

ANNOTATED MINUTES

Tuesday, February 28, 1995 - 1:00 - 5:00 PM
Justice Center, 14th Floor Conference Room B
1111 SW Second, Portland

WORK SESSION

WS-1 Elected Officials Will Meet for Stakeholder Goal Setting Regarding Property Tax Abatement Policy. Facilitated by Elaine Hallmark.

ELAINE HALLMARK FACILITATED SESSION ATTENDED BY BEVERLY STEIN, GARY HANSEN, DON ROBERTSON, GUSSIE McROBERT, SHARRON KELLEY, DAN SALTZMAN, TANYA COLLIER, PAUL THALHOFER, MICHAEL ODGEN, ETHAN SELTZER, CATHEY BRIGGS, JOHN DORST, SHARON TIMKO, DAVE WARREN, COURTNEY WILTON, BOB RIECK, MARCY JACOBS, LISA NISENFELD, PAMELA WEV, KEITH WITCOSKY, MARK CAMPBELL, BARRY CROOK, MIKE SABA, BOB ROBISON, JIM MAYER, JIM BARNETT, MEGANNE STEELE, DICK ROMANO, ROB FUSSELL, BETH PEARCE AND MARK CLEMONS. COUNTY TO PURSUE ADDITIONAL INFORMATION AND DISCUSSION ON ALLOCATION OF COMMUNITY SERVICE FEE. FACILITATOR TO SUBMIT OUTCOME OF WORK SESSION GOALS AND OBJECTIVES FOR TECHNICAL ADVISORY COMMITTEE TO DRAFT STRATEGIC INVESTMENT PROGRAM POLICY FOR STAKEHOLDERS REVIEW AND FINE-TOOLING PRIOR TO PUBLIC REVIEW.

Thursday, March 2, 1995 - 9:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

REGULAR MEETING

Chair Beverly Stein convened the meeting at 9:30 a.m., with Vice-Chair Sharron Kelley, Commissioners Gary Hansen, Tanya Collier and Dan Saltzman present.

CONSENT CALENDAR

UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER HANSEN, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-6)

WAS UNANIMOUSLY APPROVED.

NON-DEPARTMENTAL

- C-1 In the Matter of the Appointment of Roberto Reyes Colón to the
MULTNOMAH COUNTY COMMUNITY ACTION COMMISSION

MANAGEMENT SUPPORT

- C-2 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract
500405 Between Multnomah County and the City of Portland, (Consolidation
of the City's Business License Law and the County's Business Income Tax
Program) Providing Technical Changes in Administration of Back Tax Years,
for the Period June 24, 1993 through June 24, 1998

COMMUNITY AND FAMILY SERVICES DIVISION

- C-3 Ratification of Intergovernmental Agreement Contract 104115 Between
Multnomah County and Portland Public School District #1, Providing
Reimbursement for the Salary of a Portland Public School Staff Person for
Services in Connection with Transition of the Mental Health System for
Multnomah County Partners Project Clients into the Children's Capitation
Project, for the Period July 1, 1994 through March 15, 1995

DEPARTMENT OF ENVIRONMENTAL SERVICES

- C-4 ORDER in the Matter of the Execution of Deed D951171 for the Repurchase
of Certain Tax Foreclosed Property to Former Owner Tina Wright

ORDER 95-42.

JUVENILE JUSTICE DIVISION

- C-5 Ratification of Amendment No. 1 to Intergovernmental Agreement Contract
100295 Between Clackamas County and Multnomah County, Providing
Additional Funds in the Amount of \$6,000 for the Continuation of Court
Ordered Electronic Monitoring Services as an Alternative to Detention for
Multnomah County Youth Awaiting Formal Disposition, for the Period Upon
Execution through June 30, 1995

DEPARTMENT OF HEALTH

- C-6 Ratification of Intergovernmental Agreement Contract 201735 Between
Multnomah County and Oregon Health Sciences University, Providing
Laboratory Services Necessary to Test Blood Specimens for "T" Lymphocyte
Typing, for the Period November 1, 1994 through October 31, 1995

REGULAR AGENDA

PUBLIC COMMENT

- R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

NO ONE WISHED TO COMMENT.

MANAGEMENT SUPPORT

- R-2 Presentation in the Matter of Employee Service Awards Honoring Multnomah County Employees with Five to Twenty-Five Years of Service

BOARD GREETED, ACKNOWLEDGED AND PRESENTED 5 YEAR AWARDS TO DONALD ACKER AND ELIZABETH PANKEN OF CFS; CHARLOTTE BOETTCHER, CHRISTINE BRIDWELL, SHERYL CHARLES, EARL FLEMMING AND VALERIA JONES OF DCC; MARY RUSSELL OF DES; JIMI JOHNSON OF JJD; DONNA DENGEL AND LINDA INDINDOLI OF DLS; AND DEBORAH BOGSTAD, JOHN LEGRY, ROBERT TRACHTENBERG AND JOY TUMBAGA OF NOND. 10 YEAR AWARDS PRESENTED TO CATHERINE BLACKMAN OF CFS; TRUDY LANE OF DA; ReGINA GUION OF DH; KHABIRA McDOW OF DES; AND HANA BUNTIN, SUSAN QUIN AND JANICE WEINSTOCK OF DLS. 15 YEAR AWARDS PRESENTED TO JOHN RATTO OF DA; JAMES BERRY, CRAIG FLOWER AND GARY HALL OF DES; ANGIE FISHER AND BARBARA GORTER OF DLS; AND MELINDA HARRIS AND JEANETTE STAINO OF NOND. 20 YEAR AWARDS PRESENTED TO THOMAS GRINNEL OF DCC; AND SUSAN AYERS AND PENELOPE MALMQUIST OF NOND. 25 YEAR AWARDS PRESENTED TO ROBIN KIRKMAN OF DES; RICHARD SCOTT OF JJD; AND LINDA EASLEY OF DLS.

