

Public Lands Advisory Committee
Minutes
April 22, 2021
Location: Remote via Microsoft Teams and Telephone

Committee Attendees (Present unless otherwise noted):

Chair John Brown
Representative Mark Meek
Sara King, Real Estate Management
Brady Ricks, Department of Administrative Services (DAS) Enterprise Asset Management (EAM),
Real Estate Services Manager
Senator Bill Hansel - Absent
Jennifer Blake, DAS Leasing & Property Agent

Presenters:

Dick Duncan, ODFW Realty
Laura Tesler, ODFW, Willamette Wildlife Mitigation Program Coordinator

Guests:

Tracy Wilder, DOC
Thom Martin, DOC
Elena Gerasimova,

Staff:

Darrin Brightman, DAS
Sarah Sanders, DAS
Nelly Wright Mader, DAS

Agenda Items:

A. Committee Administration

1. **Opening Remarks:** None
2. **Approval of Minutes from the July 2020 and January 2021 Minutes**

Rep. Mark Meek: Moves to adopt the July 2020 and January 2021 Minutes

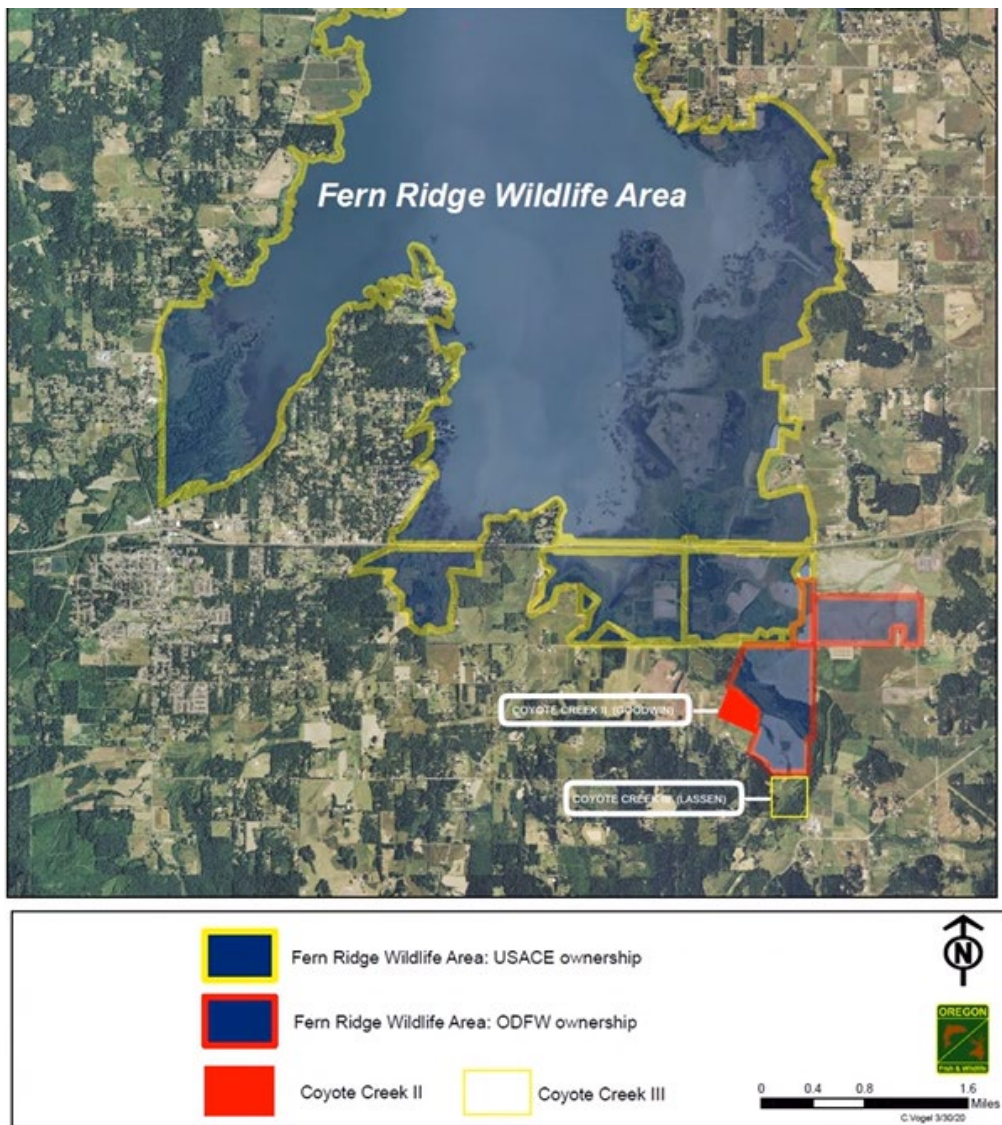
Vote: All in attendance vote aye, Minutes adopted.

