

APPROVED BY ORDER # 7-09-166

**MINUTES OF THE
LINCOLN COUNTY BOARD OF COMMISSIONERS
MEETING OF JULY 15, 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, and PIO Casey Miller.

ROLL CALL - ESTABLISHMENT OF A QUORUM

Chair Lindly offered the County's heartfelt loss with the death of Mike Menzies.

RECOGNITION/PROCLAMATION

ADOPTION OF CONSENT CALENDAR

Chair Lindly introduced the Consent Calendar items. 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
July 15, 2009**

CONSENT CALENDAR ITEMS

Minutes of Board of Commissioners Meeting

7-09-152 **BOC Meeting Minutes of July 1, 2009**

7-09-153 **BOC Meeting Minutes of July 8, 2009**

General Budget Resolutions

09-15-07A Resolution Adopting the Lincoln County Multi-Jurisdictional Natural Hazards Mitigation Plan

Documents - Recording Matters in the Commissioners Journal

7-09-154 **ODOT - Public Transit Division and Lincoln County Grant Agreement No. 24347**

7-09-155 **ODOT - Public Transit Division and Lincoln**

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- 7-09-156 **ODOT - Public Transit Division and Lincoln County Grant Agreement No. 25686**
- 7-09-157 **ODOT - Public Transit Division and Lincoln County Grant Agreement No. 25823**
- 7-09-158 **Intergovernmental Agreement #26,022 Lincoln County Juvenile Work Program**
- 7-09-159 **Appointments of Horton and Fowler to the Region 4 Workforce Investment Board**
- 7-09-160 **Designation of Newspaper for Publication of the 2008-09 Lincoln County Foreclosure List**

Documents - Execution Only:

1. **Amendment to State of Oregon Intergovernmental Agreement: Amendment #1 for DHS Shelter contract #125630 to June 30th, 2010**
2. **Agreement #26078 between ODOT – Public Transit Division and Lincoln County Public Transportation Service District**
2. **Agreement #25635 between ODOT – Public Transit Division and Lincoln County Public Transportation Service District**

PUBLIC HEARING

Public Hearing for discussion regarding granting permission to Hitselberger Ranch LLC to allow placement of a locked gate on N. Wolkau Road in Seal Rock, Oregon

Chair Lindly opened the hearing and provided the procedure for the public hearing process. Chair Lindly followed by introducing communications previously received regarding the subject. Jim Buisman, Director of Public Works, then gave a staff report. Mr. Buisman discussed ORS 368 – County Roads relevance to the request, details about the geographic location, and history about the road’s use in the public domain.

Sue Hitselberger (land owner) and her son Joe Hitselberger (ranch and timber manager of property) began testimony by saying that they owned property in the area for twenty years. Joe Hitselberger said that in 2007 they conducted a logging operation in which they had to redo the roadway on their property. After the logging operation (before the installation of a gate on their property) they witnessed trespassing, illegal dumping and vandalism to equipment on their property. Mr. Hitselberger thinks that a gate would be a good idea because the right of way does not access any public land and as a result it is a springboard for illegal activity. He also said the road maintenance will fall on him for the part of the road that goes through his property. He said the gate will limit traffic dramatically and make road maintenance more manageable. He believes it is in the public’s best interest to have a gate. He said if there is such a strong need to continue accessing the road - the County should take the responsibility to maintain the road.

Audience testimony began with M.F. Beale who has resided in her house in the area since 1965. She said she is opposed to adding a gate primarily on health and safety issues. She said that the road is an evacuation route should the Newport Bridge be impassable. She also said a gate would block access of emergency vehicles.

Next to provide testimony was Richard Scholl who said he has lived next to the road for 35 years. Scholl said he approves of installing a gate. Scholl said if the road were maintained and useful he would desire the road to remain open. Scholl provided pictures of the road and its disrepair. He said that he did not think it to be passable in the winter months except by four wheel drive vehicle. He said county roads should not be used as recreational place for illegal activity.

Ann Goddard opposes the gate. She said that it sets a dangerous precedence to shut off any county road.

Dr. Richard Beemer a resident of Lincoln County for 33 years and is in support of the gate. He says the Hitselbergers have allowed access of the Corvallis to Coast trail to pass through their property.

Matt Fehrenbacher a stewardship forester for the Pacific Forest Trust in Corvallis was next to provide testimony. The Pacific Forest Trust supports gating the roadway. The PFT manages roughly 7,200 acres of forest land in Lincoln County. Fehrenbacher said the road provides access to the PFT property in the area and historically the property has suffered severe trespassing and vandalism, illegal camping, theft, trash dumping and poaching.

Terry Trenholm has lived in the area for the last 35 years. He said he prefers that the gate be kept open and that it is beautiful country.

Oregon State Trooper Greg Torland is in support of the gate. He said the problems are vandalism, garbage dumping, abandoned vehicles, motor home fires, and industrial spills. He said some of the biggest problems they have are from ATVs and 4W Drive pickups. He said that if the road stays open it will be an expense to tax payers and a burden on law enforcement, an additional burden upon the courts. He said he did not know if portions of this County road were fit for travel.

Deborah Becker is in support of a gate. She has been a resident for 15 years and her husband has lived at their address on the road since 1971. She said that her home is one of the first in which they show up in the middle of the night, drunk to see if someone can help pull them out when they are stuck. She said users of the road litter and that they damage the road. Furthermore she said she and her husband have a fear of fire danger.

Heidi Goddard Trenholm has lived in the area for twenty years and she is opposed to the gate. She says she does not support those that vandalize but she says a gate will not stop people who are intent on breaking the law.

Randy Becker is a resident since 1971. He said that if the road is not gated, then all the other gates should be removed. He is in support of the gate.