DEPARTMENT OF ENVIRONMENTAL SERVICES

- R-3 First Reading of a Proposed ORDINANCE Amending the Multnomah County Comprehensive Plan Map and Sectional Zoning Maps and Correcting Errors in Ordinance 745

**PROPOSED ORDINANCE READ BY TITLE ONLY.
COPIES AVAILABLE. COMMISSIONER SALTZMAN**

MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF FIRST READING. MARK HESS EXPLANATION. NO ONE WISHED TO TESTIFY. FIRST READING UNANIMOUSLY APPROVED. SECONDED READING SCHEDULED FOR THURSDAY, MARCH 9, 1995.

R-4 Ratification of the Transportation Initiatives' Intergovernmental Agreement Contract 301745 Between Multnomah County and the City of Gresham, Providing for the Transfer of Approximately 70 Miles of County Roads to the City of Gresham; One Pick-Up Truck; Responsibilities for Transportation Planning, Development Review and Permit Issuance, and Stormwater Management Functions; and Funding in the Amount of \$400,000 Per Year Plus COLA Beginning July 1, 1995

R-5 Ratification of the Transportation Initiatives' Intergovernmental Agreement Contract 301755 Between Multnomah County and the City of Troutdale, Providing for the Transfer of One Mile of County Roads to the City of Troutdale; Responsibilities for Transportation Planning, Development Review and Permit Issuance, and Stormwater Management Functions; and Funding in the Amount of \$5,600 Per Year Plus COLA Beginning July 1, 1995

AT THE REQUEST OF CHAIR STEIN AND UPON MOTION OF COMMISSIONER COLLIER, SECONDED BY COMMISSIONER HANSEN, R-4 AND R-5 WERE UNANIMOUSLY CONTINUED TO THURSDAY, MARCH 9, 1995.

SHERIFF'S OFFICE

R-6 Request for Approval to Donate Certain Multnomah County Surplus Computer Items to the U.S. Naval Sea Cadet Corps, a Non-Profit Organization

COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-6. LARRY AAB AND FRANNA HATHAWAY EXPLANATION AND RESPONSE TO BOARD QUESTIONS. DONATION UNANIMOUSLY APPROVED.

DEPARTMENT OF HEALTH

R-7 Budget Modification MCHD 4 Requesting Authorization to Increase HIV Programs Within the HIV & STD Services Division Budget to Reflect Receipt of Two Grants to Enhance Services for HIV Clients

COMMISSIONER SALTZMAN MOVED AND

COMMISSIONER KELLEY SECONDED, APPROVAL OF R-7. COMMISSIONER HANSEN EXPLANATION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

R-8 Budget Modification MCHD 5 Requesting Authorization to Move Dollars to Correct Funds, Organizations and Categories Within the Health Department Budget

COMMISSIONER SALTZMAN MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-8. COMMISSIONER HANSEN AND TOM FRONK EXPLANATION AND RESPONSE TO BOARD QUESTIONS AND COMMENTS. BUDGET MODIFICATION UNANIMOUSLY APPROVED.

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

R-9 ORDER in the Matter of an Exemption to Exceed the 20% Change Order Limitation for the Animal Control Remodel/Repair Construction

COMMISSIONER COLLIER MOVED AND COMMISSIONER KELLEY SECONDED, APPROVAL OF R-9. FRANNA HATHAWAY AND COMMISSIONER COLLIER EXPLANATION. ORDER 95-43 UNANIMOUSLY APPROVED.

(Recess as the Public Contract Review Board and reconvene as the Board of County Commissioners)

The regular meeting was recessed at 10:03 a.m. and the work session convened at 10:08 a.m.

Thursday, March 2, 1995 - 10:30 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

WORK SESSION

WS-2 Discussion on Need for Consultant to Assist in the Development of a Tax Abatement Policy. Presented by Sharon Timko.

