

MINUTES – TILLAMOOK COUNTY BOARD OF COMMISSIONERS' MEETING**Wednesday, May 9, 2007****Page 1****FILED**

JUN 29 2007

TASSI O'NEIL
COUNTY CLERK**COMMISSIONERS PRESENT:**Mark Labhart, Chair
Charles J. Hurliman, Vice-Chair**COMMISSIONER ABSENT:**Tim Josi, Commissioner
(NACo/WIR Conference, Alaska)**STAFF PRESENT:**Paul Levesque, Management Analyst
William K. Sargent, County Counsel

STAFF PRESENT FOR PORTIONS OF THE MEETING: Sara Charlton, Director, Library; Del Schleichert, Director, Parks Department; Aaron Palter, Community Development; Todd Anderson, Sheriff; Pat Oakes, Public Works and Bill Campbell, Director, Community Development.

GUESTS: Gus Meyer, John Gettman, Wayne Auble, Jim Quiring, Ken O'Toole, Thomas Cutler, Richard Pearn, Ross Holloway and Steve Forester.

CALL TO ORDER: By Chair Labhart at 9:01 a.m. in Commissioners' Meeting Room A.

ITEM NO. 1: WELCOME & REQUEST TO SIGN GUEST LIST: Chair Labhart welcomed everyone and reminded them to sign the guest list. Chair Labhart announced Commissioner Josi's attendance at a WIR meeting.

ITEM NO. 2: PUBLIC COMMENT – NON-AGENDA ITEMS: Sheriff Anderson said that throughout the State, National Police Week is recognized and May 21st is the day it is recognized locally.

Vice-Chair Hurliman made a motion to approve and sign the Resolution declaring May 15, 2007 as National Law Enforcement Memorial Day, May 21, 2007 as Tillamook County Law Enforcement Day and on May 15th and 21st, 2007 the flags in Tillamook County are to be lowered to half staff. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes. The Commissioners signed Resolution #R-07-010.

Steve Forester, Case Manager, Salvation Army, said the Governor has proclaimed the week of May 14 to 20, 2007 as Salvation Army Week. He described local work by the Salvation Army. He asked the Commissioners to act on the Resolution, which he read.

A motion was made by Vice-Chair Hurliman to approve and sign the Resolution proclaiming May 14 to 21, 2007 as Salvation Army Week. Chair Labhart seconded the motion. The motion carried with two (2) aye votes. The Commissioners signed Resolution #R-07-009.

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Chair Labhart talked about the efforts of the Salvation Army during the 1996 floods and commended their efforts locally. Mr. Forester announced the open house tomorrow and the food drive.

ITEM NO. 3: PRESENTATION ON TILLAMOOK FORESTY INTERPRETATIVE CENTER'S FIRST YEAR: Jim Quiring gave a Power Point presentation on the activities. Forty-nine (49) States are represented in the visitors. Fifty-seven thousand (57,000) people have toured since opening. He gave a history of the Center and its operations. He then described the interpretive and education programs. He discussed the awards the Center has received. Chair Labhart said this was a jewel and he described the importance to children. Vice-Chair Hurliman asked if parking would be an issue. Mr. Quiring said that it had not.

Chair Labhart recessed the meeting at 9:34 a.m. and reconvened it at 9:38 a.m.

ITEM NO. 4: CONSENT CALENDAR: There were no items scheduled today.

ITEM NO. 5: CONSIDERATION OF MEASURE 37 CLAIM M-06-48, BY EULA PEARN AND RICHARD PEARN REGARDING TAX LOTS 1400 AND 1400 S1, SECTION 7, TOWNSHIP 5 SOUTH, RANGE 10 WEST W.M., TILLAMOOK COUNTY, OREGON: Mr. Palter gave a summary of the claim. Claimants seek to develop one (1) to two (2) acre lots on a one hundred fifty-five point eight (155.80) acre property in Farm zone. Ms. Pearn acquired the property December 21, 1966. On October 17, 1987 she deeded it to her son Richard, subject to a life estate. Claimant claims earlier ownership but has not yet provided evidence. Mr. Palter discussed the 1987 conveyance. Thomas Cutler representing claimants was present. He asked that Mr. Palter confirm the acquisition date. Mr. Cutler contended that Ms. Pearn had reserved a life estate and a reversionary interest, giving her a legal interest in the property. He said as to Richard Pearn, in September 1978 there was a bid for improvements to the property.

Bill Pearn was in poor health. Richard Pearn obtained the bid and supervised construction. There was an understanding he had to pay it off. By 1982 milk checks were coming in his name and he was paying the taxes. Mr. Cutler asserted this was a constructive trust. Richard Pearn has lived on the property his entire life. In the 1987 transfer they applied his contributions. He wanted to preserve the record that Richard Pearn had an interest in 1979. Mr. Palter confirmed Ms. Pearn's interest on the 1966 date. Mr. Cutler said Richard Pearn also has a family interest which he described.

Counsel Sargent said the trust argument has merit but not to the level of Measure 37. He said Ms. Pearn has an ownership interest back to the 1966 date. Mr. Campbell described the practical effect of the two (2) claim dates. Counsel Sargent confirmed

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that the dates in the Staff Report are valid. Mr. Cutler discussed the complexity of the transferability issue. Mr. Palter read into the record a Wikipedia definition of a life estate.

Vice-Chair Hurliman said there will be ongoing Court cases. Vice-Chair Hurliman made a motion to waive the claim back to December 21, 1966 for Eula Pearn and October 17, 1987 for Richard Pearn. Chair Labhart described the Board's consistency. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes.

ITEM NO. 6: CONSIDERATION OF ORDER M-06-26 IN THE MATTER OF A CLAIM UNDER MEASURE 37 (2004) BY JERRY WOLFE AND MARLENE WOLFE, WAIVING CERTAIN PROVISIONS OF THE TILLAMOOK COUNTY LAND USE ORDINANCE; ITEM NO. 7: CONSIDERATION OF ORDER M-06-17 IN THE MATTER OF A CLAIM UNDER MEASURE 37 (2004) BY WILBUR R. HARRIS, TRUSTEE OF THE HARRIS FAMILY TRUST, WAIVING CERTAIN PROVISIONS OF THE TILLAMOOK COUNTY LAND USE ORDINANCE; ITEM NO. 8: CONSIDERATION OF ORDER M-06-43 IN THE MATTER OF A CLAIM UNDER MEASURE 37 (2004) BY TERRY A. BOQUIST, WAIVING CERTAIN PROVISIONS OF THE TILLAMOOK COUNTY LAND USE ORDINANCE; ITEM NO. 9: CONSIDERATION OF ORDER M-06-52 IN THE MATTER OF A CLAIM UNDER MEASURE 37 (2004) BY CHARLES ANDERSON AND MARY ANDERSON, WAIVING CERTAIN PROVISIONS OF THE TILLAMOOK COUNTY LAND USE ORDINANCE; ITEM NO. 10: CONSIDERATION OF ORDER M-06-42 IN THE MATTER OF A CLAIM UNDER MEASURE 37 (2004) BY JACK A. ERICKSON, WAIVING CERTAIN PROVISIONS OF THE TILLAMOOK COUNTY LAND USE ORDINANCE; ITEM NO. 11: CONSIDERATION OF ORDER M-06-39 IN THE MATTER OF A CLAIM UNDER MEASURE 37 (2004) BY MICHAEL L. KOWALSKI AND LANA B. KOWALSKI, WAIVING CERTAIN PROVISIONS OF THE TILLAMOOK COUNTY LAND USE ORDINANCE; ITEM NO. 12: CONSIDERATION OF ORDER M-06-29 IN THE MATTER OF A CLAIM UNDER MEASURE 37 (2004) BY EDWARD E. MYERS AND WILMA A. MYERS, AS TRUSTEES OF THE EDWARD E. MYERS TRUST DATED 11/13/06, WAIVING CERTAIN PROVISIONS OF THE TILLAMOOK COUNTY LAND USE ORDINANCE; ITEM NO. 13: CONSIDERATION OF ORDER M-03-19 IN THE MATTER OF A CLAIM UNDER MEASURE 37 (2004) BY M. DARYL JOHNSTON, DONNA J. JOHNSTON AND WAYNE M. JOHNSTON, WAIVING CERTAIN PROVISIONS OF THE TILLAMOOK COUNTY LAND USE ORDINANCE and ITEM NO. 14: CONSIDERATION OF ORDER M-06-31 IN THE MATTER OF A CLAIM UNDER MEASURE 37 (2004) BY GEORGE C. REINMILLER, WAIVING CERTAIN PROVISIONS OF THE TILLAMOOK COUNTY LAND USE ORDINANCE: A motion was made by Commissioner Hurliman to approve and sign the Orders pertaining to the Measure 37 Claims (2004) M-06-26 for Wolfe; M-06-17 for Harris; M-06-43 for Boquist; M-06-52 for Anderson; M-06-42 for Erickson; M-06-39 for Kowalski; M-06-29 for Myers; M-06-19 for Johnston and M-06-31 for Reinmiller. Chair

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Labhart seconded the motion. The motion carried with two (2) aye votes. The Commissioners signed Orders #M-06-26, M-06-17, M-06-43, M-06-52, M-06-42, M-06-39, M-06-29, M-06-19 and M-06-31, respectively.

