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LANE TRANSIT DISTRICT REGULAR BOARD MEETING

Wednesday, December 17, 2003
5:30 p.m.

LTD BOARD ROOM
3500 E. 17th Avenue, Eugene
(off Glenwood Blvd in Glenwood)

A G E N D A

Page No.

I. CALL TO ORDER

II. ROLL CALL

Gant _____ Gaydos _____ Hocken _____ Kleger _____
Lauritsen _____ Wylie _____ Ban _____

The following agenda items will begin at 5:30 p.m.

- | | | |
|------|---|----|
| III. | PRELIMINARY REMARKS BY BOARD PRESIDENT | |
| IV. | ANNOUNCEMENTS AND ADDITIONS TO AGENDA | 04 |
| V. | BOARD CALENDARS (5 minutes) | 05 |
| VI. | WORK SESSION | |
| | A. Executive Session pursuant to ORS 192.660(1)(e), concerning real property transactions; ORS 192.660(1)(h); regarding current or pending litigation; ORS 192.660(1)(f), to consider records that are exempt by law from public inspection; and ORS 40.225, lawyer-client privilege (20 minutes) | 06 |
| | B. Next Steps for Coburg Road EmX Corridor (30 Minutes) | 07 |

The following agenda items will begin at 6:30 p.m.

- | | | |
|-------|---|----|
| VII. | EMPLOYEE OF THE MONTH – January 2004 | 08 |
| VIII. | AUDIENCE PARTICIPATION | |
| | ◆ Each speaker is limited to three (3) minutes. | |

IX. ITEMS FOR ACTION AT THIS MEETING

- | | | |
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| A. | Consent Calendar | 09 |
| | 1. Minutes of November 19, 2003, Regular Board Meeting (Page 10) | |
| B. | West Eugene Parkway Findings(10 minutes) | 16 |
| C. | Vehicle Advertising Guidelines (10 minutes) | 26 |

X. ITEMS FOR INFORMATION AT THIS MEETING

- | | | |
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| A. | Current Activities | |
| | 1. Board Member Reports (respond if questions) | 30 |
| | (a) Metropolitan Policy Committee – no December meeting | |
| | (b) BRT Steering Committee and Board BRT Committee –
December 2 Steering Committee meeting and
December 15 Board BRT Committee meeting | |
| | (c) Springfield Station Design Review Committee—no
meeting | |
| | (d) Coburg Road Stakeholder Committee – December 10
meeting | |
| | (e) Board Finance Committee – December 15 meeting | |
| | (f) Board Human Resources Committee – no meeting | |
| | (g) Region 2050 Policy Advisory Committee – no meeting | |
| | (h) Statewide Livability Forum – no meeting | |
| | 2. General Manager's Report (respond if questions) | 32 |
| | 3. Monthly Financial Report— November 2003 (5 minutes) | 34 |
| | 4. Maintenance Building Expansion Update (respond if questions) | 44 |
| | 5. BRT Update (respond if questions) | 45 |
| | 6. Springfield Station Update (respond if questions) | 46 |
| | 7. Correspondence (respond if questions) | 47 |
| B. | Monthly Department Reports (respond if questions) | 50 |
| C. | Monthly Performance Reports (respond if questions) | 56 |

- XI. ITEMS FOR ACTION/INFORMATION AT A FUTURE MEETING 61
- A. Public Relations Plan
 - B. FY 2004-05 Pricing Plan
 - C. FY 2004-05 Annual Route Review/Service Recommendations
 - D. Agenda for Joint Meetings with City Councils
 - E. Commuter Solutions Program Report
 - F. Capital Improvements Program
 - G. Coburg Road BRT Study
 - H. RideSource Facility Update (respond if questions)
 - I. BRT and Springfield Station Updates
- XII. ADJOURNMENT

Alternative formats of printed material and or a sign language interpreter will be made available with 48 hours' notice. The facility used for this meeting is wheelchair accessible. For more information, please call 682-6100 (voice) or 1-800-735-2900 (TTY, through Oregon Relay, for persons with hearing impairments).

AGENDA ITEM SUMMARY

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DATE OF MEETING: December 17, 2003

ITEM TITLE: NOVEMBER FINANCIAL STATEMENTS

PREPARED BY: Diane Hellekson, Director of Finance & Information Technology

ACTION REQUESTED: None

BACKGROUND: Financial results for the first five months of the 2003-2004 fiscal year are summarized in the attached reports.

Passenger fares trail prior year by 8.2 percent for the first five months of the current year. The drop in this resource is primarily due to the implementation of a group pass program for Lane Community College beginning with the fall term. To more appropriately track revenue performance versus current year budget, \$340,000 in passenger fare budget appropriation has been transferred to the group pass appropriation. Group pass revenues also were bolstered by an increase in revenue from the ASUO group pass contract. Ridership for the rolling twelve-month period, which ended November 30, is down by 3.5 percent, a continuation of the slight improvements reported in each of the previous four months.

Payroll tax revenues are up 5.5 percent versus last year, in part due to the taxpayer refund of more than \$500,000 that occurred a year ago that affects the comparison. Five-month payroll tax receipts are now ahead of year-to-date budget by \$100,000 due to an aggressive effort to collect taxes due for prior years. Payroll tax receipts were budgeted at last year's actual level, and there is cautious optimism that this goal will be achieved by year end. The issue regarding a payroll tax refund granted to a major taxpayer last fall and appealed by LTD in State Tax Court remains unresolved. Both parties to the dispute argued motions for summary justice (MSJ) to the Tax Court on July 21. There is no date by which a decision is guaranteed. It is very likely that the case will be resolved by MSJ.

Self-employment receipts coincide with State tax payment deadlines, none of which occurred in November, and no revenue was received. State-in-lieu funds remain 1.3 percent ahead of prior year but lag year-to-date budget slightly. This resource is expected to meet budget by fiscal year end. The next state-in-lieu disbursement will occur in early January.

Proceeds from the sale of assets (\$48,559) resulted from the sale by auction of several of the 800-series buses. The 800-series vehicles were replaced by the 18 new Gillig buses, which were delivered last spring.

Total personnel services expenditures, the largest category of operating expense, showed a positive growth of 2.9 percent through November. As previously reported, the use of contra accounts to charge administrative wages to capital projects has increased. The use of contra accounts is appropriate in order to track and record the true cost of capital projects, and, in the short term, helps reduce operating expenses. In the longer term, though, it understates the true cost of doing business because there are permanent positions currently assigned to capital projects, either full time or on a part-time basis, that will not terminate when the projects are completed, and will, therefore, increase operating expense at the conclusion of the projects. ATU wages grew 3.6 percent. Growth appears slower because the current-year budget allowed for seven home football games this year (compared to eight last year), but there were only six. Also, the number of drivers employed versus the number required by fall service is less.

Total materials and services are 5.2 percent higher for the first five months of this year as compared to last, an increase driven by insurance costs. Insurance is up due to a significant increase in workers' compensation coverage. Fuel prices contributed to the increase. Fuel was budgeted at \$.93 per gallon, but the actual price has fluctuated and remains just below \$.94 per gallon, the same as reported last month. Fuel prices are stable for the moment but do not seem to be continuing the downward move expected.

Special Transportation Fund expenses are as anticipated through November. Please note that there is approximately \$250,000 in transfer to special transportation fund appropriations in the current year that will not be required due to the maintenance of state funding at previous levels. Board members may be asked to reallocate the excess appropriation at a future meeting. Reallocation requires Board approval. Capital Projects Fund activity also was as expected. Capital Projects Fund outlays will accelerate as the Springfield Station project proceeds and bus rapid transit (BRT) begins first segment build out. Land acquisition for the RideSource facility project is expected to be finalized by the end of December.

The Finance Committee met on December 15, 2003, to continue the discussion of budget assumptions for next fiscal year and into the future for both the General Fund and the Capital Projects Fund. It was not possible to include information from that meeting in these materials, so it may be appropriate for Committee members to comment in the Board report section of the agenda.

ATTACHMENTS:

Attached are the following financial reports for November for Board review:

1. Operating Financial Report - comparison to prior year
2. Comparative Balance Sheets
 - a. General Fund
 - b. Special Transportation Fund
 - c. Capital Projects Fund

3. Income Statements
 - a. General Fund
 - b. Special Transportation Fund
 - c. Capital Projects Fund

PROPOSED MOTION: None

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AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: ANNOUNCEMENTS AND ADDITIONS TO AGENDA

PREPARED BY: Jo Sullivan, Administrative Services Manager/Clerk of the Board

ACTION REQUESTED: None

BACKGROUND: This agenda item provides a formal opportunity for Board members to make announcements or to suggest topics for current or future Board meetings.

ATTACHMENT: None

PROPOSED MOTION: None

AGENDA ITEM SUMMARY

- DATE OF MEETING:** November 19, 2003
- ITEM TITLE:** BOARD MEMBER REPORTS
- PREPARED BY:** Jo Sullivan, Administrative Services Manager/Clerk of the Board
- ACTION REQUESTED:** None
- BACKGROUND:** Board members have been appointed to the Metropolitan Policy Committee (MPC), and on occasion are appointed to other local or regional committees. Board members also will present testimony at public hearings on specific issues as the need arises. After meetings, public hearings, or other activities attended by individual Board members on behalf of LTD, time will be scheduled on the next Board meeting agenda for an oral report by the Board member. The following activities have occurred since the last Board meeting:
1. **Metropolitan Policy Committee:** LTD's MPC representatives are Board members Hillary Wylie and Gerry Gaydos, with Pat Hocken as an alternate. MPC meetings generally are held on the second Thursday of each month. The December MPC meeting was not held. The next MPC meeting is scheduled for January 8, 2004.
 2. **BRT Steering Committee and Board BRT Committee:** Board members Gerry Gaydos, and Pat Hocken, and Hillary Wylie are participating on LTD's BRT Steering Committee with members of local units of government and community representatives. The three LTD Board members also meet separately as the Board BRT Committee, and last met on December 15, 2003. Ms. Hocken chairs both committees and can provide a brief update at the Board meeting. The December meeting of the Steering Committee included updates on the various EmX corridor projects. The next meeting of the Steering Committee is scheduled for January 6, 2004.
 3. **Springfield Station Design Review Committee:** Board members Dave Kleger, Virginia Lauritsen, and Hillary Wylie participate on the Springfield Station Design Review Committee with local community representatives. The Committee no longer meets on a regular basis, but future meetings could be called to discuss specific issues concerning the station.
 4. **Coburg Road Stakeholder Committee:** Susan Ban is the Board's representative on the Coburg Road Stakeholder Committee. This committee met on December 10, 2003, to discuss a draft conceptual plan for Coburg Road. This draft conceptual plan documents the work of the committee during the last 12 months. The Committee had some

additional comments on the draft plan and will review a revised document on January 14, 2004.

5. **Board Finance Committee:** The Board Finance Committee (Pat Hocken, chair; Gerry Gaydos; and Virginia Lauritsen) met on December 15, 2003, to review financial forecast scenarios and discuss operating and capital budget issues.
6. **Board Human Resources Committee:** The Board Human Resources Committee (Gerry Gaydos, Chair; Susan Ban; and David Gant) last met in Executive Session on November 17 to discuss the performance evaluation of the general manager. A verbal report was made during Executive Session at the November 19 Board meeting. The committee will meet again in the future to discuss the general manager's compensation and employment contract for FY 2004-05.
7. **Region 2050 Policy Advisory Board:** Susan Ban is the Board's representative on the Region 2050 Policy Advisory Board (Policy Board). The Policy Board has not met since the November Board meeting. The next meeting tentatively is scheduled for February 2004. A meeting date has yet to be confirmed.
8. **Statewide Livability Forum:** Board member Virginia Lauritsen is participating on a statewide committee called the Livability Forum, as one of 12 participants from the Eugene/Springfield area. The committee has been meeting once every six months. There is no report this month.