SHARON TIMKO PRESENTATION OF OPTIONS TO

EXPEDITE DRAFT POLICY. MS. TIMKO, JOHN DuBAY, MARCY JACOBS, ROB FUSSELL, MARK CLEMONS AND MICHAEL ODGEN RESPONSE TO BOARD QUESTIONS AND DISCUSSION. TECHNICAL ADVISORY TEAM TO SUBMIT DRAFT STRATEGIC INVESTMENT PROGRAM POLICY TO COUNTY BOARD BY NOON, THURSDAY, MARCH 23, 1995. STAKEHOLDERS WORK SESSION TO REVIEW AND REVISE DRAFT POLICY SCHEDULED FOR 1:35 PM, TUESDAY, MARCH 28, 1995, HEARING ROOM 602, COURTHOUSE. REVISED DRAFT POLICY TO BE SUBMITTED TO COUNTY BOARD BY NOON, MONDAY, APRIL 3, 1995. PUBLIC HEARING ON PROPOSED STRATEGIC INVESTMENT PROGRAM POLICY SCHEDULED FOR 1:35 PM, TUESDAY, APRIL 11, 1995, HEARING ROOM 602, COURTHOUSE. FIRST READING, PUBLIC HEARING AND POSSIBLE ADOPTION OF PROPOSED STRATEGIC INVESTMENT PROGRAM POLICY ORDINANCE SCHEDULED FOR 9:30 AM, THURSDAY, APRIL 13, 1995, HEARING ROOM 602, COURTHOUSE. IF NEEDED, SECOND READING OF ORDINANCE SCHEDULED FOR 9:30 AM, THURSDAY, APRIL 20, 1995, HEARING ROOM 602, COURTHOUSE.

Thursday, March 2, 1995 - 11:00 AM
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

EXECUTIVE SESSION

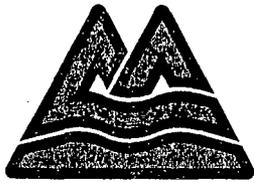
- E-1 The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h) for Consultation with Counsel Concerning Legal Rights and Duties Regarding Litigation Likely to be Filed. Presented by John DuBay and Scott Pemble.

EXECUTIVE SESSION HELD.

There being no further business, the meeting was adjourned at 12:00 p.m.

OFFICE OF THE BOARD CLERK
for MULTNOMAH COUNTY, OREGON


Deborah L. Bogstad



MULTNOMAH COUNTY OREGON

OFFICE OF THE BOARD CLERK
SUITE 1510, PORTLAND BUILDING
1120 S.W. FIFTH AVENUE
PORTLAND, OREGON 97204

BOARD OF COUNTY COMMISSIONERS		
BEVERLY STEIN •	CHAIR	• 248-3308
DAN SALTZMAN •	DISTRICT 1	• 248-5220
GARY HANSEN •	DISTRICT 2	• 248-5219
TANYA COLLIER •	DISTRICT 3	• 248-5217
SHARRON KELLEY •	DISTRICT 4	• 248-5213
CLERK'S OFFICE •	248-3277	• 248-5222

AGENDA

MEETINGS OF THE MULTNOMAH COUNTY BOARD OF COMMISSIONERS

FOR THE WEEK OF

FEBRUARY 27, 1995 - MARCH 3, 1995

- Tuesday, February 28, 1995 - 1:00 PM - Work Session Page 2*
Justice Center, 14th Floor Conference Room B
1111 SW Second, Portland
- Thursday, March 2, 1995 - 9:30 AM - Regular Meeting Page 2*
- Thursday, March 2, 1995 - 10:30 AM - Work Session Page 4*
- Thursday, March 2, 1995 - 11:00 AM - Executive Session Page 4*

Thursday Meetings of the Multnomah County Board of Commissioners are taped and can be seen by Paragon Cable subscribers at the following times:

- Thursday, 6:00 PM, Channel 30*
- Friday, 10:00 PM, Channel 30*
- Saturday, 12:30 PM, Channel 30*
- Sunday, 1:00 PM, Channel 30*

INDIVIDUALS WITH DISABILITIES MAY CALL THE OFFICE OF THE BOARD CLERK AT 248-3277 OR 248-5222, OR MULTNOMAH COUNTY TDD PHONE 248-5040, FOR INFORMATION ON AVAILABLE SERVICES AND ACCESSIBILITY.

Tuesday, February 28, 1995 - 1:00 - 5:00 PM
Justice Center, 14th Floor Conference Room B
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Thursday, March 2, 1995 - 9:30 AM
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REGULAR MEETING

CONSENT CALENDAR

NON-DEPARTMENTAL

C-1 *In the Matter of the Appointment of Roberto Reyes Colòn to the MULTNOMAH COUNTY COMMUNITY ACTION COMMISSION*

MANAGEMENT SUPPORT

C-2 *Ratification of Amendment No. 1 to Intergovernmental Agreement Contract 500405 Between Multnomah County and the City of Portland, (Consolidation of the City's Business License Law and the County's Business Income Tax Program) Providing Technical Changes in Administration of Back Tax Years, for the Period June 24, 1993 through June 24, 1998*

COMMUNITY AND FAMILY SERVICES DIVISION

C-3 *Ratification of Intergovernmental Agreement Contract 104115 Between Multnomah County and Portland Public School District #1, Providing Reimbursement for the Salary of a Portland Public School Staff Person for Services in Connection with Transition of the Mental Health System for Multnomah County Partners Project Clients into the Children's Capitation Project, for the Period July 1, 1994 through March 15, 1995*

DEPARTMENT OF ENVIRONMENTAL SERVICES

C-4 *ORDER in the Matter of the Execution of Deed D951171 for the Repurchase of Certain Tax Acquired Property to Former Owner Tina Wright*