TAKEN OUT OF ORDER: ITEM NO. 17: CONSIDERATION OF ENCROACHMENT LICENSE REQUEST FOR PACIFIC AVENUE ROAD RIGHT OF WAY IN OCEANSIDE (ADJACENT TO T1S R11 W SECTION 25AA TAX LOT 4900) BY JOHN KOTTRE:

Mr. Oakes said this relates to a repair of a previously existing sidewalk. Mr. Oakes showed some schematics and photographs. The cabins have a zero (0) setback. The walkway is in the right-of-way. Mr. Oakes described the work load delays on this item. Mr. Oakes summarized the Staff Report. There were no major problems or objections from the input. The encroachment is two to three (2 – 3') feet into the right-of-way. There are no plans to widen the road. Mr. Oakes discussed the Transportation Refinement Plan that would make this a one-way street with parking. If stairs are considered for repair in the future, they could be reduced at that time. The Road Department has no objection. Mr. Oakes submitted the Affidavit of Notification and an input letter which he read.

Vice-Chair Hurliman agreed with the Staff Report. Chair Labhart said he will also support it because it is a long standing use, no safety hazard and sidewalks are typically found in the right-of-way. Mr. Kottre showed a 1940's photo showing the wooden sidewalk and discussed recent injuries as a result of the current sidewalk's disrepair.

A motion was made by Vice-Chair Hurliman to support the encroachment license. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes.

ITEM NO. 15: CONSIDERATION OF OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT FY-0-08 GRANT AGREEMENT:

Mr. Campbell said this is an annual grant for Twenty-Eight Thousand (\$28,000) Dollars. We pick up the other half and provide two (2) annual reports. We usually exceed the match.

Vice-Chair Hurliman made a motion to approve and sign the Oregon Department of Land Conservation and Development FY-07-08 Grant Agreement. The motion was seconded by Chair Labhart. The motion carried with two (2) ayes. The Commissioners signed the Agreement.

ITEM NO. 16: CONSIDERATION OF ORDER APPOINTING RONALD A. ELLISON TO THE TILLAMOOK COUNTY LIBRARY BOARD:

Mr. Ellison works at the Tillamook Bay Community College and Library Board recommendation was unanimous.

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A motion was made by Vice-Chair Hurliman to approve and sign the Order appointing Ronald A. Ellison to the Tillamook County Library Board. Chair Labhart seconded the motion. The motion carried with two (2) aye votes. The Commissioners signed Order #07-061.

ITEM NO. 18: CONSIDERATION OF LOCAL AGENCY AGREEMENT EMERGENCY RELIEF PROGRAM TILLAMOOK COUNTY 2006 EMERGENCY REPAIRS REGARDING THE NOVEMBER 2006 STORM EVENT FEDERAL DISASTER DECLARATION (EAST BEAVER CREEK ROAD): Mr. Oakes said staff determined this was a Federal Highway Act eligible project. County Counsel has reviewed it.

Vice-Chair Hurliman made a motion to approve and sign the Local Agency Agreement Emergency Relief Program Tillamook County 2006 emergency repair regarding the November 2006 storm event Federal Disaster Declaration for East Beaver Creek Road. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes. The Commissioners signed the Agreement.

ITEM NO. 19: CONSIDERATION OF A CONSTRUCTION CONTRACT WITH GROUNDHOG CONSTRUCTION INC. FOR THE KILCHIS RIVER PARK FLUSH RESTROOM SUB-BASE CONSTRUCTION PROJECT: Mr. Schleichert said this is for Twenty-Four Thousand Two Hundred Sixty-Five – 70/100 (\$24,265.70) Dollars and includes utilities and site work.

A motion was made by Vice-Chair Hurliman to approve and sign the Construction Contract with Groundhog Construction Inc. for the Kilchis River park flush restroom sub-base construction project. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes. The Commissioners signed the Contract.

ITEM NO. 20: CONSIDERATION OF AGREEMENT FOR USE OF JUVENILE DETENTION FACILITY WITH CLATSOP COUNTY: Mr. Levesque described the provisions of the Contract. It is an annual agreement.

Vice-Chair Hurliman made a motion to approve and sign the agreement for use of the Juvenile Detention Facility with Clatsop County. Chair Labhart seconded the motion. The motion carried with two (2) aye votes. The Commissioners signed the Agreement.

ITEM NO. 21: CONSIDERATION OF TILLAMOOK COUNTY'S COMMUNITY CORRECTIONS PLAN FOR 2007- 2008 BIENNIUM: A motion was made by Vice-Chair Hurliman to approve and sign the Tillamook County's Community Corrections Plan for the 2007-2008 Biennium. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes. The Commissioners signed the letter.

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ITEM NO. 22: CONSIDERATION OF ORDER APPOINTING JON CARNAHAN TO THE TILLAMOOK FUTURES COUNCIL: Chair Labhart said Mr. Carnahan is the Tillamook Bay Community College President and is enthusiastic about serving.

Vice-Chair Hurliman made a motion to approve and sign the Order appointing Jon Carnahan to the Tillamook Futures Council. Chair Labhart seconded the motion. The motion carried with two (2) aye votes. The Commissioners signed Order #07-062.

ITEM NO. 23: CONSIDERATION OF AN ORDER IN THE MATTER OF TRANSFERRING CERTAIN PROPERTY (1N10 21BD 2200) TO DAVID T. AND VICKIE K. SIGAFOOS: Mr. Levesque gave a history concerning this parcel which was part of a larger tract. The larger tract was conveyed to the City of Garibaldi. The parcel had a driveway encroachment which was resolved by a sale to Sigafoos under a Contract that they have now paid off. They are entitled to a Deed.

A motion was made by Vice-Chair Hurliman to approve and sign the Order in the matter of transferring certain property (1N10 21BD 2200) to David T. and Vickie K. Sigafoos. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes. The Commissioners signed Order #07-063.

ITEM NO. 24: CONSIDERATION OF A TAX DEED IN FAVOR OF DAVID T. AND VICKIE K. SIGAFOOS RELATING TO CONTRACT ON 1N10 21BD 2200 IN THE AMOUNT OF \$3,500: This relates to the previous Order. Vice-Chair Hurliman made a motion to approve and sign the Tax Deed in favor of David T. and Vickie K. Sigafoos relating to the Contract on 1N10 21BD 2200 in the amount of Thirty-Five (\$3,500) Dollars. Chair Labhart seconded the motion. The motion carried with two (2) aye votes. The Commissioners signed the Tax Deed.

TAKEN OUT OF ORDER ITEM NO. 26: CONSIDERATION OF ORDER IN THE MATTER OF TRANSFERRING CERTAIN PROPERTY (1N10 34DA 3900) TO TILLAMOOK COUNTY HABITAT FOR HUMANITY: Vice-Chair Hurliman made a motion to approve and sign the Order in the matter of transferring certain property (1N10 34DA 3900) to Tillamook County Habitat for Humanity. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes. The Commissioners signed Order #07-65.

Chair Labhart announced meetings with Habitat about developing further housing.

ITEM NO. 27: CONSIDERATION OF QUIT CLAIM DEED (1N10 34DA 3900) TO TILLAMOOK COUNTY HABITAT FOR HUMANITY: A motion was made by Vice-Chair Hurliman to approve and sign the Quit Claim Deed for 1N10 34DA 3900 to

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Tillamook County Habitat for Humanity. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes. The Commissioners signed the Quit Claim Deed.

ITEM NO. 28: CONSIDERATION OF INSTRUCTIONS TO REBALANCE THE RETIREMENT TRUST PLAN FOR CERTAIN EMPLOYEES OF TILLAMOOK COUNTY:

Mr. Levesque described the County's retirement plan, the plan asset management and the annual contribution by the County. This document will allocate the annual contribution and rebalance the fund categories.

Vice-Chair Hurliman made a motion to approve and sign the instructions to rebalance the retirement trust plan for certain employees of Tillamook County. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes. The Commissioners signed the Instructions.

ITEM NO. 29: BOARD CONCERNS – NON-AGENDA ITEMS & ANNOUNCEMENTS:

Chair Labhart said all three (3) Commissioners will be attending a meeting Monday with Senator Wyden regarding the reauthorization of PL 106-393. On Tuesday the Commissioners will attend a legislative hearing on funding the hatcheries. The Commissioners discussed the safety-net matter.

ITEM NO. 30: PUBLIC COMMENTS: Mr. Meyer indicated that item #25 had not been done.

ITEM NO. 25: CONSIDERATION OF ORDER WITHDRAWING CERTAIN PROPERTY (PARCEL #1 – 1N10 34AC 2000 AND PARCEL #11 – 2N10 9BA 3600) FROM THE TILLAMOOK COUNTY LAND SALE:

Mr. Levesque said that Parcel #1 may involve a County culvert. We will have to locate the boundaries. Parcel #11 may be required for County use in a road relocation.

A motion was made by Vice-Chair Hurliman to approve and sign the Order withdrawing certain property (Parcel #1 – 1N10 34AC 2000 and Parcel #11 – 2N10 9BA 3600) from the Tillamook County Land Sale. The motion was seconded by Chair Labhart. The motion carried with two (2) aye votes. The Commissioners signed Order #07-064.

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ITEM NO. 30: CONTINUED: There were no other comments at this time.

Chair Labhart read the announcements.

There being no further business Chair Labhart adjourned the meeting at 10:45 a.m.

RESPECTFULLY SUBMITTED this 29 day of June, 2007.