PROPOSED MOTION: None

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: CORRESPONDENCE

PREPARED BY: Ken Hamm, General Manager

ACTION REQUESTED: None

ATTACHMENTS: The attached correspondence is included for the Board's information:

- ◆ November 19, 2003, letter from Board President Hillary Wylie to the Springfield Planning Commission regarding RiverBend Master Plan and Zone Change

At the December 17, 2003, meeting, staff will respond to any questions the Board members may have about this correspondence.

PROPOSED MOTION: None

MINUTES OF DIRECTORS MEETING

LANE TRANSIT DISTRICT

REGULAR MEETING

Wednesday, November 19, 2003

Pursuant to notice given to *The Register-Guard* for publication on November 13, 2003, and distributed to persons on the mailing list of the District, the Board of Directors of the Lane Transit District held its regular monthly meeting on Wednesday, November 19, 2003, beginning at 5:30 p.m., in the LTD Board Room at 3500 East 17th Avenue, Eugene.

Present: Hillary Wylie, President
Gerry Gaydos, Vice President
Susan Ban
Patricia Hocken, Secretary
David Gant (via telephone)
Dave Kleger
Virginia Lauritsen
Ken Hamm, General Manager
Jo Sullivan, Recording Secretary/Clerk of the Board
Kimberly Young, Minutes Recorder

CALL TO ORDER - Ms. Wylie called the meeting to order at 5:35 p.m.

ROLL CALL - General Manager Ken Hamm called the roll. Mr. Gant was not yet present, but would be present via telephone a little later in the meeting.

PRELIMINARY REMARKS BY BOARD PRESIDENT – Ms. Wylie had no remarks.

ANNOUNCEMENTS AND ADDITIONS TO AGENDA – Ms. Wylie determined there were no additions to the agenda or Board announcements.

BOARD CALENDARS – Mr. Hamm called the Board's attention to calendars of coming Board-related events. He explained that Ms. Sullivan prepared the calendars to provide the Board with the date and location of meetings and who was attending, for the sake of better coordination. He invited comments on the format. Mr. Hamm reviewed the calendar, and asked the Board to reserve the time scheduled for the Springfield Station media event on December 17.

Responding to a question from Ms. Wylie, Mr. Hamm anticipated that contract negotiations would commence after January 1, 2004, depending on the approach agreed to by the union.

Ms. Hocken noted that she would be going off the Board in 2004, and suggested that Board members begin to give thought to replacing her on the Metropolitan Policy Committee, on which she was an alternate.

BOARD DESIGNATION OF PERSONS TO NEGOTIATE REAL PROPERTY TRANSACTIONS ON BEHALF OF LTD – Assistant General Manager Mark Pangborn provided background on the item, noting that past practice was to delegate authority for negotiating such transactions to the

General Manager. He said that staff were recommending that the Board also delegate such authority to Universal Field Services (UFS), a specialist in negotiating such purchases for public agencies because of the increasing complexity of such purchases, particularly those associated with the bus rapid transit (BRT) project. He termed the action a formality.

In response to a concern expressed by Ms. Wylie, Mr. Pangborn assured her that the wording of the staff-proposed motion only empowered UFS to do what it had contracted to do with LTD.

In response to a question from Mr. Gaydos about LTD's interactions with property owners in the first phases of the project, Mr. Pangborn acknowledged that some issues had arisen, generally issues of miscommunication. He said that LTD was working to improve communications with property owners about the project, but that did not mean the property owners were happy. Staff were drafting a public response plan and would provide the Board with copies.

At the request of Mr. Gaydos, Mr. Pangborn reviewed the process through which properties were identified and eventually acquired. Frequently several parties were involved in the negotiations, which could involve, for example, driveway access, which was under the purview of the City of Eugene or the Oregon Department of Transportation (ODOT).

Responding to a question from Ms. Wylie, Mr. Pangborn said that LTD had heard no complaints about the UFS representatives' behavior or attitude; the complaints received were about the amount of property being proposed for acquisition or new limits on access.

WORK SESSION

- a. Executive Session Pursuant to ORS 192.660(1)(h); regarding current or pending litigation; Ors 192.660(1)(f), to consider records that are exempt by law from public inspection, and ORS 40.225, lawyer-client privilege**

This item was canceled.

- b. Presentation of Comprehensive Annual Financial Report**

Mr. Gant joined the Board via speakerphone at 6 p.m.

Director of Finance and Technology Manager Diane Hellekson presented this item. She introduced Charles Swank and Devin Esh of the audit firm Grove, Miller, and Swank. She noted that the independent audit was required by law and was used by LTD to create its Comprehensive Annual Financial Report. She asked the Board to disregard page 42 of the report as it replicated data on page 43, and indicated that the error would be corrected before the document was released to the public.

Ms. Hellekson called the Board's attention to the executive summary of the report, commencing on page 10 of the meeting packet. She termed fiscal year 2003 difficult but reported that after service cuts, revenues and expenditures had been brought into balance. LTD did not have to employ its reserves. She said that farebox recovery was up and was about where it should be for a system of LTD's size.

Ms. Hellekson commended Accounting Manager Carol James for her work on the document.

Mr. Swank briefly reviewed the audit process for the benefit of the Board, and emphasized that it was a system approach that relied on the tools the District had in place. He also commended Ms. James for her work on the document. He further commended the LTD Board for taking responsibility for the document. He briefly outlined the contents of the audit document, copies of which were provided to the Board members in their meeting packets.

Ms. Hocken asked Mr. Swank to comment on the single audit opinions on the federal funds. Mr. Swank said that the federal government required the auditor to examine the district's compliance with laws and regulations that apply to it, and the District's controls over its preparation of financial reporting. He said that after examination, the auditor provided a "negative assurance opinion"; in other words, nothing came to the attention of the auditor that it needed to report in those areas. In addition, the auditor must provide an opinion that LTD complied with the federal laws and regulations related to the federal program dollars it received.

Ms. Lauritsen commended changes that had made the audit document more readable.

Ms. Wylie thanked Mr. Swank and Mr. Esch, and called for a brief meeting break.

EMPLOYEE OF THE MONTH - Mark Johnson, Director of Transit Operations, introduced Ricky Jennings, LTD's Employee of the Month. Mr. Johnson said that Mr. Jennings had a perfect attendance record and was known for his extra customer service. Mr. Jennings thanked the Board for the award and said he loved his job, which he believed showed in his work, and wished that everyone felt the same about their jobs that he did.

AUDIENCE PARTICIPATION – Ms. Wylie determined that there was no one wishing to speak.

ITEMS FOR ACTION AT THIS MEETING

MOTION **Consent Calendar** – Mr. Kleger moved adoption of LTD Board Resolution No. 2003-045: "It is hereby resolved that the Consent Calendar for November 19, 2003, is approved as presented." Ms. Hocken provided the second. The Consent Calendar consisted of the minutes of the October 15, 2003, regular board meeting and Special Transportation Advisory Council membership appointments.

Ms. Hocken said that the remarks on page 9 under the Metropolitan Policy Committee report regarding Cascadia should be attributed to her, rather than to Ms. Ban.

VOTE The Consent Calendar was approved as amended as follows:
 AYES: Ban, Gant, Gaydos, Hocken, Kleger, Lauritsen, Wylie (7)
 NAYS: None
 ABSTENTIONS: None
 EXCUSED: None

Public Hearing on Public Transit Division Discretionary Grant Applications for FY 04 and FY 05 – Accessible Services Manager Terry Parker was present for the item. She called the Board's attention to the project list included in the meeting packet. She said the list had been submitted to the Oregon Department of Transportation (ODOT), and LTD was now required to hold a public hearing and forward any comments to ODOT.

Ms. Wylie opened the public hearing. There being no requests to speak, Ms. Wylie closed the public hearing.

Acceptance of Independent Audit Report for Fiscal Year Ending June 30, 2003 – Ms. Hellekson asked the board to take action to accept the audit report.

MOTION Ms. Lauritsen moved adoption of LTD Resolution No. 2003-046: “Resolved, that the LTD Board of Directors accepts the Independent Audit Report for the fiscal year ending June 30, 2003.” Ms. Ban provided the second.

VOTE The resolution was approved as follows:
 AYES: Ban, Gant, Gaydos, Hocken, Kleger, Lauritsen, Wylie (7)
 NAYS: None
 ABSTENTIONS: None
 EXCUSED: None

MOTION **Board Designation of Persons to Negotiate Real Property Transactions on Behalf of LTD** - Ms. Ban moved approval of LTD Resolution No. 2003-044: “It is hereby authorized that the LTD Board of Directors designates and authorizes employees of Universal Field Services and the LTD General Manager to negotiate real property transactions for the purchase and/or other acquisition of real property necessary for the construction of the EmX Franklin Corridor of the BRT Project.” Mr. Kleger provided the second.

VOTE The resolution was approved as follows:
 AYES: Ban, Gant, Gaydos, Hocken, Kleger, Lauritsen, Wylie (7)
 NAYS: None
 ABSTENTIONS: None
 EXCUSED: None

ITEMS FOR INFORMATION AT THIS MEETING

CURRENT ACTIVITIES

Board Member Reports

Metropolitan Policy Committee – There were no questions.

BRT Steering Committee and Board BRT Committee – The committee was scheduled to meet on December 2, 2003.

Springfield Station Design Review Committee – There were no questions.

Coburg Road Stakeholder Committee – There were no questions.

Board Finance Committee – There was no report.

Board Human Resources Committee – There were no questions at this time.

Region 2050 Policy Advisory Committee – Ms. Ban said the committee reviewed and approved the concepts behind the three growth scenarios. The committee would meet again in January and February to review the scenarios.

Statewide Livability Forum – There was no report.

Debrief Annual Board Strategic Planning Work Session – Board members briefly discussed the recent retreat. Mr. Hamm reported that consultant Don Murray had prepared some summary conclusions that staff would provide to the Board. Ms. Ban suggested the most substantive piece

of work to come out of the retreat was the work plan and related work plan items. She anticipated much discussion to come. Mr. Hamm agreed, and suggested that some of those items would impact the work of the Board's committees, such as the Finance Committee and Human Resources Committee. He invited Board comments for any follow-up to be included in the summary report.

Ms. Hocken confirmed with Mr. Hamm that the timeline viewed by the Board at the retreat would be provided to the Board members after staff review.

General Manager's Report – Mr. Hamm reported that \$6 million had been set aside in Congress for two LTD projects, the Springfield Station (\$4 million) and future BRT corridors (\$2 million).

Monthly Financial Report – Ms. Hellekson invited questions. She said that LTD was "holding its own" through the first four months of the year and should know more about total payroll tax projections in December. She said that staff would share those projections with the Board in December.

BRT Update – Mr. Pangborn provided an update, saying that LTD was working with ODOT on an intergovernmental agreement for use of ODOT facilities. Staff continued to work on property acquisitions. Undergrounding of utilities was proceeding. He said that there were many issues remaining to be resolved, and staff attempted to address them one by one.

Ms. Hocken asked what a "protected purchase" was. Director of Planning & Development Stefano Viggiano said that the Federal Transit Administration rules allowed LTD to spend money on property before all approvals were secured in order to secure property that would be unavailable or much more expensive at a later date. Ms. Hocken asked if there was a risk the Springfield corridor would not be approved when the environmental assessments were completed. Mr. Viggiano said there was always that risk, and LTD must convince the FTA that the risk was worth taking. He believed that LTD would be able to resell any excess right-of-way it acquired through the protected purchase. Seeking approval to purchase the property would not commit LTD to actually proceeding with the purchase of the property. That would be a separate Board decision.

Mr. Viggiano reported that the Coburg corridor report had been revised and mailed to members of the Coburg Stakeholders Group, which was scheduled to meet on December 10.

Springfield Station Update – Charlie Simmons, Facilities Services manager, reported that the project was on schedule. The roof had been installed. He thanked LTD Board members for attending the site tour conducted October 31. He noted that another site tour was scheduled for November 21, and invited all Board members to attend. In addition, a media event was planned on December 17 to help market the commercial space at the site.

