

APPROVED BY ORDER # 1-09-13

MINUTES OF THE

LINCOLN COUNTY BOARD OF COMMISSIONERS

MEETING OF JANUARY 14, 2009

CALL TO ORDER

Chair Don Lindly convened the adjourned session of the Lincoln County Board of Commissioners. Present at the meeting were Commissioner Bill Hall, Commissioner Terry Thompson, County Counsel Wayne Belmont, PIO Casey Miller, and Recorder Judy Eames.

ROLL CALL - ESTABLISHMENT OF A QUORUM

ADOPTION OF CONSENT CALENDAR

Chair Lindly introduced the Consent Calendar items. There were no items highlighted or deleted. Commissioner Thompson made a motion to approve the Consent Calendar in its entirety. Commissioner Hall seconded the motion. The vote was taken, and the motion passed unanimously by a vote of 3-0.

**MOTION TO APPROVE CONSENT
CALENDAR OF JANUARY 14, 2009**

CONSENT CALENDAR ITEMS

Minutes of the Board of Commissioners Meeting

1-09-10 BOC Meeting Minutes of January 7, 2009

Documents and Recording Matters in the Commissioners Journal

1-09-11 2008 Revised Lincoln County Mental Health Advisory Committee Guide Lines

1-09-12 Authorizing Certain Employees of the Health & Human Services Department to Take Actions Permitted by ORS 426.233 Relating to the Emergency Commitment, Care and Treatment of the Mentally Ill

PUBLIC HEARING

Petition to Vacate Way of Necessity -- Emery Investments, Inc., V-158

Chair Lindly opened the hearing concerning the petition to vacate a way of necessity filed by Emery Investments, Inc., located in Sections 20, 21 and 28, Township 11 South, Range 11 West, Willamette Meridian. County Public Works Director Jim Buisman entered into the record an oversized aerial

photograph of the way of necessity, the affidavit of service and affidavit of posting notice of hearing. County Counsel entered into the record the affidavit of publication of notice of hearing. The way of necessity begins on the east side of Highway 101 at what is known as Stocker Road in the South Beach-King Slough area and runs for approximately 2 miles with a right-of-way width of 30 feet, terminating in Section 21. Mr. Buisman gave a brief summary, outlined in his report to the Board of Commissioners dated December 8, 2008, of the way of necessity established by court order in 1982 in order to provide access to a landlocked piece of property. The intent of the petition to vacate is to remove the encumbrance on properties created by that court order. Mr. Buisman found that the petition to vacate contains the acknowledged signatures of sufficient abutting owners for a valid petition, as well as the owners of property benefited by the way of necessity. Mr. Buisman reported that tax lot 11-11-20AB-200 is subject to a right-of-way easement; Central Lincoln PUD and the Seal Rock Water District also have easement rights, but neither has improvements within the way of necessity nor have they entered any objections to the petition. Although most of the area in question is within the county, some of the request applies to property located within the city limits of the City of Newport. Counsel Belmont advised that this request is unique in his experience, but that ORS 376.190(2) gives clear authority to the county's governing body to take action on the request, stating: "A way of necessity . . . shall not be altered or vacated except by the governing body of the county in which it is located and in a manner provided by law for the alteration or vacation of a public road."

Chair Lindly called for testimony in favor of the vacation request. Bonnie Serkin, Emery Investments, Inc., outlined the ownership history of the property and confirmed that three parties benefiting from the way of necessity have received recorded easements from Emery Investments, Inc. City of Newport Attorney Gary Firestone stated that the Seal Rock Water District had transferred its easement rights to the affected property to the City of Newport and that the City had no objections to the vacation request. Mr. Firestone noted that once the commissioners adopt an order with findings, the City Council would have authority to concur with the findings, and would probably do so at its February 2 meeting.

Chair Lindly called for testimony in opposition to the vacation request. Hearing none, Chair Lindly closed the hearing and opened Board deliberations. It was the consensus of the commissioners that granting the request would have no negative impact on the surrounding properties and that they were in favor of the petition request. Counsel Belmont advised that because the way of necessity encompasses property under both the county's and the City of Newport's jurisdictions, he would need to prepare two separate orders. Commissioner Thompson made a motion to approve vacating that portion of the way of necessity lying within the county's jurisdiction as requested by Petitioner Emery Investments, Inc., Case File # V-158. Commissioner Hall seconded the motion. The vote was taken, and the motion passed unanimously by a vote of 3-0.