County Clerk: Tassi O'Neil

Susan L. Becraft
Susan Becraft, Recording Secretary
& Special Deputy

APPROVED BY:

Greg Labhart
Chair

Robert J. Shurtan
Vice-Chair

W. J. Vanifi
Commissioner



**NOTICE OF MEETING AND AGENDA
of the
TILLAMOOK COUNTY BOARD OF COMMISSIONERS**

Also sitting as the Board of the
**SOLID WASTE SERVICE DISTRICT &
THE 4-H AND EXTENSION SERVICE DISTRICT**
to be held

Wednesday, May 9, 2007, at 9:00 a.m.
County Courthouse, 201 Laurel Avenue
Tillamook, Oregon

BOARD OF COMMISSIONERS

Mark Labhart, Chair
E-mail: mlabhart@co.tillamook.or.us

Charles J. Hurliman, Vice-Chair
E-mail: churlima@co.tillamook.or.us

Tim Josi, Commissioner
E-mail: tjosi@co.tillamook.or.us

201 Laurel Avenue
Tillamook, Oregon 97141
Phone: (503) 842-3403 FAX: (503) 842-1384

ANY QUESTIONS? Contact
Paul Levesque (503) 842-1809
E-mail: plevesqu@co.tillamook.or.us

COUNTY WEBSITE: <http://www.co.tillamook.or.us>

WATCH THIS MEETING ON TV: TLCTV Channel 35

Monday – 1:00 p.m.
Thursday – 1:00 p.m.
Sunday – 1:00 p.m.

Tuesday – 7:00 p.m.
Friday – 7:00 p.m.

Wednesday – 9:00 a.m.
Saturday – 9:00 a.m.

NOTE: The Board of Commissioners reserves the right to recess to Executive Session as may be required at any time during this meeting, pursuant to ORS 192.660(1).

NOTE: The Tillamook County Courthouse is accessible to persons with disabilities. If special accommodations are needed for persons with hearing, visual or manual impairments who wish to participate in the meeting, please contact (503) 842-3403 at least 24 hours prior to the meeting so that the appropriate communications assistance can be arranged.

CALL TO ORDER: Wednesday, May 9, 2007 9:00 a.m.

BOARD OF COMMISSIONERS

1. Welcome & Request to Sign Guest List
2. Public Comment – Non-Agenda Items
3. Presentation on Tillamook Forestry Interpretative Center's First Year/Jim Quiring

CONSENT CALENDAR

4. None

LEGISLATIVE – ADMINISTRATIVE

5. Consideration of Measure 37 Claim M-06-48, by Eula Pearn and Richard Pearn Regarding Tax Lots 1400 and 1400 S1, Section 7, Township 5 South, Range 10 West W.M., Tillamook County, Oregon/Bill Campbell, Aaron Palter
6. Consideration of Order M-06-26 in the Matter of a Claim Under Measure 37 (2004) by Jerry Wolfe and Marlene Wolfe, Waiving Certain Provisions of the Tillamook County Land Use Ordinance/Bill Campbell, Aaron Palter
7. Consideration of Order M-06-17 in the Matter of a Claim Under Measure 37 (2004) by Wilbur R. Harris, Trustee of the Harris Family Trust, Waiving Certain Provisions of the Tillamook County Land Use Ordinance/Bill Campbell, Aaron Palter
8. Consideration of Order M-06-43 in the Matter of a Claim Under Measure 37 (2004) by Terry A. Boquist, Waiving Certain Provisions of the Tillamook County Land Use Ordinance/Bill Campbell, Aaron Palter
9. Consideration of Order M-06-52 in the Matter of a Claim Under Measure 37 (2004) by Charles Anderson and Mary Anderson, Waiving Certain Provisions of the Tillamook County Land Use Ordinance/Bill Campbell, Aaron Palter
10. Consideration of Order M-06-42 in the Matter of a Claim Under Measure 37 (2004) by Jack A. Erickson, Waiving Certain Provisions of the Tillamook County Land Use Ordinance/Bill Campbell, Aaron Palter
11. Consideration of Order M-06-39 in the Matter of a Claim Under Measure 37 (2004) by Michael L. Kowalski and Lana B. Kowalski, Waiving Certain Provisions of the Tillamook County Land Use Ordinance/Bill Campbell, Aaron Palter
12. Consideration of Order M-06-29 in the Matter of a Claim Under Measure 37 (2004) by Edward E. Myers and Wilma A. Myers, as Trustees of the Edward E. Myers Trust dated 11/13/06, Waiving Certain Provisions of the Tillamook County Land Use Ordinance/Bill Campbell, Aaron Palter
13. Consideration of Order M-06-19 in the Matter of a Claim Under Measure 37 (2004) by M. Daryl Johnston, Donna J. Johnston and Wayne M. Johnston, Waiving Certain Provisions of the Tillamook County Land Use Ordinance/Bill Campbell, Aaron Palter

14. Consideration of Order M-06-31 in the Matter of a Claim Under Measure 37 (2004) by George C. Reinmiller, Waiving Certain Provisions of the Tillamook County Land Use Ordinance/Bill Campbell, Aaron Palter
15. Consideration of Oregon Department of Land Conservation and Development FY-0-08 Grant Agreement/Bill Campbell
16. Consideration of Order Appointing Ronald A. Ellison to the Tillamook County Library Board/Sara Charlton

9:30

17. Consideration of Encroachment License Request for Pacific Avenue Road Right of Way in Oceanside (Adjacent to T1S R11 W Section 25AA Tax Lot 4900) by John Kottre/Pat Oakes
18. Consideration of Local Agency Agreement Emergency Relief Program Tillamook County 2006 Emergency Repairs Regarding the November 2006 Storm Event Federal Disaster Declaration (East Beaver Creek Road)/Pat Oakes, Liane Welch
19. Consideration of a Construction Contract with Groundhog Construction Inc. for the Kilchis River Park Flush Restroom Sub-Base Construction Project/Del Schleichert
20. Consideration of Agreement for Use of Juvenile Detention Facility with Clatsop County/Dan Krein
21. Consideration of Tillamook County's Community Corrections Plan for 2007-2009 Biennium/Mike Lawlis
22. Consideration of Order Appointing Jon Carnahan to the Tillamook Futures Council/Mark Labhart
23. Consideration of an Order in the Matter of Transferring Certain Property (1N10 21BD 2200) to David T. and Vickie K. Sigafoos/Paul Levesque
24. Consideration of a Tax Deed in Favor of David T. and Vickie K. Sigafoos Relating to Contract on 1N10 21BD 2200 in the Amount of \$3,500/Paul Levesque
25. Consideration of Order Withdrawing Certain Property (Parcel #1 - 1N10 34AC 2000 and Parcel #11 - 2N10 9BA 3600) from the Tillamook County Land Sale/Paul Levesque
26. Consideration of Order in the Matter of Transferring Certain Property (1N10 34DA 3900) to Tillamook County Habitat for Humanity/Paul Levesque
27. Consideration of Quit Claim Deed (1N10 34DA 3900) to Tillamook County Habitat for Humanity/Paul Levesque
28. Consideration of Instructions to Rebalance the Retirement Trust Plan for Certain Employees of Tillamook County/Paul Levesque
29. Board Concerns – Non-Agenda Items & Announcements
30. Public Comments

ADJOURNMENT

BOARD MEETINGS AND ANNOUNCEMENTS

The County Sheriff will conduct the annual auction of surplus County properties on **Friday, May 11, 2007** at **1:00 p.m.** Prospective bidders can arrive at 12:30 p.m. to register and receive their bidder's packet. The auction will take place at the Tillamook County Courthouse, 201 Laurel Avenue, Tillamook, Oregon in the Commissioners' Meeting Room A.

The Commissioners will hold their Staff Meeting on **Monday, May 14, 2007** beginning at **1:00 p.m.** instead of their usual meeting time at 9:00 a.m. The Commissioners are meeting at this time in order to have a quorum for their meeting.

The Commissioners will be meeting as a part of the Solid Waste Budget Committee on **Wednesday, May 16, 2007** from **1:30 p.m. to 3:00 p.m.** The Solid Waste Budget Committee will conduct their annual budget meeting in the Commissioners' Conference Room A in the Courthouse, 201 Laurel Avenue, Tillamook.

The Commissioners will continue their Board Meeting on **Wednesday, May 23, 2007** at **1:00 p.m.** for the Governor's Designation of the Tillamook Basin as an Oregon Solutions Project. The Commissioners' Board Meeting will be in the Commissioners' Conference Rooms A and B in the Courthouse, 201 Laurel Avenue, Tillamook.

The Commissioners will be attending their regular quarterly meeting with the Fairgrounds Director and members of the Fair Board on **Thursday, May 24, 2007** from **11:30 to 12:30 p.m.** at the Rendezvous restaurant.

MEMORIAL DAY is an observed holiday for Tillamook County, as well as the Circuit Court. All the offices in the Courthouse will be closed on **Monday, May 28, 2007.**

The Commissioners' last evening meeting before the summer break will be held on **Wednesday, May 30, 2007** at **6:30 p.m.** at the Pleasant Valley Grange. Please note that this is a date change (was scheduled on May 16). The time and place remain the same. The Commissioners' evening meeting schedule will resume in October.

Wednesday, May 9, 2007

Name	Address	Item of Interest
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Gus Meyer	General
Sara Charlton	Library
Del Schlecchert	Park #19
JOHN GETTMAN	all
Aaron J. Ray DCD	#55-14
TODD ANDERSON	Srta
Wayne Auble	Till. For Center
Jim Quiring	Tillamook Forest Center
JEAN O'TOOLE	H-H
Thomas Cutler	Pearl M37 Chain
Richard Peann	37
STEVE FORSTER	THE Salvation Army

(Please use reverse if necessary)

TO: BILL PEARN
Cloverdale, Oregon

FROM: AL JAY
Division Manager
Building Department

SUBJECT: DAIRY PROJECT SPECS

SPECIFICATIONS - LOAFING BARN:

1. Size:
62' x 80' x 9' low wall, 14' high next to existing building.
2. Construction:
 - a. 6" x 6" rough penta pressure treated poles 10' o.c.
 - b. 2 x 12 rafters 10' o.c. w/laminated 2 x 6 sway braces.
 - c. 2 x 6 purlins approximately 24" o.c.
3. Covering:
Roof only (sides open) 28 ga. USG galv. steel. Steel applied w/screw fasteners.
4. Concrete:
 - a. Slab 62' x 80' x 4". Raised 8" under loafing stalls.
 - b. 6" x 8" curbs.
 - c. 6" x 24" - 4' wide feeder - 80' long.
5. Loafing Stalls:
68 stalls 40" wide x 6'-6" long from outside of curb. Top rail 4' high at head sloping to top of curb made out of 2 x 12. One (1) 2 x 6 horiz. from top of curb. Angle iron in curb bolted to 2 x 12 and 2 x 6.
6. Miscellaneous:
 - a. 80 L/F of 4" gutter.
 - b. Caulking at all metal laps.