Monthly Department Reports – Ms. Hocken asked staff to comment on a report in the monthly union newsletter regarding the use of the Automated Passenger Counter (APC) data. Andy Vobora, Service Planning and Marketing manager, said that none of the protocols regarding the use of the data had been set in place and there was no agreement on the reports that would be produced. However, rumors were being circulated about how it would be used, which staff were attempting to address. Mr. Johnson concurred, saying that there was an ongoing labor-management discussion to work through those issues.

Mr. Kleger encouraged management staff to provide union members with information about the process that was occurring.

Monthly Performance Reports – There were no questions.

EXECUTIVE SESSION – Upon a motion by Ms. Hocken and seconding by Ms. Ban, the Board entered into executive session at 7:15 p.m. pursuant to ORS 192.660(1)(i), to evaluate the employment-related performance of the general manager. General Manager Ken Hamm, Director of Human Resources Mary Neidig, and Clerk of the Board Jo Sullivan were present with the Board.

RETURN TO REGULAR SESSION – The Board returned to open session at 7:30 p.m.

MOTION **APPROVAL OF GENERAL MANAGER GOALS AND OBJECTIVES FOR 2003-04** – Ms. Hocken moved, seconded by Mr. Gaydos, that the Board adopt LTD Resolution No. 2003-047: “It is hereby resolved that the LTD Board of Directors approves the proposed General Manager Goals and Objectives for 2003-2004 as presented.”

VOTE The resolution was approved as follows:
AYES: Ban, Gant, Gaydos, Hocken, Kleger, Lauritsen, Wylie (7)
NAYS: None
ABSTENTIONS: None
EXCUSED: None

Mr. Kleger expressed appreciation to Mr. Hamm for the outstanding job Mr. Hamm was doing. Mr. Kleger observed that the external comments the Board had received about Mr. Hamm’s performance were remarkably similar to the Board’s comments, which told him that they were doing something right. He thought that Mr. Hamm had done a good job of responding to a whole slew of bad news during the year, handling things in such a good way and working with the Board to respond and make some hard choices. He said he appreciated Mr. Hamm’s work very much.

Ms. Wylie added that she wanted to express the Board’s appreciation for Mr. Hamm’s work, for the record, and said that she looked forward to a long and continuing working relationship.

ADJOURNMENT – There was no further discussion and the meeting was adjourned at 7:35 p.m. Following the meeting, the Board watched the FISH! program video.

Board Secretary

(Recorded by Kimberly Young)

AGENDA ITEM SUMMARY

- DATE OF MEETING:** December 17, 2003
- ITEM TITLE:** BRT UPDATE
- PREPARED BY:** Graham Carey, BRT Project Engineer, Development Services
- ACTION REQUESTED:** None. Information only.
- BACKGROUND:**
- EmX Franklin Corridor Design:** Staff are continuing to work with property owners along the EmX corridor to resolve outstanding issues associated with final design and property impacts.
- Final design drawings for the complete Franklin corridor are anticipated to be completed by December 19, 2003.
- Construction Budget/Schedule:** Permit approvals are expected to be complete in the next three months so utility relocation can commence early in 2004, with major construction of the EmX facility occurring in the 2004 and 2005 construction seasons. Bids still must be obtained before construction can begin in the spring of 2004.
- Phase 1 Vehicles:** New Flyer of America is still preparing the necessary documentation for a Price Audit to be undertaken by LTD Finance staff. LTD is teaming with the Cleveland, Ohio, transit system on sharing data. Cleveland is purchasing 20 New Flyer BRT buses.
- Springfield Corridor:** Staff continue to make progress with the alternatives evaluation and environmental documentation. A draft document is anticipated to be distributed for comment by June 2004. LTD and Springfield staffs have been working to develop design alternatives for the MLK Jr. Parkway and RiverBend Drive sections of the EmX route. LTD has contracted with the County to develop a design and cost estimate for a BRT lane on MLK Jr. Parkway.
- Eugene Corridor:** The revised Coburg Road Corridor Study report was distributed to Stakeholder Group members on November 19, 2003. The Stakeholder Committee met on December 10, 2003, to review the revised report. They had some additional comments and will be meeting again on January 14, 2004. It is expected that they will approve the release of the report at that time.
- ATTACHMENTS:** None
- PROPOSED MOTION:** None

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: UPDATE OF VEHICLE ADVERTISING GUIDELINES

PREPARED BY: Andy Vobora, Service Planning and Marketing Manager

ACTION REQUESTED: Approve revised vehicle advertising guidelines.

BACKGROUND: In June 2003 the Board took action allowing the expansion of vehicle advertising to include RideSource vehicles. During the review of the vehicle advertising program, staff provided the following guidelines as background information.

CHARACTER OF ADVERTISEMENTS

All advertisements shall not conflict with the laws of the United States, Oregon, or political subdivisions thereof. Contractors are specifically advised and hereby notified that the graphics, artwork, and copy of the advertisements are expected to be of professional advertising quality.

Contractor shall not pursue advertisements, exhibit material, announcements, or any other display for goods or services for placement on vehicles which, to the knowledge of the Contractor, are any of the following:

- *False, misleading or deceptive;*
- *Clearly defamatory or likely to hold up to scorn or ridicule a person or group of persons;*
- *Obscene or pornographic material, including x-rated movies, adult bookstores, or adult 900 phone numbers;*
- *In advocacy of imminent lawlessness or violent action;*
- *Promoting alcohol or tobacco commercial products;*
- *Infringement of copyright, trade dress, service mark, title or slogan; or*
- *Piracy*

Reasonable proof or clarification of factual statements contained in any advertisement, exhibit material, announcement, or any other display may be required by LTD and shall be submitted to the Fleet Services Manager before approval.

LTD also expressly reserves the sole right to refuse any advertisement that may be reasonably construed to reflect its support for a particular product, service, idea, political viewpoint, or point of view.

Advertising for persons seeking political office currently is accepted. This practice may change in the future.

Contractor must notify LTD of any rejection of advertising prior to the rejection occurring. Contractor must advise LTD's contract administrator or his/her designee verbally prior to rejection.

All advertising shall be printed and displayed in a neat and workman-like manner. The successful contractor shall maintain all displayed advertising so as to ensure its neat appearance and promptly shall remove all advertising that is worn or otherwise unsightly in appearance. LTD reserves the right to require the successful contractor to promptly remove, at the contractor's own expense, any advertising which, in the opinion of LTD, is unsightly in appearance. The successful contractor further agrees to remove dated advertising no later than fifteen (15) days following the final date of an advertised event or offer.

While reviewing these guidelines, staff noticed that ads promoting cigarettes and alcohol were excluded. With specific regard to alcohol advertising, the language was found to be contradictory to the guidelines updated by the Board in July 1982 when the Board voted four to one to allow the promotion of beer and wine. No further revisions to the advertising guidelines could be found, so how the exclusion of alcohol ads crept back into the guidelines is unknown. The bottom line appears to be that LTD would have a very difficult time defending a position in which an ad for alcohol or cigarettes was rejected.

In order to validate the guideline language, staff requested a guidelines review by District counsel at Arnold Gallagher Saydack Percell Roberts and Potter, P.C. Enclosed for Board members is a report from Megan McAlpin of that firm. Lead Counsel Roger Saydack concurs with Ms. McAlpin's recommendation, which essentially states that the guideline language needs to be revised in a way that meets the stricter Oregon Constitution and addresses the "effect of speech" rather than speech itself. Exceptions would be where the constitution specifically prohibits the content of speech. The example cited was defamatory content directed at a person or group of persons.

The recommended guideline changes simply position LTD to better defend itself in the event a legal challenge is brought against the District based upon an action to reject a particular bus advertisement.

With respect to the issue of alcohol advertising, the LTD Leadership Council has directed staff to communicate with Obie Transit Advertising staff that they may pursue advertisers of alcoholic products. Obie staff has indicated that there may be strong interest among both local and national advertisers of alcoholic products. A strong response from this market segment should allow Obie to generate additional revenues and begin paying LTD the amount of revenue that originally was guaranteed in the contract. During the past two years, LTD has accepted \$120,000 in transit advertising space in lieu of cash. Converting this trade back into cash would be very helpful in maintaining service during the current squeeze on the operating budget. LTD marketing proactively will provide information to the local media, our jurisdictional partners, and local agencies to ensure that there is a good understanding about why LTD is allowing these types of ads to appear on the buses.

The following language will replace the current guidelines:

CHARACTER OF ADVERTISEMENTS

All advertisements shall not conflict with the laws of the United States, Oregon, or political subdivisions thereof. Contractors are specifically advised and hereby notified that the graphics, artwork, and copy of the advertisements are expected to be of professional advertising quality. LTD requests the contractors to submit outlines for proposed advertising standards/guidelines and to note how they would strive to limit questionable advertising.

Contractor shall not pursue advertisements, exhibit material, announcements, or any other display for goods or services for placement on vehicles which, to the knowledge of the Contractor, are any of the following:

- 1. Advertisements that have the effect of misleading or deceiving the public;***
- 2. Defamatory;***
- 3. The public display of obscene or pornographic material;***
- 4. Likely to produce imminent lawlessness or violent action;***

5. *Promote illegal drugs, underage drinking, underage tobacco use or driving under the influence of intoxicants;*
6. *Infringement of copyright, trade dress, service mark, title or slogan; or*
7. *Piracy.*

Reasonable proof or clarification of factual statements contained in any advertisement, exhibit material, announcement, or any other display may be required by LTD and shall be submitted to the Director of Maintenance before approval.

Contractor must notify LTD of any rejection of advertising prior to the rejection occurring. Contractor must advise LTD's contract administrator or his/her designee verbally prior to rejection.

All advertising shall be printed and displayed in a neat and workman-like manner. The successful contractor shall maintain all displayed advertising so as to ensure its neat appearance and promptly shall remove all advertising that is worn or otherwise unsightly in appearance. LTD reserves the right to require the successful contractor to promptly remove, at the contractors own expense, any advertising that, in the opinion of LTD, is unsightly in appearance. The successful contractor further agrees to remove dated advertising no later than fifteen (15) days following the final date of an advertised event or offer.

RESULTS OF RECOMMENDED ACTION:

The revised guidelines will be provided to the vehicle advertising contractor for use in evaluating future advertising.

ENCLOSURE:

Memorandum from Megan McAlpin to Roger Saydack (enclosed separately for Board members)

PROPOSED MOTION:

I move the following resolution 2003-050: It is hereby resolved that Lane Transit District's vehicle advertising guidelines be revised as presented on December 17, 2003.

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: BOARD CALENDARS

PREPARED BY: Jo Sullivan, Administrative Services Manager/Clerk of the Board

ACTION REQUESTED: Discussion of Board member participation at LTD and community events and activities

BACKGROUND: At the Board's November 2003 strategic planning work session, the Board asked to have time early on each month's agenda to discuss a schedule of coming meetings, events, and activities. Board members are asked to coordinate the enclosed calendars with their personal calendars and then bring the LTD calendars to the Board meeting for discussion.

At the December 17 meeting, Board members and staff will work together to schedule Board member and staff attendance at specific events, meetings, and activities.

ATTACHMENT: Board calendars are included as a separate document for Board members only.

PROPOSED MOTION: None

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: CONSENT CALENDAR

PREPARED BY: Jo Sullivan, Administrative Services Manager/Clerk of the Board

ACTION REQUESTED: Approval of Consent Calendar Items

BACKGROUND: Issues that can be explained clearly in the written materials for each meeting, and that are not expected to draw public testimony or controversy, are included in the Consent Calendar for approval as a group. Board members can remove any items from the Consent Calendar for discussion before the Consent Calendar is approved each month.

The Consent Calendar for December 17, 2003:

- Approval of minutes: November 19, 2003, regular Board meeting

ATTACHMENT: Minutes of the November 17, 2003, regular Board meeting

PROPOSED MOTION: I move that the Board adopt the following resolution:

LTD Resolution No. 2003-048: It is hereby resolved that the Consent Calendar for December 17, 2003, is approved as presented.