JUVENILE JUSTICE DIVISION

C-5 *Ratification of Amendment No. 1 to Intergovernmental Agreement Contract*

100295 Between Clackamas County and Multnomah County, Providing Additional Funds in the Amount of \$6,000 for the Continuation of Court Ordered Electronic Monitoring Services as an Alternative to Detention for Multnomah County Youth Awaiting Formal Disposition, for the Period Upon Execution through June 30, 1995

DEPARTMENT OF HEALTH

C-6 Ratification of Intergovernmental Agreement Contract 201735 Between Multnomah County and Oregon Health Sciences University, Providing Laboratory Services Necessary to Test Blood Specimens for "T" Lymphocyte Typing, for the Period November 1, 1994 through October 31, 1995

REGULAR AGENDA

PUBLIC COMMENT

R-1 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

MANAGEMENT SUPPORT

R-2 Presentation in the Matter of Employee Service Awards Honoring Multnomah County Employees with Five to Twenty-Five Years of Service

DEPARTMENT OF ENVIRONMENTAL SERVICES

R-3 First Reading of a Proposed ORDINANCE Amending the Multnomah County Comprehensive Plan Map and Sectional Zoning Maps and Correcting Errors in Ordinance 745

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SHERIFF'S OFFICE

- R-6 *Request for Approval to Donate Certain Multnomah County Surplus Computer Items to the U.S. Naval Sea Cadet Corps, a Non-Profit Organization*

DEPARTMENT OF HEALTH

- R-7 *Budget Modification MCHD 4 Requesting Authorization to Increase HIV Programs Within the HIV & STD Services Division Budget to Reflect Receipt of Two Grants to Enhance Services for HIV Clients*
- R-8 *Budget Modification MCHD 5 Requesting Authorization to Move Dollars to Correct Funds, Organizations and Categories Within the Health Department Budget*

PUBLIC CONTRACT REVIEW BOARD

(Recess as the Board of County Commissioners and convene as the Public Contract Review Board)

- R-9 *ORDER in the Matter of an Exemption to Exceed the 20% Change Order Limitation for the Animal Control Remodel/Repair Construction*
- (Recess as the Public Contract Review Board and reconvene as the Board of County Commissioners)*

Thursday, March 2, 1995 - 10:30 AM
(OR IMMEDIATELY FOLLOWING REGULAR MEETING)
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

WORK SESSION

- WS-2 *Discussion on Need for Consultant to Assist in the Development of a Tax Abatement Policy. Presented by Sharon Timko. 30 MINUTES REQUESTED.*

Thursday, March 2, 1995 - 11:00 AM
(OR IMMEDIATELY FOLLOWING REGULAR MEETING)
Multnomah County Courthouse, Room 602
1021 SW Fourth, Portland

EXECUTIVE SESSION

- E-1 *The Multnomah County Board of Commissioners Will Meet in Executive Session Pursuant to ORS 192.660(1)(h) for Consultation with Counsel Concerning Legal Rights and Duties Regarding Litigation Likely to be Filed. Presented by John DuBay and Scott Pemble. 1 HOUR REQUESTED.*

MEETING DATE: MARCH 2, 1995

AGENDA NO: E-1

(Above Space for Board Clerk's Use ONLY)

AGENDA PLACEMENT FORM

SUBJECT: EXECUTIVE SESSION PURSUANT TO ORS 192.660(1)(h)

BOARD BRIEFING Date Requested:

Amount of Time Needed:

REGULAR MEETING: Date Requested: THURSDAY, MARCH 2, 1995

Amount of Time Needed: 1 HOUR

DEPARTMENT: NON-DEPARTMENTAL DIVISION: CHAIR BEVERLY STEIN

CONTACT: SHARON TIMKO TELEPHONE #: 248-3960

BLDG/ROOM #:

PERSON(S) MAKING PRESENTATION: JOHN L. DuBAY & R. SCOTT PEMBLE

ACTION REQUESTED:

[X] INFORMATIONAL ONLY [X] POLICY DIRECTION [] APPROVAL [] OTHER

SUMMARY (Statement of rationale for action requested, personnel and fiscal/budgetary impacts, if applicable):

EXECUTIVE SESSION PURSUANT TO ORS 192.660(1)(h) FOR CONSULTATION WITH COUNSEL CONCERNING LEGAL RIGHTS AND DUTIES REGARDING LITIGATION LIKELY TO BE FILED. (LCDC REMAND ORDER)

BOARD OF COUNTY COMMISSIONERS MULTNOMAH COUNTY OREGON 1995 FEB 21 AM 10:00

SIGNATURES REQUIRED:

ELECTED OFFICIAL: Beverly Stein

OR

DEPARTMENT MANAGER:

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Office of the Board Clerk 248-3277/248-5222

REMAND ORDER BRIEFING
MARCH 2, 1995 EXECUTIVE SESSION

1. DISTRIBUTED MATERIALS

- √ Chair Stein's LCDC Remand Order Memo, February 3, 1995
- √ Director's Report and Transmittal Letter, February 7, 1995
- √ R. Scott Pemble's Exception Letter, February 17, 1995
- √ Supplemental Director's Report and Transmittal Letter, February 28, 1995

2. REMAND ORDER REVIEW PROCESS

- √ County submits Remand Work to the DLCD and notifies parties.
- √ Parties submit comment to DLCD (only objectors become parties to the LCDC hearing)
- √ DLCD staff prepares a Director's Report and distributes to the County and LCDC parties. (Director's report includes both responses to County work and objectors comments.)
- √ County and objectors respond to Director's Report (exceptions only).
- √ DLCD staff prepares a Supplemental Director's Report and distributes to County and LCDC parties. (DLCD Staff either supports or refutes exceptions raised by the County and objectors.)
- √ LCDC holds a hearing on the record and issues a decision. (Only the County and the objectors may participate.)

