

SUMMARY NOTES
Neskowin Citizens' Advisory Committee Meeting
February 6, 2016

The Neskowin Citizens' Advisory Committee (NCAC) convened for their regular bi-monthly meeting at 9 a.m. on February 6, 2016, at the Neskowin Fire Station. The meeting was led by NCAC Chair Richard Hook. Attending were Bill Busch, Barbara Triplett, Andreas von Foerster, Herb Crew, John and Steve Ostrin, Kim Marsh, Guy Sievert, Bob and Sue Miller, Judy Kelley, Mike Herbal, Cameron Nagel, Tim and Gina O'Donnell, Joanie Blum, Ann Clarke, Rita and Tom Zellner, Elaine Andrews, Joan Kingsley, Julie and Lee Steiner, Millie Grauel, Hilja Davis, Stephen and Pattie Beckham, Jeff Walton, Roger Wickland, Sarah Gregorio, David Kraybill, Gregory and Candice Miller, and Jean Cameron.

December, 2015 Summary Notes

The summary notes from the December 5, 2015 meeting were approved as drafted. The final notes are available at <http://www.neskowincommunity.org/cac.html>).

Update on the partition applications for both the Fultz property at the "Cove" in South Beach and the Quirin property at Neskowin North (Presented by Dave Kraybill)

Dave Kraybill explained that he would cover the following two proposals:

- Frederick Quirin – Neskowin North; this proposal is to subdivide the property north of North Neskowin into 10 lots; and
- Robert Fultz (Seabreeze Associates) – South Beach; this proposal is to subdivide “The Cove” into 9 lots.

He then explained why these two proposals have been submitted to the Tillamook County Community Development Department now:

- The Coastal Hazard ordinances enacted last year prevent subdivision of property entirely in the hazard zone. However, through legal maneuvers associated with appeals to the proposed ordinances, these developers obtained exceptions and were able to submit a preliminary application before the ordinances went into effect. From that time, they had 180 days to “finalize” their applications, so the deadline was January 16.

Dave and Richard Hook provided maps of the proposals (Richard thanked the County for providing the maps). Referring to the maps for the Quirin proposal, titled “Seashore Woods,” Dave noted the following elements and reasons why the application is still incomplete:

- The property is in the Neskowin Rural Residential zone, where lot sizes must be greater than 20,000 square feet and lot width and depth must be at least 100 feet. This proposal has met these requirements.
- There must be space for an on-site sewage disposal, if no sewer service is available. At this time, the Neskowin Regional Sanitary Authority does not serve this area. Since sewer service is not available, on-site sanitation disposal is required. The County Sanitarian must certify that there is sufficient lot size for installation of on-site sewage disposal, and that there is adequate protection of public health or sensitive water bodies. This certification has not been provided
- There must be access to the water system, but certification that water service is available has not been provided.
- The developer must provide a geologic hazard report; this has been done.

- The developer must provide a Dune Hazards report, but the submitted report is incomplete. There are sections of the report that are not addressed (location of the fore dune, for example)
- The property is partially wetland, which covers the eastern half of the proposed lots.
- The property is in a Statewide Planning Goal 18 area, so no riprap or other protective structures are permitted.
- Road access would be through the North Neskowin neighborhood.
- Their report concludes that further planning and preliminary civil engineering design will follow this report. These items are not yet provided, as required.
- There is no approved grading plan, as required. This is especially necessary, as the right-of-way crosses a channel connecting the ocean and wetland
- There is no delineation of the boundary for the wetland. Building on the wetland requires approval of the Oregon Department of State Lands (DSL) and perhaps US Fish and Wildlife.
- Statewide planning goal 18 limits development to certain areas, either of which may govern:
 - The furthest extent of the fore dune; or
 - Landforms that have been defined as eligible to be built upon.
 - Since this requirement has not been provided for in the application, Oregon Department of Land Conservation and Development (DLCD) is working with the County to define it.
- Statewide Planning Goal 7 limits development to protect life and property from natural disasters and hazards. Developments subject to damage, or that could result in loss of life, shall not be planned nor located in known areas of natural hazards.
- Road access is through the North Neskowin neighborhood, and through a low area that frequently floods. Furthermore, like all of the properties north of the village, there is only one evacuation route, which is subject to regular flooding in the winter; approving another subdivision that depends on this inadequate infrastructure seems ill advised, Dave noted, although planning guidelines do not currently specifically deal with Tsunami planning.

Referring to the maps for the Fultz (Seabreeze Associates) proposal, titled “The Cove,” Dave noted the following:

- The property is in the Neskowin R1 zone, where:
 - Lot sizes must be at least 7,500 square feet; this requirement has been met.
 - Lot width must be at least 60 feet and lot depth 75 feet; this has been met.
 - There must be access to sewer service; this has been met.
 - There must be access to the water system; this has been met.
 - They must provide a geologic hazard report; this has been met.