*Lane Transit District
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COBURG ROAD EmX PLANNING OPTIONS

Prepared by Stefano Viggiano, Director of Development Services
December 17, 2003

Staff have been working with a Stakeholder Group to investigate a possible BRT line along the Coburg Road corridor. The Stakeholder Group has been meeting for more than one year. A report of the Stakeholder Group's work, a Coburg BRT Corridor Study, is currently under review and is expected to be approved for release by the group in January 2004. Under the current schedule, the project would be "on hold" for about a year, starting up again in January 2005 with detailed segment planning. This schedule is designed to result in project approval in 2009, when funding for final design and construction may be available.

There has been a substantial amount of controversy surrounding the project. Some business and property owners along the corridor have expressed concern regarding the possible impact of the EmX line on access and property. These concerns have been voiced repeatedly in various venues.

Staff suggest that the Board discuss the appropriate next steps in the corridor planning process. Outlined below are three options for the Board's consideration.

1. Continue with the process as planned

Under this option, there would be no further work on this corridor until 2005. The process then would proceed into the detailed planning segment work in 2005 and the environmental review in 2007.

2. Consider other corridors

This option suggests that one or two other corridors be considered for the next Eugene corridor. These corridors then would be compared with Coburg Road and a decision would be made on the best corridor to pursue next. Since direction to pursue the Coburg Road corridor came from the Eugene City Council and the LTD Board, those two groups would have to direct this change. The decision on the site for the new McKenzie-Willamette Hospital could lead to reconsideration of the next BRT corridor to be pursued in Eugene.

3. Consider an "EmX Lite" design for the Coburg Road corridor

Under this option, the EmX design along certain sections of Coburg Road would not have exclusive right-of-way. Those sections still could have signal priority, queue-jumpers, wider stop spacing, level boarding, and other elements of bus rapid transit. This approach would be considered as an incremental step toward the establishment of a more complete EmX system on Coburg Road at some point in the future.

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: NEXT STEPS FOR COBURG ROAD EmX CORRIDOR

PREPARED BY: Stefano Viggiano, Director of Development Services

ACTION REQUESTED: None. Information and discussion only.

BACKGROUND: The Coburg Road BRT Stakeholder Committee has been meeting since September 2002 to discuss a possible BRT line along the Coburg Road corridor. At their last meeting on December 10, 2003, the Stakeholder Committee reviewed a report documenting their work and deliberations. The report includes a discussion of corridor priorities and evaluates the compatibility of various bus rapid transit (BRT) design options with those priorities. The Committee had some additional suggested revisions to the document and will be meeting again on January 14, 2004 to review a revised document and to possibly take action to approve the release of the report. A copy draft report that includes the latest revisions will be distributed at the Board meeting.

This work session is intended to discuss possible next steps for the Coburg Road EmX corridor. Options include proceeding to detailed corridor planning (preliminary engineering), considering other corridors, or considering a less extensive BRT design for Coburg Road. More detail about each of these options will be presented at the Board meeting.

The decision regarding the next steps for BRT on Coburg Road will need to be made in coordination with the City of Eugene. A joint meeting of the LTD Board and the Eugene City Council is scheduled for February 23, 2004. That meeting will provide an opportunity to discuss the issue and, possibly, reach a decision. Prior to that meeting staff intend to review the Coburg Road report and discuss options for next steps with the BRT Steering Committee and the Eugene Planning Commission.

ATTACHMENTS: None

PROPOSED MOTION: None



Lane Transit District
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MONTHLY DEPARTMENT REPORTS

December 17, 2003

GOVERNMENT RELATIONS

Linda Lynch, Government Relations Manager

STATE

State Ballot Measure 30 will be voted on by February 3, 2004. This is the \$800 million revenue package the legislature enacted late in the 2003 session. Their action has been referred to the people for a vote. If you support the tax, you would vote yes.

Tony Corcoran's departure from the Legislature and Floyd Prozanski's appointment to the Senate seat has created a vacancy in the House of Representatives from south Eugene. This is certain to be highly contested for the appointment and in the election.

FEDERAL

Appropriations The House voted on December 8 to approve an omnibus budget bill. The Senate deferred action on the same bill until January, forcing the government to operate on a continuing resolution until that time.

The Omnibus Budget bill contains the conference report on transportation appropriations, identifying a total of \$6,750,000 for Lane Transit District. The funds are divided into three parts, with \$4 million for Springfield Station, \$2 million for Phases II and III of Bus Rapid Transit and \$750,000 under a generic Bus and Bus Facilities category. These funds are assumed to require a 20 percent local match.

Reauthorization of TEA-21 The House Transportation and Infrastructure Committee has released a draft of its reauthorization bill, named TEA-LU (Transportation Equity Act: a Legacy for Users). (The bill is named for Lu, the wife of Committee Chair Don Young, R-Alaska.) The Senate Environment and Public Works Committee has marked up the highway portion of the bill also, but because there are four Senate committees that must act to complete such a bill, there is still a lot of work to do. The current bill has been extended until February 29, 2004, and it remains uncertain whether the Congress will act on a long-term bill early in the year or if another extension will be enacted. If there is a long-term extension, the status of projects needing full-funding grant agreements, continuing appropriations, or new authorizations, also is unclear.

Planning for 2004 The coalition of local governments that lobby together in Washington is planning for the March 2004 trip. A detailed project list should be available for Board review in January. Lane Transit District will continue to pursue funding for the Pioneer Parkway EmX Corridor. If TEA-21 is not reauthorized in 2004, the District will seek funds to continue work on the project until it is fully funded.

DEVELOPMENT SERVICES

Stefano Viggiano, Director of Development Services

ACCESSIBLE SERVICES

Terry Parker, Accessible Services Manager

Tara Sue Salusso has been hired as the new director of South Lane Wheels located in Cottage Grove. Ms. Salusso recently relocated to Cottage Grove from Napa, California, where she helped initiate an Early Head Start Project and worked with the Napa Valley Coalition of Non-Profit Agencies. She holds a degree from the University of Montana - Montana Tech in Technical Communications. LTD contracts with South Lane Wheels to operate transit services in rural south Lane County using federal and state funding from the Small City and Rural Assistance and Special Transportation Fund for the Elderly and Disabled programs, respectively.

COMMUTER SOLUTIONS

Connie B. Williams, Program Manager

Group Pass Program:

- Currently has 41,200 individuals representing 45 businesses/institutions
- Two new businesses have joined the program: Industrial Adhesive with 60 employees and Lunar Logic with 50 employees

Vanpool:

- Valley VanPool has launched a new Eugene to Salem vanpool with 10 full-time passengers. This is the second Eugene to Salem vanpool. Valley VanPool now has a total of 11 operating vanpools carrying approximately 110 riders.

Commuter Solutions is working with staff from the Oregon Department of Energy and ODOT to present a workshop in early 2004 on tax benefits for transportation programs, improvements, and facilities. The goal is to have transportation, planning, development staff, chambers of commerce representatives, public agency and non-profit representatives, and developers in attendance so they can all learn how to use the tax benefits available to them.

Commuter Solutions was a co-sponsor of the City of Eugene's *Business Commute Challenge 2003*. Thirty-five percent of LTD's employees biked, carpoled, walked and rode the bus to work for one week (an increase of 11 percent over last year) beating out Peace Health, the City of Eugene, and LTD's challenger, *The Register-Guard*.

A *Diamond Express* survey was completed and tabulated. Ridership has increased from the summer months by 49 one-way trips. A second community-wide survey will be mailed out in January 2004 asking community members about their awareness and impressions of the *Diamond Express*. Commuter Solutions and Accessible Services continue to work jointly on this project.

A budget sub-committee of the TDM Advisory Committee has been formed to work on short-term and long-range funding and budget.

Smart Ways to School sites have been selected as follows:

- Douglas Gardens Elementary
- Guy Lee Elementary
- Thurston Elementary
- Thurston Middle
- Corridor Elementary
- Meadowlark Elementary
- Cal Young Middle
- Roosevelt Middle
- Cascade Middle

Commuter Solutions will participate as a co-sponsor of the Walkable Communities Workshop to be held in the Eugene-Springfield area in the Spring of 2004. The Lane Council of Governments was awarded a grant by the National Center for Bicycling & Walking (NCBW). The NCBW grant provides approximately \$20,000 of technical assistance to hold a series of half-day workshops, which will include participation by elected officials, local government staff, and citizens. The workshops will focus on developing bicycle and pedestrian safety solutions for eight selected focus areas in Springfield, Eugene, and Coburg. The four areas on which the workshops will focus are:

- LTD Station and vicinity (Downtown Eugene)
- Willamette Street, Eugene (24th Avenue to 29th Avenue)
- Gateway Boulevard, Springfield
- Main Street, Springfield (28th Street to 42nd Street)

SERVICE PLANNING AND MARKETING

Andy Vobora, Service Planning and Marketing Manager

Winter Bid – The number of service hours needed to fix the current running time issues has been determined to be eight hours per weekday. Following the blocking work (arranging of trips together), staff have been able to create a net service change of only 4.5 hours of service per weekday. Due to the arrival schedule of the articulated vehicles, no additional efficiency gains are available winter bid. The buses will be phased into service and will provide greater capacity; however, the number of trips will remain the same. Changes will occur in future bids and some efficiency will be gained.

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Special Service – The final home University of Oregon (UO) football game has come and gone. This season established a new record for average ridership, which is summarized in the chart below (broken down into ridership from each Park & Ride location):

Pre-game rides	RRS	CIVIC	LCF	VRI	VRC	SPFD	Clarion	THS	ECF	SMS	ES	Total
Nevada	1389	1294	926	817	2151	760	1260	1027	803	985	503	11,915
Michigan	1181	1215	811	1097	1288	682	1281	693	751	820	368	10,187
Washington State	1283	1216	846	1262	1216	706	1189	788	731	754	558	10,549
Stanford	1263	1122	779	1066	1237	674	1040	706	827	724	449	9,887
California	1300	1118	744	1152	1146	670	1180	711	581	708	453	9,763
Oregon State	1217	1112	796	1699	913	606	1255	658	694	661	479	10,090
Season Average												10,399

Discussions with the developer of the proposed UO basketball arena and the transportation planning team have begun. LTD staff are developing operating scenarios that would account for a range of ridership between 1,000 and 4,000 fans per game. It is highly likely that some combination of LTD and Laidlaw buses will need to be employed to make this service work. The UO is pushing ahead quickly in order to submit plans to the City of Eugene and to begin the conditional use permit process. The UO hopes to submit plans in January and still hopes for construction in 2005-06 and an opening of the arena in the fall of 2006.

ASUO Group Pass – The Associated Students of the UO budget process has begun. The student government has accepted budget proposals for the 2004-05 school year. The LTD request is to add an additional \$1.25 to the current price of \$8.75 per student, per term. If approved, this change will result in approximately \$70,000 in additional fare revenue. LTD’s hearing before the ASUO program finance committee is scheduled for January 26, 2004.

Fare Program Discussions – Staff are reviewing several issues related to the implementation of the District’s reduced fare program, the SSI program, and the private, non-profit fare discount program. Revisions to one or all of these programs may occur in the near future. The Board will be kept apprised of these discussions and of potential impacts to those who participate in these programs.

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FACILITIES SERVICES

Charlie Simmons, Facilities Services Manager

Passenger Boarding Facilities-- Specifications are being developed to bid the fabrication of the transit shelters. The new contract will be renewable for up to five years. Once the bid is awarded, it is our intent to replace as many as 25 shelters per year during the next three years. The new shelters will be glassless, and this capital improvement will reduce shelter operational expenses over time.

Construction at the Eugene Station, bay "I", began December 15th. The scope of the work is to extend the bay to accommodate the New Flyer articulated buses that will go into service this next year. Construction has been planned to be completed by January 5th.