3. ANALYSIS OF DIRECTORS REPORT

- √ Overall we believe the County has properly completed the Goal 5 process and has made correct decisions.
- √ If the LCDC disagrees, however, we believe the objections can be classified into one of three types of resolution strategies:
 - 1) The LCDC should make a decision to agree with the County on several points (Class 1);
 - 2) the LCDC should provide the County opportunity to respond to issues of inconsistency and inadequate support (Class 2); and,
 - 3) the LCDC should allow the County to mediate all other outstanding issues (Class 3).

4. COURT OF APPEALS REVIEW STANDARDS AND APPEAL OPTIONS

- √ Standards (John Dubay explanation)
- √ Appeal Options:
 - 1) Mediation Prior to LCDC Hearing
 - 2) After LCDC Hearing
 - a) Prior to Mediation
 - b) After Mediation and referral to Hearings Officer

5. ENVIRONMENTAL ASSESSMENT

- √ Portland Case
- √ Public Contact

6. COMMISSION DIRECTION

7. MARCH 14, BRIEFING



MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES
DIVISION OF PLANNING
AND DEVELOPMENT
2115 S.E. MORRISON STREET
PORTLAND, OREGON 97214
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS
BEVERLY STEIN • CHAIR OF THE BOARD
DAN SALTZMAN • DISTRICT 1 COMMISSIONER
GARY HANSEN • DISTRICT 2 COMMISSIONER
TANYA COLLIER • DISTRICT 3 COMMISSIONER
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

February 17, 1995

Richard P. Benner, Director
Department of Land Conservation and Development
1175 Court Street N.E.
Salem, OR 97310-0590

Re: Exceptions to Director's Report

Dear Dick:

We agree the review of Multnomah County's Goal 5 work has been difficult. It is unfortunate that you cannot recommend to the Commission (LCDC) approval of the County's work, particularly given all those who have invested substantial amounts of time, money and energy. This includes the hundreds of citizens, the Multnomah County staff, your staff, Multnomah County Planning Commission, Multnomah County Board, state agency representatives and the Commission who have all been involved with the County's Goal 5 work since 1987.

After the Commission last reviewed the County's Goal 5 work, you committed the resources of your staff and the Multnomah County Board committed its resources to successfully complete the Goal 5 process. Although your February 7, 1995 report affirms that Multnomah County has completed each step as required by the Goal 5 rule it also finds some conclusions reached are not supportable under the Goal 5 rule.

We take exception to your conclusion. Overall, we believe not only has the process been properly completed, but the findings, analysis and conclusions are appropriate, understandable and defensible under the current Goal 5 rule. We agree some points may need clarification. However, we disagree with your conclusion that decisions are inappropriate concerning the level of protection and protection strategies for some of the resources.

Before listing specific exceptions, several general exceptions need to be discussed. Not all of the information included in your report has been considered by the Multnomah County Board. Throughout the process the County has actively sought the best available information upon which to base its work and ultimately decide on Goal 5 resources, including comments from both DOGAMI and ODF&W. Some of the agency comments you have compiled, are comments these agencies have made after the County completed Remand Order work. As an example, the Director's Report refers to a Reclamation Plan considered by DOGAMI in October 1993

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(footnote 19, page 10). This Reclamation Plan was never discussed with the Multnomah County Board even though both Board and County staff had numerous contacts with this agency while completing Remand Order work program.

Also, comments you have received from ODF&W and DOGAMI (Attachments 1.1 through 1.4) were comments made after the County's adoption of the two reports. These comments are not the comments shared by these agencies while the County was completing the Remand Order work program. The County based its decisions on the best available information. Yet your review of the County's work, in part, has been based on information provided your agency after the County had completed its work. If the County had the benefit of these agency comments while preparing the Reconciliation Reports, these comments would have been considered by the County and responded to in an appropriate manner.

In our staff review of these late comments from DOGAMI and ODF&W, we do not believe the issues raised by these agencies require the kind of mediation process you have recommended. We believe these comments can be considered by the Board and appropriately addressed.

The following enumerates specific exceptions we have taken to the February 7, 1995 Directors Report. This does not necessarily represent the complete list of issues we will raise. Given the relative short review period, however, this represents the most complete list we can compile at this time.

