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AGENDA COVER MEMO

AGENDA DATE: June 1, 2005
TO: Board of County Commissioners
DEPARTMENT: Public Works – Land Management Division
PRESENTED BY: Jeff Towery, Manager
AGENDA TITLE: REPORT/OREGON DEPARTMENT OF STATE LANDS DOCK
REGISTRATION ON THE SIUSLAW RIVER



I. MOTION

No motion is needed. This information is being presented at the request of the Board.

II. ISSUE OR PROBLEM

The Department of State Lands (DSL) requires the registration of docks and is currently working on the Siuslaw River. As part of the registration process, each dock owner must show the dock complies with local land use laws. Lane County has required building and planning permits for docks since 1980 and those regulations have not changed.

Some dock owners have expressed frustration with the DSL registration process. Some dock owners have also expressed concern with the fees for a County land use application. This memo will clarify the Lane County requirements for local land use approval of a dock on the Siuslaw River. This memo will answer the following questions:

- What is meant by local land use approval?
- How does a dock owner verify local land use approval?
- What county applications and fees are required to request land use approval?

III. DISCUSSION

A. Background

In 1998, the State Land Board adopted administrative rules that allow certain, privately-owned, non-commercial docks to obtain the required authorization from Department of State Lands (DSL) in the form of a simplified registration rather than a lease. DSL is the agency that issues the registration. Dock registration is not a requirement of Lane County. Before 1998, all structures occupying state-owned waterways were subject to a lease, with the exception of very small personal docks (under 200 square feet).

What is meant by local land use approval?

As part of the registration process, DSL requires proof that the structure complies with all applicable local, state, and federal laws and local comprehensive plan and zoning requirements.

In this case, DSL wants to know the dock received the proper approvals from Lane County. The initial dock registration form drafted in 1998 allowed for the applicant to sign an affidavit stating "I certify that to the best of my knowledge, the structure identified in this application meets all applicable local, state, and federal laws including the local comprehensive land use plan and zoning ordinance requirements. This self-affidavit put the burden on the applicant. There was a push by local planning agencies for DSL to change the application, because people were being issued registrations for structures that were not in compliance with local planning and zoning requirements. According to DSL staff, Coos County, in particular, played an instrumental role reforming the registration process. The goal was to ensure that structures were being constructed and placed according to local land use planning laws. As a result, DSL changed the registration application in 2003 to include a section for the City or County to sign off on local land use compliance.

B. Analysis

Since July 24, 1980, planning and building permits have been required for all docks in Lane County (Ordinance No. 12-80, Effective 7.24.80). A dock owner may have constructed a dock with approval from DSL and/or the Army Corps of Engineers and/or the Port of Siuslaw, but did not realize Lane County requires building and land use permits for the dock. This is why DSL wants the dock owner to demonstrate compliance with local land use laws.

How does a dock owner verify local land use approval?

The Lane County regulations for docks are contained in Lane Code, Chapter 16. There are two ways of demonstrating compliance with Lane Code:

- **Option A:** The owner can show the dock existed prior to July 24, 1980. This is the date of the first Lane County regulation of docks. A Land Use Compatibility Statement (LUCS) is a process by which a customer provides documentation which proves that a dock is legal. The most definitive proof would be to produce a copy of a building permit for the dock. Another form of documentation could be a copy of the appraisal card for the property, showing that the dock has been in existence for at least 20 years. Dated photos are also a good form of documentation. LMD has aerial photos from 1982. If the dock is shown on these photos, it is considered to be in compliance. The fee for a LUCS is \$48.40. The majority of the docks fall into this category.
- **Option B:** The owner cannot show the dock existed prior to July 24, 1980. Because this segment of the Siuslaw River is designated as a Conservation Estuary, a land use application must be submitted. At a minimum, owners will need to address the requirements of Lane Code 16.235(3) through a Special Use Permit (SUP). Specifically, the dock must comply with the base zone, the combining zone, the floodplain regulations and the riparian regulations. The fee for a SUP is \$1,126.

