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LandWatch

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Compliance Or Complacence?



The program is a "laughing stock"

all over Lane County, according to a prominent realtor and a retired surveyor. As members of a citizen Land Management Division Task Force, the two were simply calling attention to the obvious: the increasing accumulation of uninvestigated and outstanding Lane Code compliance violations. Why isn't the County's compliance program working to prevent or correct these violations?

The reasons seem obvious. The program has only two compliance officers serving all of Lane County. And the program is almost exclusively complaint driven, relying on voluntary compliance.

But lack of personnel is only part of the problem; or, rather, it is a symptom of the root cause. By direction or indifference conservative members of the BCC have traditionally endorsed weakly-administered or

non-existent incentives rather than penalties to achieve compliance. And, even where penalties have been warranted and would help fund the program, they have been waived.

Recognizing these weaknesses, the LMD Task Force recommended that the program be administered in an "aggressive manner" and be "self-initiated" by compliance officers as well as complaint driven. LMD manager Jeff Towery's recent measures to put compliance on a more stable footing, for example by doubling certain fees, do not, however, assure that the job will be carried out.

Too often, even in high-profile cases like the Cottage Grove Speedway, LMD planning director Kent Howe and his boss Towery have eschewed taking aggressive, effective action. Speedway violations fairly begged for an injunction, a court order to

cease and correct. Yet, here as elsewhere, Howe and Towery have failed even to levy appropriate fees and fines that would send a clear message to violators that the County means business, as well as go a long way toward making the compliance program self-supporting. To the contrary, they have been content to take direction from the handful of developer agents who regularly get their attention—or to take no direction at all.

In some cases this has meant shifting responsibility to another agency that ordinarily would not be involved, or, in the case of the Cottage Grove Speedway, to the City of Cottage Grove through annexation. Too often it has meant that private citizens and public interest groups have been forced to do the County's

job for it at tremendous cost to them in time and money. Those seeking the root cause of ever increasing land use violations should look behind the curtain.

If the compliance program is to be taken seriously, it is incumbent upon the BCC to insure that Howe and Towery instruct compliance officers to carefully and expediently track their cases, make sure that rules are followed, levy fines where appropriate and issue injunctions and foreclose when necessary.

Private property rights entail a responsibility to one's environment and neighbors. Responsible, law-abiding Lane County citizens have a right to expect that those who are not will be prosecuted—with the curtain drawn—to the fullest extent of the law.

Robert Emmons



This farmland will be destroyed if PeaceHealth is allowed to move forward with its plans to build a hospital along the banks of the McKenzie River.

PeaceHealth Seeking to Bend the Rules

Proving that its arrogance knows no bounds, PeaceHealth is attempting to join the long line of Lane County developers who believe that rules were made to be broken. At issue is PeaceHealth's stated desire to "take advantage of the 2003 construction season" by beginning grading and site preparation work before development plans are even properly submitted, let alone approved.

Two years ago, when PeaceHealth CEO Alan Yordy appeared with Gang-of-Niner and Arlie & Co.'s John Musumeci to announce plans to locate the new hospital at the Gateway site they dubbed RiverBend, the two said they expected to have buildings on site and occupied by "late summer 2003 or spring 2004."

It took longer than expected for Yordy and Musumeci to come to agreement on price, and then, once Arlie had been bought out, PeaceHealth had to get Springfield to annex the property on the outskirts of town. Since the annexation is about ensuring "an adequate level of future or existing services," both Springfield and the Lane County Boundary Commission approved the annexation contingent on PeaceHealth's promises in an Annexation Agreement.

Throughout the annexation hearings, whenever neighbors and land use advocates raised issues such as traffic, flooding, loss of natural areas, or impacts to existing neighborhoods and businesses, Springfield officials would point to the Annexation Agreement and assure decision-makers that those concerns were premature. The Annexation Agreement clearly states, "No part of the Property may be developed prior to City approval of a Master

Plan." So, we were told, all our concerns would be addressed once the Master Plan was submitted. With these repeated assurances, the annexations were approved.

Thus, waiting for the Master Plan, we were again surprised when PeaceHealth instead asked for extensive changes to the Eugene-Springfield Metro Plan and the Gateway Refinement Plan. Again the public raised its objections. Approving comprehensive regional plan changes without knowing the details of PeaceHealth's development plans served only to open loopholes through which just about anything could later be forced. Once again, though, Springfield officials assured decision-makers that the requirement for a Master Plan in the Annexation Agreement protected the public and rendered our objections premature. And again, with these repeated assurances, the changes to the comprehensive planning documents were approved.