**MOTION TO APPROVE VACATING THAT PORTION
OF THE WAY OF NECESSITY LYING WITHIN THE
COUNTY'S JURISDICTION AS REQUESTED BY
PETITIONER EMERY INVESTMENTS, INC., CASE
FILE V-158**

Commissioner Hall made a motion to approve vacation that portion of the way of necessity lying with the City of Newport's jurisdiction as requested by Petitioner Emery Investments, Inc., Case File # V-158. Commissioner Thompson seconded the motion. The vote was taken, and the motion passed unanimously by a vote of 3-0.

**MOTION TO APPROVE VACATING THAT PORTION
OF THE WAY OF NECESSITY LYING WITHIN THE
CITY OF NEWPORT'S JURISDICTION AS
REQUESTED BY PETITIONER EMERY
INVESTMENTS, INC., CASE FILE V-158**

DISCUSSION/INFORMATION

City of Newport's Proposed Fifth Amendment to the South Beach Urban Renewal Plan

City of Newport Mayor Bill Bain, City Councilor Patricia Patrick, and Newport Community Development Director James Bassinghwaite presented information concerning the city's proposed Fifth Amendment to the South Beach Urban Renewal Plan, which includes an extension of time from the existing sunset date of 2010 to a sunset date of 2020 to allow for the potential of \$18,178,700 in identified projects to be funded between the years 2009 and 2020. An open house and public hearings were held by the City in late 2008 to obtain public comment on the amendment, which was crafted with the assistance of an ad hoc advisory committee working under the jurisdiction of the Urban Renewal Commission, chaired by Councilor Patrick. The proposed ordinance and Fifth Amendment plan and report are posted on the City of Newport's website at: www.thecityofnewport.net. Mr. Bassingwaite provided background on the purpose of urban renewal districts, which can be formed under state statute to improve the overall quality of an area primarily through needed infrastructure and utility improvements. Funding for urban renewal is based on an annual increase in property tax revenue over time above a "frozen base" of property tax established at the time the urban renewal district is created. The improvements are intended to encourage private investment and generate additional revenues for each of the taxing districts at the end of the urban renewal period. Mr. Bassingwaite reported that the Nye Beach Urban Renewal District has been extremely successful and will be closing out nine years ahead of schedule. Counsel Belmont advised it was his interpretation of state statutes that the county's role in adoption of an amendment to the South Beach Urban Renewal Plan may include adoption of a resolution in support or in opposition to the amendment. Chair Lindly noted that the commissioners have been supportive in the past of projects focusing on infrastructure. Mayor Bain stated that right-of-way acquisitions and improvements to Highway 101 were critical in obtaining Oregon Department of Transportation approval of any development in the South Beach area and in alleviating traffic bottlenecks on Highway 101.

The amendment will be brought back before the Board for consideration after adoption by the Newport City Council. The commissioners thanked the city officials for conducting the process in such an open and inclusive manner.

Ernest Bloch Legacy House

Mark McConnell, a representative from the Lincoln County Land Legacy Committee and next-door neighbor to the Ernest Bloch Legacy House, requested a letter from the commissioners in support of the Ernest Bloch House National Register nomination. The house is currently designated as a landmark and, if placed on the Register, will be eligible to receive funds from the National Park Service. Mr. Belmont advised that the property surrounding the house, which is currently owned by religious entity but which State Parks may be interested in purchasing, falls within the scope of the Lincoln Land Legacy Program's efforts to preserve scenic vistas and natural amenities. He indicated that Lincoln Land Legacy would work with the State of Oregon to preserve the natural beauty of the property, should it be acquired by the State. After a brief discussion on access to the property, the commissioners indicated their support of the nomination and gave consensus to sign a letter of support.

REPORTS

Commissioner Thompson reported on the opening of the Oregon Legislature and the funding problems faced by the state. Chair Lindly noted that the legislature and governor will be acting on a bill redesigning the Oregon Economic and Community Development Department, which will be renamed the Oregon Business Development Department. A brief discussion on the bleak economic picture and cutbacks facing Oregon counties was held.

ADJOURNMENT

The meeting adjourned at 11:08 a.m. These meeting minutes were read and approved this 21st day of January, 2009.

LINCOLN COUNTY BOARD OF COMMISSIONERS

DON LINDLY, Chair

BILL HALL, Commissioner

TERRY N. THOMPSON, Commissioner