WEST HILLS RECONCILIATION REPORT ISSUES

- 1. Multnomah County did not properly identify the impact area for the North Angell Brothers Stream -- based upon the county's plan policy it should have excluded Burlington Bottoms from the impact area (Page 7, Paragraph 2 and Footnote 12 of the DLCD Staff Report).**

MULTNOMAH COUNTY RESPONSE:

The Director's Report confuses the issue of Multnomah County's significance criteria for streams with our definition of an impact area once a stream is deemed significant. DLCD acknowledges that, despite disagreements with some of the county's reasons for determining significance of the North Angell Brothers Creek, this creek is significant based upon at least one of the criteria contained in the Multnomah County Comprehensive Framework Plan. Once the stream is found significant, the county must determine an impact area, and this determination includes downstream public parks, recreational facilities, and publicly owned natural areas. This has the effect of including Burlington Bottoms within the impact area of the North Angell Brothers Creek, which is justified and reasonable given the relationship between North Angell Brother Creek and Burlington Bottoms. The rationale for the impact area for the North Angell Brothers

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creek is established on Pages III-106 and III-107 of the West Hills Reconciliation Report which states that North Angell Brothers Creek flows into Burlington Bottoms and that Burlington Bottoms is a publicly-owned natural area.

- 2. Multnomah County did not rely on Department of Environmental Quality (DEQ) regulations and standards to ensure compliance with the quality of water runoff into Burlington Bottoms from expansion of the Angell Brothers mine (Page 9, Paragraph 5 of the Director's Report).**

MULTNOMAH COUNTY RESPONSE

Multnomah County did not rely on DEQ regulations and standards because testimony from Paul Kieran (DEQ staff representative) at a June 13, 1994 Public Hearing cast significant doubt upon the ability of DEQ to effectively prevent violation of their own water quality standards. Mr. Kieran's testimony is summarized on the third paragraph of Page III-28 of the West Hills Reconciliation Report. This paragraph of the Reconciliation Report reads as follows:

"In testimony given in response to this Remand Order, a representative of the Oregon Department of Environmental Quality (DEQ) stated that controlling storm runoff problems from quarries is "an art, not a science." While DEQ works with quarry operators, they apparently cannot guarantee compliance with DEQ water quality standards within a short period of time. Significant amounts of erosive runoff may flow into the high quality Burlington Bottoms wetlands before the operator and DEQ can resolve any problems."

Based upon this testimony and the testimony of Jon Rhodes, a Portland hydrologist also cited on Page III-28 of the West Hills Reconciliation Report, the county concludes on Page VI-16 that the county's decision is justified by 1) the importance of the resource, and 2) the apparent inability of DEQ in its current regulatory mode to guarantee timely protection of the resource, based on testimony from DEQ staff.

Incidentally, the Director's Report quotes an earlier statement on this page indicating that DEQ requirements can be satisfied -- this statement was originally part of the report but is shown as struck-out because Mr. Kieran's testimony contradicted it.

Footnote 15 on page 9 in the DLCD staff report makes mention of a DEQ-Department of Geology and Mineral Industries (DOGAMI) inspection which found, after a heavy storm event in October 1994, that the revised storm water improvements contained all storm water discharge on site. The DOGAMI inspection report containing this information is dated November 21, 1994. Unfortunately, this information became available after Multnomah County had submitted its response to DLCD's remand order, and well after the Board of Commissioners had adopted

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Page 4**

the West Hills Reconciliation Report by ordinance. Therefore, this information is irrelevant to the issue of the adequacy of the county's Goal 5 work.

3. Multnomah County did not rely on DOGAMI to review and approve a reclamation plan for the Angell Brothers site which addresses impacts on conflicting uses and Goal 5 resources (Pages 10 and 11 of the Director's Report).

MULTNOMAH COUNTY RESPONSE

Multnomah County received significant testimony and information debating the merits of reclamation of the Angell Brothers site. The County's conclusions are summarized by the last paragraph on Page VI-15 of the West Hills Reconciliation Report, which states:

"The scenic resource analysis indicates that mining affects the scenic qualities of the West Hills through removal of the vegetative cover and modification of the landform that comprise a portion of the scenic resource. The impact of mining, however, is of much longer term. It has not been demonstrated that there are acceptable reclamation techniques available to ensure maintenance, or even restoration of scenic values after mining."

Footnote 19 on Page 10 of the DLCD staff report indicates that Angell Brothers filed an application for an operation permit and approval of a reclamation plan with DOGAMI in October, 1993. This reclamation plan was not submitted as evidence by either the Angell Brothers or DOGAMI to the County as part of the preparation of the Reconciliation Report, despite several public comment periods which presented such opportunity.

DLCD staff also asserts that the county provided minimal opportunity for coordination with DOGAMI and ODF&W, which reviewed the issue of reclamation and wildlife habitat for DOGAMI. This is incorrect. In addition to public testimony provided, DOGAMI and ODF&W submitted several letters of comment during various public comment periods. Planning division staff and DOGAMI and ODF&W staff took field trips to the Angell Brothers site to discuss reclamation issues. Comments from both agencies have been incorporated into the document: for example, based on input from ODF&W, the county did eliminate its significance finding for the Middle Angell Brothers stream.

