

W. T. B.

Memorandum Date: February 21, 2007
Order Date: None

TO: Board of County Commissioners
DEPARTMENT: County Administration
PRESENTED BY: Jim Johnson, Consultant and Wildish Land Acquisition Project Manager
AGENDA ITEM TITLE: REPORT/Wildish Land Acquisition Update

I. **MOTION**
None suggested.

II. **AGENDA ITEM SUMMARY**

This agenda item is an update on steps being taken to acquire about 1200 acres of property owned by the Wildish Land Company adjacent to the Howard Buford Recreation Area. In addition to providing a status report, the agenda item suggests that The Nature Conservancy (TNC) replace Lane County as the lead agency in negotiating the acquisition with the company. Lane County would provide assistance to TNC as due diligence proceeds. Letters from TNC and Jim Wildish suggest this arrangement would be beneficial.

III. **BACKGROUND/IMPLICATIONS OF ACTION**

A. **Board Action and Other History**

In November 2006 the Wildish Land Company sent a letter to the Board of Commissioners offering to sell about 1200 acres of their property adjoining the Howard Buford Recreation Area and Mt. Pisgah.

In December the Board sent the company a return letter thanking them for the offer to purchase and expressing a strong interest in continuing discussions on the details of the acquisition.

B. **Policy Issues**

The acquisition of the Wildish land would be consistent with a variety of parks and open space plans and policies for Lane County and for the State of Oregon.

C. **Board Goals**

The acquisition of the Wildish land would be consistent with the Howard Buford Recreation Area Master Plan, adopted in 1993.

D. Financial and/or Resource Considerations

This is an information item only at this time. The financial and resource considerations will become clearer at a future date. Funds for the acquisition will likely come from a variety of state and federal sources, from dedicated parks revenues, and from private donations.

E. Analysis

Since December a number of tasks have been accomplished:

1. A project technical team was formed and has been analyzing the proposed subdivision layout that was submitted with the company's Measure 37 claim. The team is reviewing the layout in a manner somewhat similar to how a subdivision application would be reviewed. We will soon issue a memo discussing various issues with the plot plan including: water supply; sewage disposal; fire service; floodway; critical habitat and the Endangered Species Act; wetlands; cultural resources; and transportation. County staff input has been invaluable to this effort.
2. The project team spent an afternoon touring the site.
3. We have retained Rick Duncan (an appraiser familiar with appraisals done to federal standards) to advise us on the appraisal submitted by the company and on appraising the site using a variety of approved appraisal techniques.
4. I have met numerous times with representatives of the Wildish Land Company to discuss various aspects of the acquisition.
5. I have talked with possible funding partners such as Oregon State Parks, the Corps of Engineers, and the Oregon Department of Fish and Wildlife.
6. I have talked with various conservation agencies serving our area to include the McKenzie River Trust and The Nature Conservancy (TNC).
7. I have met numerous times with Chris Orsinger, Executive Director of Friends of Buford Park.
8. Commissioner Stewart and I have met with Board members Gary Ross and Lee Beyer and Superintendent Bob Keefer of the Willamalane Parks

and Recreation District. At their March meeting, the Willamalane Board will consider a resolution of support for the acquisition.

9. I have mentioned the project to Mayor Kitty Piercy and Mayor Sid Leiken.

Along with this status report, I would like to recommend a change in direction for the project. At this point, Lane County has been the lead agency in analyzing the possible acquisition and negotiating with the company. I would like to suggest that the Nature Conservancy take on this lead role, with Lane County assisting them in the effort. I make this suggestion for two major reasons:

1. This acquisition is very complicated and seems to get more complicated as discussions continue. As one example, the Wildish Company is now discussing the possibility of a 1031 Exchange¹ and a phasing of the purchase to allow the 1031 Exchange to occur more easily. As I understand it, this complication is fairly easy to address, but it will take the expertise of The Nature Conservancy to work out the details. The Nature Conservancy has extensive experience in complicated acquisitions. I have attached a list of recent or notable land acquisitions in Oregon by TNC for your review. Three of the projects are in Lane County.

2. The Board of Commissioners is deeply involved in a multi-year effort to improve the County's public safety system. This is a key strategic objective of the Board and probably your highest priority Goal. Public perception will be very important as you move forward with alternative methods of financing an enhanced public safety system. Working with The Nature Conservancy sends the message that the Wildish property acquisition is important, but less so than accomplishing the principal goal of long-term funding for the public safety system.