DSL conducted an inventory in 1998, identifying 150 structures on the Siuslaw. Of those, 130 were found to be in Lane County's jurisdiction. The rest are located in the City of Florence. Lane County received a copy of the 1998 DSL Siuslaw Dock Inventory Database on January 26, 2005. Of the 150, 10 were duplicates (two-three separate docks per Map and Tax Lot). Technically, there are 150 docks to deal with but only 140 dock owners. DSL and Lane County staff researched the 130 docks and determined that 78 were on the 1982 aerial photos (and thus eligible to be "grandfathered"), 47 were not found on the aerials, and five were unknown.

The first requirement for all of the 150 docks was to turn in a LUCS by May 30, 2005. As of May 24, 2005 Lane County has received 46 LUCS, 21 of those have been completed resulting in 20 lawful docks. One (1) of those is in need of a SUP. In receiving LUCS an additional five docks have been identified that fit within the scope of the project and were not on the original database, increasing Lane County's total number of docks to 135.

Eleven (11) of the 130 docks had registration numbers with DSL prior to the start of this Siuslaw Dock project. In checking with the permit history on each of these, only 3 had turned in a LUCS with the county.

What county applications and fees are required to request land use approval?

Fees in the Division are set consistent with Board Financial Policies and the Lane County Strategic Plan. The Board of County Commissioners Financial Management Policies (8) states, "County fees and charge amounts will be set by the Board of County Commissioners based on an analysis of who benefits, amounts charged by other agencies for the same services, the indirect and direct costs of providing the services and the Statutory limits." The Division addresses four core strategies in the Lane County Strategic Plan and the implementation of its fee proposals either address those strategies directly or enable the Division to better address them. The four strategies are:

- A3: Promote electronic access to public services

The Division's focus on e-commerce initiatives is intended to be consistent with the clear expectations set out in the Strategic Plan:

Lane County Government will promote expanded electronic access to County services, through the Internet and other related approaches. However, where electronic alternatives are developed, more traditional options (face-to-face or telephone service) will also be preserved. We will encourage the development of public access Internet sites in all areas of the county so that persons without electronic access at home may have access. Both informational applications (answering citizens' questions about County services) and transactional applications (allowing persons to complete business with the County, such as filing permit applications) will be developed. We will also develop Internet applications that enhance public participation in County government.

The plan goes on to set out several criteria that will be used to evaluate and set priorities for e-commerce initiatives and identifies several areas of County service presumed to meet those criteria:

Applications that appear to meet these criteria include:

- ...
- Land Management Services (permits, etc.)

- A4: Promote Continuous Quality Improvement

LMD has twice utilized Rapid Process Improvement to make changes in the review of building permits; once, in November, 2002 resulting in significant changes to the review process and again in December, 2004 to identify refinements. A third session to address the processing of land use applications is scheduled for June, 2005. The principles have also been informally applied in several other work processes in the Division. The Strategic Plan says:

Lane County Government encourages continuous process improvement efforts initiated by work units in County departments.

- B3: Allocate resources strategically

LMD services fit into category 2 and 3 funding priorities as follows:

- a. The County's funding priorities are as follows:

- ...
- 2. The second funding priority is for those services that are a direct response to the County's broad goals. Primary emphasis will be placed on services that relate to
 - Personal safety
 - Property safety
 - Infrastructure safety
 - Health safety
- ...
- 3. The third funding priority is services that are mandated and that do not otherwise fall into the categories addressed by the first two priorities. The level of funding for these functions and the level of service provided may be flexible and will be guided by the demonstrated cost-effectiveness and broad public support of the services.

Past proposals made to the Board have identified the scope of impact, effectiveness and support of the Division's services.

