

(Approved 12/7/11)

**BOARD OF COMMISSIONERS'
REGULAR MEETING**

October 26, 2011
following HACSA
Harris Hall

Commissioner Faye Stewart presided with Commissioners Jay Bozievich, Rob Handy, Sid Leiken and Pete Sorenson present. County Administrator Liane Richardson, County Counsel Stephen Vorhes and Recording Secretary Melissa Zimmer were also present.

1. **ADJUSTMENTS TO THE AGENDA**

Stewart was requested to pull the October 5, 2011 Regular Meeting minutes at 1:30 p.m. from the Consent Calendar.

2. **PUBLIC COMMENTS**

Reed Marbut, said he is an attorney representing Willamette Water Company. He said the Willamette Water Company has an application for a water right to serve an area of South Lane County from Goshen east to the Pleasant Hill area and south to Cottage Grove. He said the Board has a proposed resolution. He indicated that Willamette Water Company was formed many years ago by Governor Bob Straub and has been serving customers in the area around Goshen since 1972. He said the Willamette Water Company did an investigation of the area proposed to be served under the new water right and the new water right is intended to serve south and east of the initial area including Pleasant Hill and Creswell and Cottage Grove. He reported the investigation they undertook was part of their due diligence on whether they should proceed with their expansion with their business and delivery of water, including the evaluation of existing sources of water for those areas and future growth. He added that they wanted to provide water to an expansive area intended for development into commercial and industrial areas. He noted the only river that is allowed to be used is the McKenzie. He said this area needs water and the Willamette Water Company is in a unique position to serve their distribution lines.

3. **COMMISSIONERS' RESPONSE TO PUBLIC COMMENTS AND/OR OTHER ISSUES AND REMONSTRANCE**

Stewart thanked the Sheriff's Department for participating in hosting The Every 15 Minutes Program at Pleasant Hills High School.

Sorenson thanked everyone who was involved in the 20th HIV Alliance Breakfast yesterday.

Handy said Duke Shepard the policy advisor to Governor Kitzhaber will be in town later today and will be joining the Commission on Children and Families at the Serbu Center.

Bozievich thanked staff at the Oregon Department of Forestry in Veneta for taking the Board on a tour of the state trust lands. He said the Department of Forest manages 28,000 acres and contributes \$1.5 million annually to the general fund.

4. **EMERGENCY BUSINESS**

None.

5. **CONSENT CALENDAR**

A. Approval of Minutes

October 20, 2009, Regular Meeting, 9:00 a.m.
October 20, 2009, Regular Meeting, 1:30 p.m.
November 4, 2009, Regular Meeting, Following HACSA
November 10, 2010, Work Session, 6:00 p.m.
August 24, 2011, Work Session, 8:30 a.m.
August 31, 2011, Regular Meeting, 9:00 a.m.
September 14, 2011, Regular Meeting, 9:00. a.m.
September 27, 2011, Regular Meeting, Following HACSA
October 5, 2011, Regular Meeting, 1:30 p.m.(PULLED)
October 12, 2011, Regular Meeting, 11:00 a.m.

B. Management Services

1) ORDER 11-10-26-1/In the Matter of Authorizing a Three Party Agreement Between Lane County, the City of Springfield and the Internal Revenue Service for the Disposition of Proceeds from the Sale of as Tax Foreclosed Property Identified as Assessor's Map No. 17-02-31-31-06704.

C. Public Works

1) ORDER 11-10-26-2/In the Matter of Awarding a Contract to Pape' Machinery, Inc., in the Amount of \$178,982.80, For the Purchase of One (1) New, Unused, Current Model, John Deere 624K 4WD Loader, With No Trade-in, ORCPP#8635.

D. Workforce Partnership

1) ORDER 11-10-26-3/In the Matter of Re-Certifying the Lane Workforce Partnership Board of Directors as the Local Workforce Investment Board Under the Workforce Investment Act of 1998.

E. Youth Services

- 1) ORDER 11-10-26-4/In the Matter of Delegating Authority to the County Administrator to Execute a Routine Contract with Looking Glass & Amend Youth Services Lease with Oregon Youth Authority.

MOTION: to approve the balance of the Consent Calendar.

Leiken MOVED, Bozievich SECONDED.

VOTE: 5-0.

6. **COUNTY COUNSEL**

- a. Announcements

None.