Price of above-described building - \$25,718.

SPECIFICATIONS - MILK ROOM, PARLOR AND HOLDING:

1. Size:
 - a. Milk room 26' x 20' x 19' w/office and equipment room.
 - b. Parlor - 26' x 29' - 4" x 8' above cow platform. 8' high storage above parlor.
 - c. Holding - 30' x 44' x 8' sloping to 11' at rear.
2. Construction:
 - a. Cement block in milkroom and parlor. Storage area above parlor and gables. 2 x 4 studs 24" o.c.
 - b. Trusses 24" o.c. over milkroom and parlor w/12" overhang. Trusses 10' and 12' o.c. in holding area.
 - c. 2 x 4 purlins 36" o.c. over milkroom and parlor. 2 x 6 purlins approx. 24 " o.c. over holding.
 - d. Treated poles in holding to carry trusses. Trusses bolted to poles.
3. Covering:
 - a. Plain galv steel, 28 ga. USG, on entire roof.
 - b. Colored steel on gables and side walls.
 - c. Ceiling of milkroom 3/8" ACX plywood.
 - d. Ceiling of parlor white Rainlock aluminum.
 - e. Storage above parlor - 1/2" CDX plywood on floor and walls.
 - f. Walls and ceiling of 18' x 20' milkroom, walls of parlor and pit walls - 2 coats of Kan-Glas.

4. Insulation:

3-1/2" foil faced fiberglass in ceiling of milkroom and parlor only.

5. Doors:

a. 1 - 7' x 7' patio type door to milkroom.

b. Steel walk into parlor pit and restroom.

c. Walk into upper storage from stairs.

d. Windows: 4 - 4' x 3' in parlor (two each side)
 2 - 4' x 3' in milkroom
 1 - 3' x 3' in restroom

6. Cement:

a. 4" slab throughout w/6 x 6, 10 ga. mesh.

b. Cow platform 36" above pit floor.

c. Foundations and footings as needed.

Cost of above-described building - \$44,012.

Above bid does not include any:

1. Electrical
2. Plumbing or drains
3. Site preparation, leveling or back filling
4. Equipment of any kind
5. Building permit

Buyer to supply water and electrical to job site.

Bid good for 30 days.

Tillamook County



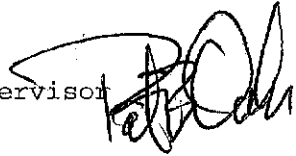
PUBLIC WORKS DEPARTMENT

503 Marolf Loop Road
Tillamook, Oregon 97141
Roads (503) 842-3419
Solid Waste (503) 815-3975
FAX (503) 842-6473
Email: pubwks@co.tillamook.or.us
TTY Oregon Relay Service

Land of Cheese, Trees and Ocean Breeze

April 17, 2007

TO: Board of Commissioners

FROM: Patrick B. Oakes, Engineering Project Supervisor 

RE: Encroachment Request
Concrete Walkway/Stair Replacement
Pacific Avenue in Oceanside
(adjacent to 1S 11W Sec 25AA Tax Lot 4800)

The Road Department received an encroachment license request from John Kottre for the replacement of an elevated concrete walkway located within the Pacific Avenue right of way in Oceanside (see attached letter). Owner according to the Assessor's Office is Tara Kottre (applicant's spouse). The attached tax lot map, photos and sketches provide on-site details.

BACKGROUND

This encroachment license request is for the replacement of a portion of an existing not previously authorized right of way encroachment. Working County procedures regarding this type of situation is to continue to allow these related existing encroachments in the right of way until there is some initiated action to modify or replace the feature. With that action, County becomes involved to review and formally authorize the encroachment.

Staff collected preliminary input from appropriate jurisdictions, utilities and departments. Summary of input received (**bold** is added staff comment):

- a. Netarts-Oceanside Rural Fire Protection District: "No problems with the sidewalk." (Tim Carpenter by email, 6/24/06).
- b. Community Development: "No issues as long as there is not compromising of the base beneath the repair." (Richard Morse, Building Official by email, 7/6/06). **It should be noted that if this encroachment license were approved, it does not replace any related land use related requirements such as a building permit.**
- c. Community Development: "...the encroachment could adversely affect future roadway improvements under consideration in the Hwy 131 TRP, where a one-way loop road is proposed - or a one-way road could potentially reduce adverse impacts. The idea of turning the steps so

that individuals are not stepping into the ROW, is not a bad interim solution, long term, I don't think we would require physical relocation of structures, but any building upgrades would be subject to a non-conforming structure review." (Bill Campbell, Director of Community Development by email, 4/9/07).

- d. County Surveyor: "...don't have any concerns to building sidewalk in the right of way..." (Dan McNutt via email, 1/8/07).
- e. Netarts-Oceanside Sanitary District: "No concerns regarding this matter." (Dan Mello by email, 7/17/06).
- f. Oceanside Water District: "No problems with Ocean Front Cabins new sidewalk improvements." (Mark Merry via email, 7/18/06).
- g. Tillamook PUD: "...PUD has no concerns or problems regarding this request." (Ron Tewalt via FAX 7/17/06).
- h. Embarq: "No issues with the proposed encroachment." (Jerry Luke via email, 7/10/06).
- i. Charter Communications: "No problem with the encroachment." (Doug Wright via email, 7/17/06).
- j. Oregon State Parks: "No objection to the planned sidewalk repair." (Pete Marvin, via email, 7/17/06).

CONSIDERATIONS

The applicant's letter indicates the walkway encroaches about 2 feet into the right of way. A staff review of the site indicates the existing walkway is about 3.5 foot wide into the right of way (depending on exact location). Further clarification from John Kottre indicates that the actual section of sidewalk proposed for repair is the North approximate 50 feet within the right of way (not the entire sidewalk and stairs as originally understood from the applicant's request letter). Attached 1988 photo with highlights shows the area of repairs. Additionally, he is not proposing to repair or modify the stairway(s) that currently access the elevated sidewalk.

The sidewalk has been in-place since the mid 1970's. It was preceded by a wooden sidewalk at the same location.

A public use sidewalk is a typical feature found in road right of ways. However, this sidewalk is primarily for private use. Many of the road right of ways in Oceanside are already relatively narrow with the roadways not necessarily constructed in the middle of those right of ways. Encroachments considerations in these situations can sometimes fuel larger issues or contention between road users and land owners. It is appropriate for this sidewalk to be considered as part of an encroachment license process.

The applicant's request letter outlines his reasoning for the request (to repair a noted safety problem).

There are no current plans at the Road Department for this road to be widened to the West. If that were to be seriously considered, it is likely that such construction would involve needed coordination with State Parks due to its wayside in close proximity and existing topography. As indicated above, State Parks indicates, "No objection" to the applicant's proposal.

A recent development in the Oceanside area is the initiation of the Highway 131 Transportation Refinement Plan. Initial drafts of this plan show a proposed Northbound one-way road on Pacific Avenue in conjunction with State Park Wayside access. Refinement Plan concept drawings show possible diagonal roadway parking on the West side of the road. Given the narrow width of the right of way at 30 feet, use of Pacific Ave as indicated inherently creates a conflict with any encroachment in the right of way. Bill Campbell's land use input above reflects this discussion. In the future if the applicant proposes repair or modification of the related stairs, it would be appropriate to require relocation so that they reduce their encroachment into the right of way (not proposed at this time).

The location of the sidewalk at the top of the side slope adjacent to the roadway does not make this encroachment an apparent conflict with traffic on the roadway.

This encroachment license request weighs the following:

Request by the applicant to correct a safety problem with the existing structure as outlined in his letter.

versus

The County's interest in using the using this portion of the of the right of way for road purposes (none foreseen at this time).

With current available information, the Road Department has no objection to allowing the approval of the license as requested. The Department does not endorse or recommend right of way encroachments.

If in the future there is a public interest in having the walkway and/or stairs modified or removed (due to utility work, roadway improvement, maintenance or safety issue, etc.), County can require appropriate action (with or without an encroachment license). With this encroachment license approval, it may be an opportunity to include the entire sidewalk and related stairs within the right of way for the record.

As per past procedures, the encroachment license is scheduled for Board consideration as part of a public meeting where property owners within 250 feet of the subject property along the road in question are mailed notices of the meeting at least 2 weeks prior.

If you have any questions, please let me know.

Enclosures: Encroachment Request Letter
 Tax Lot Map with highlights
 Photos with highlights
 Sketches (plan and section)
 Notice Letter + labels

cc: File
 Department of Community Development, Attn: Bill Campbell

Dear Pat Oakes

I would like permission to replace, at my own expense, a section of side-walk located in county right-of-way, in front of Ocean Front Cabins at 1610 Pacific Ave. in Oceanside. I believe approximately 2 feet of the sidewalk encroaches into said right-of-way, but is access to several of the cabins. It is cracked and sloping west creating a safety issue with cabin guests. The slope between the side-walk and street has been planted with grass to stabilize it, so I feel replacing the current side-walk is my best option to reduce the safety issue. I am not needing any larger area for the side-walk, just to replace existing damaged area.