Neighbors, joined by Lane County and 1000 Friends of Oregon, appealed to the Land Use Board of Appeals. The case is progressing very slowly, as disagreements regarding the official record are yet to be settled, and briefing deadlines, not to mention oral arguments, have not yet been scheduled. Should appellants prevail on even one of the numerous assignments of error, the decisions would be reversed or remanded, necessitating a whole new process and preventing any Master Plan from being implemented in the interim.

In the meantime PeaceHealth finally filed its Master Plan, but in June the city rejected the application as incomplete. Clearly approval of the Master Plan is a long way off.

And though it's not clear what the big rush is – construction is likely years away – PeaceHealth is now asking Springfield to change the Annexation Agreement to allow site work to begin. Our position is that, having been the basis of reliance and findings for the annexation and the plan amendment decisions, the Annexation Agreement cannot be legally modified at this point.

But that's not likely to stop PeaceHealth in its relentless quest to avoid public scrutiny of its ill-considered decisions.

Jan Wilson, CHOICES



Interview with Tom Bowerman

To draw a perspective on the changes Lane County is undergoing, LandWatch has begun interviewing some residents who have been around for a while. This interview is with Tom Bowerman, a 57-year-old resident of Lane County. Tom has lived at the same residence above the McKenzie River just north of Eugene and Springfield for over 50 years. He has worked as a professional architectural planner and designer and manages a farm of 400 acres.

LW: I understand your family has been around these parts for a while.

TB: My parents moved to this property when I was 3. Other than working on some projects in California, Hawaii and Northern Ireland, I've lived here continuously since 1949, when my parents moved from Agate St. in Eugene. I'm a fifth generation Oregonian. My ancestors entered Oregon Territory in 1844 in a wagon and floated into the Willamette Valley on a log barge they built to get through the then impassable Columbia River Gorge. There were fewer than 5,000 people in the entire territory of the Northwest then.

LW: What changes have you seen in your lifetime?

TB: Well, on this place the forest has really grown up. It was a stump farm when we bought it, and now it's heavily forested and approaching what a forester might call late succession, where there are some emerging old growth characteristics. We manage this 400 acres for a combination of biodiversity for wildlife, water quality, and some limited timber production.

LW: You have a sawmill on the property.

TB: Yes, the mill is really a hobby, not for commercial production. When we do commercial thinning, we sell trees through the normal market process.

LW: What was it like when you were a kid?

TB: I remember crossing over the Ferry Street Bridge and seeing working farms all the way to the McKenzie. There were a few houses, stores or businesses scattered along Coburg Road, but most of the area was orchards, fields and farm buildings.

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LW: Is the feel of the place changing?

TB: Absolutely. A lot of the neighbors commute to work in town and don't really have a connection to the land anymore. Things that we used to take for granted are viewed by newcomers as threats or negatives to be eliminated, like wildfire, predators, gravel roads, and power outages. I think rural residents used to be a lot more accepting of the wilder qualities of the country, but now they want all the comforts of the city right along with the openspace and isolation. Often these desires are incongruous with a true rural existence.

LW: What about the urban edge moving out?

TB: The ongoing pressure to enlarge the city seems relentless. Eugene has initiated some good plans to redirect growth internally, but Springfield still seems hell-bent on pushing out into prime farmland and floodplain. I've personally witnessed the land where PeaceHealth and Springfield propose hospital development with floodwater running through it. That's as recent as 1996; it was really inundated in 1964, and that was after the dams were in. They might be able to raise the buildings and roads above the recorded flood zone, but doing so will block water such that unpredictable flows will damage surrounding lands and existing neighborhoods. Their plans aren't about public safety precaution and protecting the best farmland in the world; instead they're about development prestige, hospital market domination and profit.

LW: How do you think we should address growth?

TB: I'd like us to embrace the European model of protection of rural resource lands. Europe is much more serious about not allowing cities to spill out into the countryside. Thus, European cities are very vibrant by comparison to Springfield and Eugene and a delight to experience. If you train your eye to see how intensively they use the space, and then you look at our cities, here you see so much waste and under-utilization. Our low efficiency causes us to spend more on roads and other infrastructure, leads to a lot of congestion, and huge consumption of valuable land. And if you care about aesthetics, the European model has it hands down. I also suspect that the European model is more economical for the municipality because of the higher efficiencies.

LW: I understand you've studied Italy's land use and planning.