Problems with the proposal include:

- The entire tract occupies an un-drained topographic low area, part of which is currently a wetland.
 - The Neskowin Community Plan, the Oregon Department of State Lands (DSL), and U.S. Fish and Wildlife all concur that there is a sizable wetland on the property, 0.79 acres (per DSL) out of a total 3.26 acres. Building on the wetland requires approval of the Oregon Department of State Lands (and perhaps U.S. Army Corps of Engineers and U.S. Fish and Wildlife). DSL requires that “measures to avoid and minimize wetland impacts may include reconfiguring parcel layout and size.”
 - The submitted application shows that a considerable amount of fill, 2900 cubic yards, will be used to bring the wetland areas up to grade. DSL requires a Removal-Fill permit. This

permit has a 120-day review process, including a public review. Because the plan requires mitigation, the Applicant must monitor the mitigation for a minimum of 5 years. As far as is known at this time, Fultz has not applied for a Removal-Fill Permit.

- Wetland mitigation is to be by way of drainage lines connected to a 149-foot long, 3-foot diameter dry well on Fultz-owned property that extends to the beach.
- The top of the drywell will be only a few feet (at most) above the water table; it is difficult to see how these wells will be able to handle the runoff, Dave commented. He also noted other problems with the drainage plan, as follows:
 - There has been no documentation of the suitability of the soils in the area of the proposed dry well.
 - Provisions are required for access to and maintenance of the drainage system, but Fultz has not provided a maintenance plan.
 - Saturated soils in the dry well area could weaken the riprap, damage the adjacent road, and/or result in standing water that damages the road and adjacent properties.
- Dave further explained that the sole access to the property is a road with a 20-foot-wide easement (Nescove Drive). Section 160 of County code requires a minimum right-of-way of 30 feet for local roadways. Problems with additional traffic on Nescove Drive - especially from the heavy truck traffic during construction (estimates are that 300 dump trucks are necessary just to provide the fill) - could include possible restriction of emergency vehicle access and increased risk to pedestrians on the road.

Dave then reviewed the Process and Timeline for these two proposals, as follows:

- The applications were submitted January 16th; the County is required to complete review of the applications (including any “local appeals”) within 150 days (June 14).
- Public Notice will be provided around February 9th.
- The deadline for written comments should be around February 29th.
- The Planning Commission will review the proposals and accept public comment on March 10th; this is the only opportunity for spoken comments to be placed on the record.
- If necessary, the Planning Commission may hold a second meeting on March 24th.

Dave explained that applicants may amend applications until the Planning Commission closes the record (either 3/10 or 3/24). Applicants also may ask for a continuance up to the time the Planning Commission votes, for up to 210 days. Either party may appeal to the next level (County Commissioners); this is considered a local appeal. From there, either party may appeal to the next level (the Land Use Board of Appeals - LUBA); this is outside the 150-day time requirement. Dave noted that written or spoken comments qualify persons to appeal. The basis of any appeal must be whether or not the County has met their own criteria and Land Use plans in their decisions.

Richard Hook then opened the floor to comments and questions. Noting that he is a member of the Neskowin North Homeowners’ Association, he reported that they oppose the Quirin proposal based on road access, the possibility of flooding, wetland impacts and increased erosion.

Sarah Gregorio asked why both applications were filed at the same time. Dave reiterated that the filing was timed with appeals to the Coastal Hazard Zoning ordinance. He also noted that the two proposals were using the same engineering company.

Herb Crew encouraged comments to the Planning Commission.

Concerns were raised regarding the road conditions for the Seabreeze proposal; Bill Busch noted that SeaBreeze was supposed to submit a road plan.

Jeff Walton asked about the probability of approval by the County. Richard Hook replied that approval will be based on whether the developers address the issues noted above. He also noted that changes to the proposals as well as more material could be posted on the County's website:

<http://www.co.tillamook.or.us/gov/comdev/>.

Tom Zellner asked whether the proposals could be approved if they were changed to fewer lots.

Judy Kelley asked what was known about these developers.

Patti Beckham noted that the South Beach homeowners own the roads, so should the County have to check with the Homeowners? It was noted that Mr. Fultz, the developer, is a current property owner that shares ownership of the road.

Mike Herbel asked whether the County has noted the lack of wetland mitigation in these proposals; Bill Busch said that Tillamook County could approve the application with the contingency that the DSL fill permit is approved. Bill also noted that the DSL permit hearings are open to the public.