B. Property Acquisition

Chair John Brown: Introduces this agenda item. Opens the discussion up to staff.

Dick Duncan, ODFW Realty: Two acquisitions that we are looking for today. Both are paid for in the same way, by the Willamette Wildlife Mitigation Program. These would be ODFW's acquisitions four and five at the Fern Ridge Wildlife area under this program. There are two properties that are essentially

adjacent to each other and adjacent to the wildlife area. One of ODFW's criteria is that they be either adjacent to an existing wildlife area or that management of them would not be an issue or would be accomplished with the funding available. One thing to keep in mind under the Willamette Wildlife Program is that the Bonneville Power Administration (BPA), which also funds an additional amount over and above the purchase price for operations. The idea is that those funds are invested and the interest covers maintenance. The two properties we have, one is Goodwin (also called Coyote Creek II) is the one in the dark red. This is a 40-acre parcel. You can see the red outline adjacent to it is the existing area....the yellow outline across the road a little to the north is the balance of the Fern Ridge Wildlife area. The red to the east is a property we acquired through this program two to three years ago. This acquisition is a fairly straightforward one. We are acquiring 40 acres by way of a preference line adjustment. The current owner is in the process now with Lane County of doing the surveys and getting that together. The price is \$224,000. This as well as the other property will close sometime between this September and the following September. Have the documentation on the sale agreements. Questions?



Sara King: My question to staff...I wouldn't mind having John comment on this as well. I am noticing that the appraisal is just about a year old. I am wondering what is the agency or State's policy on appraisals? Is that considered a stale appraisal? Do we have concerns about it? I realize values may not have changed in the last year, but that is my only question. Are we concerned that this is not a fresh appraisal?

Dick Duncan: I do not think we are concerned because the BPA, who is providing funding, is not concerned. They are the federal agency, if there was a concern, I think it would come from them. In this program, it does take so long to acquire these properties that we get to this point. BPA understands that unless they believe that there has been significant change—likely in negative direction—they have not been concerned about this in the past.

Sara King: I guess that could work to our advantage to not have a fresh appraisal in terms of acquisition price.

Dick Duncan: The acquisition price is set essentially at the time of appraisal, as the value increases obviously it is to our advantage...if the value were to decrease, there could be an issue, but I do not think that is really an issue we are facing right now.

Chair Brown: For the record – the appraisal company Duncan & Brown. I am the Brown that started that company, my name is still there, but I have no present or future contemplated interest in the outcome or in the appraisal company. I have not been at that company for ten years.

About consistency, those unit prices are right in line with what I am seeing. I have sold timber tracts I own a couple of Rye Grass land; I have no problems with the age of the appraisal. All the sales data that appraiser use have a commission involved. There is no sales commission that the seller has to pay in this, and so they are getting a 6 percent boost from the value that was estimated. I am personally comfortable with it, hopefully that allays some of your fears.

Representative Mark Meek: I appreciate the negotiations and the appraisal values...My question about the Lawson property...it states in the appraisal that there is a buildable or residential site that could be used. I am just wanting to make sure that is not the intention of ODFW, or is it the intention to put a facility on that site?

Dick Duncan: The conservation easement that BPA requires would not allow us to build. There is a question anyway of this particular one. The appraiser believes that there is possibly a buildable lot there, the city is not sure there is, but the bottom line in terms of can we or would be build? No because the conservation easement from BPA at closing when they hand us the money would prohibit that.

Representative Meek. Thank you. I was just trying to clarify that, so thanks.

Chair Brown: On the background information, you talked about BPA and the maintenance. You estimated \$7,800, but you also have a lump sum of \$162,839...that is 20 years. Does this fall back on ODFW? What happens in 20 years when the prepaid maintenance costs goes away? Who has to maintain and manage that asset?

Dick Duncan: The premise is that this the money is invested and the interest is used to manage the property. At the time this program started, interest rates were not 1 %. Would there be enough money to operate the property from those funds right now? I do not know the answer to that. But, the idea is that over time, that the principal is not touched.

