

SUMMARY NOTES
Neskowin Citizens' Advisory Committee (NCAC) Meeting
April 4, 2015

The Neskowin Citizens' Advisory Committee (NCAC) convened for their regular bi-monthly meeting at 9 a.m. on 4/6/2015. The meeting was facilitated by Charlie Ciecko (NCAC Vice-Chair). Attending were Guy Sievert, Jean Cameron, David Kraybill, Ron Wojtowicz, Bill Busch, Barbara Triplett, Sue Gabriel, Terry Ciecko, Richard Hook, Jeff Walton, Cameron Nagel, Brenda Jose, Mike Erickson, Gale Ousele, Mike Herbel and Paul Plath.

Charlie opened the meeting by acknowledging Guy Sievert's six years of leadership of the NCAC; Guy resigned as NCAC Chair due to his appointment to the Tillamook County Planning Commission. Charlie listed the issues addressed by the NCAC during the last six years, including the Hawk Creek Cottages, beach erosion and coastal hazards, and the second access road. Guy not only provided leadership on these issues, but also represented Neskowin's interests to the County and reported to Neskowin on County initiatives. Following a round of applause, Guy thanked all those who also worked on these issues, noting that he will stay involved as a concerned citizen.

Charlie provided copies of the February 7 NCAC meeting minutes. A motion was passed to approve the minutes as presented. These will be posted on the NCA website.

Dave Kraybill provided an update on the LUBA appeal of the County ordinances implementing the Neskowin Coastal Erosion Adaptation Plan, as follows:

- The approval by the County in early November of the Coastal Hazards ordinances was appealed to the State Land Use Board of Appeals (LUBA) in late November.
- The appeal did not include a stay, so the ordinances are currently in effect.
- Two other entities decided to intervene (DLCD and Coastal Shores) on behalf of the County.
- The County and these two intervenors decided to combine their response brief into one brief before LUBA.
- Oral arguments were made before LUBA by the appellant's lawyer and a state attorney general for the responders.
- There are six issues, with many subparts. Most are red herrings or are irrelevant. For example, they refer to a County Housing policy that requires more multifamily housing in R2 zones; however, there are no R2 zones in the Coastal Hazards area.
- "Regulatory Takings" was NOT one of the six issues in the appellant's appeal.
- LUBA is scheduled to make a decision by April 22. They could: 1) reverse the County's approval (highly unlikely), 2) approve it as it stands; or 3) possibly remand a specific issue to the County to fix.
- If the appellants (Bob Fultz and a resident of North Neskowin) are unhappy with the LUBA decision, they can appeal it to the Oregon Court of Appeals.

Gale Ousele then reviewed the current process of modernizing the Tillamook County land use code, referring to a handout prepared by Gale, Guy Sievert and Dave Kraybill that states:

At the last CAC meeting in February, two members from the Tillamook County Community Development Department discussed with us a project underway at the County to modernize its land use code language. The existing language dates to the 1980s, has been heavily amended, is out-of date, has become poorly organized, and is not in compliance with State code language. According to the Community Development Staff, the “over-arching goal of the Land Use Ordinance Modernization project is to examine ways of simplifying and improving the Tillamook County Land Use Ordinance (LUO)” and the Tillamook County Land Division Ordinance (LDO). Beginning in the fall of 2014 County Staff, under a state grant, worked with a project consultant to identify and prioritize areas of possible improvements to the LUO and LDO. The changes that they are proposing fall roughly into three categories:

- (1) Changes required to comply with State LUO language. Please note that these changes are not subject to revision through the review process.
- (2) Changes required to reorganize the LDO, so that they comply with State ordinance language, and are organized to make it easier to administer and clearer for the public.
- (3) Reorganization of the LUO, which entails renumbering and relocating the various ordinance provisions

The changes being proposed can be found on the Tillamook County Department of Community Development website (<http://www.co.tillamook.or.us/gov/ComDev/>) in the bottom right hand corner. There are fifteen articles that address the changes to the LUO, and the LDO (listed separately). In “selecting” one of these documents, you will find a table that reflects the modifications that are recommended for adoption as part of the current modernization project. The first column of the table includes existing, adopted ordinance text. Proposed deletions are shown in text that is ~~struck out~~ and new, proposed text is shown underlined. The second column provides commentary explaining recommended changes and indicates where existing language has been retained.

Our Review

The three of us met with Community Development Staff on February 27. At that time, we reviewed with Staff the proposed modifications, and the timeline for approval. We identified some problems with the proposals for the Staff:

- 1) In the process of renumbering the LUO, Section 4.150 (runoff and drainage language from the Coastal Hazard ordinance just passed last November) was overwritten and not relocated;
- 2) In the process of renumbering the LUO, a number of internal references to other parts of the LUO had not been changed (for example, references to Section 4.150); and
- 3) In the process of renumbering the LUO, a number of references in the Tillamook County Comprehensive Plan, and its attachments, to sections of the LUO had not been corrected.

