

Cottage Grove Speedway: Years Of County Inaction Affect An Entire Community

Lane County land use laws have been ignored for years regarding the Cottage Grove Speedway. Built in 1956 at the edge of town among wetlands and the confluence of two rivers, the track became a non-conforming use in 1972 as the property was zoned for Agriculture/Timber. Oregon Regulatory Statutes permit non-conformities to continue but do not encourage their survival: *Non-conformities shall NOT be enlarged upon, expanded or extended, NOT be used as grounds for adding other structures or uses prohibited elsewhere in the same District.*

As early as 1980 people concerned with land use issues recognized that a speedway is incompatible with this property. A person negotiating to buy the land backed out when he discovered that, according to county records, it lies entirely within the Willamette Greenway. Some City representatives and employees understood then and there that it should have been shut down or relocated. However, the county did nothing. Nor did the city make any effort to do anything to resolve the problems presented by the track and its environmentally sensitive location.

The owners of the property, though, took full advantage of agencies and governments turning a blind eye. In the early 1980s a new bathroom was built without permits. The county posted

an "unlawful to occupy" sign and ordered the track to get permits or tear it down. There is no record of either being done. Not only has the county not bothered to regulate the speedway, in 1993 the County Commissioners ignored the land use process and changed the noise regulations in order to allow the Speedway to run later, until 11:00 P.M.

Ironically, in 1996, due to noise complaints as west Eugene was developed, the Eugene speedway shut down. This dramatically increased the use of the Cottage Grove track. In response the owners built new bleachers, doubling the seating to 3000, and erected additional buildings. No permits were applied for or issued.

(continued on page 2)



LandWatch Lane County Web Site

Check out the LandWatch web site, www.landwatch.net. Under construction and growing, the site contains LandWatch goals, mention of projects underway, and a brief background of past LandWatch activities. You'll find links to official Lane County planning documents online. Soon we hope to make more information available so you'll be able tune in quickly to what's happening in local land-use.

Please e-mail your suggestions or comments on what you'd like to see to info@landwatch.net. A comment form is available on the website.



www.landwatch.net



Bristow Park Native Ecosystem Restoration

On August 15, 2002, state parks managers and scientists and two LandWatch members met in Bristow Park to discuss the future of a project begun in May 2001 to restore a native white oak stand and adjacent field to conditions that prevailed when Indians periodically burned the valley. Park management agreed to allow LandWatch to create a planting and maintenance plan, including prescribed burns, for both the grove and the soon-to-be meadow.

This long-term commitment offers LandWatch the opportunity to join state agency officials, scientists, conservationists and volunteers in a partnership that may serve as a precedent for native ecosystem restoration throughout Lane County.

Robert Emmons

(Speedway, continued from page 1)
In 2001, the new owners reasoned that since the center of the main grandstand needed to be repaired, while they were at it they would add 12 skyboxes and two new sets of bleachers, increasing the capacity to 5,000. This further expansion, cheered on by city officials, was all done without going through the land use process or bothering to apply for building permits.

In 2002, after years of discussion with the city and, apparently prompted by liability concerns, ODOT has notified the City of Cottage Grove that it intends to close the illegal and dangerous access off of Highway 99 leading to the racetrack and other properties. The roadway is an antiquated, steep, low and narrow, gravel railroad trestle underpass. It has never been a permitted legal access by the state or the county, yet, like the track, it has been ignored and allowed to stay in use for years despite citizen concerns.

Notwithstanding the on-going, well-publicized violations, as well as alteration of the riparian zone – including installing a drain pipe from the pit area to the river – the county commissioners chose not only to allow the track to continue operation but to allow a doubling of the racing schedule while the Land Management Division considered an application for verification of non-conforming use. The application was denied in July by Planning Director Kent Howe, but an appeal has been filed by the racetrack owners and a hearing has been scheduled for October 3rd.

Meanwhile the track still operates, the facilities remain in operation, construction continues, and the drainpipe flows.