7. **COMMISSIONERS' BUSINESS**

- a. RESOLUTION NO. 11-10-26-5/In the Matter of Willamette Water Company's Water Right Application S-87330 and Proposed Water Distribution to South Lane County. (Commissioner Stewart)

Stewart explained that this came before the Board three or four weeks ago. He was asked by the Willamette Water Company for a resolution in support of their water rights. Stewart disclosed that he had already written a letter that was included in the e-mails under Water Watch. He understood that this was the time to enter things into the record.. He stated that as an East Lane Commissioner and dealing with water issues with Creswell in the past, Creswell was engaged with possibly receiving water from another entity. He recalled at that time they were focused into EWEB to supply them water. He added that if they were able to come to an agreement they could have put in a transmission line and supplied their city water needs at a fraction of the cost it took to build a water treatment plant. He indicated that he was past Co- Chair of the Region 2050 planning effort and during that planning effort he learned about water quality and quantity throughout Lane County. He stated there are people who could use water service but it is a matter of whether or not it is available and is economic. He indicated that it could have been a huge cost savings for Creswell. He added that Cottage Grove has water rights that will serve them into the near future but there are questions about how far into the future the water rights will serve them. He asked the Board if they wanted to support a resolution of Willamette Water Company's effort to establish an additional water right and have the ability in the future to serve some areas that might need water in the future.

Handy requested that they postpone this or have a public hearing or decline to take a position. He said it came to their attention that there is a lack of full information. He said there is an issue on whether there is a clear need for this.

He noted there is litigation on this application and they don't want to get in the middle. He noted there might be one commissioner who might have a conflict of interest and they would need that discussion. He wanted to back up and figure out their process for doing due diligence.

Bozievich stated that he had accepted campaign donations from some of the partners that own Willamette Water Company in the past, as they have also donated to his opponent in the past race. He added that he had also taken campaign donations from members of the EWEB Board of Commissioners and he is a former employee of EWEB that has interest in water rights issues. He said it didn't present a conflict with him. He asked the rest of the Board to express any conflict they may have with donations they may have received from the members of Landwatch Lane County's Board or Water Watch or Oregon Wild, as he has been open with the contributions that he had received. He noted the McKenzie River is the only river that has year round rights still available on it. He believed that this proposal will make available to critical areas of Lane County on the I-5 corridor the ability to continue growing economically as well as provide high quality water to their residents. He understood there is a time constraint in getting support for this application into the record. He said delaying a decision on this is basically stating no decision.

MOTION: to approve RESOLUTION NO. 11-10-26-5 with the following amendments: in paragraph 6, to amend to read the same up to the word "available" and insert the words "year round" for new and pick up at appropriation. He said it is important that there is some right available in November and December on the Willamette River and this makes it clear factually that the McKenzie River is the only river that has year round appropriation for these types of uses available. He wanted to amend where it says that "Whereas the Oregon Water Resource Department issued a proposed final order approving" he wanted to change proposed final order proposing to approve application S-87330. He noted in the final paragraph, to strike entirely from "official" and have it read: Commissioners support Willamette Water Company's application S-87330 and its efforts to provide water and continue to the Pleasant Hill, Creswell and Cottage Grove areas from the McKenzie River for domestic, commercial and industrial water uses in South Lane County.

Bozievich MOVED, Leiken SECONDED.

Leiken declared that prior to being elected to a full time commissioner, when he was a volunteer mayor his business did business with Willamette Water Company but that has since been terminated.

Sorenson asked if they were required to take action on this issue and what the role of County government is.

Vorhes said it is a policy discussion and decision. He said legally they are reflecting in the resolution the will of the Board on the proposed resolution.

Sorenson stated that they haven't had an opportunity for the proponent or opponents to present their perspectives on this.

Stewart stated that they had public comment this morning. He indicated that it was an agenda item and there was no one who spoke against it. He added they had someone speaking in favor. He indicated that Sorenson was copied on all the e-mails he was copied on. He said some people have stated their concerns. He added he received attachments from Water Watch.

Sorenson asked if it was appropriate for the commissioners to disclose the campaign money their campaigns receive from people that are opposing or supporting a resolution. He wasn't opposed to evaluating the policy, but he thought contributions to an affiliated political action committee in support or opposition to the election of a commissioner is a separate issue from conflicts of interest that Lane Code or Lane Manual require County officials to disclose or avoid.

Vorhes said it is more of a state law issue if they want to consider it. He said the Board's characterization of not being in the nature of a conflict of interest as the legal term is used is accurate. He said that each of the commissioners have choices to make about how they want to disclose where they get contributions. He said it is not driven by the legal conflict of interest laws.

Sorenson opposed the motion. He said an issue of importance like this merits the opportunity in a public hearing. He said it is a procedural issue. He said it is a discretionary decision by the Board. He indicated that they don't have to do this. He said they need to be careful when they exercise discretionary power.

Leiken asked if the state was the one that would have ultimate authority with this.

Reed Marbut responded that the decision in this matter will be made by the Oregon Water Resource Commission. He said if Willamette Water Company is granted this right, the rates and service will be regulated by the state. He said there is recent law that the Water Resource Department will make the decision. He indicated there will be additional chances for people to give public testimony.

Bozievich was glad that Sorenson straightened out the campaign contribution issue. He said he was responding to an e-mail that was forwarded to him that Handy was apparently privy to relative to a campaign contribution. He didn't believe there was any financial gain he could get from this decision. He stated that was why he didn't recuse himself. He said this is important because the allocation of water rights is based on beneficial use. He said public support for that use supports the demonstration of the ability to utilize those rights for

beneficial public use. He stated their support of this application will demonstrate to the Water Resources Administration the need for a long term source of supply of water for the citizens of South Lane County.