The Director's Report also notes that the county dismissed ODF&W's advice that reclamation presented options for protecting wildlife in the West Hills without explanation (Page 11, third paragraph). This too is incorrect. The reasons for the county's decision are explained in the following passage taken from Page V-38 of the West Hills Reconciliation Report:

"While there has been some information presented by the Oregon Department of

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Fish & Wildlife that the quarry could be reclaimed to provide wildlife habitat after quarry operations are completed, there has been no convincing evidence presented that such reclamation is indeed feasible -- quarrying involves significant landform modification as opposed to forest practices. The quarrying activities, although temporary, would have a much longer impact than logging would. A long-term disruption to the contiguous wildlife habitat area/ecosystem would logically have less chance of regeneration through reclamation -- after many decades of isolation, Forest Park may be unreclaimable as wildlife habitat due to the spread of non-native plant and animal species and other human impacts."

This paragraph summarizes the county's position on the efficacy of reclamation as relates to its impacts on wildlife habitat.

- 4. Multnomah County is inconsistent in its treatment of residential development vs. mining as a conflicting use to Goal 5 resources, that is the county "limits" residential development, but "prohibits" mining on the Angell Brothers proposed expansion area (Pages 15 and 16 of the Director's Report).**

MULTNOMAH COUNTY RESPONSE

Multnomah County's decision to limit residential development and prohibit expansion of the Angell Brothers site is in fact proportional and consistent.

The Director's Report quotes the West Hills Reconciliation Report (Footnote 16, Page 10) describing rural residential development as posing the greatest single threat to the objective of maintaining a continuous band of forested habitat. This statement is true for the entire 19,000 acre West Hills Rural Area. However, Pages V-37 and V-38 of the Reconciliation Report make clear that in the area of the Angell Brothers quarry, expanded mining operations provide the most critical conflict to wildlife habitat. The report also notes here that if the quarry were located further to the north, where a wider peninsula of forested habitat exists, then it would not have the same level of conflict with wildlife habitat. Within this critical area, very little potential for additional residential development exists since the lands surrounding the Angell Brothers quarry are all designated and zoned for Commercial Forest Use and are subject to the Goal 4 Forest rules regarding new dwellings.

Given this information, the county's decision to limit new residential development within the entire West Hills, while prohibiting expansion of the Angell Brothers quarry, is proportionate.

Multnomah County also objects to the Director's Report characterization of the regulations on new residential development in the West Hills in order to protect wildlife habitat as "minimal."

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Review of the county's SEC ordinance shows that new residential development must undergo stringent siting standards in order to limit intrusion into forested wildlife habitat.

- 5. Multnomah County did not provide enough information to justify significance of the Thompson Fork (identified in the West Hills Reconciliation Report as the main stem) of Balch Creek (Pages 26 and 27 of the Director's Report).**

MULTNOMAH COUNTY RESPONSE

In reviewing the voluminous background material on the Balch Creek surveys, the county was able to physically survey a majority of the main stem of Balch Creek, and in fact survey approximately one-half of what the objector Mr. McKenzie refers to as the Thompson Fork of Balch Creek. The extent of the survey is shown on a Map on Page III-147 of the West Hills Reconciliation Report, which unfortunately is difficult to read due to poor print reproduction of the original. The County believes that the portion of Balch Creek surveyed amply justifies a finding of significance.

HOWARD CANYON RECONCILIATION REPORT ISSUES

- 6. Multnomah County did not justify in its ESEE analysis the decision to prohibit mining in the western part of the resource site to provide an additional noise and dust buffer from existing residences (Page 21 of the Director's Report).**

MULTNOMAH COUNTY RESPONSE

The county believes that language contained on Page III-26 of the Howard Canyon Reconciliation Report, which discusses the economic effect on aggregate uses if conflicting uses are fully allowed, justifies the deletion of the western part of the resource site buffer noise and dust from existing residences. This passage discusses how aggregate uses are limited in size and scope by proximity to nearby residences. In addition, the map of the Howard Canyon quarry site impact area on Page III-13 of the Howard Canyon Reconciliation Report shows that 8 of the 11 existing residences (73%) are near to the portion of the resource site deleted by the county.

- 7. Multnomah County did not justify in its ESEE analysis its decision to require periodic noise and water quality studies independent of DEQ, and did not adopt clear and objective standards for reviewing such studies (Page 22 of the Director's Report).**

MULTNOMAH COUNTY RESPONSE

In its ESEE analysis, the county stated that noise and water quality could be controlled through

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enforcement of DEQ standards. However, as Page IV-22 of the Howard Canyon Reconciliation Report notes:

"The Oregon Department of Environmental Quality no longer contains noise enforcement staff and, therefore, before approval of an increase to the next higher extraction total it shall be demonstrated that DEQ noise standards are continually satisfied."

Clearly, absence of DEQ noise enforcement staff requires the county to take independent action to enforce DEQ noise standards. Surely, the DEQ standards must be considered clear and objective.

While DEQ does have water quality monitoring staff, the county received comment that DEQ had a poor record of water quality monitoring regarding the existing Howard Canyon quarry site. Therefore, a similar requirement for independent monitoring of water quality for the Howard Canyon site was included, as discussed in the last paragraph of Page IV-22 of the Howard Canyon Reconciliation Report.

The County's monitoring requirement does not parallel state agency monitoring as stated in the Director's report. It establishes a program where the monitoring program is not sufficient to protect the conflicting uses.