The environmental impact of the decades-long illegal expansion of this race track, fostered and ignored by the county and the “it’s not our problem,” “noise is money,” “it’s a golden goose” attitude on the part of the city of Cottage Grove, has forced individual citizens into becoming the regulatory force of law. This tears communities apart, pitting business owners and race fans against beleaguered residents and neighbor against neighbor.

Legitimate complaints filed by concerned citizens should be acted upon and resolved by the people and agencies we fund to look after the common good. Our governments and their agencies should seek solutions to problems when they become known, not sweep them into a pit to fester, forcing private citizens to hire attorneys and mount campaigns simply to ensure existing law is enforced. When will we get the government and the leadership we deserve and pay so dearly for?

**Citizens for Community Livability
Cottage Grove, Oregon**

Creswell Urban Growth Boundary Expansion: Come Fly With Me

The City of Creswell is moving full-throttle ahead with a plan to expand its Urban Growth Boundary (UGB) to include Hobby Field airport. It appears that all of Creswell’s elected council members, appointed commissioners, the city management and LCOG staff are pushing expansion like a gale force tailwind. These bureaucratic navigators exhibit a dual persona when presenting the case for expanding the UGB. When they encounter flak for this proposal they counter deceptively, claiming that their objective is simply “to bring a water supply to the airport for fire suppression.” On the other hand, to garner support from local news reporters, they attest to maximizing the airport’s “inevitable” growth by improving and enlarging taxiways and building more hangars to accommodate more aircraft.

Airport statistics on take-offs and landings show dramatic increases over the historical norm for the 30+ year old Hobby Field. Planners intend to turn it into a thriving, busy airport, and pass the nuisance on to rural residents in the Pleasant Hill, Jasper/Lowell and Fall Creek communities east of Creswell.



Will urban sprawl follow an expanded airport in Creswell?

Noise complaints have come in from all those areas. Most complaints revolve around the activity of certain new businesses that have made Creswell Airport their home: WingOver Aerobatics, Eugene Skydivers and Wright Brothers Skydiving.

When considering whether the airport expansion would have negative impacts on long-range population growth, need for housing and livability, Creswell planners summarily dismiss all conflicts with land use goals as inapplicable because Hobby Field is already zoned for airport operations. They conceal their true objective: to expand the airport, and dramatically increase air traffic over the rural and residential areas east of the airport. This could result in equally dramatic conflicts with current land use, including further commercial and residential development, erosion of the rural farm and forest land base and decreased livability.

However, State Goal 14: Urbanization, which provides for an orderly and efficient transition from rural to urban land use and expansion of urban growth

boundaries (UGB), offers these compelling reasons to deny this application:

- The proposal fails to meet the need for housing, employment opportunities and livability. The proposal decreases livability by increasing noise pollution in south Lane County.
- The proposal does not provide for orderly and economic provision for public facilities. It is primarily about shifting tax revenue from the county to the city. Besides, the airport is a public facility only for those who can afford an airplane. For everybody else, it is a nuisance at best.
- The proposal does not maximize efficiency of land uses. It scatters land use by putting a noisy airport that everyone wants to avoid within an Urban Growth Boundary.
- The city has ignored the environmental and social consequences. Given city and airport management's handling of recent complaints about noise pollution, these need to be addressed. The current airport management system appears unable to

manage the companies that lease space at the airport.

From a LandWatch perspective what started as a simple concern of noise pollution has barrel-rolled into a larger land use issue at the core of LandWatch's mission to protect our farms, forests and open space from urban sprawl.

**Bob Meyers and
Rich Fairbanks**

LMD in Freefall: Task Force Formed

In the last two years, the Land Management Division has lost three planners, a graphic artist/archivist (mapping) and an office aid who absconded with \$40,000 of Lane County building permit fees. Adding to this intradepartmental upheaval, LMD director, John Cole, was relieved of his position by new Public Works director, Ollie Snowden, August 9. And chief planner Jim Mann has announced his retirement effective in November.