- D2: Identify and recover user fees and charges

For the last three years, the Board has been clear and consistent in directing the Division to keep its expenditures in line with its revenues (not to rely on the General Fund in the event of a deficit) and to operate in a more business-like fashion. The Plan sets out the following standards for user fees:

- a. Lane County Government will assure that fair and reasonable user fees are established and collected for those services where state law permits such fees and where the usage of the service is affected by consumer choice. We will follow the following principles:
 - ...
 - Fees will be based on costs, including reasonable allocations of overhead and a fair return on investment, where appropriate...The County will also assure that

the costs used as the basis for fees reflect efficient levels of operation of the service.

Fee proposals are consistent with the standards set out in all four of the core strategies above.

County Planning has created a flow chart to help customers understand what applications are required. The handout has been used at the customer service counter and has been provided to numerous other interested parties (see Attachment A). If the dock owner cannot demonstrate that the dock existed prior to 1980, a land use application is required (Option B above). The number and types of land use applications will depend on the location of the dock, the amount of vegetation removal, and whether there is a ramp or stairs connecting the dock to the land. The cost of gaining approval will vary depending on the number of permits that are required. The table below identifies the most common land use applications for a dock on the Siuslaw River. Not all permits are applicable in every circumstance. For instance, a riparian permit is required when a stairway connecting to the dock, extends more than 10 feet into the riparian setback.

Code	Application	Fee
LC 16.235	Conservation Estuary Special Use permit	\$1,126
LC 16.248	Resource capability determination (non-resource site)	\$550
	Resource capability determination (resource site)	\$1,126
LC 16.244	Floodplain fill/removal permit (500 cubic yards or less)	\$178
any of the 4 coastal combining zones	Preliminary Investigation (all other base zones)	\$286
	Preliminary Investigation (forest zones)	\$592
LC 16.253	Riparian permit (all other zones)	\$1,126
	Riparian permit (forest zones)	\$2,410

Lane County has contacted several counties (coastal and other comparable counties) for information about fees for land use applications that are used to show compliance with local laws and comprehensive plan and zoning requirements (Attachments B and C). Of the coastal counties, three have fees substantially lower (one-half or less) than Lane County for a conditional use permit. In those cases, Coos, Lincoln and Douglas, their Planning programs receive 50%, 70% and 82% of their funding respectively from the General Fund. When conditional use fees for other comparable counties are reviewed, only Linn and Benton, 60% and 70% General Fund support respectively, are substantially lower. In addition, the City of Florence has just implemented a new fee schedule. A Minor Conditional Use currently costs \$500 and will increase to \$950 for FY05-06 and \$1,500 for FY06-07. Florence currently receives 90% of its funding for planning activities from the General Fund. The fee increases just adopted will result in 80% and 70% General Fund support in each of the next two fiscal years respectively. Building permit fees from other jurisdictions have not been reviewed for this report, but past surveys have

shown Lane County's building permit costs to be mid- to high-range when compared to other counties and substantially lower than cities in the region.

There have also been questions raised about how other counties are handling this issue. While LMD has not done an exhaustive review, Coos County was said to have streamlined processes for dock owners so LMD staff did discuss the matter with them. According to their planning staff, they don't have any special coordination activities with DSL beyond those used by Lane County (sending referrals for land use decisions and reviewing county compatibility requests from DSL). The only "streamlining" Coos County did was on Ten Mile Lakes, whereby their Planning Director waived the need for flood-hazard review. They confirmed that the waiver does not apply to river estuaries under tidal influence. As in Lane County, if a dock can be verified in a dated aerial photo (they use 1975), they will consider the dock to be in compliance.

C. Alternatives/Options

- To receive and file the report.
- To request additional information.
- To give direction, regarding any or all of the issues presented.

IV. IMPLEMENTATION/FOLLOW-UP

Staff will continue to work with DSL, the Corps, the Port of Siuslaw and the dock owners to ensure that the process to verify County land use approval is efficient and timely.