TRANSIT OPERATIONS

Mark Johnson, Director of Transit Operations

EMERGENCY DRILL

On October 29, LTD participated in an emergency drill with several other agencies and jurisdictions to test the area-wide response to a terrorist attack at the Moshofsky Center prior to a UO home football game. The scenario was a poisonous gas that was discharged through the HVAC system at the Moshofsky Center when several hundred people were present. The drill was funded through a grant that LTD received from the FTA for multi-agency emergency drills. The drill was very successful at identifying areas of weakness in the capability to respond to this type of emergency. It is clear that there is quite a bit of work that needs to be done in the areas of communication and coordination to respond effectively to a local disaster.

The drill provided an excellent opportunity for LTD to work closely with other agencies and to help them better understand what transit has to offer in an emergency situation.

MAINTENANCE

Ron Berkshire, Director of Maintenance

There is no Maintenance report this month.

FINANCE AND INFORMATION TECHNOLOGY

Diane Hellekson, Director of Finance and Information Technology

The monthly Finance and Information Technology reports are included elsewhere in the agenda packet.

HUMAN RESOURCES

Mary Neidig, Human Resources Director

High priorities for the Human Resource Department during November included supporting the Human Resource Committee's evaluation of the general manager, as well as the Board of Directors' retreat. Several telephone contacts were made with community leaders.

The HR Department staff began strategic planning efforts with a half-day meeting to map the many duties handled by HR. This process will be completed in January, to include setting of priorities and development of an implementation plan.

A new system was jointly designed with the Finance Department that allows administrative employees to donate unused Combined Administrative Leave hours to other administrative employees who qualify under LTD's policy.

A new Step 3 Grievance process was begun with ATU representatives. This additional informal step will allow LTD and ATU to review grievances jointly before they go to arbitration, in the hopes the issue can be resolved.

The Human Resource Director attended a five-day training workshop on Pension Trusts, including a two-day seminar for new trustees. Of special note is that trustees representing both LTD and ATU attended, creating an opportunity for valuable discussions. The HR Director also attended the third monthly meeting of the Eugene-Springfield Chamber Leadership Program at the Serbu Center, and steering committee meetings for the upcoming Eugene Chamber's Work Trends Conference.

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: JANUARY 2004 EMPLOYEE OF THE MONTH

PREPARED BY: Jo Sullivan, Administrative Services Manager/Clerk of the Board

BACKGROUND: January 2004 Employee of the Month: Bus Operator Bob Prine was selected as the January 2004 Employee of the Month. He was hired by the District in June 1992 and has earned awards for eight years of safe driving. He also was a recipient of the Accessible Service award in 1997 and 2002. In addition to his driving duties, Bob works as an instructor and a temporary supervisor. He was nominated for this award for going way beyond the regular call of duty to help an elderly gentleman during a wheelchair lift training session. During the session, the control box on the guest's wheelchair broke, leaving him with no way to get home. Bob pushed the gentleman's wheelchair several blocks (up hill) to get him safely home, and then assisted the gentleman into his home and near a telephone so that he could call for help. It also was noted that Bob is very conscientious and always gives his best.

When asked to comment on Bob's selection as Employee of the Month, Transit Operations Field Supervisor Shawn Mercer said:

In my role as an LTD field supervisor, I have had the opportunity to observe Bob Prine on many occasions. I have always admired his easy manner in dealing with any and all of our guests. He has that knack of knowing how to put people at ease and make them want to ride with him again. He uses that same easy manner in effectively offering guidance and training to LTD's new operators when wearing his instructors' hat. New as well as experienced operators feel comfortable in approaching Bob with questions about their responsibilities and the role expected of them. I also have had many opportunities to witness Bob in his role as an LTD temporary supervisor. Bob tackles difficult situations without a second thought and usually comes up smiling at the end of the day. I can speak for the majority in stating that it is a pleasure to work closely with Bob. He is an excellent selection as LTD's Employee of the Month.

Deleted: Supervisor Sue Quick said:

Our congratulations to Bob on his selection as the January 2004 Employee of the Month!

AWARD: Bob will attend the December 17, 2003, meeting to be introduced to the Board and receive his award.

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: WORK SESSION: EXECUTIVE SESSION PURSUANT TO ORS 192.660(1)(e); ORS 192.660(1)(f); ORS 192.660(1)(h); and ORS 40.225.

PREPARED BY: Ken Hamm, General Manager

ACTION REQUESTED: That the Board move into Executive (non-public) Session pursuant to ORS 192.660(1)(e), to conduct deliberations with persons designated by the governing body to negotiate real property transactions; ORS 192.660(1)(h), to consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed; pursuant to ORS 192.660(1)(f), to consider records that are exempt by law from public inspection; and pursuant to ORS 40.225, lawyer-client privilege.

ATTACHMENT: None

PROPOSED MOTION: I move that the Board meet in Executive Session pursuant to ORS 192.660(1)(e), to conduct deliberations with persons designated by the governing body to negotiate real property transactions; ORS 192.660(1)(h), to consult with counsel concerning the legal rights and duties of a public body with regard to litigation or litigation likely to be filed, pursuant to ORS 192.660(1)(f), to consider records that are exempt by law from public inspection; and pursuant to ORS 40.225, lawyer-client privilege.

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: MAINTENANCE BUILDING EXPANSION UPDATE

PREPARED BY: Charlie Simmons, Facilities Services Manager

ACTION REQUESTED: None. Information only.

BACKGROUND: Hyland Construction mobilized on the site in October. Demolition has been completed on the east elevation, and new footing and steel are being placed in December. The east exterior of Bay #1 through Bay #4 will move approximately 25 feet farther east to accommodate the extra length of the articulated buses. Work has been proceeding on schedule; however, we have experienced some unforeseen conditions that are normal in remodel or expansion projects. The project is scheduled to be complete March 1, 2004.

At 5:00 p.m., on December 17, prior to the start of the December Board meeting, staff will be available for tours of the fleet expansion. If Board members would like to tour the project site, please contact staff at 682-6100.

ATTACHMENT: None.

MOTION: None.

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: ITEMS FOR ACTION/INFORMATION AT A FUTURE MEETING

PREPARED BY: Jo Sullivan, Administrative Services Manager/Clerk of the Board

ACTION REQUESTED: None at this time

BACKGROUND: The action or information items listed below will be included on the agenda for future Board meetings:

- A. **Public Relations Plan:** A proposed public relations plan will be brought to the Board for approval at the January 21, 2004, meeting.
- B. **FY 2004-05 Pricing Plan:** Proposed changes to the LTD Pricing Plan will be discussed with the Board at the January 21, 2004, Board meeting.
- C. **FY 2004-05 Annual Route Review/Service Recommendations:** A preliminary discussion with the Board will be held at the January 21, 2004, meeting. A public hearing and approval of the service recommendations will be scheduled for February 18, 2004.
- D. **Agenda for Joint Meetings with City Councils:** A work session will be scheduled in January 2004 to prepare for a joint meeting with the Eugene City Council to be held on February 23 and a joint meeting with the Springfield City Council scheduled for May 24, 2004.
- E. **Commuter Solutions Program Report:** A presentation on the Commuter Solutions program will be scheduled for the January 2004 Board meeting.
- F. **Capital Improvements Program:** The FY 2004-05 Capital Improvements Program will be discussed with the Board in January or February 2004.
- G. **Coburg Road BRT Study:** Results of a Coburg Road BRT Study will be presented to the Board at a future meeting, possibly in January or February 2004.

- H. **RideSource Facility Update**: Staff will provide an update on the RideSource facility project within the next few months, after more progress has been made on the project.
- I. **BRT and Springfield Station Updates**: Various action and information items will be placed on Board meeting agendas during the design and implementation phases of the bus rapid transit and Springfield Station projects.



LTD General Manager's Report to the Board of Directors

December 17, 2003

Prepared by Ken Hamm, General Manager

FUTURE DATES TO REMEMBER

December to January	Have a Happy Holliday Season!
January 19, 2004	LTD Special Board Meeting (tentative)
January 21, 2003	LTD Regular Board Meeting
February 1-3, 2004	APTA General Manager, Board Member, & Board Support Workshops

INTERNAL ACTIVITIES

Public Relations (PR) Plan

Subsequent to the LC and Board retreats, departmental teams now are applying the final details to the Action Plan or "Road Map" (as consultant Don Murray called it). Jenny Ulum of Ulum & Associates met with staff December 5th to begin putting some shape to the PR effort, both short range and long term. The Board will have a major role in the PR effort and will be briefed regularly and asked to carry out assignments when the planning is finalized.

County Road Funds

The Board asked staff to determine if Lane County Road Funds could be used to build BRT lanes. The short answer is "maybe." The rules are stringent around the use of gas tax dollars. Those funds can be used only for roads and highways. An opinion letter from the Oregon State Attorney General's office does not clarify whether roadways used only by transit would qualify for gas tax funding. Without some indication from the County of its interest in using road funds for BRT, staff are reluctant to expend the legal dollars to explore the issue further.

EXTERNAL ACTIVITIES

BRT Briefings

State Representative Terry Beyer and former Representative Al King visited LTD for a briefing on bus rapid transit.

United Front

Jim Smith and Kirk Bailey from Smith, Dawson & Andrews met with LTD leadership on November 20th to strategize about the District's congressional priorities for next year.

United Way Board

Continuing my United Way Board responsibilities, I attended the December 4 United Way Annual Meeting.

Airline Service

On December 8th, I attended the Eugene Chamber of Commerce's briefing on airline service to Eugene and the effort to bring Delta Airlines' service to Eugene.

Oregon Transit Association

On December 9th, Government Relations Manager Linda Lynch and I attended the monthly meeting of the Oregon Transit Association. Key discussion items were reauthorization of the federal transportation bill, distribution of state funds for bus replacement, TDM funds, and continuing priorities with the Oregon transportation commission.

APTA Committee

I participate on the APTA GM/Board Member Seminar Program Committee. On December 10th, we met by teleconference to finalize the agenda for the first-ever combined meeting of general managers and Board members.

BRT Update- December 17, 2003 (Handout - LTD Board meeting)

Property Acquisition

On October 25, 2003, information letters were sent to 14 property owners representing 29 properties affected by property acquisition for the Franklin Corridor. During the appraisal phase, it was determined that Public Utility Easements (PUE) for some of the properties were omitted from the design and needed to be included before the appraisal work could proceed. Although the PUE is not land that is acquired, there is an impact on the property owner that could require compensation.

While the revisions are being made, information letters were resent this week to 11 property owners to once again start the acquisition process. The owners represent 23 different tax lots. The letters start a 15-day period when owners can contact Duncan & Brown, the appraisers, and request to be present when the appraisal work begins. Appraisals are scheduled to begin on December 29, 2003.

Potholing

The potholing for the Franklin section took place on November 4, 5, 6, and 10, 2003. The purpose of potholing is to locate underground utilities and determine their depth. This test also identifies any underground utility that needs to be moved prior to construction.

The contractor, Vac-X, conducted tests at 18 different locations and located all the potential conflicts that were indicated by the designer.

Root Pruning

The purpose of root pruning is to trim tree roots that will be affected by construction. This procedure was recommended by the Eugene arborist Nathaniel Sperry. Root pruning will help ensure that the trees will survive construction. Mr. Sperry will be coordinating with the City of Eugene and the Oregon Department of Transportation for any traffic issues that may need to be mitigated. Approximately 37 trees are scheduled for root pruning. The locations of the trees are E 11th Ave. near Dad's Gate (UO), Franklin Blvd., and the median from Onyx to Walnut. This work will begin the second week of January.

Memorandum of Understanding (MOU)

The Memorandum of Understanding with the City of Eugene regarding the intersection of E. 11th and Alder is ready to be signed by all parties this week.

Landscaping on South A Street, Springfield

The median just east of the bridge into Springfield will be landscaped and maintained by LTD for the first two years while the plants settle and establish root systems. After that, the City of Springfield will maintain the plants.

The median on Franklin at Moss belongs to ODOT. Discussions on how best to plant and maintain this area are ongoing with ODOT.

Undergrounding Utilities

An agreement for the undergrounding of utilities between Onyx and Agate has been signed by LTD, EWEB, and the City of Eugene. It requires that the undergrounding be complete by June 30, 2004. EWEB will be managing the project.