To lend some stability to a department in freefall, the Board of Commissioners created a task force to review its structure, operation and policies in four areas:

- Long-range planning
- Compliance program
- Customer service and permit processing
- Funding

LandWatch Lane County has long sought such an analysis of the LMD, particularly in regard to land use policy. We are pleased to

announce that a representative from our group, as well as from 1000 Friends of Oregon, will be a part of the 13-member committee. Other members include representatives from the Lane County Homebuilders Association and the Board of Realtors; the county Administrator and county Public Works Director; the chair of the Planning Commission; the Human Resources Manager; two or three at-large members, and county commissioners Pete Sorenson and Anna Morrison who will be non-voting members. Beginning in September the group will meet twice monthly for six months.

While LandWatch is excited about the opportunity to participate in this advisory capacity, we are dismayed by the apparent pro-development majority of the task force. Neither are we encouraged about the prospects for a change in perspective, considering the recent interim appointment of Jeff Towery to replace John Cole. Towery, former city Administrator of Cottage Grove and assistant to county Administrator Bill VanVactor, lured Wal-Mart to Cottage Grove. It's incentive enough to make our representative an even more determined advocate for sound land use planning, stewardship and public accountability.

Robert Emmons



Jeff Towery

New LMD Director Brings Big Business Bias

Former Cottage Grove City Manager Jeff Towery was recently appointed interim manager of the Lane County Land Management Division of the Public Works Department. It isn't clear if Towery, who has been a management analyst for the county for the past year, will seek the permanent position.

As Cottage Grove city manager, Towery took the lead in several highly controversial development decisions: The building of a Wal-Mart store on the edge of town and the creation of a multi-million dollar industrial park which has largely sat empty since completion in the mid-1990s.

Towery successfully lobbied the Cottage Grove City Council to amend its comprehensive plan and zoning laws to allow a retail store in a commercial tourist

zone despite pleas by downtown business owners that locating a Wal-Mart near Interstate 5 would hurt Main Street merchants. At the time it was proposed, the Cottage Grove store would have been the first Wal-Mart and the largest big box at 175,000 square feet in Lane County. Fortunately, a vocal citizens group was able to win several "concessions" during three years of legal wrangling and court cases. Those included reducing the size of the proposed Wal-Mart to 75,000 square feet; requiring the 18-acre property to be partitioned into the 12-acre store site and three two-acre separate lots; and gaining three times the originally proposed landscaping and trees.

Towery was also the proud creator of a 20-acre industrial park, which was supposed to be financially self-sustaining. Development of the park ran about \$1 million over budget, largely because of wetland fill requirements. And only one company has moved into the park, buying land at below-market cost from the city. Many taxpayers consider the industrial park among the city's biggest boondoggles.

During Towery's tenure, aesthetics took a back seat to construction and, as a result, much of the development that took place during the 1990s in Cottage Grove features plain buildings with little landscaping.

Other issues which fell by the wayside during Towery's time as city manager were the purchase of Mt. David as parkland, construction of public bathrooms for use by

downtown patrons and the siting of an old-fashioned carousel which was donated to the city by a resident.

Since leaving Cottage Grove Towery has had a checkered career. When he turned in his resignation as city manager of Auburn, New York, Towery reportedly said, "I have begun to question whether my own set of skills and abilities are sufficient and appropriate to help Auburn through the next phase of its growth."

He left Auburn within the year, relocating in Helena, Montana, to act as a management consultant. And now Towery has resurfaced in Lane County.

Given Towery's record in planning and development, it is discouraging that he has been chosen to head a division whose long-range planning and compliance programs are already heavily biased by pro-development forces.

Lane County Citizens for Accountability in Government

What to Do If It Happens to You

You may be one of a number of Lane County residents who own land adjacent to properties on which either illegal or incompatible land use activity has been proposed or is already happening. If your property lies within 750' of proposed development on resource land, 250' of non-resource land, or 100' of an urban growth boundary, you were entitled to and should have received notice of the application.

Perhaps you didn't respond to the notice or participate in the proceedings because you didn't think you could do anything about it, or because you didn't realize how much the project, once approved, would disturb your quality of life or impede your farming or forest practices.