Thank You


John Kottre, Manager

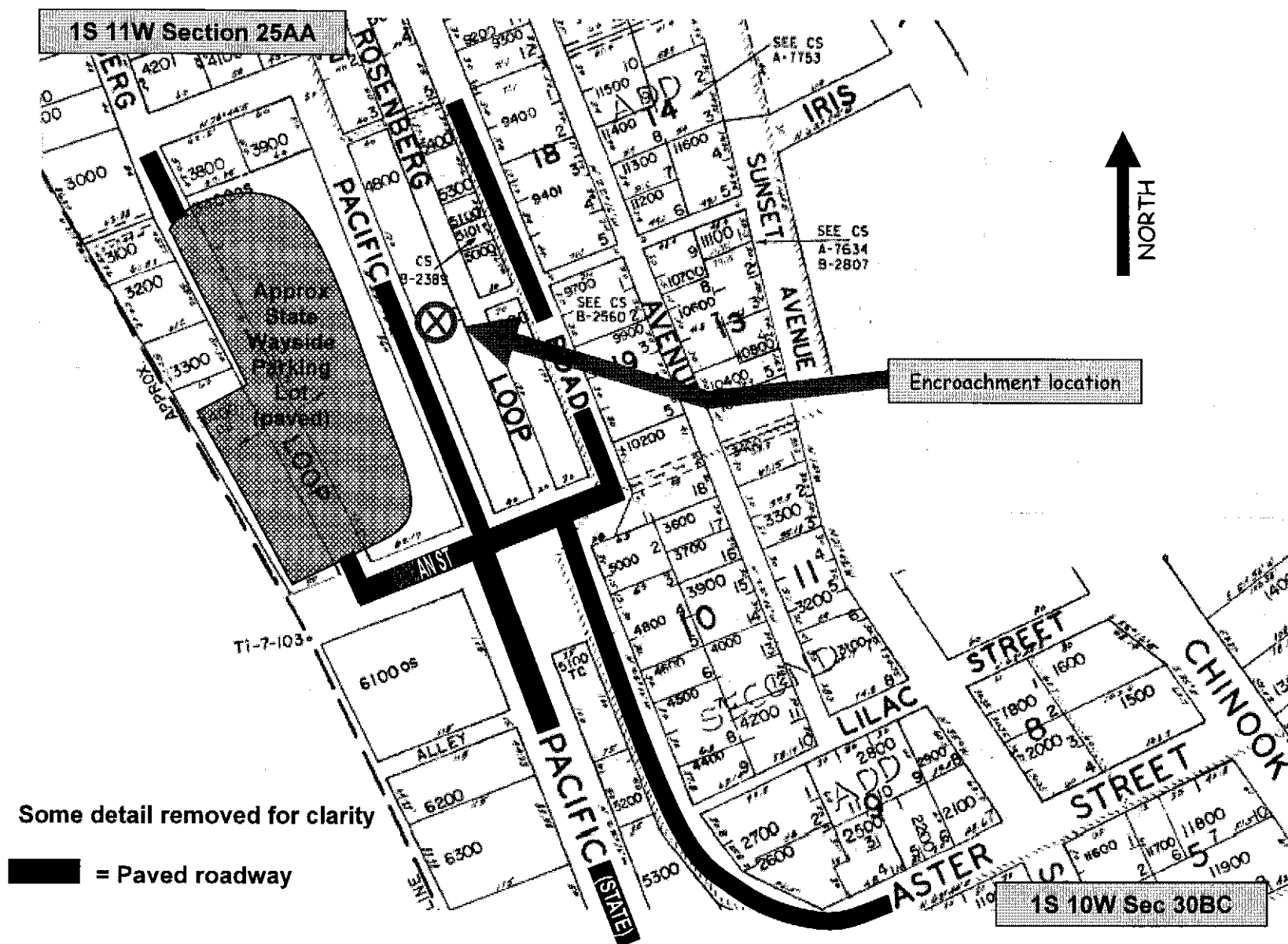
842-6081 work

842-3169 home

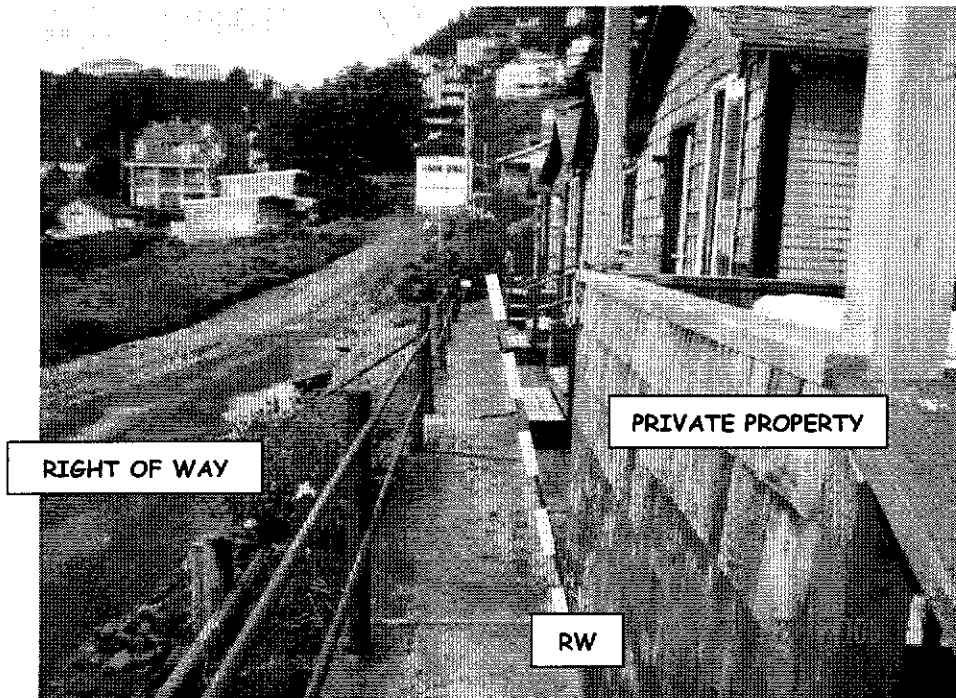
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NOV 02 2006

TILLAMOOK COUNTY ROAD DEPT

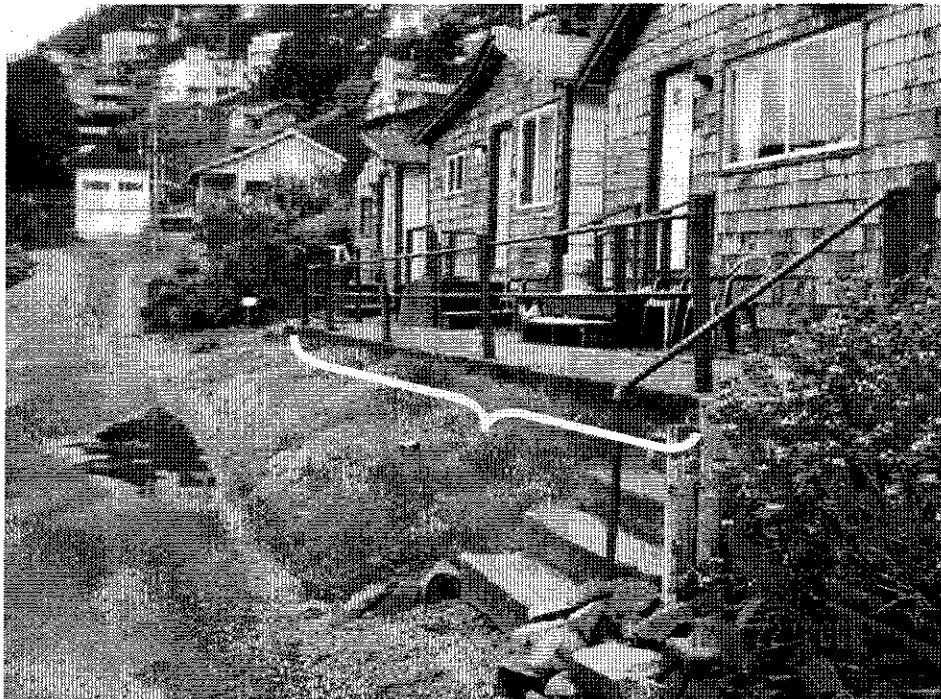
RIGHT OF WAY ENCROACHMENT LICENSE REQUEST
PACIFIC AVE IN OCEANSIDE
TAX LOT MAP(S)



RIGHT OF WAY ENCROACHMENT LICENSE REQUEST
PACIFIC AVE (OCEANSIDE)