TB: Italy has excellent building design review which contributes to its number one industry being tourism – and this is the 5th largest economy in the world. People don't visit Italy because it's ugly or because they've failed in their land use planning. We don't have thousand year old villages to protect like Italy, but we do have thousand-year-old trees and an incredible natural landscape. These are assets that should be protected, and the way we degrade these things by poor development standards are permanent losses for today and generations to come. Somebody famous said of land use conflicts: "every victory is temporary and every loss is permanent." That's because every time we save an important part of our landscape there is one more developer ready to try again, but when we lose it it's gone forever.

LW: How do we stop this degradation?

TB: If our elected officials would stop pandering to their big campaign contributors and begin sending consistent messages that we value our natural heritage, we could have confidence in our legacy to future generations. Otherwise the future doesn't look happy or healthy.



What goes around comes around.

Cottage Grove Speedway: Poster Child for Corruption

Webster defines corruption as "the impairment of integrity, virtue or moral principle; a departure...from what is pure or correct." The obvious exchange of money is not required for something to be corrupted.

In our costly effort through hearings and appeals to require the LMD to follow its own code we found:

- great reluctance
 - That the word "compliance" drew blank stares
 - That decisions that should have taken one week took ten
 - That reports involving the health, wealth, safety, and well-being of an entire community were perfunctory and unbalanced instead of thorough and complete
 - That fire and safety reports were ignored and/or buried
 - That hospitals and schools were denied occupancy permits because of non-compliance, but entertainment venues were treated as sacred cows and allowed to operate illegally for years
 - That elected officials openly lobbied or became cheerleaders for scofflaw developers
 - That officials who are responsible for enforcement of our laws didn't appear to understand those laws or even care to
 - That jurisdiction could be changed at the drop of a hat at the request of a developer to avoid finally being held accountable for illegal actions
 - That decisions were so devoid of care for the facts and the law that it took 25 pages to appeal the decision
 - That stories were fabricated and years of citizens concerns and complaints were ignored
 - That jingoism replaced clear thinking and compassion
 - That a County Commission could go into "executive session" to avoid scrutiny
 - That the pursuit of profit was unrestrained by care for the community
 - That the few with little or regard for the community they represent became the spokespeople and no one challenged their leadership or tactics
 - That the only access in or out of a business serving thousands of people and cars at a time for 50 years is a firetrap and has not been dealt with
 - That the municipality only acknowledged its ignorance and hired land use experts after it had made a decision to annex
 - That the money needed to correct violations will likely come from the citizens of Cottage Grove
- When all of this is true of just one high-profile land use case, a bribe would be superfluous.

Citizens for Community Livability, Cottage Grove, Oregon

- That well-intentioned staff were disregarded or prevented from doing their jobs as the law prescribes
- That developers and their attorneys were, and were treated like, friends and associates by those who were charged with their oversight
- That the media were uninterested in investigating the facts of the issue
- That public input was stifled by rules designed to make it easy for the system to remain insulated from the public it is supposed to serve
- That citizens who speak up for civil and property rights were openly vilified and bullied
- That fines are the only thing that work to rein in those who scoff at the law, yet those were used with



Proposal to expand Creswell's Urban Growth Boundary threatens rural surroundings.

Hobby Airport or Expanded Airport?

In mid-October Lane County's Board of Commissioners is scheduled to vote on whether to expand Creswell's Urban Growth Boundary to allow Hobby Field to grow. For thirty years the airport has operated on a small scale compatible with nearby communities and farms.

But now the City of Creswell wants to enlarge Hobby Field with the hope that it will become profitable. According to the city administrators, adequate water for fire suppression can only be provided to the airport if it lies within the UGB. However, the possibility of providing an onsite supply, dismissed as "too costly", has not been adequately explored. The pro-

posed change to the UGB would allow Creswell to implement the airport master plan, which includes adding more hangars and concessionaires.

Nationwide, 95 percent of small airports are not self-sustaining; this includes the Creswell Airport. Citizen tax dollars subsidize such airports at the expense of committing the money to more pressing needs, such as public safety and the education of our children.

Oregon's Goal 14 states that a community must demonstrate a need to accommodate more housing, employment opportunities and livability before it expands its UGB. Currently, Creswell has plenty of available property within the UGB to provide for these needs.

Should Hobby Field grow? "No," say many residents on the ground near the air-

port and in rural areas around Jasper, Fall Creek, Dexter, Lowell and Pleasant Hill. An expanded airport with more air traffic creates noise and safety concerns that negatively impact people's lives. These concerns are already palpable. In particular, skydiver and stunt planes cause problems. They are loud and engage in high-risk activity near inhabited areas.

