Newport, testified he is the attorney of record for petitioner. He stated that the petitioner understands the need to reserve any existing utility easements. Mr. Buisman clarified that easements of record are in place and no reservations of easements are needed.

Commissioner Lindly then closed the hearing. After deliberations, both Commissioner Lindly and Commissioner Hall indicated they could find no reason not to grant the requested vacation. They directed Counsel Belmont to prepare an order granting the vacation and to place it on a future Consent Calendar.

#### **Petition to Vacate a Portion of NW Aves Street**

Lincoln County Public Works Director James W. Buisman gave his report as required under ORS 368.346 concerning the petition to vacate a portion of NW Aves Street filed by Marcia McClocklin, Case File V-153. Affidavits of service, posting and publication were entered into the record. The subject property is located in Section 25, Township 12 South, Range 12 West, Willamette Meridian, southwesterly of Highway 34 Milepost 10.3, Seal Rock. Mr. Buisman reported that the petition contains the required 60% signatures of abutting landowners. He noted that he had received several inquiries for more information on the vacation request in response to the notice of hearing, most of which were from abutting land owners, but no objections to the request were received. A letter was entered into the record from Adella & Robert Ashbaugh in favor of the request. A letter dated January 22, 2008, from Vivian Payne, Oregon Department of Transportation (ODOT) Area 4 Manager, was also received into the record in response to a letter from Mr. Buisman notifying ODOT of the vacation request and asking whether ODOT had any future plans for development of NW Aves Street, what position ODOT took with regard to access to tax lot 3900, and ODOT's general position on the vacation request. Ms. Payne's letter indicated that while ODOT has no current plans to build a frontage road, that option would be more favorable than multiple direct accesses to Highway 101. ODOT requested that in the public interest, the platted street option remain open. Ms. Payne also indicated that tax lot 3900 does not appear to have reasonable alternate access and that direct access to Highway 101 would be considered if the property owners requested a modification of their existing permit. Commissioner Hall asked Mr. Buisman if he felt it would be practical to develop NW Aves Street as a local access road; Mr. Buisman indicated that in his opinion, it would not be practical and would result in an unsafe intersection at NW Cross Street.

Commissioner Lindly opened the hearing. Connie Goodman, a neighbor of the petitioner, testified that the subject property has a deep canyon running through it, and it was her opinion that the property is not suitable for development. She noted that the septic tanks on the Lewis and McLaughlin properties are located in front of their homes in an area where Aves Street would be developed. Robert Lewis, an abutting land owner, testified it would be impractical to develop the area as a roadway.

Commissioner Lindly closed the hearing. After deliberations, the commissioners agreed that based on: the testimony and evidence in the record; safety concerns about NW Aves being developed as a frontage road; the impracticality of improving the street because of topographical constraints; the lack of ODOT plans for use of the property; the fact no private property would be denied access if the petition were granted; and the existing access to Highway 101, the vacation is in the public interest. They directed Counsel Belmont to prepare an order granting the vacation for adoption and to place it on a future Consent Calendar.

## **DECISION/ACTION**

### **Solid Waste Rates for Dahl Disposal Service, Inc., South Lincoln County**

Nic Dahl from Dahl Disposal Service, Inc., reported that routes for curbside recycling service are being developed, driver training is taking place, recycling containers will be delivered to customers during the last week of March, and curbside recycling in south county will begin the first week in April. Commissioner Hall made a motion to approve Order # 2-08-72 amending solid waste rates for Dahl Disposal Service, Inc., South County Franchise, to incorporate curbside recycling service. Commissioner Lindly seconded the motion. The vote was taken and passed 2-0.

#### **MOTION TO APPROVE ORDER # 2-08-72 AMENDING SOLID WASTE RATES FOR DAHL DISPOSAL SERVICE, INC., SOUTH COUNTY FRANCHISE TO INCORPORATE CURBSIDE RECYCLING SERVICE**

### **Ordinance # 450 Amending LCC 2.4000 - Telecommunications**

Hearing no request to read the Ordinance # 450 in full, Commissioner Lindly read the title, "Ordinance # 450 relating to telecommunications, amending LCC 2.4000; and declaring an emergency." Assistant County Counsel Rob Bovett advised he drafted the ordinance in order to "tune up" the original ordinance creating CoastNet to make it more accurately reflect the current reality of the CoastNet partnership. Commissioner Hall made a motion to approve Ordinance # 450 relating to telecommunications, amending LC 2.4000; and declaring an emergency. Commissioner Lindly seconded the motion. The vote was taken and passed 2-0.

#### **MOTION TO APPROVE ORDINANCE # 450 RELATING TO TELECOMMUNICATIONS, AMENDING LCC 2.4000; AND DECLARING AN EMERGENCY**

### **Resolution of Intent to Rezone, Lincoln County Assessor's Map 11-10-20C-01004, Case File # 1-ZC-PC-07**

Counsel Belmont gave a brief review of the request by applicant Mike Smith to amend the Lincoln County Comprehensive Plan from Dispersed Residential to Industrial on property identified as tax lot 1004, Lincoln County Assessor's Map 11-10-20C. After notice and publication of hearing as required by law, a hearing was held on February 20, 2008. At that time, the commissioners agreed with the Lincoln County Planning Commission's findings that the property in question was zoned in error and that the applicant's request should be granted. Counsel Belmont advised he had prepared a Resolution of Intent to Rezone incorporating conditions that: (1) the applicant must obtain a conditional use permit in conformance with the requirements of

LCC 1.1364 and other applicable LCCC standards concurrent with effecting the zone change; and (2) limiting the floor area of any building or buildings to 35,000 square feet, as outlined in Oregon Administrative Rules.

APPROVED

Commissioner Hall made a motion to approve Resolution of Intent to Rezone # 08-27-2A (LCC 1.1245), Case File # 1-ZC-PC-07 (Mike Smith, applicant). Commissioner Lindly seconded the motion. The vote was taken and passed 2-0.

**MOTION TO APPROVE RESOLUTION OF INTENT TO REZONE # 08-27-2A (LCC 1.1245), CASE FILE # 1-ZC-PC-07 (MIKE SMITH, APPLICANT)**

**Ordinance # 451 Amending Lincoln County Comprehensive Plan from Dispersed Residential to Industrial, Tax Lot 1004, Lincoln County Assessor's Map 11-10-20C, Mike Smith, Applicant**

Hearing no request to read Ordinance # 451 in full, Commissioner Lindly read the title, "Ordinance # 451 Amending Lincoln County Comprehensive Plan from Dispersed Residential to Industrial on property identified as tax lot 1004, Lincoln County Assessor's Map 11-10-20C, and declaring an emergency." Commissioner Hall made a motion to approve Ordinance # 451 amending Lincoln County Comprehensive Plan from Dispersed Residential to Industrial, Tax Lot 1004, Lincoln County Assessor's Map 11-10-20C, Case File # 1-ZC-PC-07 (Mike Smith, applicant). Commissioner Lindly seconded the motion. The vote was taken and passed 2-0.

**MOTION TO APPROVE ORDINANCE # 451 AMENDING LINCOLN COUNTY COMPREHENSIVE PLAN FROM DISPERSED RESIDENTIAL TO INDUSTRIAL, TAX LOT 1004, LINCOLN COUNTY ASSESSOR'S MAP 11-10-20C, CASE FILE #1-ZC-PC-07 (MIKE SMITH, APPLICANT)**

**ADJOURNMENT**

The meeting adjourned at 10:21 a.m. These meeting minutes were read and approved this 5th day of March, 2008.

**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