Stewart said he will support this with the addition that there is the need for the community of Creswell but also for the future need in the Goshen area.

VOTE: 3-2 (Handy, Sorenson dissenting).

8. COUNTY ADMINISTRATION

a. Announcements

None.

b. DISCUSSION/Membership Dues.

Richardson distributed a list of membership dues. (Copy in file). She recalled in prior years their dues are not always from July 1 to June 30 and the other entities they give money to are also developing their budgets. She asked the Board if they wanted to make changes in dues. She indicated that she is in contact to try to reduce the LCOG dues. She hadn't had any conversations regarding the other fees.

Sorenson asked which budget reductions would be included for the budget next year.

Richardson responded the reductions are the East Lane Soil and Conservation District. She said the dues for NACo are minimal and she thinks they are getting more than what they are paying for. She said the Association of Oregon Counties total is large and they have a lot of people participating. She indicated that they are trying to get additional counties to come on board with additional legislation and the membership is paying for itself. She said if the Board wanted to she would talk to AOC about fee reductions. She commented that she thought they were getting their money's worth for the dues. She said for Lane Metro Partnership the County has given \$100,000 and in the past the County saw benefit and that is also in the video lottery fund.

Sorenson thought Richardson should see what she can do with LCOG dues. He commented that they have moved to a model of charging its member government with the services they provide. He thought if a service was cheaper through them, then they should have a contract to do those services. With regard to NACo, he thought that \$6,500 out of the budget is minor. With regard to Metro Partnership, he said their inability to do things they want to do in Economic Development is in part because they are spending \$100,000 on Metro Partnership. He recalled that many people have sent e-mails in the past few months fearing that local governments (in an effort to balance their budgets) will close off public access to

the work of government and they will use the budget problems as an excuse to shut off public access to government and government decision making and keep it more in the dark. He thought they should make a strong policy statement that their financial problems are severe but they will not cut back on the ability of the public to see the public decision making. He wanted to look at cutting the general dues to LCOG. He said they need to look at Metro Partnership to see what they have done lately. He didn't recommend cutting Metro T.V. or NACo.

Stewart said in talking with Glenda Poling, Economic Development, there is concern they are paying for the East Lane Soil and Water District with video lottery money and it might not qualify with the changes that have taken place.

Richardson said they discovered the contract the County had with them had expired many years ago. She didn't know if that qualified any more for video lottery dollars.

Stewart commented that in light of what they are looking at financially, it will be difficult to support any of these dues. He shared Sorenson's thoughts around NACo. He thought Richardson should speak with the Association of Oregon Counties as there is a value. He said as long as they can maintain having Alex Cuyler, Intergovernmental Relations Manager, they can possibly be an affiliate and have a different role with them. He told LCOG that they didn't know where things at the County were going and the Board indicated there was the possibility of not continuing to be a member of that organization, as these are tough times. He added that they can be an active member, but not be able to pay dues. He said they extinguished the reserve fund for the O & C Counties membership dues. He said if they want to continue that, they will have to reallocate the funding from general fund. He wanted to assess the O & C Counties membership dues at a later time.

Bozievich concurred in negotiating with LCOG and AOC. He didn't understand why they were paying East Lane Soil and Water. He wanted it cut out of the budget. He wanted a report back from the Lane Metro Partnership.

Leiken thought as long as they continue to have their contract with Smith Dawson Andrews that would be a connection to their congressional delegation and he thought they had a better handle on some of Lane County's issues than NACo does. He was fine with eliminating NACo if that is the will of the Board. He agreed to have a report back from Jack Roberts on the Metro Partnership. He wanted the East Lane Soil and Water to be pulled.

Handy concurred with what others had stated.

Stewart indicated that he was contacted by Merlin Hough of LRAPA and they have zeroed out the dues the County has paid them. He said in the past Lane County had received the fines LRAPA processed and after their costs received the remaining amount. He didn't believe they budgeted for that.

Richardson explained the payment was sporadic so they had never budgeted for it. She recalled that last year Lane County received \$70,000.

Stewart indicated that Hough asked that money go back to LRAPA in lieu of Lane County's dues. He asked Richardson to contact Hough to see if there are legal concerns.

Bozievich asked to find out what happens if LRAPA ends and DEQ takes over if the fines still come to the County.

9. **HEALTH AND HUMAN SERVICES**

a. PRESENTATION/ACHIEVE.

Dr. Patrick Luedtke and Jennifer Jordan, Health and Human Services, gave a power point presentation on public health in America. (Copy in file).

10. **EXECUTIVE SESSION as per ORS 192.660**
(Commissioners' Conference Room)

None.

11. **OTHER BUSINESS**

None.

There being no further business, Commissioner Stewart recessed the meeting at 12:00 p.m.

Melissa Zimmer
Recording Secretary