John Ucalano testified that his private driveway is about 40 yards from the proposed gate. He has lived in his home as a full time resident since 1971. Historically he said there was a really good reason to back on the road. It was an idyllic and untouched wilderness. He says that there is no reason to go back there now unless you want to look at the devastation. He said that the Hitselbergers are the only ones who have done anything with the property since logging operations.

Kathy Williams has lived on beaver Creek for 43 years and says she opposes the gate. She said with global warming and tsunamis the government should hang on to the public roads as alternative routes. She said that these roads may be the future Hwy 101s in many years.

Chair Lindly then closed the hearing. Commissioner Thompson then asked the State Trooper to address the public dumping. Trooper Torland said many of the cases have been successfully prosecuted. Commissioner Thompson asked the State Trooper if he had any idea of what percentage of people were legally using the road and he said that he did not know. Susan Hitselberger then asked to speak and said that she had owned the property for 20 years and has never been cited for any violations. Joe Hitselberger said he was not opposed to non-motorized traffic use of the road and said that there should be more research on where the right of way is. He said that there is conflicting testimony how the road system works.

Commissioner Hall said he would not like to take some time to absorb and review the information and possibly do some additional research. Commissioner Thompson agreed with Commissioner Hall and said that he needed to get more information from our forest officer who could not be present at the meeting. Commissioner Lindly clarified that the county is not considering vacating the property at this point and that the request was for a hearing to install the gate by the Hitselbergers. He followed by saying that he does not support the investment of having Mr. Buisman determine where the legal right of way exists on this particular road. He noted that the forest patrol officer is funded by private timber investment as well as the Solid Waste District. Commissioners Lindly said that the County needed to do some more research and would put the topic back on the agenda at a future meeting.

DECISION/ACTION

Adoption of Resolution # 09-15-07B Rezoning Property (Whisler Property) under provisions of LCC Section 1.1245, Resolution of Intent to Rezone, Case File # 1-LUPC-ZC-09

Counsel Belmont reviewed the history of the application and hearing on this matter, including the consensus to approve the requests. There was no further discussion on the resolution by the Commissioners. A motion was made, and the resolution passed unanimously by a vote of 3-0.

A MOTION TO APPROVE RESOLUTION # 09-15-07B REZONING PROPERTY (WHISLER PROPERTY) UNDER PROVISIONS OF LCC SECTION 1.1245, RESOLUTION OF INTENT TO REZONE, CASE FILE # 1-LUPC-ZC-09

Adoption of Ordinance # 460 “Amending the Lincoln County Comprehensive Plan Map from General Commercial to Industrial and the Lincoln County Zoning Map from C-1 (Retail Commercial) to I-P (Planned Industrial) on property identified on Lincoln Assessor’s Map # 6-10-35 BC as Tax Lot 1000, Case File #1-LUPC-ZC-09 and declaring an emergency.”

Hearing no request by the Commissioners that Ordinance # 460 be read in full, Chair Lindly read the ordinance by title only. Motion was made to adopt Ordinance # 460. The motion passed unanimously by a vote of 3-0.

**A MOTION APPROVING ORDINANCE # 460
“AMENDING THE LINCOLN COUNTY
COMPREHENSIVE PLAN MAP FROM
GENERAL COMMERCIAL TO INDUSTRIAL
AND THE LINCOLN COUNTY ZONING MAP
FROM C-1 (RETAIL COMMERCIAL) TO I-P
(PLANNED INDUSTRIAL) ON PROPERTY
IDENTIFIED ON LINCOLN ASSESSOR’S MAP
6-10-35 BC AS TAX LOT 1000, CASE FILE #1-
LUPC-ZC-09 AND DECLARING AN
EMERGENCY”**

DISCUSSION/INFORMATION

Cynthia Solie the Executive Director of Cascades West Council of Governments gave a report on recent activity. She said they are still working through the impacts of State funding on their budget and that there would likely be a several hundred thousands of dollars of cuts (not to any one program.) Thus, they are looking at how they will manage the cuts and will not know definitively until late summer early fall when DHS looks through the numbers.

REPORTS

Commissioners

The were no formal Commissioner’s Reports

CONSTITUENT INPUT

Jim Fraser provided Commissioners with pictures of his property. Jim owns residential property on N. Bank Road near Otis. Last August the County sprayed herbicides for Japanese Knotweed. Jim says he had signs up for no spraying and he had his vegetation trimmed back to the fence. He said that he observed other areas along the road that had been sprayed and that they began to discolor like the vegetation on his

property. He determined that his property had in fact been sprayed as well. He called the Road Department and talked to Doug Shaller, who indicated he had received permission from the neighbor who lived in the house on the corner next to where the spraying took place. Mr. Fraser then spoke with Jim Chambers who said there was a written policy in effect and that he would contact Mr. Fraser. Mr. Fraser said that Jim Chambers had still not contacted him. Mr. Fraser then said he was talking to the BOC because they may have the ability to stop use of herbicides in Lincoln County. Mr. Fraser said that there was no responsible use of herbicides just different degrees of irresponsibility. Commissioner Lindly responded that we have one of the most progressive policies in the use of herbicides of any county, that it is very limited application and only a last resort. Mr. Lindly said he did not know about this particular case but that the county would look into it. Commissioner Thompson responded that Knotweed was a dangerous plant in this County and that he wished we would make more of an effort to stop it. The Commissioners thanked Mr. Fraser and said that they would follow up on the incident.

ADJOURNMENT

The meeting adjourned at 11:55 a.m. These meeting minutes were read and approved this 15th day of July, 2009.

LINCOLN COUNTY BOARD OF COMMISSIONERS

DON LINDLY, Chair

BILL HALL, Commissioner

TERRY N. THOMPSON, Commissioner