LTD's plans were submitted to EWEB last month. EWEB is currently at 35 percent of its design. When the plans are complete, they will be forwarded to the private utilities, such as Comcast and Qwest, so their needs can be added. As soon as the needs are identified by all utilities, LTD can begin meeting with property owners to discuss the plans and receive input from them. From there the plans will go to the City for approval.

Vehicle

New Flyer Industries Limited announced this week that Harvest Partners, Inc., and Lightyear Capital, L.L.C., both New York-based leading private equity firms have entered into agreements to acquire New Flyer Industries Limited from KPS Special Situations Fund. The acquisition is expected to close in the first quarter of 2004.

The acquisition by Harvest and Lightyear represent a change in ownership but not a change in leadership, direction, and operation of the company. LTD will continue to work with the same staff at New Flyer. The change in ownership means a more stable long-term financial platform for New Flyer, which is good news from LTD's perspective.

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: MONTHLY PERFORMANCE REPORTS

PREPARED BY: Ken Hamm, General Manager

ACTION REQUESTED: None

BACKGROUND: In response to a request by the Board for regular reporting on the District's performance in several areas, monthly performance reports are provided for the Board's information. The November 2003 performance reports are included in the agenda packet.

Staff will be available at the meeting to respond to any questions the Board may have.

ATTACHMENTS: November 2003 Performance Reports

PROPOSED MOTION: None

**PLEASE
REMEMBER TO
BRING YOUR
CALENDAR TO
THE BOARD
MEETING.**

Thanks.

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: SPRINGFIELD STATION UPDATE

PREPARED BY: Charlie Simmons, Facilities Services Manager

ACTION REQUESTED: None. Information only.

BACKGROUND: The fourth month of construction has been completed. John Hyland Construction has completed the roof of the LTD/retail building. The building is scheduled to be enclosed by February 2004. The interior curbs and footing of the platform area are complete, and structural steel is scheduled to start this month. All work is on or ahead of schedule.

LTD will host a Springfield Station mid-construction event on Wednesday, December 17, beginning at 11:30 a.m. Prospective retail tenants, commercial realtors, media representatives, local officials, LTD Board members, and project partners will gather at the Springfield Chamber Depot for a brief project presentation featuring Springfield Mayor Sid Leiken, followed by a walking tour of the construction site. The goal of the event is to generate interest in the site as a retail location and to maintain the positive support and anticipation of the project by the media and key individuals in our community.

December tours of the site are being scheduled for Friday, December 19, at noon. If Board members would like to tour the project site, please contact LTD staff at 682-6100.

ATTACHMENT: None.

MOTION: None.

Exhibit A
To LTD Resolution 2003-049

Remand Response and Explanation of Findings
Supporting Resolution 2002-028

Introduction

In July 2002, the City of Eugene, the City of Springfield, Lane County and Lane Transit District (the “local governments”) took actions that collectively amended TransPlan, Lane Transit District (“LTD”) took action to amend the TransPlan by adopting Resolution No. 2002-028. The local government actions were appealed to the Land Use Board of Appeals (“LUBA”). On March 24, 2003, LUBA issued its decision upholding the local government actions on most of the issues raised, but remanding the actions based on four of the issues raised by petitioners. Only three of those issues are relevant to Lane Transit District’s actions. Lane Transit District does not address Assignment of Error 5, 6, or 7 since Lane Transit District is not a party to and did not adopt amendments to the West Eugene Wetlands Plan. The petitioners appealed LUBA’s decision to the Court of Appeals. On August 27, 2003 the Court of Appeals affirmed LUBA’s decision, without providing a written opinion. The petitioners did not seek Supreme Court review of the Court of Appeals’ decision. The appellate judgment of the Court of Appeals became effective October 7, 2003 and LUBA issued a notice of appellate judgment on October 8, 2003 that indicated the appellate judgment required no change to the earlier LUBA decision. None of the issues on remand require the local governments to reopen the record for additional evidence. For each of the issues remanded by LUBA and set forth below, the local governments describe findings already adopted to support the actions taken or, as necessary, provide some additional explanations of those findings or the evidence in the record which supports the findings already adopted.

Subassignment of Error 1(d)

Petitioners argued that the local governments inadequately addressed Statewide Planning Goal 2, Part II(c)(4) when they adopted exceptions to Statewide Planning Goals 3, 4, 11 and 14. Specifically, Petitioners argued that the findings relating to Goal 3 (Agricultural Lands) were deficient with respect to the impacts of the Modified Project alignment on adjacent agricultural uses.

Criterion on remand: Statewide Planning Goal 2, Part II(c)(4):

“A local government may adopt an exception to a goal when: * * *

“(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.”

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LUBA’s direction on remand:

“Although we might be able to locate an adequate response to this subassignment of error from the many pages of findings, we decline to do so without assistance from [the local governments]. On remand [the local governments] must provide an adequate explanation for why the Modified Project will be compatible with adjacent agricultural uses or what ‘measures designed to reduce adverse impacts’ will render it compatible with those adjacent uses. * * * [A]n adequate description of the nature of those agricultural uses followed by a discussion of how they might be impacted by construction of the Modified Project would seem to be a logical way to proceed in providing that explanation.”

Response and Explanation of Findings:

The adopted findings specifically address the Goal 2, Part II(c)(4) requirement cited by the Petitioners and LUBA. In doing so, the findings describe the agricultural uses adjacent to the Modified Project alignment and explain that the Modified Project alignment will be compatible with those uses. What follows is a description and explanation of how the local government findings conclude the actions adequately address Statewide Planning Goal 2, Part II(c)(4).

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The local governments adopted exceptions to specific Statewide Planning Goals through the following enactments: Eugene Ordinance No. 20258, Lane County Ordinance No. PA 1174, Springfield Ordinance No. 6022 and Lane Transit District Resolution No. 2002-028. Each of the local governments based their actions on findings contained in Exhibit C to their enactments. Exhibit C is composed of four documents (Exhibit C, Exhibit C-1, Exhibit C-2 and Exhibit C-3). The findings adopted as Exhibit C-1 (“C-1 findings”) quote the Goal 2, Part II(c)(4) requirement at page 8. In response to that requirement, the findings refer to and incorporate analysis provided in later portions of the findings, concluding that the requirement is satisfied. C-1 findings, page 8. On pages 9-12 of the C-1 findings, the local governments state and conclude that:

“[o]utside the UGB, most of the affected land is zoned for agricultural use. However, for reasons explained in more detail in the *Compatibility Memorandum*, incorporated herein by reference, much of the adjoining agricultural land is being used as open space for wetland mitigation or to protect threatened and endangered species. See Figure 2; see also *Compatibility Memorandum* at Figure 1. In terms of impacts on commercial farm enterprises, the northward realignment of the WEP does not result in any acreage loss of the four large commercial farms in the project vicinity. In fact, compared to the Approved Design, it reduces adverse impacts to commercial farm operations by moving the facility farther from the large cattle operation south of West 11th Avenue. West of Goble Lane, the facility essentially occupies the same area as the Approved Design, rendering no real impact differences from that alignment. Except for these places, there are no commercial farms in the project vicinity. Instead, this area is checkered with a pattern of hobby

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farms that do not contribute significantly to the commercial agricultural enterprise. The Modified Project creates no new parcels outside the UGB, and it should not increase the potential for encroachment beyond that associated with the Approved Design.”

The referenced Figure 2 of the C-1 findings is entitled Landuse Compatibility, Rural Impacts and shows the land uses in the vicinity of the Modified Project alignment, specifying the type of agricultural use (hay, sheep, cattle) for those sites where agricultural uses are in place. The Supplemental Draft Environmental Impact Statement (“SDEIS”) for the Modified Project alignment was cited heavily throughout the findings. The SDEIS contains two maps at figure 3-3, page 1 of 2, and figure 3-4 page 1 of 2. Figure 3-3 shows Existing Land Use along the Modified Project alignment. Figure 3-4 of the SDEIS shows the comprehensive plan designations adjacent to the Modified Project alignment. As shown in Figure 3-4 and described in the adopted findings, there is land adjacent to the Modified Project alignment designated as Agriculture. Though the existing uses along the proposed parkway vary widely, the findings note that the great majority of the land bordering the northern side of the Modified Project alignment is in parks/open space and is managed as part of the West Eugene Wetlands Plan.

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In addition, pages 47-49 of the C-1 findings are dedicated specifically to the requirement of Goal 2, Part II(c)(4). The discussion in this section of the findings largely summarizes the *Compatibility Memorandum* that was also adopted by the local governments (as Exhibit C-3) and incorporated into the C-1 findings. The C-1 findings on pages 47-49 explain the reduction of impacts on farm uses that will result from the Modified Project alignment. They also explain the Modified Project alignment’s effect on access to rural properties and the ways in which access is designed to “limit local access to the adjoining rural area, thereby reducing adverse farm impacts and maintaining compatibility.” C-1, page 47. The findings then explain in detail how the ownership interests and zoning of the areas adjacent to the Modified Project alignment will assist in ensuring limited access to adjacent agricultural areas. C-1, page 48-49.

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The findings adopted as Exhibit C-3 and incorporated into the C-1 findings are those referred to above as ODOT’s *Compatibility Memorandum*. This ten-page memorandum identifies each tax lot that is adjacent to the Modified Project alignment and provides a detailed description of those properties and their uses. The memo contains an analysis of the six major ways that a roadway project can impact land uses in rural areas and concludes, with some detail, that “[t]he WEP would not have any major impacts on land uses in the project area. In general, it is compatible with adjacent uses.” C-3, page 10. ¹ Based on that analysis and the additional adopted findings as described above, the local government concluded the actions complied with applicable standards for exceptions to Statewide Goals, including the requirements of Goal 2, Part II(c)(4).

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¹ The analysis concentrates on the impacts (or lack thereof) based on the following six categories: 1) displacement of houses and buildings; 2) acreage losses from roadway rights-of-way and/or uneconomic remnants; 3) parcelization, resulting in more complicated farming practices; 4) complication of access to properties; 5) visual modifications to the rural setting; and 6) potential induced development.

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Subassignment of Error 1(e)

Petitioners argued that the local governments’ findings inadequately addressed OAR 660-012-0070(8) by failing to address whether the rural lands adjacent to the Modified Project alignment would be adversely affected by increased accessibility.

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Criterion on remand: OAR 660-012-0070(8)

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“To address Goal 2, Part II(c)(4), the exception shall:

- “(a) Describe the adverse effects that the proposed transportation improvement is likely to have on the surrounding rural lands and land uses, including increased traffic and pressure for nonfarm or highway oriented development on areas made more accessible by the transportation improvement;
- “(b) Adopt as part of the exception, facility design and land use measures which minimize accessibility of rural lands from the proposed transportation facility or improvement and support continued rural use of surrounding lands.”

LUBA’s direction on remand:

“Subassignment of error 1(e) is sustained to the limited extent that is assigns error to respondents’ failure to consider and address accessibility impacts that can be attributed to the change in the Approved Project that the challenged decisions made by approving the Modified Project corridor.”

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Response and Explanation of Findings:

The local jurisdictions findings specifically address the requirements of OAR 660-012-0070(8) at pages 47-49 of the C-1 findings. In addition, the explanation provided above regarding Goal 2, Part II(c)(4) also addresses this remand item. What follows is a description and additional explanation of the findings that address accessibility impacts attributable to the changes contained in the Modified Project.