Laura Tesler: We have a formula that we use to calculating the stewardship rate that we get from BPA. Our program is one of the few acquisition programs that pays stewardship in acquisition. Most acquisition programs only pay for acquisition, and so we allow applicants, including ourselves, to ask for O&M. You can ask up to \$78 per acre, so $\$78 \times \text{number of acres} \div .0479$, which is 4.79%. I have a white paper that I wrote on this entire way that we figured this calculation (based on T bill rates at the time of 2010 over a ten year average investment percentage, at 4.79%, which I admit is on the slightly high side.) We did this with the premise that you would take the stewardship money and invest it, based on the premise that it is like an annuity, where it would spin off that amount every year in perpetuity. It is not really set up on a 20-year premise; it is set up on a perpetual premise. There are also some factors in this formula to account for the special time in not spending right away, etc. (Notes that they could submit this paper if interested in the formula.) We do have special permission to invest these stewardship funds in the fund in fund in Treasury. We are allowed to invest in OTIF. Because we are allowed to invest in the OTIF fund—we are not allowed to invest in the big general OTIF fund, which requires \$10 mil, but we can get into the one below it. That allows us to maintain a pretty good interest return on our funds. Because we have an agreement that gives us operation and maintenance standard budget, we can take care of our properties until 2025 without touching that stewardship money. We foresee that we will not want to touch that money until well after 2025, and at that point we will have interest on top of the O&M that we received originally.

Chair Brown: I do not need the white paper, thank you. I have some properties subject to the Northern Spotted Owl Easement. I was wondering how the stewardship of this principal works. If the if the returns are not 4.79% each year, does principal get reduced and therefore the calculations are out the window? Or does ODFW have to backfill the difference between what the earnings are and the actual costs?

Laura Tesler: Hopefully, the way that we do have it set up, it works like an annuity. If you plan that, you have that much per year and never touch the principal, you are fine, but the second you touch the principal, it kind of destroys the annuity. We have been pretty successful in securing funding through programs such as North American Wetland Conservation Act, OWEB, local watershed counties....these properties tend to attract federal funding because they have an endangered species on them. We have been pretty clever in writing grants that attract more stewardship funding. We would like to continue doing that so that we do not have to rely on standard agency O&M. You are right; we do not have a lot of standard O&M.

Chair Brown: Mitigation credits in our particular geographic area have gone from \$52K to \$92K per acre. I noticed that you would enhance the hay field and some of those pastures and create wetlands. Are you going to sell those credits? Why wouldn't the states do that?

Laura Tesler: That is a great question; our mitigation program is totally unlike any wetland mitigation program you have ever heard of. We have a very special one of a kind mitigation agreement with BPA, which really is one of a kind. There is no other mitigation agreement like the Willamette wildlife mitigation program agreement. Our agreement does not work like a wetland bank; it works on acres

acquired. The second that these acres are acquired, BPA's mitigation requirement is satisfied, and they are out of there. The way that you are thinking about a mitigation bank is a traditional mitigation bank (developer pays \$50K per acre, then they are allowed to do mitigation, impact wetland, there is all kinds of things that go into negotiation)...our mitigation program does not work like that, and it does not consider restoration. It is a very different setup and a very different structure.

Chair Brown: Thank you...It is unfortunate because I could turn it into a lucrative financial thing for ODFW if we could, but we can't....

Laura Tesler: We would not want to compete with private mitigation banks.

Chair Brown: There is no private. It is all public. It is the City of Eugene. It is up to \$90K an acre now. (Thanks presenter)

Laura Tesler: Thank you for your question. (Invites Chair Brown to visit and notes that the City of Eugene is their partner and neighbor on one side). We have a beautiful complex and do a lot of restoration work.

Jennifer Blake: I had a question about the Goodwin appraisal. Being that this is a farmland in the 40-acre minimum zone, I am assuming that it has already been through the county where they will allow to condense this down to have the 26 or 28-acre parcel, that would be a new parcel. My concern is that in the highest best use analysis, that it is not necessarily going to be apples to apples. Having been through this situation personally and trying to build a home on a somewhat similar lot, I did not see that the evidence that the county would allow for there to be a home site after it was down to 28 acres in size. When we did the valuation, we were showing the same valuation for a home site in the after scenario. Am I missing something?