V. ATTACHMENTS

Attachment A – Handout for Dock-Related Planning Applications
Attachment B – Survey of Planning Fees-Coastal Counties
Attachment C – Survey of Planning Fees-Comparable Counties

LAND MANAGEMENT DIVISION



LAND USE SIGN OFF FOR DOCK REGISTRATION

PUBLIC WORKS DEPARTMENT 125 E 8th AVENUE, EUGENE OR 97401

Planning: 682-3807 Building: 682-3823 Sanitation: 682-3754

This guide identifies the most common land use applications necessary to gain local land use approval to build or register a dock. Because this is a general analysis, it may not address special situations that could apply to a single property. Any determination of additional permits necessary would be made on a case by case basis and be identified in the Land Use Compatibility Statement.

How do I know if my existing dock has local land use approval?

Land Use Compatibility Form (\$48.40)

Submit this form, with the state dock registration form. A Planner will determine whether the dock was built in compliance with the applicable County regulations.

A dock that was built prior to July 24, 1980, complies with local land use regulations.

Was the dock built prior to July 24, 1980 or with a County approved building permit?

No

Yes

Congratulations! Your dock complies with local land use laws.

Is your dock above the ordinary high water mark?

No

Yes

**You will need a Riparian Modification
(\$1126 for non-forest lands, \$2410 for forest lands)**

Does your property have an estuarine zone or coastal combining zone?

No

Yes

**You will need a Special Use Permit
(\$1126 for non-forest lands, \$2344 for forest lands)**

Building Permit

The final step in this process will be to obtain an as-built building permit for your dock. The requirements for as-built structures can be obtained from the building program in Land Management (541-682-3823).

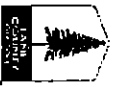
SURVEY OF COASTAL COUNTY PLANNING FEES May 23, 2005

County	FEEES				LUCS	Cond. Use
	Area '03 sq.mi.	Pop. 1,000's	CoTax/ \$1000 *	% GF		
Clatsop	843	36	1.51	16	32	881
Tillamook	1,125	25	2.48	8	138	1,100
Lincoln	992	45	3.26	70	0	545
Lane	4,620	329	2.02	17**	48	1,126
Douglas	5,071	102	5.57	82	20	200
Coos	1,629	63	3.83	50	50	420
Curry	1,648	21	2.47	0	55	1,113

* Includes all levies and O&C Revenue

** Video Lottery & Title III Allocation

Note: Lane County Fees include 15% Administrative Fee, 5% Long Range Planning Surcharge and \$10 Technical Support Fee



Survey conducted May 2005

SURVEY OF COUNTY PLANNING PROGRAMS

Staff, Budget, General Fund Support and Current Fees

January 25, 2005

County	Area '00 Pop.	No. sq.mi. 1,000's	Planners	No. Support	Budget \$1,000's	CoTax/ \$1000*	% GF	FEES						
								Plan Amend	Zone Chng	Subdiv.	Cond. Use	Forest Dwelling	Pre-app Conf.	
Multnomah	465	660	9	2.4	\$1,122	\$5.12	94	\$2,300	\$2,300	\$1,580	\$1,800	\$1,800	\$330	
Clackamas	1,879	338	16	4	2,300	3.90	72	1,785	1,600	2,250	1,750	560		
Benton	679	78	3	1	378	3.78	70	2,000	1,200	1,325+ 100/lot	600	690		
Linn	2,297	105	4	1	300	3.78	60	1,400	1,000	500	1,000-350	350		
Marion	1,194	295	8	3	1,328	3.12	50	3,755+ 60/ac	1,880+ 30/ac	1,880+ 20/lot	1,250	1,250	300	
Washington	727	445	27.7	6.4	4,567	3.84	19	2,100***	2,100***	10,000- 2,500	5,560	4,188		
Lane	4,620	329	10	3	1,147	2.02	17*	10,000**	2,794	2,110+ 140/lot	1,126	2,344	220	

* Includes all Levies and O&C Revenue

** Video Lottery & Title III Allocation

*** Deposit for Actual Charge for Services

Note: Lane County Fees include 15% Administrative Fee, 5% Long Range Planning Surcharge and \$10 Technical Support Fee



Survey conducted January 2005