

MINUTES

LANE COUNTY LOCAL GOVERNMENT BOUNDARY COMMISSION

Eugene City Hall
McNutt Room (777 Pearl Street)

February 3, 2005
7:00 p.m.

PRESENT: Clay Myers, chair; Eleanor Mulder, vice chair; Van Heeter, secretary; Karen Seidel; Christine Larson; Ernie Olson

ABSENT: Jim Spickerman

I. CALL TO ORDER – ROLL CALL

Clay Myers, chair, called the meeting to order at 7:06 p.m. Paula Taylor, boundary commission staff, called the roll.

II. APPROVAL OF EXPENSES – NOVEMBER/DECEMBER 2004

- * Moved and seconded (Seidel/Larson) to approve the Lane County Local Government Boundary Commission expenses for November, 2004 (\$9,178.28) and December, 2004 (\$7,151.85). The motion passed unanimously, 6:0 (commissioners Myers, Mulder, Seidel, Larson, Heeter, and Olson voting yes).

III. APPROVAL OF MINUTES – DECEMBER 2, 2004

- * Moved and seconded (Larson/Seidel) to approve the minutes of December 2, 2004. The motion passed unanimously, 5:0:1 (commissioners Myers, Mulder, Seidel, Larson, and Olson voting yes; commissioner Heeter abstaining).

IV. NEW BUSINESS: PUBLIC HEARING

Annexation of Territory to the City of Eugene (Meigs)

- A. BC File C EU 05 – 03
Initiated by property owner petition
Action under ORS 199.490(1)(c) of the boundary commission law
Received December 30, 2004
Action to be taken by March 30, 2005

Description

Located in the Santa Clara region of north Eugene, north of Beltline Road, east of River Road, north of Wilkes Drive, west of Scenic Drive, south of Greenwood Street
Property owners: Ben and Karen Meigs (165 Wilkes Drive, Eugene)
Tax lot: part of 800, T17S R04W S02 Map 44
Acres: ± 0.57

Estimate of existing population: 2 (one residential unit)
Existing land use: Residential
Existing zoning in Lane County: R-1/UL, low-density residential with urbanizable lands overlay
Applicable comprehensive plan: Eugene-Springfield Metropolitan Area General Plan (acknowledged in August 1982 and has been subsequently amended)
Existing public services to the property: Police (Oregon State Police, Lane County Sheriff), schools (Eugene School District 4J), roads (Lane County), water (Santa Clara Water District), fire (Santa Clara Rural Fire Protection District), wastewater (City of Eugene)

Reason for annexation

The property owners are requesting annexation to prepare for additional residential development. The Eugene-Springfield Metropolitan Area General Plan requires properties to annex in order to receive urban services.

Notice

As required by ORS 199.463(1), notice of a public hearing must be published in a newspaper of general circulation not more than 25 days nor less than 15 days before the hearing. *In this case, notice of the public hearing was advertised in the Register-Guard on January 13, 2005.* A second notice may be published in a newspaper of general circulation or notice of the hearing may be mailed to each owner of land in the affected territory not more than 15 days before the hearing. "Affected territory" as defined by ORS 199.415(3) means the territory described in the petition. The "petition" includes a resolution, order, or any other form of initiatory action for a boundary change [ORS 199.415(14)]. The petition or resolution, as required by ORS 199.490(4) also includes a legal description, which must meet the requirements of ORS 308.225 [OAR 191-006-0000(3)]. *In this case, notice of the hearing was sent to the affected property owners (Ben and Karen Meigs, owners of the property proposed for annexation and initiator of this annexation request) on January 25, 2005.* The final notice required by the boundary commission law is the posting of a notice of the public hearing in the affected city, district, or territory at least 15 days before the hearing. *In this case, notice of the public hearing was posted in the area of the annexation, at the Eugene city hall, and at the Lane County courthouse on January 19, 2005.*

Clay Myers, chair, called for conflicts of interest or *ex parte* contacts. There were none.

Paula Taylor, boundary commission staff, reviewed the notice of the public hearing. She noted that she had called everyone affected by the night's proceedings to inform them that the hearings would be held in the McNutt Room and not the Council Chambers, as had been advertised, and had taped signs to the door of the Council Chambers to direct any interested parties to the appropriate place. There were no objections to the adequacy of the notice. The staff notes were entered into the record in accordance with the boundary commission's administrative order.