Unfortunately, once the deadlines for objecting, for filing comments, or for appealing a decision have come and gone, very little can be done to remedy the situation.

There are clear guidelines and deadlines in place, however, so let's spell them out. As an adjacent landowner of a pending land use change (application), you are entitled to notice. This notice will tell you what the proposal is about, and if, when, and where a public hearing has been scheduled. If a decision is to be made by the planning department without a public hearing, you can submit written comments to the department by the deadline indicated on the notice. If a public hearing is scheduled, you can submit written comments to the planning department and also appear in person to present written and/or oral testimony at the public hearing. Presenting written or oral comments or testimony as a party concerned with the outcome of the proceedings will give you "legal standing." This will preserve your right to participate in follow-up hearings and to receive notification of further hearings and decisions. If you fail to participate in the proceedings before the local decision-making body

(county Land Management Division, Planning Commission and Board of Commissioners), you will have no standing to appeal the decision to the Land Use Board of Appeals (LUBA) – the final local decision will be just that: Final. So it is a good idea to comment, in person and especially in writing, on all applications that you have concerns about, lest you forfeit your chance to further participate in, and affect, the land use process.

Of great importance are the deadlines for such comments to be filed. The notice of a pending land use application must include a deadline for comments, and you must meet that deadline. Decisions that you think violate provisions of a local ordinance, the Comprehensive Plan, or state regulations or laws can be appealed. Decisions of the Land Management Division can be appealed to the Board of Commissioners. The Notice of Decision will identify the date by which an appeal must be filed.

Once local opportunities for appeal have been exhausted and a final local decision made, you have 21 days to appeal that decision to LUBA, but only if you have established "standing" – that is, you have participated on the local level first.

If you receive an application and are not sure what it means or how you feel about it, please call LandWatch board member Robert Emmons who will be glad to assist you in deciding what you should do. The purpose of LandWatch is to help, and to share our experience and

knowledge in the pursuit of protecting farm and forest land from sprawl and other inappropriate development.

Please keep us informed about what's going on in your neighborhood or area, and let us know what issues you're concerned with. Let's work together to help shape a healthy future for Lane County.

Adapted and amended from a Friends of Linn County newsletter article

Robert Emmons may be contacted at (541) 741-3625, or at info@landwatch.net

Cell Phone Tower Ordinance Amendment Imminent

Months prior to the Worldcom debacle, a financial forecaster (Barron's 2/18/02) sounded a note of gloom and doom for the telecommunications industry. He noted that the telecom industry had greatly exaggerated the public's need and desire (and telecom's greed) for all things wireless.

Despite Lane County's foot dragging, this industry slump (even if temporary) has given encouragement to those concerned about the appropriate siting of cell phone transmission towers. Is there a correla-

tion between the economic downturn and the slow-down of cell phone tower applications to the county Land Use Division (LMD)? Whatever the reason, it has allowed us the time to work our way through a bureaucratic minefield to ensure the appropriate placement of towers, a source of potentially dangerous radio frequency radiation, away from homes and schools.

On April 10, 2002, the Lane County Board of Commissioners passed a telecommunications ordinance. That same evening the Board also recommended amending the newly passed ordinance and issued directives to the Lane County Planning Commission on the substance of these amendments. Although County legal counsel assured all those present that the draft proposal had established a 1000' setback of towers from homes, the language was ambiguous at best. The Board not only requested that the language be clearer, it also wished to increase the setback to 1200' from homes AND schools. This is the most important part of the ordinance, but it is not applicable until the amendments are passed by the Board.