Two letters from The Nature Conservancy are attached. The first letter was written to the Board in November 2006 and offered assistance. The February letter again offers their assistance and states their willingness to:

- Negotiate the acquisition with the Wildish Land Company
- Manage the appraisal process
- Develop a plan and help secure public funds for the acquisition

The other key statement in the letter is that TNC does not envision itself as a long-term owner of any of the Wildish lands. They may, however, take ownership on an interim basis until the public agencies can assemble the necessary funding and will then transfer title to another agency. Public recreation opportunities are important

¹ Section 1031 of the U.S. Internal Revenue Code allows investors to defer capital gains taxes on the exchange of like-kind properties.

to them, along with conservation values.

The Nature Conservancy has stated that the staff time associated with their services is available at no cost to Lane County. Direct costs will need to be reimbursed, such as acquisition price for the property, title insurance and other closing costs, appraisal expenses, etc.

Also attached is a letter from the Wildish Land Company. The company has no problem in working with TNC and they see many advantages to the relationship. Their letter states that the company views TNC's involvement "as a benefit and possibly the catalyst that the acquisition effort requires."

I am confident that your original goal of public ownership of the Wildish property can best be achieved through this partnership with TNC. Public recreational use of the land after acquisition, along with restoration of the floodplain and enhancement of conservation values, are still the primary objectives.

F. Alternatives/Options

There are two principal alternatives—for Lane County to continue in the lead role or ask The Nature Conservancy to take over as the lead agency. In the latter case, Lane County would assist TNC, but in a more secondary role.

IV. RECOMMENDATION

I recommend that Lane County negotiate a Memorandum of Understanding (MOU) with The Nature Conservancy that would outline the roles and responsibilities of each party in the Wildish land acquisition and that The Nature Conservancy take the lead in acquiring the Wildish property.

V. TIMING/IMPLEMENTATION

An MOU will take a couple of weeks to negotiate.

VI. FOLLOW-UP

We will return to the Board with another progress report in the near future.

VII. ATTACHMENTS

1. List of Recent or Notable Nature Conservancy Land Acquisitions in Oregon
2. November 7 letter from The Nature Conservancy
3. February 12 letter from the Nature Conservancy
4. February 13 letter from the Wildish Lane Company



The Nature Conservancy in Oregon
821 SE 14th Avenue
Portland, OR 97214

tel 503 802-8100

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List of Recent or Notable Nature Conservancy Land Acquisitions in Oregon

Barnes Ranch Acquisition (Klamath County, October 2006): Purchase of 2,850 acres. \$7.25 million. To be added to Upper Klamath Lake National Wildlife Refuge. Funding provided by multi-year federal Land and Water Conservation Fund appropriations and Bureau of Reclamation funding.

Pine Creek Addition (Wallowa County, September 2006): Purchase of 6,065 acres as addition to The Nature Conservancy's Zumwalt Prairie Preserve. \$3 million. Funding provided by US Fish and Wildlife Service Land Recovery grant and private fundraising.

Coburg Hills Conservation Easement (Lane County, Closing pending): Purchase of 1,200 acre conservation easement to protect oak woodland, oak savanna, and prairie habitat. \$5.3 million purchase. The Conservancy is awaiting official word from Bonneville Power Administration (BPA) for \$4.9 million in funding.

Cuddeback Acquisition (Lane County, September 2004): Purchase of 67 acres as addition to The Nature Conservancy's Willow Creek Preserve. Funding for the acquisition was secured through Bonneville Power Administration.

West Eugene Wetlands (Lane County, 25-Year History): In addition to the Cuddeback acquisition, The Nature Conservancy has directly protected over 1,000 acres at the West Eugene Wetlands. This is a partnership effort with the City of Eugene, Bureau of Land Management, US Fish and Wildlife Service and McKenzie River Trust. Several of these projects were "co-op" projects where the Conservancy made the original purchase and then transferred ownership to a public partner.



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February 12, 2007

Mr. Jim Johnson
Project Manager
651 Brookside Drive
Eugene, OR 97405

Dear Jim:

As you and I discussed last week, The Nature Conservancy is willing to assist Lane County in trying to protect the approximately 1,200 acres owned by the Wildish Land Co. located adjacent to Mt. Pisgah. This property possesses significant conservation values, including over 10 miles of river frontage, as well as important public recreational opportunities. I have attached a copy of the letter that was sent to Commissioner Stewart in early November expressing our offer to help in any way the County deems beneficial. Our offer to assist essentially remains unchanged.

As I have expressed to you and as the letter implies, the Conservancy is willing to negotiate the transaction with Wildish Land Co. As part of that, we are willing to manage the appraisal process and willing to develop a plan and help secure public funds for the acquisition. It is quite clear that this will be a complicated project with many moving parts and that given the cost and potential appraisal issues, it will be challenging to complete. The Conservancy has a strong track record in addressing the needs of willing sellers and buyers when complications are common. I have also attached a list of recent and notable acquisitions for your reference. Furthermore, there is a list of public agency contacts in the November 7th letter who can speak to their experiences working with the Conservancy on such projects.