Staff agreed to make the necessary changes for 1) and 2) above. For 3) above, it was not clear what the process would need to be to make these changes, and the Staff said that they would have to research the issue.

On March 12 and again on March 26, Gale and Guy met with County Staff, as part of two Planning Commission workshops. The proposed changes were reviewed in detail. The following conclusions were drawn from those meetings:

- 1) There are no changes to the Neskowin Community Plan, nor to the Neskowin specific zones contained in the County Land Use Ordinance. In fact, some of the changes made to strengthen the LDO were drawn from the Neskowin Community Plan.
- 2) After considering alternatives, the County decided to address the problem with references in the County Comprehensive Plan to renumbered sections (mentioned above) with a “conversion table.” This table will be included in the ordinances, and will provide a table for converting old section numbers to new. This is not an ideal solution, but the best available given the short time frame.
- 3) The reorganized LDO will be much easier to use, and will reflect: a) updates to bring it into compliance with state code (over 90% of the changes); and b) a few modifications that will provide more clear code language and clarify land use processes.

Schedule for Implementation

In order to meet the conditions of the grant, this project must be completed by the end of May of this year. The following process will be followed:

- (1) In early March, the State’s Department of Land Conservation and Development was officially notified that the County is making changes to its ordinances in early March. This is a required step in the process.
- (2) The Public was notified by a notice in the Headlight Herald on or around March 11. Please note that this notice was not sent to individual property owners.
- (3) A hearing will take place on these proposed changes before the Tillamook County Planning Commission on April 9. This hearing could be continued to a following meeting.
- (4) A hearing will take place on these proposed changes before the Tillamook County Board of Commissioners on May 6. This hearing could also be continued to a following meeting.
- (5) Completion of the project by May 31.

Recommendations

We have three recommendations:

- 1) Given that this project has not made changes to the Neskowin Community Plan, nor to the Neskowin specific zones (other than renumbering), we recommend that the CAC support the changes that will be before the Planning Commission or the Board of Commissioners.
- 2) We recommend that a continued monitoring (due diligence) be conducted to ensure that the renumbering of sections be done correctly and that other minor modifications are made.

- 3) At some future point, the CAC will need to modify the Neskowin Community Plan, to ensure that it is in complete conformance with this code modernization project.

In further discussion, it was noted that one update to the County code eliminates the “minor partition” language, which was removed from State Code in the 1990s. This revision will require more input on complete infrastructure plans for the final version of a development rather than allowing a series of “minor partitions” to avoid providing such overall information.

Guy explained that notice of the April 9th hearing (see above) was posted in the Headlight Herald; he’s concerned that developers might not be aware of the opportunity to attend and comment.

Gale also noted that the county has sought review and comment from service agencies, such as fire districts; that input will be reflected in updates to the Comprehensive Plan as well as in code changes.

After these changes are adopted, Tillamook County will initiate updates to the Comprehensive Plan, notifying us in the process to update the Neskowin Plan.

Regarding the three recommendations, Dave Kraybill made a motion that the NCAC support the updates as proposed in the first recommendation; Jean Cameron seconded the motion. The motion was passed with two abstentions (Guy Sievert and Gale Ousele).

Bill Busch then reviewed a Partition Application by Erickson LLC in the South Beach area. This is a request to subdivide an existing 4.5 acre lot into 3 small lots, with the larger 4 acre section that includes the water reservoir remaining as one piece. This application had a March 6th comment deadline and is currently under Administrative Review. Mike Erickson explained that the larger, upper lot cannot be developed; it’s on an old clear-cut with logging roads running through it, and some of it will be deeded to the Water District with the reservoir.

Guy Sievert explained that a new NCAC Chair will need to be elected at the June 6th meeting; the two-year term will begin in late June. The new Chair will facilitate the August meeting. Besides facilitating the NCAC meetings, the Chair also represents the NCAC at meetings with the County Commissioners and other CACs in the County. Guy volunteered to be a subcommittee of one to secure nominations. Everyone is encouraged to contact Guy (gsievert@icloud.com; 503-866-4489) with nominations as soon as possible, since these will be posted on our website before the June meeting.