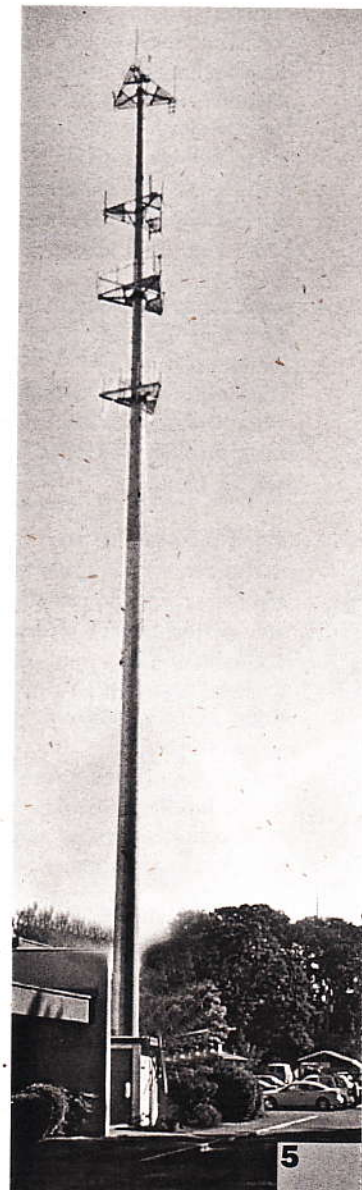
The Planning Commission met in a work session and essentially incorporated the recommendations made by the Board. These were then presented to the Board by LMD planning director Kent Howe. As amended, the ordinance ensures that cell phone towers will be placed away from homes and schools ONLY IF it is structured to with-

stand challenge. To do so the intent and the language need to be clearly stated and more than lip service paid.

Please urge the commissioners to adopt an unambiguous ordinance with a minimum 1200' setback from homes and schools.

**Mona Linstromberg
Member, Citizens for
Responsible Placement of
Cell Phone Transmission
Towers**

*Cell phone towers near schools
pose health and safety risks.*



West Eugene Parkway – Or Parklands?

In July, Eugene, Springfield, Lane County and Lane Transit District amended the West Eugene Wetlands Plan, TransPlan, Metro Plan and Rural Plan to include the West Eugene Parkway, a bypass of the West 11th commercial strip. But approval at the local level did not approve the project, since the ultimate decision for this federal aid highway will be made by the Federal Highway Administration (FHWA). Some of the hurdles blocking the bulldozers include Oregon's land use laws (which prohibit new urban freeways outside urban growth boundaries), the National Environmental Policy Act, the Endangered Species Act, FHWA regulations about highway design, the Clean Water Act, and Section 4(f) of the Transportation Act (which prohibits federally funded roads through parks and wildlife refuges).

The Wetlands Plan was established a decade ago to deregulate wetland protection in west Eugene under the guise of mitigation. Its sponsors claim that it provides "balance" between preservation and destruction, allowing continued industrial development in wetlands while protecting critical habitats.

In the mid-1980s, while planning the WEP and building sewers to facilitate sprawl, the City realized that much of west Eugene was wetlands and difficult to develop. The Wetlands

Plan was crafted to make it easier for developers to get permission to destroy remnant ecosystems. With a "mitigation bank" to compensate for the loss of wetlands, the city assumed the responsibility for mitigating the damage done by businesses like Hyundai.

During the past decade, the Bureau of Land Management has spent over \$12 million to acquire, protect and restore native wet prairie remnants in the west Eugene area, part of a cooperative effort with local governments, nonprofits and other federal agencies. In total, about \$20 million has been spent on the West Eugene Wetlands project. These efforts have included undoing the channelization of Amazon Creek, native seed propagation, and environmental education efforts.

Despite these successes, local developer interests and the Oregon Department of Transportation have sought for decades to build a freeway through the heart of these natural areas. The highway would puncture Eugene's urban growth boundary in the direction of the burgeoning suburb of Veneta, fueling further Californication of the southern Willamette Valley.

For the WEP to be built, the BLM must provide a "waiver" for use of these lands bought with Land and Water Conservation Funds. The BLM is on record that they could consider a waiver only if full funding of the highway is available.

Parkway promoters claim that it would cost \$88.5 million, and the local



Irreplaceable wetlands like this one found in west Eugene would be permanently destroyed if the West Eugene Parkway gets built.

governments have now modified the regional "TransPlan" to allocate this much money for the WEP over the next 20 years. However, the TransPlan amendments made in July effectively canceled the Beltline / WEP grade-separated interchange (\$17 million) to fund the WEP. ODOT is on record stating the interchange would be needed for the WEP to work, so this change violates federal highway standards on "segmentation" and "independent utility."