- 8. Multnomah County did not adopt clear and objective standards for traffic impact studies required of the Howard Canyon quarry so that the applicant knows, in advance, what is required of him (Page 22 of the DLCD Staff Report).**

MULTNOMAH COUNTY RESPONSE

Multnomah County believes the traffic management plan standards contained on Pages IV-24 through IV-27 of the Howard Canyon Reconciliation Report are as clear and objective as is possible given the fact that the quarry operator has submitted no specific proposal to mine the site. While no specific road improvement exactions are possible absent an actual proposal, the Howard Canyon Reconciliation Report sets forth clear and objective guidelines for determining the level of road improvements which will be necessary given the characteristics of the particular mining plan for the quarry site. The county believes that DLCD staff has misinterpreted the "clear and objective" standard, requiring levels of specificity which are inappropriate absent review of a specific development proposal.

SEC ORDINANCE ISSUES

- 9. Multnomah County did not adopt clear and objective standards for the following**

items in the SEC ordinance. (Pages 24 through 26 of the DLCD Staff Report)

- a. Scenic language requiring grading, cuts and fills are "minimized."**
- b. Scenic language stating that conditions making a project visually subordinate will be "proportionate" to potential adverse impacts.**
- c. Wildlife language requiring mapping of all "forested" areas, mapping of areas cleared pursuant to "an approved forest management plan", and mapping of "non-forested cleared areas."**
- d. Wildlife language requiring retention of "broadly contiguous" existing forested areas.**
- e. Wildlife language prohibiting fencing which acts as a "visual barrier" to wildlife.**
- f. Wildlife language requiring a "Wildlife Conservation Plan."**
- g. Streams language requiring "enhancement" of a stream's "functional characteristics."**

MULTNOMAH COUNTY RESPONSE

The county believes that the DLCD is using an inappropriately stringent standard for the term "clear and objective." The county believes that the above-cited standards are sufficiently clear and objective given the fact that they must be applied to a number of varying types of development proposals. The standards are as clear and objective as commonly expected in land use proceedings.

- 10. Multnomah County adopted language in the streams section regarding the 300' Stream Conservation Area on each side of the stream. DLCD staff does not believe the county justified the use of the 300' distance in the Goal 5 analysis (Page 25 of the DLCD Staff Report).**

MULTNOMAH COUNTY RESPONSE

The justification for the 300' Stream Conservation Area is taken from information available from the Washington State Department of Ecology, and endorsed by several technical experts consulted by the county. It is described as the setback from a stream centerline necessary to protect wildlife habitat. The county's research and decision on this issue occurred as part of the consideration of the implementing SEC ordinance and after publication and adoption of the West

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Hills and Howard Canyon Reconciliation Reports, so it is not discussed in those reports. The county can provide justification for this standard if necessary.

- 11. Multnomah County adopted language in the wildlife section referring to the adopted reference map for primary, secondary, and impacted wildlife habitat areas. DLCD staff claims to have found mapping errors in this map and wants it either corrected, or reference to it deleted (Page 24 of the DLCD Staff Report).**

MULTNOMAH COUNTY RESPONSE

The DLCD Staff Report does not give the county adequate specifics in order to investigate this alleged error. The county's planning staff believes this map to be accurate.

In summary, we take general exceptions to the evaluation of the County's decision on evidence dated after their decision and not in the County's record. Also, we take specific exception to your report as itemized above. Given these exceptions, we believe the Commission can conclude that Multnomah County has not only completed each step of the Goal 5 process, but also, they have made the right decisions in accordance with the current Goal 5 rule. Therefore, we respectfully request the opportunity to present arguments to the Commission on these issues at the appropriate hearing.

Sincerely,



R. Scott Pemble
Planning Director

cc. Beverly Stein, Chair
Multnomah County Board Members
Multnomah County Planning Commission Members
Betsy Williams, DES Director
Frank Parisi

Post-it® Fax Note	7671	Date	3/9	# of pages	1
To	Beverly Steins	From	DLCD		
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Phone #		Phone #			
Fax #		Fax #			

Oregon

DEPARTMENT OF
 LAND
 CONSERVATION
 AND
 DEVELOPMENT

March 9, 1995

TO: Beverly Stein, Multnomah County Chair
 R. Scott Pemble, Multnomah County Planning Director
 Frank Parisi
 Paul Hribernick
 Dan McKenzie
 Richard Angstrom

FROM: Richard P. Benner, Director *RPB*

SUBJECT: Multnomah County Periodic Review

BOARD OF
 COUNTY COMMISSIONERS
 1995 MAR -9 PM 2:50
 MULTNOMAH COUNTY
 OREGON

According to OAR 660-25-160(5), the Land Conservation and Development Commission will delay its hearing scheduled for March 9-10, 1995 on Multnomah County's periodic review. This delay is in response to requests from the county and objector Frank Parisi for dispute resolution assistance from the department.

Donna Silverberg of the Dispute Resolution Commission has begun working to retain the services of a dispute resolution professional. The department expects to give the parties more details next week.

Meanwhile, the department will brief the commission during Item 8.0, Director's Report, of the commission's meeting on March 10. The commission will not take testimony, nor will it take any formal action on this matter.

Please call Steve Oulman at 378-5144 if you have questions.

John A. Kitzhaber
Governor



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