Richard Hook then asked for a show of support for or against the two proposals. The results were as follows:

- The Quirin proposal: 32 opposed, none supporting, one abstaining; and
- The Fultz proposal: 36 opposed, none supporting, one abstaining.

Dave Kraybill then reviewed possible next steps regarding this issue:

- The CAC will submit a letter for each application to the County discussing the points made above, and express the opinion of the CAC from this meeting.
- He explained that, as a committee chartered by the County, the CAC is prohibited from hiring expert opinions, but other community organizations, such as homeowners' associations, may do so. He recommended further work by lawyers, engineers and other consultants on behalf of concerned citizens.
- Regarding the Quirin proposal:
 - A lawyer should represent the views of the North Neskowin community in the Planning Commission process, and in any process by State Lands or US Fish and Wildlife in wetland issues.
 - An engineer and/or other consultants should review:
 - Any proposal to build a road with fills and cuts through an area subject to flooding and through the dunes (and perhaps road access issues);
 - Proposals to place septic systems in this location; and
 - Other issues associated with the proximity to wetlands.

- Regarding the Fultz proposal:
 - A lawyer should:
 - Provide an opinion on whether the County can approve this application without first determining whether a fill permit can be issued by DSL; and
 - Represent the views of the South Beach community in the Planning Commission process, as well as in the DSL process on the fill permit in “The Cove.”
 - An engineer and/or other consultants should review:
 - The feasibility of a drywell and potential runoff into other properties;
 - Road width and location; and
 - construction damage issues.

Richard Hook recommended that those attending this meeting from the South Beach area meet after this meeting for further discussions on this issue.

PLEASE NOTE: Dave Kraybills’ PowerPoint presentation is available in PDF format at <http://www.neskowincommunity.org/cac.html>.

Update on the Hawk Street Extension

Richard Hook summarized an update provided by Liane Welch, Director of Public Works for Tillamook County:

- Most of the fieldwork has been completed for the design, including: Geotechnical investigation, Hydraulic studies, Topographic survey, Archeological survey, wetland delineation, pre-consultation meetings with regulatory agencies, and hazardous materials research. They just received the Archeological survey and there is not a Native American village at our project site. This is very good news.
- They have been working with the Golf Course Board of Directors on the tidegate. The Board has decided they can live without the tidegate. The County has been on hold with the design while this decision was under consideration; now they can move forward with the design process.
- They met with State and County Parks staff on 1/29/16 to discuss the Neskowin Wayside and continue to negotiate for the property needed for our project from the State Parks.
- They did apply for a NOAA Coastal Grant for the construction funds, but were not successful. They will continue to look for other grant opportunities to pay for the construction of this project.
- There has been a formal process regarding the naming of this project at the Board of County Commissioner level. The road name will be Hawk Street. They will name the bridge(s) for the Walton Family and the Carlbom Family.

Guy Sievert stated that he had met with County Commissioner Mark Labhart, who had reiterated the Commissioners’ support for it. Guy also noted that removal of the tidegate allows for additional grants for culvert replacements important to watershed protection.

Richard Hook reiterated that Neskowin needs the road and is invested in this project.

Roger Wickland raised concerns regarding flooding on the east side of the Tsunami Trail. He’s asked U.S. Fish and Wildlife for a meeting regarding the problem. Richard Hook noted past meetings with USFW on

this issue and explained that the Water District has an easement for a pipe on the existing bridge, so any “solutions” – such as fill or a floating bridge – would need to be coordinated with the Water District.

December King Tide flood damage assessment and comments

Richard Hook noted minor damage to the Café and store area, as well as flooding along Hawk Creek. (Enter “Neskowin Storm Surge” on YouTube to see a video of this event.) There was also tidal damage to the riprap and emergency beach access roads at McMinnville and Yamhill Sts. The Department of Public Works has inspected these areas and made improvements. The Oregon Department of Geology and Mineral Industries and Oregon State University are monitoring beach erosion in Neskowin.

Concern was raised regarding large logs in Hawk Creek that can damage the bridge as well as adjacent properties. Richard Hook said that the CAC will contact DSL regarding this issue.

South county security: Recap of Sheriff Long's comments in the last meeting and forward plans

Richard Hook summarized Sheriff Long’s presentation at the 12/5/15 CAC meeting (see link to the meeting notes on page 1) and noted that Pacific City might join Neskowin in creating a special tax district to support more deputies in South County. Their decision could be impacted by the outcome of a move to incorporate Pacific City; a meeting on that subject is planned for February 23rd, 6:30 to 8:30 p.m. at the Kiawanda Community Center.

PLEASE NOTE: The next NCAC meeting is scheduled for April 2, 2016.

Respectfully submitted,
Jean Cameron, Secretary
Neskowin Citizen’s Advisory Committee