As we have expressed to County staff and Board leadership and to you, the Conservancy does not envision itself as a long-term owner of any of the Wildish lands. Depending on the structure of a transaction, it may be necessary for the Conservancy or some other entity to purchase and hold the title to the property as an interim owner until the appropriate public owner can assemble the necessary funding. We agree that the significant conservation values and public recreation opportunities afforded by the Wildish lands can be best realized through public ownership. The Conservancy's interest is in helping to ensure those conservation values and public recreation opportunities are secured for future generations.



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We again want to express our appreciation for the County's strong interest in preserving the Wildish lands and look forward to assisting the County with this project in any way the county sees fit. If you have any questions regarding this letter, please feel free to contact me. I look forward to hearing from you.

Sincerely,

Russ Hoeflich
State Director

Attachments: November 7th Letter to Commissioner Stewart
List of Recent Land Acquisitions



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November 7, 2006

Mr. Faye Stewart, Lane County Commissioner
Lane County Public Service Building
125 East 8th Street
Eugene, OR 97401

Dear Commissioner Stewart,

It was good to meet you on October 24th to discuss the County's interest in the Wildish Property near Buford Park. Public ownership of the Wildish property would make a significant contribution to the conservation of biological diversity as well as public recreational values in Oregon. We appreciate the County's leadership in advancing this important project and would be happy to assist the County in that effort.

Given the cost of the project and Measure 37 valuation issues, successful acquisition will be challenging. The Nature Conservancy has had many successes working with public partners in Oregon on complex land transactions; we have worked extensively with Bonneville Power Administration, Oregon Parks and Recreation Department, Oregon Watershed Enhancement Board, the Army Corps of Engineers and others that may be important to the success of this project. In Lane County, we have helped the City of Eugene and the Bureau of Land Management to acquire and restore habitat for similar purposes in the West Eugene Wetlands for over 25 years.

In land transactions, the Conservancy can assist project partners in one or more of the following ways: helping to manage the appraisal process, assisting in negotiations with the sellers, helping to apply for and secure public grant funds, and acting as an interim owner to serve as a bridge while public funding is assembled. Johnny Medlin (Division Manager, Public Works Parks and Open Space), Russ Royer (Realty Specialist) for the City of Eugene, Dave Wright (Assistant Director of Operations) with, and Greg Delwiche (Vice President for Environment, Fish and Wildlife) for Bonneville can speak to our ability to assist in transactions such as these.

In Oregon, we are fortunate to be able to rely on annual giving from over 22,000 households, foundations and corporations and grants to cover our staff and operating costs. Except in unique circumstances when we are contracted by an agency to assist with a transaction, we offer our staff assistance at no cost to others. The Nature Conservancy operates under a no net profit policy – we only recovery our direct costs (e.g. the price paid for the land, any closing costs such as title insurance and appraisals) when helping public agencies acquire property.



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Again, we appreciate the County's leadership in acquiring the Wildish property for future generations and look forward to assisting the County any way we can. Feel free to contact me at any time to discuss how we might best work together to complete this important project.

Sincerely,

Catherine Macdonald
Director of Conservation Programs

cc. Bill Van Vactor, Lane County Administrator
Liz Cawood, CAWOOD Communications and Member, Oregon Board of Trustee, for
The Nature Conservancy



Since 1935

February 13, 2007

Mr. Jim Johnson, Project Manager
651 Brookside Drive
Eugene, OR 97405

Dear Mr. Johnson:

Subject: Mt. Pisgah Property

Thank you for taking the time recently to meet with The Nature Conservancy ("TNC") and ourselves concerning the Wildish Mt. Pisgah property. It was encouraging to hear that TNC, like Lane County, believes that this property, given its size, location and contiguous ownership is extremely desirable.

With respect to an acquisition, we see many advantages in working with TNC. TNC is experienced and skilled at facilitating these types of transactions and they routinely serve as a conduit for sources of public funding.

We appreciate the response that we've received from Lane County. No doubt, regardless of how a final transaction is reached, Lane County will play an important role in its success.

We view TNC's involvement as a benefit and possibly the catalyst that the acquisition effort requires. Consequently, we are willing to work with TNC to achieve an outcome that includes what we believe to be fair compensation in exchange for public ownership and public use of the Wildish Mt. Pisgah property.

We understand that the Board of Commissioners will be taking a position with respect to TNC's involvement in the process. We ask that a decision in this regard be made as soon as possible, and for all parties to memorialize an understanding that encompasses the principles necessary to move forward.

Very truly yours,

WILDISH LAND CO.

James A. Wildish
President