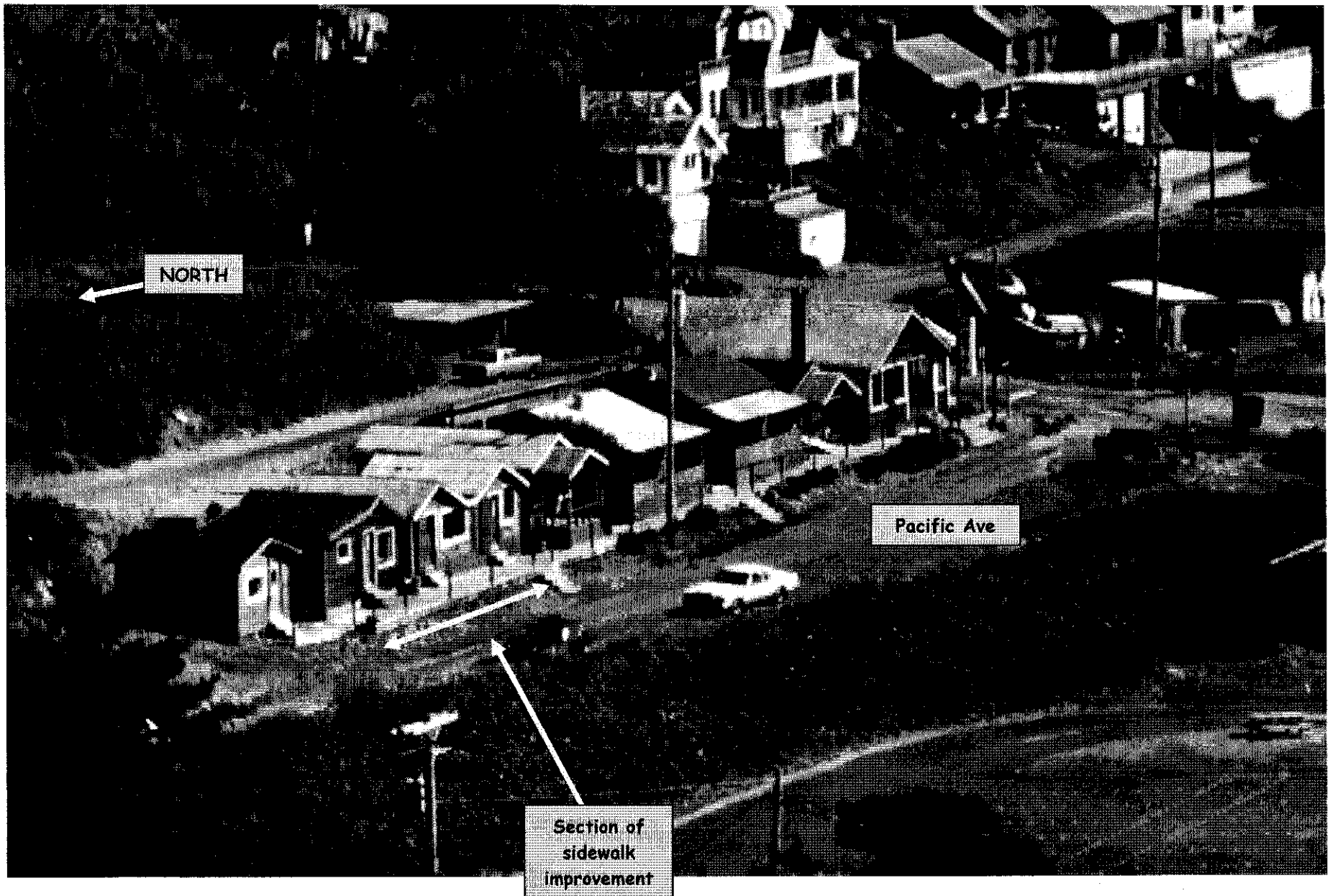


Northward view from
vic coffee shop

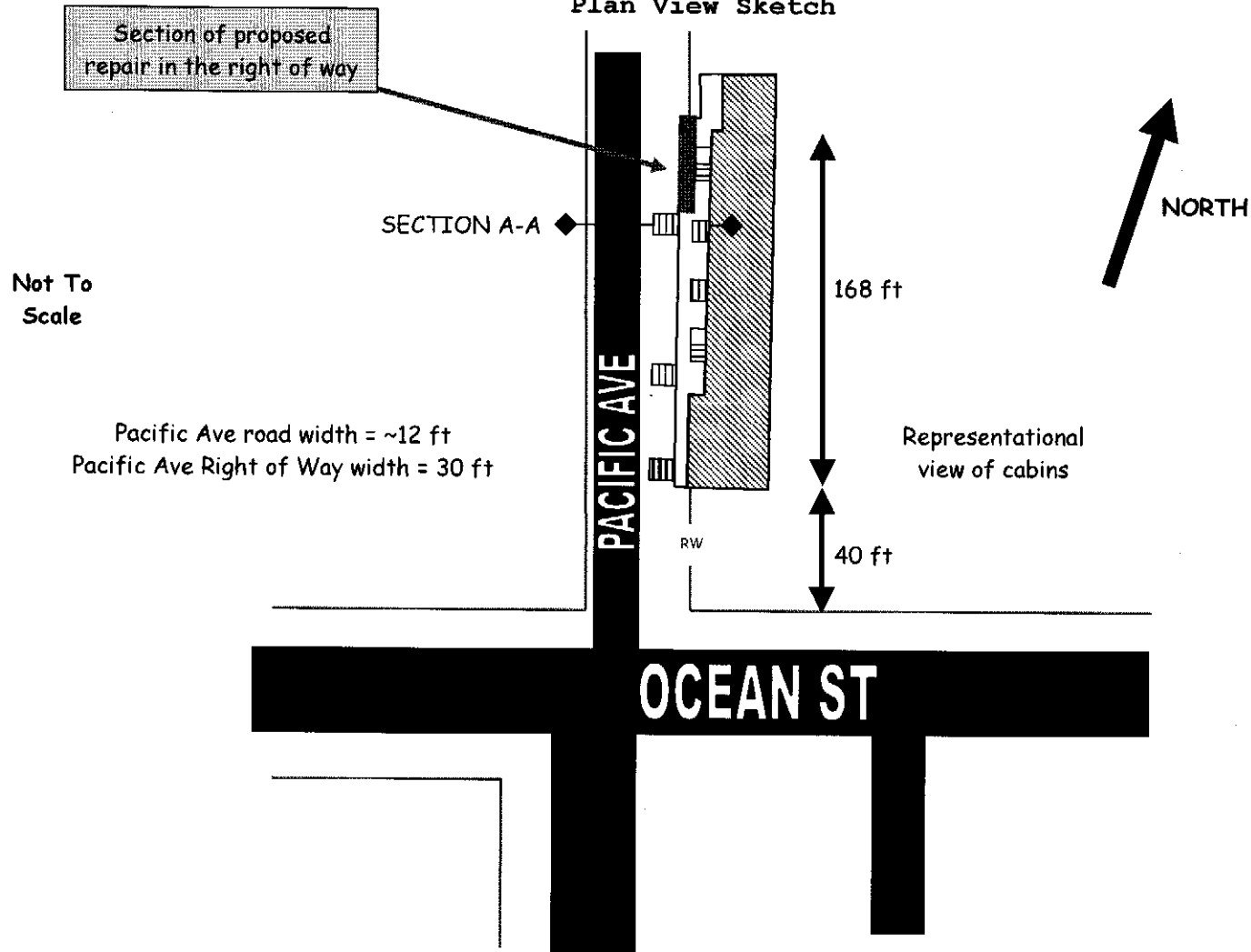


Northward view
from roadway of portion
of sidewalk in question

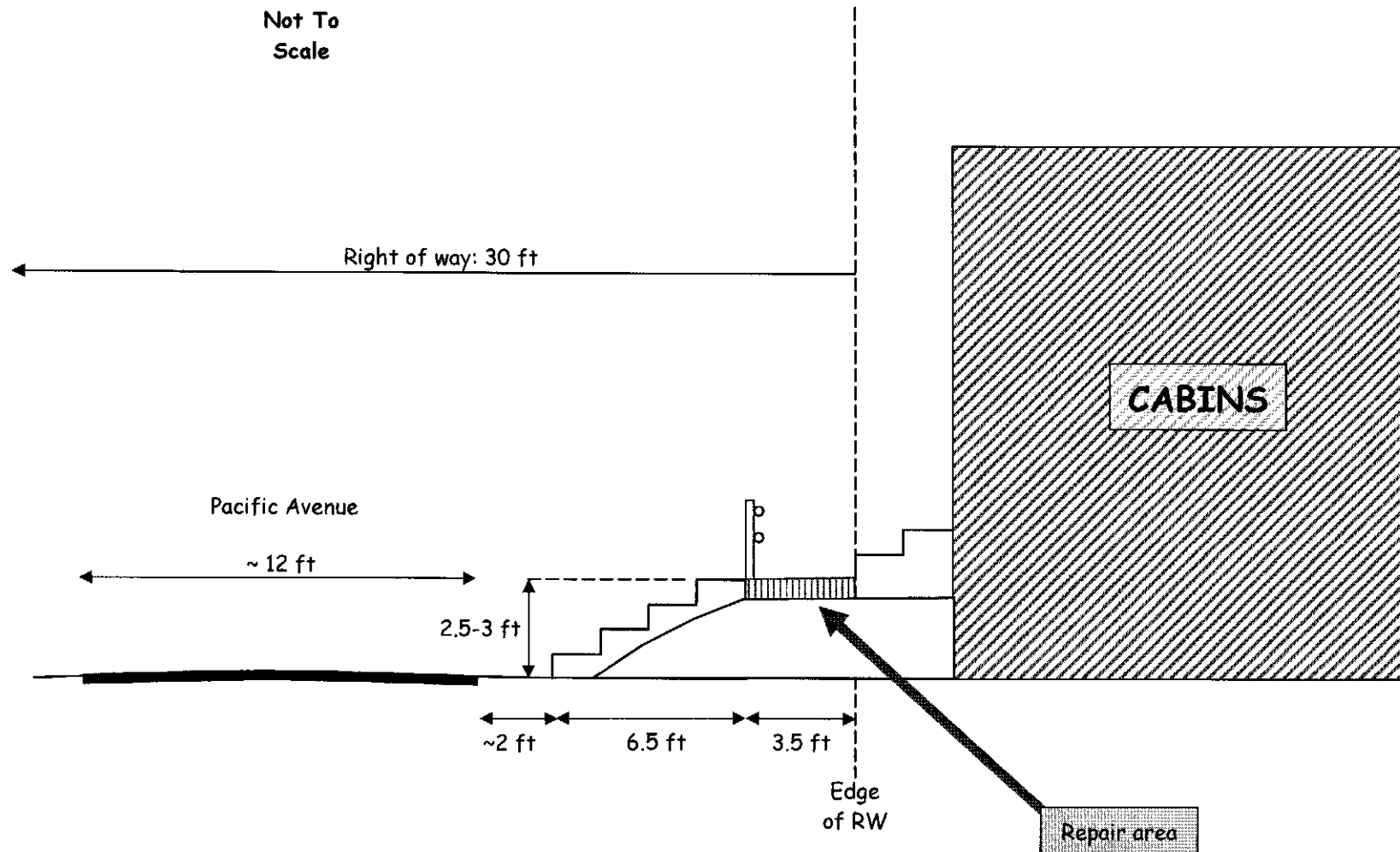
RIGHT OF WAY ENCROACHMENT LICENSE REQUEST
PACIFIC AVE IN OCEANSIDE
1988 Photo