During the past year a local skydiver plunged to the ground and died in a field not far from rural farms. Last winter skydivers jumped through the cloud cover a few miles southeast of the airport, a dangerous and illegal activity of great concern to people on the ground.

For about two years now, on clear sunny days, deafening dive bomb maneuvers of stunt planes have shattered the peace of otherworldly quiet days. This frivolous activity, costing thrill seekers and students \$150 to \$200 for less than an hour in the sky, is maddening to residents below.

The aerobatic pilots also spend time overhead practicing for competitions. While spiraling earthward, the powerful planes seem destined to crash before pulling out and climbing to execute more high-decibel tricks. Livestock get edgy and outdoor conversations are impossible with the plane jockeys overhead.

Many people living in rural areas fashion their lives to include the simplicity and respect that characterized life in years past. Being dive-bombed doesn't fit the picture. "I live in the country for its peace and quiet. I want to hear birds sing rather than planes revving and droning," says a resident on Cloverdale Road near Creswell.

Last July the Lane County Planning Commission recommended denial of the Creswell Urban Growth Boundary expansion. Let's hope that the Board of Commissioners follows suit in October. Rural Lane County should be spared a pestilence of small planes spawned by a bigger "hobby" airport.

Nena Lovinger

Joint Office Update: Small Wins Add Up

Will it be back-room business as usual, or will processing of planning proposals and enforcement actions be transparent, responsive to the letter of local code and state law, and accessible to all interested citizens? Policy direction from diverse citizen committee efforts, with LandWatch taking the lead, can and will have noticeable effects on how business gets done.

LandWatch board members testified in late spring before the county Planning Commission regarding the need to better protect riparian sites than the developer-biased recommendations by LMD Planning Director Kent Howe would allow. Taking LandWatch testimony into consideration, the Planning Commission voted to reject the planning director's weaker recommendations, in favor of a more informed review of options for riparian protections. As a result of this decision, riparian protection strategies have been included in the Planning Commission's 2004 work program.

Not surprisingly, Howe has resisted taking action to achieve equal citizen access and other reforms long

overdue under his authority. Although he says his division is there to serve all interests of the County, not just the development sector, his actions continually belie his words. For example, LandWatch submitted a public records request for notice of pending planning actions, including an offer to pay for the information, which was denied outright by the planning director. As a result, LandWatch board members took the request to the BCC. The Board then directed Howe and legal counsel to work with LandWatch to determine a way to fill the public records request.

LandWatch worked with County's legal counsel to establish a proposal, which was then approved by the BCC. However, when LandWatch formally submitted its request to initiate the public records request service, Howe said the service would be subject to fees and surcharges that had never been considered or discussed by the Board, and that appeared to be inappropriate according to the County's own code language. True to past performance, Howe would not concede, forcing LandWatch to take the issue to the BCC again. Commendably, the BCC once again endorsed the public's right to know, and directed Howe to provide the service at the cost previously established, without additional fees and surcharges.

And so it goes in the continual effort to establish the general public as a party of standing in Lane County.

Lauri Segel
Planning Advocate
1000 Friends of Oregon

Military Retreats from Russel Creek Wetlands

"The battle over locating a new armory near Lane Community College may be just about over. The Oregon Military Department has decided to abandon its original idea of building on 35 acres of land just north of 30th Avenue and the LCC campus in Eugene."
(Register-Guard, 6/26/03)

When land use issues are discussed, more often than not it seems that participants and the media resort to terms like *battle* and *fight*, implying a winner and a loser. What they should be discussing is the applicable law, and why it continues to be necessary for citizens to fight land use decisions that never should have made it past the planning process.

For the Russel Creek neighbors, the *fight* began in 1999 when we discovered

that Lane County planned to acquire the current National Guard Armory on Centennial Boulevard for the Juvenile Justice Center. This acquisition depended on the National Guard finding a new site for an expanded Armed Forces Reserve Center. Though not a preference in the military's Land Availability Study, the site chosen was located across from LCC and on top of the Russel Creek wetlands.

So began the arduous task of preparing for the defense: organizing, researching, writing, phoning, testifying at public hearings and in court, creating a record, fundraising, and hiring an attorney to guide us through a process that requires fulltime attention. With the work came the personal and financial sacrifices of a great many people who deserve more than a simple thank you.

The battle to prevent construction of a facility that was incompatible with adjacent uses and did not meet local land use laws and zoning requirements may be over, but assuring preservation of the wetlands is the next *battle* the Russel Creek Neighbors and LandWatch will wage.

We remain vigilant.

Craig Shelby,
President, Russel Creek Neighbors Association