The findings discussed above show that the limited access design feature of the facility will minimize access to the neighboring agricultural land. Findings Exhibit C-1, pages 47 – 49. The Modified Project alignment will close the existing Highway 126/Goble Lane access, and relocate it to an existing driveway west of Goble Lane. That action will help limit local access by reducing the number of access points onto the new highway. C-1 findings, page 47. Also, contrary to the Approved Design, the Modified Project alignment will not have a direct connection with W. 11th Avenue west of Greenhill Road. That action will eliminate another access to the highway from the surrounding EFU land and is an improvement over the Approved Design. The railroad tracks south of the future Modified

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Project also create a barrier that minimizes accessibility to the rural lands in this area. C-1 findings, page 48. As the findings state:

“Overall, the significant wetlands resource, the large amount of acreage in public ownership, and the EFU zoning should provide adequate protection for rural and resource lands and minimize their accessibility. The presence of the railroad, the locations of wetlands and public land ownerships, particularly at Green Hill Road and in close vicinity to the Modified Project alignment terminus, will minimize pressures for highway oriented development in the area.” C-1 findings, page 48.

The only access to the Modified Project outside the UGB is the combined Goble Lane/private driveway access, a combination of two existing access onto Highway 126. An access onto W. 11th, outside the UGB, which was part of the Approved Design, will be eliminated. Access to rural lands is not provided for along the facility between Green Hill Road and the Project terminus. As the findings conclude, these measures are adequate to reduce accessibility to the neighboring rural area.

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Subassignment of Error 2(d)

Petitioners argued that the local governments needed to provide findings showing that the challenged actions are consistent with the TransPlan policies that implement OAR 660-012-0035(5)(c)(D).

Criterion on remand: OAR 660-012-0055(1)(a):

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“(a) If by May 8, 2000, a Metropolitan Planning Organization (MPO) has not adopted a regional transportation system plan that meets the VMT reduction standard in 0035(4) and the metropolitan area *does not have an approved alternative standard established pursuant to 0035(5)*, then the cities and counties within the metropolitan area shall prepare and adopt an integrated land use and transportation plan as outlined in 0035(5)(c)(A)–(E). Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years[.]” (Emphasis added.)

OAR 660-012-0035(5)(c):

“(5) The Commission may authorize metropolitan areas to use alternative standards in place of the VMT reduction standard in 0035(4) to demonstrate progress towards achieving reduced automobile reliance as provided for in this section:

“* * *

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“(c) If a plan using an alternative standards, approved pursuant to this rule, is expected to result in an increase in VMT per capita, then

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the cities and counties in the metropolitan area shall prepare and adopt an integrated land use and transportation system plan including the elements listed in (A) – (E) below. Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years of the approval of the alternative standard:

***“

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LUBA’s direction on remand:

“OAR 660-012-0035(5)(c) sets out detailed requirements for ‘an integrated land use and transportation plan,’ * * *.

“We have some question whether [the state’s administrative rules] require adoption of the plan described in OAR 660-012-0035(5)(c), since respondents apparently have an approved alternative VMT reduction standard. * * *

“Respondents do not respond to this subassignment of error in their brief. * * * Petitioners’ approach in this subassignment of error is to fault respondents for not addressing unnamed TransPlan policies that petitioners contend must nevertheless exist ***”

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“* * * [W]ithout some assistance from respondents, we cannot say this subassignment of error is lacking in merit.”

Response and Explanation of Findings:

The local governments’ findings do not include analysis of the Modified Project alignment’s consistency with TransPlan policies that implement OAR 660-012-0035(5)(c)(D) because State law does not require that TransPlan contain such policies and such policies, therefore, do not exist in TransPlan.

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As stated in the rules quoted above, there appear to be two circumstantial categories in which an area must adopt policies that implement OAR 660-012-0035(5)(c)(A)-(E):

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- 1) if the MPO has not adopted a regional transportation system plan that meets the VMT reduction standard in 0035(4) and the metropolitan area does not have an approved alternative standard established pursuant to 0035(5) [OAR 660-012-055(1)(a)]; or
- 2) if the MPO has adopted an alternative VMT standard that is “expected to result in an increase in VMT per capita.” [OAR 660-012-0035(5)(c)].

Although it is not necessary to resolve this issue to address the remand, it would appear that neither of the above circumstances exists for the TransPlan jurisdictions. TransPlan is a regional transportation system plan that includes an approved alternative VMT standard established pursuant to OAR 660-0012-055(1)(a). Therefore, under this interpretation, TransPlan is not required to include the 0035(5)(c)(A)-(E) policies under the first category.

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Even if required, OAR 660-012-0035(5)(c) would seem to eliminate the need for such policies. Another interpretation would require TransPlan to include such policies under the first category. Further, for the reasons discussed below, TransPlan’s alternative VMT standard is not expected to result in an increase in VMT per capita. Therefore, it is not required to include the 0035(5)(c)(A)-(E) policies under the second category, either. Even if the provisions of the Transportation Planning Rule (TPR) require an “integrated land use and transportation plan,” the local governments were not required to make findings on the nonexistent TransPlan policies.

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Chapter 4 of TransPlan contains an analysis of Daily Vehicle Miles of Travel Per Capita on page 7. It provides that “[u]nder the Financially Constrained *TransPlan*, VMT per capita decreases slightly showing no increase over the 20-year period. The Transportation Planning Rule (TPR) seeks no increase in VMT per capita over ten years and a 5 percent reduction over 20 years.” It also states “[a]mendments to the TPR require areas not meeting the VMT reduction target to seek approval from the Land Conservation and Development Commission (LCDC) for the use of alternative measures in demonstrating reduced reliance on the automobile. This process is discussed further in *Part Three: TPR Alternate Performance Measures* of this chapter.”

Part Three: TPR Alternate Performance Measures of TransPlan explains:

“Oregon’s Transportation Planning Rule (TPR) requires that TransPlan comply with certain performance measures (either a Vehicle Miles Traveled per capita target or alternative measures). As described in Table 6 (Chapter 4, Page 5), VMT per capita is expected to remain virtually unchanged through 2015 (1-percent decrease). As a result, the region will not meet the reduction in VMT per capita called for in the TPR. The TPR provides that, should a plan not meet the VMT reduction targets, alternative measures can be developed to demonstrate compliance with the TPR.

“* * *

“Alternative Performance Measures were developed to address this requirement. While these measures have been incorporated into Table 6, a more detailed description of the measures and related interim benchmarks are presented in Table 7. These measures were approved by LCDC on May 4th, 2001.”

More specifically, Table 6 of TransPlan (Summary of Key Performance Measures) shows that VMT per capita is projected to decrease by 1 percent from 1995 levels. TransPlan then discusses the approved alternative VMT standard and addresses the conditions that LCDC attached to the alternative standards’ approval. LCDC’s Order approving the alternative standard is included in TransPlan’s Appendix G.

These provisions of TransPlan show that the local governments have an approved alternative standard established pursuant to OAR 660-012-0035(5). Therefore, TransPlan is not required to by OAR 660-012-055(1)(a) to include findings addressing OAR 660-

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012-0035(5)(c)(D). Further, the TransPlan provisions discussed above show that the adopted alternative VMT standard that is not “expected to result in an increase in VMT per capita.” Therefore, TransPlan is not required by OAR 660-012-0035(5)(c) to include findings addressing OAR 660-012-0035(5)(c)(D). Since TransPlan is not required to (and does not) contain a policy specifically intended to implement OAR 660-012-0035(5)(c)(D), petitioners subassignment of error 2(d) is without merit, as LUBA suggests.

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Assignments of Error 5, 6, and 7 ¶

¶
¶ Petitioners argued that the City of Eugene and Lane County erroneously changed the designation of ‘Protect’ and ‘Restore’ wetlands at the western end of the Parkway to the ‘Planned Transportation Corridor’ designation without demonstrating that the changed designations comply with Goal 5 with respect to the Oak Hills Significant Vegetation and Wildlife site.¶

Criteria onBasis for on remand: OAR 660-023-0250(3)(b):¶

¶
¶ “Local governments are not required to apply Goal 5 in consideration of a PAPA [post acknowledgment plan amendment] unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if: ¶
* * *¶

(b) . The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list[.]”¶

LUBA’s direction on remand: ¶

¶
¶ “Although it is not entirely clear, we understand petitioners to argue that the area now designated Planned Transportation Corridor crosses * * * protected Goal 5 significant vegetation and wildlife areas. * * *¶

¶
* * *¶

¶
¶ * * * The maps from the WEWP and the Metro Plan are not sufficiently precise in the relevant delineations to confirm respondents’ argument [that the Oak Hills Significant Vegetation and Wildlife Area lies outside the boundaries of the WEWP and is not affected by the WEWP amendments]. Another Map, entitled Figure D 3, Metro Plan Update, Natural Assets and Constraints Working Papers, Significant Vegetation & Wildlife Areas, appears to confirm respondents’ position. However, petitioners object that respondents have not demonstrated that the map is a county ‘enactment’ that is subject to official notice by LUBA. * * * Because respondents do not provide a basis for us to take official notice of that map, we do not do so. * * *¶

¶
¶ * * * On remand, respondents may take appropriate action to confirm that the designated Significant Vegetation and Wildlife area designated on the Metro Plan is unaffected by the WEWP amendments. If that is not the case, and the disputed WEWP amendments affect the Significant Vegetation and Wildlife Area, respondents must demonstrate that such action is consistent with Goal 5.”¶

Response and Explanation of Findings:¶

¶
¶ The City of Eugene adopted amendments to the West Eugene Wetlands Plan through its Ordinance No. 20259. Lane County did so through its Ordinance No. PA 1175. Both Ordinances included as their “Exhibit B” findings that analyzed the WEWP amendments’ consistency with Statewide Planning Goal 5 and with applicable policies from the Metro Plan. Each jurisdiction also adopted as findings three documents prepared by ODOT.² The ODOT

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Exhibit A
To LTD Resolution 2003-049

Remand Response and Explanation of Findings
Supporting Resolution 2002-028

Introduction

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The findings adopted as Exhibit C-3 and incorporated into the C-1 findings are those referred to above as ODOT’s *Compatibility Memorandum*. This ten-page memorandum identifies each tax lot that is adjacent to the Modified Project alignment and provides a detailed description of those properties and their uses. The memo contains an analysis of the six major ways that a roadway project can impact land uses in rural areas and concludes, with some detail, that “[t]he WEP would not have any major impacts on land uses in the project area. In general, it is compatible with adjacent uses.” C-3, page 10.¹ Based on that analysis and the additional adopted findings as described above, the local government concluded the actions complied with applicable standards for exceptions to Statewide Goals, including the requirements of Goal 2, Part II(c)(4).

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¹ The analysis concentrates on the impacts (or lack thereof) based on the following six categories: 1) displacement of houses and buildings; 2) acreage losses from roadway rights-of-way and/or uneconomic remnants; 3) parcelization, resulting in more complicated farming practices; 4) complication of access to properties; 5) visual modifications to the rural setting; and 6) potential induced development.

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Subassignment of Error 1(e)

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Petitioners argued that the local governments’ findings inadequately addressed OAR 660-012-0070(8) by failing to address whether the rural lands adjacent to the Modified Project alignment would be adversely affected by increased accessibility.

Criterion on remand: OAR 660-012-0070(8)

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“To address Goal 2, Part II(c)(4), the exception shall:

- “(a) Describe the adverse effects that the proposed transportation improvement is likely to have on the surrounding rural lands and land uses, including increased traffic and pressure for nonfarm or highway oriented development on areas made more accessible by the transportation improvement;
- “(b) Adopt as part of the exception, facility design and land use measures which minimize accessibility of rural lands from the proposed transportation facility or improvement and support continued rural use of surrounding lands.”

LUBA’s direction on remand:

“Subassignment of error 1(e) is sustained to the limited extent that is assigns error to respondents’ failure to consider and address accessibility impacts that can be attributed to the change in the Approved Project that the challenged decisions made by approving the Modified Project corridor.”

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Response and Explanation of Findings:

The local jurisdictions findings specifically address the requirements of OAR 660-012-0070(8) at pages 47-49 of the C-1 findings. In addition, the explanation provided above regarding Goal 2, Part II(c)(4) also addresses this remand item. What follows is a description and additional explanation of the findings that address accessibility impacts attributable to the changes contained in the Modified Project.