RIGHT OF WAY ENCROACHMENT LICENSE REQUEST
PACIFIC AVE IN OCEANSIDE
Plan View Sketch



RIGHT OF WAY ENCROACHMENT LICENSE REQUEST
PACIFIC AVE IN OCEANSIDE
Section View Sketch
SECTION A-A



Tillamook County



PUBLIC WORKS DEPARTMENT

503 Marolf Loop Road
Tillamook, Oregon 97141
Roads (503) 842-3419
Solid Waste (503) 815-3975
FAX (503) 842-6473
Email: pubwks@co.tillamook.or.us
TTY Oregon Relay Service

Land of Cheese, Trees and Ocean Breeze

April 17, 2007

Property Owner

RE: Public Right of Way Encroachment License Request (Pacific Avenue)

Dear Property Owner,

Tillamook County Public Works received a request for an encroachment license from John Kottre to reconstruct an elevated concrete walkway and related stairs partially located on the East side of the Pacific Avenue right of way in Oceanside (adjacent to 1S 10W Section 25AA Tax Lot 4800). The property is the site of the Ocean Front Cabins at 1610 Pacific Ave. See enclosed sketch.

In the past the Tillamook County Board of Commissioners set a policy that any request to allow a structure in the public right of way (encroachment) would be considered by the Board in a public meeting where any public input may be heard on the topic.

This notice letter is being sent to property owners adjacent to Pacific Avenue within 250 feet of the encroachment location.

The Board of Commissioners will consider the encroachment license request on Wednesday, May 9, 2007 at 9:30 a.m. in the Commissioners' Conference Room at the Tillamook County Courthouse, 201 Laurel, Tillamook, Oregon 97141. If you wish to provide written testimony, it can be mailed to the Board of Commissioners at the above address.

If you have any questions, please let me know.

Sincerely,

Patrick B. Oakes
Engineering Project Supervisor

Enclosure: Proposed Encroachment Tax Lot Map (with highlights)

1S 10W SEC 30BC TL 4800
RICHARD LEE BUTLER
SUE ELLEN BUTLER
11130 SE YAMHILL ST
PORTLAND, OR 97126

1S 10W SEC 30BC TL 5100
COUNTY
201 LAUREL AVE
TILLAMOOK, OR 97141

1S 10W SEC 30BC TL 5000
ROBERT G APPERSON
CAROL L APPERSON
PO BOX 284
OCEANSIDE, OR 97134

1S 10W SEC 30BC TL 6100
STATE OF OREGON
PARKS & RECREATION
201 LAUREL AVE
TILLAMOOK, OR 97141

1S 10W SEC 30BC TL 6200
OCEANSIDE COMMUNITY CLUB
PO BOX 329
OCEANSIDE, OR 97134

1S 11W SEC 25AA TL 3900
DEBORAH JONES
325 W VISTA CHINO
PALM SPRINGS, CA 92262

1S 11W SEC 25AA TL 3800
ANN HELM
PO BOX 760
LAYFAYETTE, OR 97127

1S 10W SEC 25AA TL 4000
DON & CAROLE ANDERSON
14169 LAKEVIEW DR
PORTLAND, OR 97229

1S 11W SEC 25AA TL 4100
NORA GOICOECHEA
309 CENTRAL AVE
NEW HAVEN, CT 06515

1S 11W SEC 25AA TL 4201
NANCY FLOYD
1717 N BRIDGEVIEW DR
TACOMA, WA 98406

1S 11W SEC 25AA TL 4600
DANIEL F GUFFEY
c/o KATHRYN ANNE OLSON
PO BOX 3430
GRESHAM, OR 97030

1S 11W SEC 25AA TL 4800
TARA KOTTRE
1800 HILLSIDE
TILLAMOOK, OR 97141

1S 11W SEC 25AA TL 3400
STATE OF OREGON
PARKS & RECREATION
201 LAUREL AVE
TILLAMOOK, OR 97141

Mailing labels for the Pacific Avenue
encroachment license consideration

Notice letters with 201 Laurel Ave address
were provided via County Distribution to
the Tillamook County Property Manager
and County Parks

Notice letter was mailed to Cape Lookout
State Park, Attn: Pete Marvin, 13000
Whiskey Ck Rd West, Tillamook, OR
97141

Tillamook County



RECEIVED
APR 20 2007

TILLAMOOK COUNTY ROAD DEPT

PUBLIC WORKS DEPARTMENT

The road is already dangerously narrow
without encroachment. Also, I believe my
neighbor's deck/porch encroaches on my
property.
AnnHela

503 Marolf Loop Road
Tillamook, Oregon 97141
Roads (503) 842-3419
Solid Waste (503) 815-3975
FAX (503) 842-6473
Email: pubwks@co.tillamook.or.us
TTY Oregon Relay Service

Land of Cheese, Trees and Ocean Breeze

April 17, 2007

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If you have any questions, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "Patrick B. Oakes".

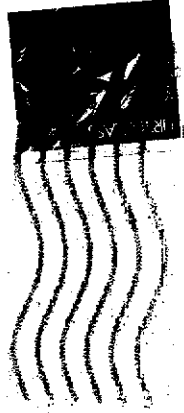
Patrick B. Oakes
Engineering Project Supervisor

Enclosure: Proposed Encroachment Tax Lot Map (with highlights)

Ann Helm, RN, JD
PO Box 760
1007 Third St
Lafayette, OR 97127

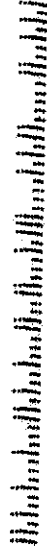
PORTLAND OR 972

19 APR 2007 PM 6 L



Public Works Dept.
503 Marolf Loop Rd
Tillamook, OR 97141

97141+3208



AFFIDAVIT OF NOTIFICATION

I, Patrick B. Oakes, certify that notice was provided for the May 9, 2007 public hearing regarding the proposed Pacific Avenue right of way encroachment license in Oceanside.

Notice by Mail:

In accordance with the County Right of Way Encroachment Policy, the Notice of Public Hearing for the Encroachment License Consideration was mailed to the property owners listed below on April 17, 2007 at least two weeks prior to the public consideration agenda item.

Owners according to the Tillamook County Tax Assessor's Records:

1S 10W SEC 30BC TL 4800
RICHARD & SUE BUTLER
11130 SE YAMHILL ST
PORTLAND, OR 97126

1S 10W SEC 30BC TL 5000
ROBERT & CAROL APPERSON
PO BOX 284
OCEANSIDE, OR 97134

1S 10W SEC 30BC TL 6200
OCEANSIDE COMMUNITY CLUB
PO BOX 329
OCEANSIDE, OR 97134

1S 11W SEC 25AA TL 3800
ANN HELM
PO BOX 760
LAYFAYETTE, OR 97127

1S 11W SEC 25AA TL 3900
DEBORAH JONES
325 W VISTA CHINO
PALM SPRINGS, CA 92262

1S 10W SEC 25AA TL 4000
DON & CAROLE ANDERSON
14169 LAKEVIEW DR
PORTLAND, OR 97229

1S 11W SEC 25AA TL 4100
NORA GOICOECHEA
309 CENTRAL AVE
NEW HAVEN, CT 06515

1S 11W SEC 25AA TL 4201
NANCY FLOYD
1717 N BRIDGEVIEW DR
TACOMA, WA 98406

1S 11W SEC 25AA TL 4600
DANIEL F GUFFEY
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PO BOX 3430
GRESHAM, OR 97030

1S 11W SEC 25AA TL 4800
TARA KOTTRE
1800 HILLSIDE
TILLAMOOK, OR 97141

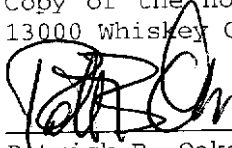
Notices for the following were provided to the Tillamook County Property Manager and County Parks via County Distribution:

1S 11W SEC 25AA TL 3400
STATE OF OREGON
PARKS & RECREATION
201 LAUREL AVE
TILLAMOOK, OR 97141

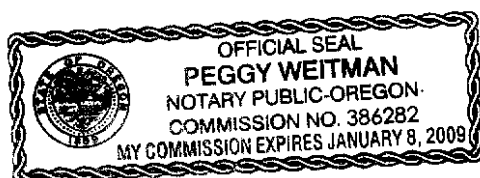
1S 10W SEC 30BC TL 6100
STATE OF OREGON
PARKS & RECREATION
201 LAUREL AVE
TILLAMOOK, OR 97141

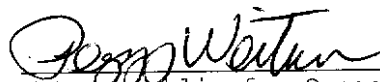
1S 10W SEC 30BC TL 5100
COUNTY
201 LAUREL AVE
TILLAMOOK, OR 97141

Copy of the notice letter was also mailed to: Cape Lookout State Park, Attn: Pete Marvin, 13000 Whiskey Ck Rd West, Tillamook, OR 97141.


Patrick B. Oakes
Engineering Project Supervisor

Subscribed and sworn to before me this 17th day of April, 2007.