Ms. Taylor stated that the annexation to the City of Eugene was initiated by the property owners, Karen and Ben Meigs, and included a portion of one tax lot. She said the purpose of the annexation was to partition the property and allow for additional residential development. She noted that the annexation was not contiguous to the City of Eugene, but that it was located in an area where other noncontiguous properties were located. She stated that the annexation had been

submitted to the City of Eugene and it had been determined that all urban services were available. She said that the boundary commission staff's analysis of the annexation determined, based on the criteria and standards set forth by the boundary commission in the boundary commission law and administrative rules, that the annexation was consistent with the commission's standards and, therefore, staff recommended approval.

Ms. Taylor noted that the staff report contained a copy of a letter from the Santa Clara Water District objecting to the proposed annexation and the staff response to the letter; both were included in the record of the proceedings. She commented that the water district routinely objected to these annexations and the staff response was similar to past responses to those concerns. She added that the staff analysis addressed services that were required to be provided to the property upon annexation and concluded that those services could be provided. She said that findings and reasons supporting approval of the annexation were included in the staff report.

Mr. Myers opened the public hearing.

Proponent's Opening Statement

Ben Meigs, 165 Wilkes Drive, Eugene, indicated his satisfaction with the staff report and said he would be available should anyone have questions.

Public Officials in Support

Kurt Yeiter, principal planner for the City of Eugene, stated that the city approved and supported the annexation. He said in order for the owners to avail themselves of the city services that were required for development, the Metro Plan policies required annexation. He underscored that this was not an unusual annexation for the area. He supported the boundary commission staff's recommendation for approval.

Others in Support – None

Those in Opposition – None

Those neither in Support nor Opposition – None

Mr. Myers closed the public hearing.

Boundary Commission Discussion and Decision

- * Moved and seconded (Larson/Seidel) to approve the annexation of territory to the City of Eugene (BC File C EU 05 – 03) based on the findings and reasons included in the February 3, 2005, staff report. The motion passed unanimously, 6:0 (commissioners Myers, Mulder, Seidel, Larson, Heeter, and Olson voting yes).

Withdrawal of Territory from the Lane Library District (Giustina & Timber Company)

- B. BC File L LA 05 – 04
Initiated by property owner petition
Action under ORS 199.490(1)(c) of the boundary commission law
Received January 4, 2005
Action to be taken by April 4, 2005

Description

Generally located east and west of the City of Creswell, north and south of Camas Swale Road and east of Bear Creek Road and Rodgers Road

Property owners: Giustina Land & Timber Company (P.O. Box 898, Eugene)

Tax lots: 1200, 1400, 1800, 2000, 2100, 2400, and 5300, T19S R02W; 500, 800, and 1900, T19S R04W; part of 100, T19S R04W S10; 301, T19S R04W S11; 900, T19S R04W S14; 1000, T19S R04W S15; 300, 502, 800, 901, and 1500, T19S R04W S21; 300, T19S R04W S22; 200, 700, and 900, T19S R04W S23

Acres: ± 3,344

Estimate of existing population: 0

Existing land use: Timber lands

Existing zoning in Lane County: F-1, non-impacted forest lands; F-2, impacted forest lands

Applicable comprehensive plan: Lane County Rural Comprehensive Plan

(acknowledged in September 1984 and has been subsequently amended)

Existing public services to the property: Fire (South Lane County Fire & Rescue), police (Oregon State Police, Lane County Sheriff), roads (Lane County), education (Creswell School District 40), timber (Eastern Lane District of the State Forestry Department and Western Lane District of the State Forestry Department)

Reason for withdrawal

The property owner is requesting withdrawal of timber lands that are in the recently created Lane Library District. These lands are zoned primarily as non-impacted forest lands. The properties are actively managed for sustainable timber production and contain no residents, dwellings, or permanent structures.