Guy Sievert also presented an update on the second access road project. (For background, please refer to pages 1-2 of the February NCAC meeting notes.) Guy reviewed the fact that attendees at the February meeting made it clear to County representatives that they wanted the existing road restored and improved, rather than any other route. The County wants to raise the roadbed, install new culverts and a bridge, and remove the tide gate. They have identified a number of hurdles, including the

complex hydrology of the area, possible Native American artifacts, and necessary coordination with U.S. Fish and Wildlife as well as Oregon State Parks. Regarding funding, the County projects a total cost of \$1.5 million. A local citizen committee was formed to raise \$100,000 towards the project; \$94,000 has been raised so far. The State of Oregon has pledged \$150,000, and Tillamook County is committed to the rest of the cost; they're hoping to secure some grants in the process. Guy noted that project completion is several years out, but the road is now accessible to foot traffic when not flooded. During discussion, it was anticipated that removal of the tide gate would not have negative effects on the golf course when in use during the summer.

Other Issues or Updates:

- A committee of Neskowin residents is forming an LLC to purchase and operate the Neskowin Golf Course. Once formed, the LLC will negotiate with the current owner, who has indicated a willingness to maintain the course until it is sold.
- Jeff Walton thanked the NCAC for its efforts over the years, which he believes have improved Neskowin's image in the County. Jeff wanted to emphasize that he wasn't there to drag the NCAC into a dispute or ridicule/humiliate anyone, but that being said, he wanted to inform the NCAC of a serious community issue and propose a solution. He acknowledged that the Walton family has a dispute with Neskowin Regional Sanitary Authority (NRSA) and explained that NRSA has a sewer line on Walton property without an easement. NRSA has chosen to renege on their easement agreement (in NRSA minutes Nov 10, 1998) made with his father. The family was very upset with NRSA at first; now the Walton family is "just sad and concerned for the Neskowin community." After benchmarking NRSA behavior against other small utility districts on the Oregon Coast, he feels that NRSA is operating significantly outside the utility industry standard. Jeff further noted that he doesn't believe that the NRSA board members are bad people and he certainly appreciates volunteers for the community. Rather, he feels that the NRSA board suffers from a severe lack of training in how to properly run a utility district. Moreover, NRSA does not currently have a trained licensed manager on staff to help the Board. Feeling that the current NRSA operating model is broken and thus a major risk to the community, he proposed that the two utility districts of Neskowin (Water and Sewer) be combined into one district as soon as is practical. He further noted that many small, unincorporated communities like Neskowin take this combined utility approach and suggested that a Combined Water/Sewer district would provide the community with much efficiency and synergies. Examples include having only one Board of Directors to elect and to train, and having only one professional, licensed, well-incentivized Utility Manager long term. He feels that NRSA needs to be a more transparent organization to its constituents and to maximize communication with the community. Currently NRSA communication with the Neskowin community is near zero, as exemplified by a near empty website.
- Discussion followed regarding the concept of merging the water and sewer agencies. While it was noted that this is the case in many areas, Jean Cameron, who serves as Chair of the Neskowin Regional Water District Board of Commissioners, explained that Neskowin's situation is

a function of how it evolved; both the NRSA and the NRWD have evolved with different service areas and taxing districts. Any merger would be highly complex, requiring simultaneous public votes to cancel existing districts and create a new one, as well as to elect board members for the new district. Jean explained that the Water District Board and General Manager have discussed this issue and determined that there would be very little benefit to the Water District or the community from such a merger. In addition, she suggested that the NRSA needs to get its house in order before any consideration be given for merging it with the Water District; otherwise, the work and efforts of the combined agencies may primarily be devoted to straightening out the sewer district, to the detriment of the water district. Attendees approved a motion that Charlie Ciecko send a letter to the NRSA on behalf of the NCAC asking them to conduct a well-noticed public meeting (at a time and place accessible to Neskowin residents) to address such issues as their long range plan, capacity for additional hookups, management structure and outreach strategy. It was also noted that the NRSA will have three Board positions up for election on the May 19th ballot; Mike Herbel, who was attending this meeting, noted that he will be running for election to one position.

- Charlie Ciecko reported that Oregon's Territorial Sea Plan was amended in January of 2012 to permit alternative energy zones on the Coast, one of which runs from the entrance to Nestucca Bay on the north to a point opposite Corvallis Street in Neskowin on the south. The zone runs from the shoreline out one mile. Although there have been no development proposals yet; he feels that wave energy proposals are more likely than wind energy. Because the Land Conservation and Development Commission ignored public opposition to this zone as well as recommendations against it from the Ocean Policy Advisory Council, Charlie and David Yamamoto from Pacific City filed a suit against LCDC a year ago; the content of the record was recently resolved, so the lawsuit will now proceed.

There being no further issues for discussion, the meeting adjourned at 11 a.m.

Respectfully submitted,
Jean Cameron, NCAC Secretary