Notary public for Oregon
My commission expires: 1-8-09

Tillamook County



PUBLIC WORKS DEPARTMENT

503 Marolf Loop Road
Tillamook, Oregon 97141
Roads (503) 842-3419
Solid Waste (503) 815-3975
FAX (503) 842-6473
Email: pubwks@co.tillamook.or.us
TTY Oregon Relay Service

Land of Cheese, Trees and Ocean Breeze

April 26, 2007

TO: Board of Commissioners

FROM: Patrick B. Oakes, Engineering Project Supervisor

RE: Local Agency Agreement Emergency Relief Program Tillamook
County 2006 Emergency Repairs Regarding the November 2006
Storm Event Federal Disaster Declaration (addition of East
Beaver Creek Road)

The attached document is scheduled for Board consideration and execution.

The Board previously considered and approved a related Agreement for road damage related eligible reimbursements costs incurred during the November 2006 storm event.

Since that time we and FHWA have determined that East Beaver Creek Road damage at Milepost 5.27 is eligible under the Emergency Relief program (not FEMA as previously assumed). This agreement effectively adds East Beaver Creek Road previously considered agreement.

The agreement format matches that previously considered by the Board.

Three copies of the agreement are provided for execution by the Board.

Enclosures: Agreement (3 copies)

cc: File

AN EQUAL OPPORTUNITY EMPLOYER

April 26, 2007

Misc. Contracts & Agreements
No. 24,122

LOCAL AGENCY AGREEMENT
EMERGENCY RELIEF PROGRAM
East Beaver Creek Road at Mile Post 5.28
Tillamook County

THIS AGREEMENT is made and entered into by and between the STATE OF OREGON, acting by and through its Department of Transportation, hereinafter referred to as "State"; and TILLAMOOK COUNTY, acting by and through its elected officials, hereinafter referred to as "Agency."

RECITALS

1. East Beaver Creek Road is a part of the county road system under the jurisdiction and control of Agency.
2. By the authority granted in ORS 190.110, 366.572 and 366.576, State may enter into cooperative agreements with counties, cities and units of local governments for the performance of work on certain types of improvement projects with the allocation of costs on terms and conditions mutually agreeable to the contracting parties.

NOW THEREFORE, the premises being in general as stated in the foregoing RECITALS, it is agreed by and between the parties hereto as follows:

TERMS OF AGREEMENT

1. Under such authority, State and Agency agree to place material at mile post 5.28 to rebuild the roadway shoulder and reinforce the stream bank, hereinafter referred to as "Project". The location of the Project is approximately as shown on the sketch map attached hereto, marked "Exhibit A," and by this reference made a part hereof.
2. The Project shall be conducted as a part of the Emergency Relief Program (ERP) under Title 23, United States Code. The total Project cost is estimated at \$10,000, which is subject to change. The Project will be financed with Federal Emergency Relief Program funds, which are estimated in the amount of \$10,000, and will not exceed that amount without approval of the Federal Highway Administration (FHWA). Agency shall be responsible for the match and any portion of the Project which is not covered by Federal Funds.
3. The federal funding for this Project is contingent upon approval by the FHWA. Any work performed prior to acceptance by FHWA will be considered nonparticipating and paid for at Agency expense. The Catalog of Federal Domestic Assistance (CFDA) number for this Project is 20.205.

4. State considers Agency a sub-recipient of the federal funds under this Agreement.
5. The term of this Agreement shall begin on the date all required signatures are obtained and shall terminate upon completion of the Project and final payment or ten (10) calendar years following the date all required signatures are obtained, whichever is sooner.
6. This Agreement may be terminated by mutual written consent of both parties.
7. State may terminate this Agreement effective upon delivery of written notice to Agency, or at such later date as may be established by State, under any of the following conditions:
 - a. If Agency fails to provide services called for by this Agreement within the time specified herein or any extension thereof.
 - b. If Agency fails to perform any of the other provisions of this Agreement, or so fails to pursue the work as to endanger performance of this Agreement in accordance with its terms, and after receipt of written notice from State fails to correct such failures within ten (10) days or such longer period as State may authorize.
 - c. If Agency fails to provide payment of its share of the cost of the Project.
 - d. If State fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow State, in the exercise of its reasonable administrative discretion, to continue to make payments for performance of this Agreement.
 - e. If federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Agreement is prohibited or if State is prohibited from paying for such work from the planned funding source.
8. Any termination of this Agreement shall not prejudice any rights or obligations accrued to the parties prior to termination.
9. The Special and Standard Provisions attached hereto, marked Attachments 1 and 2, respectively, are by this reference made a part hereof. The Standard Provisions apply to all federal-aid projects and may be modified only by the Special Provisions. The parties hereto mutually agree to the terms and conditions set forth in Attachments 1 and 2. In the event of a conflict, this Agreement shall control over the attachments, and Attachment 1 shall control over Attachment 2.
10. Agency, as a recipient of federal funds, pursuant to this Agreement with the State, shall assume sole liability for Agency's breach of any federal statutes, rules, program

requirements and grant provisions applicable to the federal funds, and shall, upon Agency's breach of any such conditions that requires the State to return funds to the Federal Highway Administration, hold harmless and indemnify the State for an amount equal to the funds received under this Agreement; or if legal limitations apply to the indemnification ability of Agency, the indemnification amount shall be the maximum amount of funds available for expenditure, including any available contingency funds or other available non-appropriated funds, up to the amount received under this Agreement.

11. Agency shall enter into and execute this Agreement during a duly authorized session of its Board of County Commissioners.
12. This Agreement may be executed in several counterparts (facsimile or otherwise) all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of this Agreement so executed shall constitute an original.
13. This Agreement and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Agreement. No waiver, consent, modification or change of terms of this Agreement shall bind either party unless in writing and signed by both parties and all necessary approvals have been obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of State to enforce any provision of this Agreement shall not constitute a waiver by State of that or any other provision.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the day and year hereinafter written.

Under authority from Subdelegation Order No. 11, Paragraph No. 1, the Maintenance Engineer is authorized to declare an emergency and Federal Emergency Relief Program Funds were approved by FHWA on November 5, 2006.

The Oregon Transportation Commission on June 18, 2003, approved Delegation Order No. 2, which authorizes the Director to approve and execute agreements for day-to-day operations. Day-to-day operations include those activities required to implement the biennial budget approved by the Legislature, including activities to execute a project in the Statewide Transportation Improvement Program.

On September 15, 2006, the Director of the Oregon Department of Transportation approved Subdelegation Order No. 2, Paragraph 2, in which day-to-day authority is delegated to the Region Managers for their respective division, which includes the authority to approve and sign agreements up to \$75,000 when the work is related to a project included in the Statewide Transportation Improvement Program, other system plans approved by the Oregon Transportation Commission, or in a line item in the biennial budget approved by the Director.

TILLAMOOK COUNTY, by and through its
elected officials

By _____
Board Chair

Date _____

By _____
Vice Chair

Date _____

By _____
Commissioner

Date _____

**APPROVED AS TO LEGAL
SUFFICIENCY**

By _____
County Counsel

Date _____

STATE OF OREGON, by and through
its Department of Transportation

By _____
Region 2 Manager

Date _____

APPROVAL RECOMMENDED

By _____
Region 2 Planning and Development
Manager

Date _____

Agency Contact:
Patrick Oakes
Tillamook County
503 Marolf Loop
Tillamook, Oregon 97141

ATTACHMENT NO. 1 to Agreement No. 24,122
SPECIAL PROVISIONS

1. Agency or its consultant shall, as a federal-aid participating preliminary engineering function, conduct the necessary field surveys, environmental studies, traffic investigations, foundation explorations, and hydraulic studies, identify and obtain all required permits, assist State with acquisition of necessary right of way and/or easements, and perform all preliminary engineering and design work required to produce final plans, preliminary/final specifications and cost estimates.
2. Upon State's award of the construction contract, Agency, or its consultant, shall be responsible to perform all construction engineering, field testing of materials, technical inspection and project manager services for administration of the contract.
3. In the event that Agency elects to engage the services of a personal services consultant to perform any work covered under this Agreement, Agency and Consultant shall enter into a Personal Services Contract approved by State's Office of Procurement Manager or designee (Salem). Said contract must be reviewed and approved by the Office of Procurement Manager or designee prior to beginning any work. This review includes, but is not limited to the Request for Proposal, Statement of Work, advertisement and all contract documents. This review and approval is required to ensure federal reimbursement.
4. State may make available Region 2's On-Call Preliminary Engineering (PE), Design and Construction Engineering Services consultant for Local Agency Projects upon written request. If Agency chooses to use said services, Agency agrees to manage the work performed by the consultant and make funds available to the State for payment of those services. All eligible work shall be a federally participating cost and included as part of the total cost of the Project.
5. Agency shall pay all reimbursable costs of the Project, submit all claims for federal-aid participation to State in the manner described in the Standard Provisions and compile accurate cost accounting records. When the actual total cost of the Project has been computed, Agency shall furnish State with an itemized statement of final costs. State will reimburse Agency at the appropriate rate for costs incurred. Reimbursement to Agency shall take place after Emergency Relief funds are released to State.
6. Final billings shall be submitted to State for processing within two years from the end of each funding phase as follows: 1) award date of a construction contract for preliminary engineering (PE) and 2) third notification for construction. Partial billing (progress payment) shall be submitted to State within one year from the date that costs are incurred. Final billings submitted after two years shall not be eligible for reimbursement.
7. Agency shall, at its own expense, maintain and operate the Project upon completion at a minimum level that is consistent with normal depreciation and/or service demand.
8. Maintenance responsibilities shall survive any termination of this Agreement.

Exhibit A