Notice

As required by ORS 199.463(1), notice of a public hearing must be published in a newspaper of general circulation not more than 25 days nor less than 15 days before the hearing. *In this case, notice of the public hearing was advertised in the Creswell Chronicle on January 12, 2005.* A second notice may be published in a newspaper of general circulation or notice of the hearing may be mailed to each owner of land in the affected territory not more than 15 days before the hearing. "Affected territory" as defined by ORS 199.415(3) means the territory described in the petition. The "petition" includes a resolution, order, or any other form of initiatory action for a boundary change [ORS 199.415(14)]. The petition or resolution, as required by ORS 199.490(4) also includes a legal description, which must meet the requirements of ORS 308.225 [OAR 191-006-0000(3)]. *In this case, notice of the hearing was sent to the affected property owner (Giustina Land & Timber Company, owner of the property proposed for withdrawal and initiator of this withdrawal request) on January 25, 2005.* The final notice required by the boundary commission law is the posting of a notice of the public hearing in the affected city, district, or territory at least 15 days before the hearing. *In this case, notice of the public hearing was posted in the area of the withdrawals, at the Creswell Library, and at the Lane County courthouse on January 19, 2005.*

Clay Myers, chair, called for conflicts of interest or *ex parte* contacts. There were none.

Paula Taylor, boundary commission staff, reviewed the notice of the public hearing. She reiterated that she had made every effort to let interested parties know of the change of venue.

There were no objections to the notice provided. The staff notes were entered into the record in accordance with the boundary commission's administrative order.

Ms. Taylor stated that the withdrawal of the property from the Lane Library District was initiated by the property owner, Giustina Land & Timber Company. She noted that the boundary commission was not often presented with a petition for withdrawal. She said the formation of the Lane Library District had been processed and approved by the boundary commission by a unanimous vote. Pursuant to a vote on the November ballot, the library district was officially formed. She explained that Mr. Giustina sought to withdraw property that was solely used as F-1 and F-2 forest land. She cited a table on page 3 of the staff report which delineated the properties requested to be withdrawn, what services the properties were provided, and how much tax revenue the properties generated. She noted that the Lane Library District was amenable to the withdrawal and that it was typical for timber land to be removed from such districts.

Ms. Taylor noted that the staff report contained copies of letters between the timber company and the library district. Additionally, she indicated staff had received a letter from an interested district patron.

Ms. Taylor stated that the standards were the same for this proposal as they were for most annexations. She said that findings and reasons supported approval of the withdrawal and were included in the staff report.

In response to a question from Ms. Larson, Ms. Taylor indicated that she had not been contacted by any other property owners wishing to withdraw from the district.

Ms. Mulder noted that there were other properties that were zoned forest lands on the map and wondered if they could request to be withdrawn. Ms. Taylor replied that any of the owners of the properties could make such a request.

Mr. Heeter commented that it was unlikely there would be residential development on F-1 property.

Ms. Mulder remarked that it seemed other private property owners could think they could withdraw if they did not dwell on the property.

Mr. Myers opened the public hearing.

Proponent's Opening Statement

Larry Giustina, 2990 Woodacres Drive, Eugene, conveyed his satisfaction with the staff report. He said staff had done an excellent job of presenting the petition for withdrawal. He stated that his family was concerned with the long-term viability of forest land. He expressed his support for zoning laws, but did not feel that his company's F-1 forest land should be included in a library district.

Ms. Mulder pointed out that property taxes for school funding were much higher and one could make the same argument, i.e. that forest land did not house public school students and should not be included in the tax rolls. Mr. Giustina agreed that this was possible. He noted, however, that historically no timber companies had made such a request. He stressed that his company sought to keep the lands in forest production. He recalled that years ago the boundary commission had dealt with a park district and the forest lands had not been included.

Ms. Taylor clarified that the park district had ultimately been denied by a 3:2 vote of the boundary commission. She said there was some concern on the part of the commissioners at that time regarding some of the forested lands and whether or not they could or would be withdrawn.

Public Officials in Support – None

Others in Support – None

Those in Opposition

Bob Olsen, 38210 Sisters Loop, Creswell, noted he had expressed his concerns in a letter. He said when he first saw the proposal for withdrawal he felt some sympathy for the timber company. Now, upon a closer look, he had come to believe the money amount was not significant. He noted that the Giustina company tax burden for the library district was \$500 while his tax burden, as a residential property owner, was \$250. He stated that the property in question was a revenue generating property, while most individuals on a residential property did not likely derive any revenue from them. He thought, from the view of fairness and equity, a library district whether one used it or not benefited the community and should be supported.

Carol Campbell, 82044 Marr Lane, Creswell, president of the Lane Library District, said there was an obligation in society to support public services. She was, however, uncertain about whether land without anyone living on it should have the tax levied upon it. She requested, on behalf of the district should the withdrawal be granted Giustina Land & Timber Company, that the company never develop the land and that the map be redrawn.