Dick Duncan; I think you may be missing that the current owners also own the adjacent property...The parcel that they would retain would be a lot more than 28 acres...

Jennifer Blake: But it has an existing home site already, correct?

Dick Duncan: It does. I think that there was quite a bit of analysis done by Duncan and Brown as to whether this home site regarding whether the home site is legitimate. He ultimately felt that it was. I will admit we are relying on his expertise on that. Tom is a very experienced appraiser down there. I tend to trust his opinion. The home site is not on our property...the remaining home site is on the property that is being retained by the sellers.

Chair Brown: Jennifer, the way I understand your question is, "Are we creating an illegal lot?" They will not let you record an illegal lot. Once you do the partition, the county will not do it if you are creating an illegal lot for an existing home site. Legal lot verification in Lane County takes about a year and a half. That is why we have this subjectivity on the buildability even on the Lassen Property. You can't, as an appraiser, get timely information. You can't stand in line for 18 months to get a question of can I build a house on this because you have to do a template test, legal lot test, and all sorts of things (septic approval and prove you have water). There are a lot of land use consultants who will not even work in Lane County. It is a challenge, an even greater challenge now. They have had to hire six more people just to deal with permitting with replacement of structures lost in the fire. I am probably the greatest critic in

this group...I could not find anything there that I could justify....sometimes you have to use exercise of professional judgement. I think that they have done that. Jennifer, did you get your answer? Are you ok with that?

Jennifer Blake: I did. I am not as familiar with the farm appraisal. I was more concerned that there was an overvaluation in the smaller lot in the after situation.

Chair Brown: I get that. It is part of the larger parcel of what they are gaining and what they are losing. There could be two different things. This is a friendly acquisition so I think when you have to make that judgment; I think they could probably partition this and create another home site. If so, it would be worth even more. That price is fine for buildable or non-buildable. Would entertain a motion.

Darrin Brightman: Notes that it would make sense to do two separate motions since there were two acquisitions on the agenda.

Motion: Sara King moves to approve the Goodwin purchase.

Vote: Unanimous aye vote, motion passes.

Motion: Sara King moves to approve the Lassen property.

Vote: Unanimous aye vote, motion passes

C. General Discussion

1. Discussion

Sara King: Did we do minutes? Did I miss them?

Chair Brown: Yes, we did the minutes at the very beginning. We did the July 2020 and January 2021 Minutes.

Sara King: Sorry I missed that. I was a bit late. Just a comment on the January 2021 minutes. It is a really minor thing, but I did note that my name was misspelled, so maybe next time we will spell it correctly.

Darrin Brightman: We will fix that. Sorry about that.

Sara King: It is all right. It is minor, but I thought I would point it out.

Representative Meek: I had a quick question. I think we had a minor discussion last year. We still have a vacancy for a land use planner on the committee. It is good to see and welcome Ms. Blake to our committee, but was there a delay in a nomination for that or are we looking for someone to fill that position?

Chair Brown: Historically, DAS Staff has reached out to seek applicants. How that goes, I think to get the geographic diversity of people, I think we are going to do that, but does someone want to comment?

Darrin Brightman: Notes that we were asked to let the Governor's Office handle it. I will speak again with our legislative liaison Adam Crawford and give him a reminder that we have that vacancy. I will also

ask him if he can attend the July meeting if you would like, so that he can give a little information on the process.

Chair Brown: I personally would like it. Would like to bring diversity to the committee.

Sara King: I am a professional land use planner, and if they are looking for names, I would probably be able to find. We could go through Chapter APA and get interest I think very easily. What we would need to know from the Governor's Office, this position has been vacant for several years, I am not worried about getting folks who are interested, and the issue is is the state willing to do something? Do they want us to find recommendations for them? How can we help them?

Representative Meek: I agree for representation and making sure the board is fully represented, I think it is helpful to keep these positions filled. I think it is just sending a reminder to the Governor's Office.

Chair Brown: Asks Darrin Brightman to initiate that contact with the Governor's Office in the interim.

Darrin Brightman: Agrees. Will talk to Adam Crawford.

Sara King: I think you did reach out earlier, but I do not think you heard anything.

Darrin Brightman: It didn't go anywhere. There was a brief period when the Governor's Office had someone they wanted to recommend from housing.

Chair Brown: Asks if there are any additional acquisitions coming?

Darrin Brightman: Has not been informed of anything that is coming yet.

2. Adjournment

Chair Brown adjourns the meeting.