In addition, the \$88.5 million figure ignores inflation, road-widenings to accommodate WEP-induced traffic increases and the future extension across Fern Ridge to Veneta (\$13.319 million) and along 6th and 7th Avenues to the I-105 Washington / Jefferson bridge. My conservative estimate is that the so-called

Parkway would cost at least \$150 million, more than ODOT plans to spend on new highways in Eugene / Springfield over the next two decades.

Please contact Senators Wyden and Smith, and Rep. DeFazio to urge them not to earmark funds for the parkway or promote riders that would exempt the project from environmental laws.

Mark Robinowitz,
a road scholar who has a website about the parkway at www.efn.org/-wep

Appealing Victories

LandWatch is on a roll. Years of building momentum as an organization are reaping well-deserved rewards and credibility. Aided by several successful appeals of bad land use decisions and the passionate efforts of rural Lane County citizens, LandWatch is proving that good guys don't always come in last.

From its expanding foundation of knowledge, contacts, passion, and tenacity, LandWatch continues to build a reputation as an important community resource. This reputation has contributed to LandWatch's success in several recent challenges waged in collaboration with rural Lane County residents concerned about pending development in or near their communities.

Examples of recent LandWatch success stories include the following:

Late last year, after testifying before the Lane County Hearing's Official and the Board of County Commissioners in opposition to yet another application to rezone forest land to rural residential, LandWatch members connected with a concerned neighbor who had also testified in opposition to the proposed amendment. Following the Commissioners' approval of what they were told by staff was largely an application

without merit, LandWatch determined it had no choice but to appeal the Board's decision to LUBA. With assistance from legal counsel and cooperation from the concerned neighbor, LandWatch was successful in having the decision remanded to the County. In fact, the applicants finally had to request a voluntary remand, in essence admitting they had never substantiated their burden of proof responsibilities.

Another land use approval challenge finally received its due day in court when the Fire Road decision was issued by the Court of Appeals, favorable to appellant Norm Maxwell, on behalf of the Fire Road Defense League. This huge victory for Fire Road, and the LandWatch Board, ultimately directed the developer who had threatened the Fire Road area with a mini-subdivision to ditch his plans and obey the law.

Following this well-deserved victory, LandWatch was ready to respond when board members were alerted to a 30-room lodge development proposal along Highway 242, a nationally recognized scenic highway. During a routine site visit, board members were surprised to see on adjacent land zoned for forest use—67-acre Camp Yale—a multi-unit campground (in progress) and associated multi-acre clearcut in full view of the scenic highway.

Responding to an S.O.F. (save our forest) from sever-



An example of the McDougal Brothers' destruction of forest habitat along scenic Highway 242.

al neighbors, LandWatch rallied the support of Jim Just, a board member of Friends of Linn County. With at least a dozen LUBA victories under his belt, Jim was eager, and kind enough, to offer assistance to LandWatch. Following the April 15 approval of the lodge application by the hearing's official, the LandWatch board teamed up with an affected neighbor and LandWatch member Jim Baker to appeal the decision. After a series of 'reopenings' of the record by the hearing's official (HO), and despite Jim's continual citations of legal error, the HO reaffirmed his original approval. LandWatch has forwarded the appeal to the next step, tentatively scheduled to be heard by the Lane County commissioners later in the fall.

Concurrently, with help from legal counsel, research related to the adjacent Camp Yale development was being conducted.

Results indicate several egregious legal violations which have been appealed to LUBA. In response, the County has requested two consecutive 30 day-extensions from LUBA for compiling the record related to the approvals for the development.

Through these ongoing efforts to get some transparency into the development approval process, and to ensure that only legal requests are being approved, LandWatch has already started to impact the way the LMD does business and, as a result, the environmental health of rural Lane County.

Lauri Segel

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