Those neither in Support nor Opposition – None

Rebuttal by the Proponents – None

Mr. Myers closed the public hearing.

Boundary Commission Discussion and Decision

- * Moved and seconded (Heeter/Olson) to approve the withdrawal of territory from the Lane Library District (BC File L LA 05 – 04) based on the findings and reasons included in the February 3, 2005, staff report.

Ms. Seidel asked if it would be possible to conduct analysis of the financial impact should all F-1 lands be withdrawn. Ms. Taylor responded that while possible, it would be a “medium to large” endeavor.

Ms. Seidel expressed concern. She noted that the Giustina company withdrawal represented .4 percent of the total revenue received by the library district. While this was not much, she felt it could set a precedent.

Ms. Larson was concerned as well that the incremental aspect of this could set a precedent for other districts. She remarked that as a business owner who paid taxes on a property at which she did not reside, she felt an obligation to her employees that live in her area to help them have the range of services that they needed. She was disturbed that the line was drawn at something so important to families. She believed the standards required the boundary commission to approve

the withdrawal. Should there be a substantial increase in withdrawal petitions before the boundary commission, she thought the whole issue would merit a more thorough discussion and possible action.

Mr. Heeter explained that when the boundary commission standards were met, the commission was required to approve a petition for annexation or withdrawal. He underscored that the state recognized the differences in land use and treated farm and forest land differently than residential lands. He thought it possible that there would be more such applications.

Ms. Seidel thought granting the withdrawal to Giustina Land & Timber Company would mean that the boundary commission would have to grant such withdrawals to anyone who met the same standards.

Mr. Heeter stated that once there was a dwelling on land zoned in this manner, the land use changed and it would no longer be exempt.

Ms. Mulder pointed out that childless people still had a general obligation to pay for schools.

Mr. Heeter asked the other commissioners to consider what grounds they would use should they choose to deny the petition.

Mr. Myers stated that until the “flood” of petitions to withdraw began, the commission was obligated to make its decision on the merits of the application before it.

Mr. Olson commented that the timber company owned 3,000 acres. He did not believe that someone who owned 20 acres would bother to pursue a petition for withdrawal.

Ms. Taylor said financial viability criteria applied to every boundary change application that came before the boundary commission. She stressed that each proposal was to be analyzed according to the standards, but not every proposal was the same. The boundary commission law gave the commission flexibility. She did not think a request from a private property owner with developed property was exactly the same as the request before the commission and the decision of the commission might be different.

Ms. Larson called for the question.

* The motion passed, 5:1 (commissioners Myers, Heeter, Seidel, Larson, and Olson voting yes; commissioner Mulder voting no).

V. OTHER BUSINESS

A. Update on Dissolution of the Hazeldell Rural Fire District

Ms. Taylor reported that the Hazeldell Rural Fire District was close to filing for dissolution. She predicted the decision on the dissolution would not be completed by March 31. She asked if there was interest in convening a special meeting.

Mr. Myers asked why it took so long to be filed. He noted that the proponents of the dissolution had been talking about this for nine months. Ms. Taylor thought the delay was due to the complexity of the issue and limited time resources.

In response to a question from Ms. Seidel, Ms. Taylor said if approved, the dissolution question would be set for the next available election date, but should the dissolution should be denied, the proceedings are concluded.

Mr. Myers asked if there was anything on the April agenda at this point. Ms. Taylor replied that there was nothing.

Ms. Larson thought the item should be part of the regular April meeting and it should be held in Eugene.

Ms. Taylor surmised that the will of the commission was that the item would be considered at the regular meeting scheduled for April, should the district make a valid filing.

B. Other

Ms. Taylor reported that there was a strong interest in the abolition of the boundary commission at the legislative level. She related that there were several groups interested in ensuring that the commission was abolished. She said feedback from special districts indicated appreciation for the work of the boundary commission.

* Moved, and seconded (Heeter/Seidel) to adjourn the meeting. The motion passed unanimously, 6:0 (commissioners Heeter, Seidel, Myers, Larson, Olson, and Mulder voting yes).

The meeting adjourned at 8:07 p.m.

Clay Myers, Chair
Lane County Local Government Boundary Commission

(Recorded by Ruth Atcherson)

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Last Saved: March 31, 2005*