The findings discussed above show that the limited access design feature of the facility will minimize access to the neighboring agricultural land. Findings Exhibit C-1, pages 47 – 49. The Modified Project alignment will close the existing Highway 126/Goble Lane access, and relocate it to an existing driveway west of Goble Lane. That action will help limit local access by reducing the number of access points onto the new highway. C-1 findings, page 47. Also, contrary to the Approved Design, the Modified Project alignment will not have a direct connection with W. 11th Avenue west of Greenhill Road. That action will eliminate another access to the highway from the surrounding EFU land and is an improvement over the Approved Design. The railroad tracks south of the future Modified

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Project also create a barrier that minimizes accessibility to the rural lands in this area. C-1 findings, page 48. As the findings state:

“Overall, the significant wetlands resource, the large amount of acreage in public ownership, and the EFU zoning should provide adequate protection for rural and resource lands and minimize their accessibility. The presence of the railroad, the locations of wetlands and public land ownerships, particularly at Green Hill Road and in close vicinity to the Modified Project alignment terminus, will minimize pressures for highway oriented development in the area.” C-1 findings, page 48.

The only access to the Modified Project outside the UGB is the combined Goble Lane/private driveway access, a combination of two existing access onto Highway 126. An access onto W. 11th, outside the UGB, which was part of the Approved Design, will be eliminated. Access to rural lands is not provided for along the facility between Green Hill Road and the Project terminus. As the findings conclude, these measures are adequate to reduce accessibility to the neighboring rural area.

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Subassignment of Error 2(d)

Petitioners argued that the local governments needed to provide findings showing that the challenged actions are consistent with the TransPlan policies that implement OAR 660-012-0035(5)(c)(D).

Criterion on remand: OAR 660-012-0055(1)(a):

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“(a) If by May 8, 2000, a Metropolitan Planning Organization (MPO) has not adopted a regional transportation system plan that meets the VMT reduction standard in 0035(4) and the metropolitan area *does not have an approved alternative standard established pursuant to 0035(5)*, then the cities and counties within the metropolitan area shall prepare and adopt an integrated land use and transportation plan as outlined in 0035(5)(c)(A)–(E). Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years[.]” (Emphasis added.)

OAR 660-012-0035(5)(c):

“(5) The Commission may authorize metropolitan areas to use alternative standards in place of the VMT reduction standard in 0035(4) to demonstrate progress towards achieving reduced automobile reliance as provided for in this section:

“* * *

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“(c) If a plan using an alternative standards, approved pursuant to this rule, is expected to result in an increase in VMT per capita, then

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the cities and counties in the metropolitan area shall prepare and adopt an integrated land use and transportation system plan including the elements listed in (A) – (E) below. Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years of the approval of the alternative standard:

***“

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LUBA’s direction on remand:

“OAR 660-012-0035(5)(c) sets out detailed requirements for ‘an integrated land use and transportation plan,’ * * *.

“We have some question whether [the state’s administrative rules] require adoption of the plan described in OAR 660-012-0035(5)(c), since respondents apparently have an approved alternative VMT reduction standard. * * *

“Respondents do not respond to this subassignment of error in their brief. * * * Petitioners’ approach in this subassignment of error is to fault respondents for not addressing unnamed TransPlan policies that petitioners contend must nevertheless exist ***”

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“* * * [W]ithout some assistance from respondents, we cannot say this subassignment of error is lacking in merit.”

Response and Explanation of Findings:

The local governments’ findings do not include analysis of the Modified Project alignment’s consistency with TransPlan policies that implement OAR 660-012-0035(5)(c)(D) because State law does not require that TransPlan contain such policies and such policies, therefore, do not exist in TransPlan.

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As stated in the rules quoted above, there appear to be two circumstantial categories in which an area must adopt policies that implement OAR 660-012-0035(5)(c)(A)-(E):

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- 1) if the MPO has not adopted a regional transportation system plan that meets the VMT reduction standard in 0035(4) and the metropolitan area does not have an approved alternative standard established pursuant to 0035(5) [OAR 660-012-055(1)(a)]; or
- 2) if the MPO has adopted an alternative VMT standard that is “expected to result in an increase in VMT per capita.” [OAR 660-012-0035(5)(c)].

Although it is not necessary to resolve this issue to address the remand, it would appear that neither of the above circumstances exists for the TransPlan jurisdictions. TransPlan is a regional transportation system plan that includes an approved alternative VMT standard established pursuant to OAR 660-0012-055(1)(a). Therefore, under this interpretation, TransPlan is not required to include the 0035(5)(c)(A)-(E) policies under the first category.

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Even if required, OAR 660-012-0035(5)(c) would seem to eliminate the need for such policies. Another interpretation would require TransPlan to include such policies under the first category. Further, for the reasons discussed below, TransPlan’s alternative VMT standard is not expected to result in an increase in VMT per capita. Therefore, it is not required to include the 0035(5)(c)(A)-(E) policies under the second category, either. Even if the provisions of the Transportation Planning Rule (TPR) require an “integrated land use and transportation plan,” the local governments were not required to make findings on the nonexistent TransPlan policies.

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Chapter 4 of TransPlan contains an analysis of Daily Vehicle Miles of Travel Per Capita on page 7. It provides that “[u]nder the Financially Constrained *TransPlan*, VMT per capita decreases slightly showing no increase over the 20-year period. The Transportation Planning Rule (TPR) seeks no increase in VMT per capita over ten years and a 5 percent reduction over 20 years.” It also states “[a]mendments to the TPR require areas not meeting the VMT reduction target to seek approval from the Land Conservation and Development Commission (LCDC) for the use of alternative measures in demonstrating reduced reliance on the automobile. This process is discussed further in *Part Three: TPR Alternate Performance Measures* of this chapter.”

Part Three: TPR Alternate Performance Measures of TransPlan explains:

“Oregon’s Transportation Planning Rule (TPR) requires that TransPlan comply with certain performance measures (either a Vehicle Miles Traveled per capita target or alternative measures). As described in Table 6 (Chapter 4, Page 5), VMT per capita is expected to remain virtually unchanged through 2015 (1-percent decrease). As a result, the region will not meet the reduction in VMT per capita called for in the TPR. The TPR provides that, should a plan not meet the VMT reduction targets, alternative measures can be developed to demonstrate compliance with the TPR.

“* * *

“Alternative Performance Measures were developed to address this requirement. While these measures have been incorporated into Table 6, a more detailed description of the measures and related interim benchmarks are presented in Table 7. These measures were approved by LCDC on May 4th, 2001.”

More specifically, Table 6 of TransPlan (Summary of Key Performance Measures) shows that VMT per capita is projected to decrease by 1 percent from 1995 levels. TransPlan then discusses the approved alternative VMT standard and addresses the conditions that LCDC attached to the alternative standards’ approval. LCDC’s Order approving the alternative standard is included in TransPlan’s Appendix G.

These provisions of TransPlan show that the local governments have an approved alternative standard established pursuant to OAR 660-012-0035(5). Therefore, TransPlan is not required to by OAR 660-012-055(1)(a) to include findings addressing OAR 660-

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012-0035(5)(c)(D). Further, the TransPlan provisions discussed above show that the adopted alternative VMT standard that is not “expected to result in an increase in VMT per capita.” Therefore, TransPlan is not required by OAR 660-012-0035(5)(c) to include findings addressing OAR 660-012-0035(5)(c)(D). Since TransPlan is not required to (and does not) contain a policy specifically intended to implement OAR 660-012-0035(5)(c)(D), petitioners subassignment of error 2(d) is without merit, as LUBA suggests.

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Assignments of Error 5, 6, and 7 ¶

¶
¶ Petitioners argued that the City of Eugene and Lane County erroneously changed the designation of ‘Protect’ and ‘Restore’ wetlands at the western end of the Parkway to the ‘Planned Transportation Corridor’ designation without demonstrating that the changed designations comply with Goal 5 with respect to the Oak Hills Significant Vegetation and Wildlife site.¶

Criteria onBasis for on remand: OAR 660-023-0250(3)(b):¶

¶
¶ “Local governments are not required to apply Goal 5 in consideration of a PAPA [post acknowledgment plan amendment] unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if: ¶
* * *¶

(b) . The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list[.]”¶

LUBA’s direction on remand: ¶

¶
¶ “Although it is not entirely clear, we understand petitioners to argue that the area now designated Planned Transportation Corridor crosses * * * protected Goal 5 significant vegetation and wildlife areas. * * *¶

¶
* * *¶

¶
* * * The maps from the WEWP and the Metro Plan are not sufficiently precise in the relevant delineations to confirm respondents’ argument [that the Oak Hills Significant Vegetation and Wildlife Area lies outside the boundaries of the WEWP and is not affected by the WEWP amendments]. Another Map, entitled Figure D 3, Metro Plan Update, Natural Assets and Constraints Working Papers, Significant Vegetation & Wildlife Areas, appears to confirm respondents’ position. However, petitioners object that respondents have not demonstrated that the map is a county ‘enactment’ that is subject to official notice by LUBA. * * * Because respondents do not provide a basis for us to take official notice of that map, we do not do so. * * *¶

¶
* * * On remand, respondents may take appropriate action to confirm that the designated Significant Vegetation and Wildlife area designated on the Metro Plan is unaffected by the WEWP amendments. If that is not the case, and the disputed WEWP amendments affect the Significant Vegetation and Wildlife Area, respondents must demonstrate that such action is consistent with Goal 5.”¶

Response and Explanation of Findings:¶

¶
¶ The City of Eugene adopted amendments to the West Eugene Wetlands Plan through its Ordinance No. 20259. Lane County did so through its Ordinance No. PA 1175. Both Ordinances included as their “Exhibit B” findings that analyzed the WEWP amendments’ consistency with Statewide Planning Goal 5 and with applicable policies from the Metro Plan. Each jurisdiction also adopted as findings three documents prepared by ODOT.² The ODOT

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Exhibit A
To LTD Resolution No. 2003-049

Remand Response and Explanation of Findings
Supporting Resolution No. 2002-028

Introduction

In July 2002, the City of Eugene, the City of Springfield, Lane County and Lane Transit District (the “local governments”) took actions that collectively amended TransPlan, Lane Transit District (“LTD”) took action to amend the TransPlan by adopting Resolution No. 2002-028. The local government actions were appealed to the Land Use Board of Appeals (“LUBA”). On March 24, 2003, LUBA issued its decision upholding the local government actions on most of the issues raised, but remanding the actions based on four of the issues raised by petitioners. Only three of those issues are relevant to Lane Transit District’s actions. Lane Transit District does not address Assignment of Error 5, 6, or 7 since Lane Transit District is not a party to and did not adopt amendments to the West Eugene Wetlands Plan. The petitioners appealed LUBA’s decision to the Court of Appeals. On August 27, 2003 the Court of Appeals affirmed LUBA’s decision, without providing a written opinion. The petitioners did not seek Supreme Court review of the Court of Appeals’ decision. The appellate judgment of the Court of Appeals became effective October 7, 2003 and LUBA issued a notice of appellate judgment on October 8, 2003 that indicated the appellate judgment required no change to the earlier LUBA decision. None of the issues on remand require the local governments to reopen the record for additional evidence. For each of the issues remanded by LUBA and set forth below, the local governments describe findings already adopted to support the actions taken or, as necessary, provide some additional explanations of those findings or the evidence in the record which supports the findings already adopted.

Subassignment of Error 1(d)

Petitioners argued that the local governments inadequately addressed Statewide Planning Goal 2, Part II(c)(4) when they adopted exceptions to Statewide Planning Goals 3, 4, 11 and 14. Specifically, Petitioners argued that the findings relating to Goal 3 (Agricultural Lands) were deficient with respect to the impacts of the Modified Project alignment on adjacent agricultural uses.

Criterion on remand: Statewide Planning Goal 2, Part II(c)(4):

“A local government may adopt an exception to a goal when: * * *

“(4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.”

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LUBA’s direction on remand:

“Although we might be able to locate an adequate response to this subassignment of error from the many pages of findings, we decline to do so without assistance from [the local governments]. On remand [the local governments] must provide an adequate explanation for why the Modified Project will be compatible with adjacent agricultural uses or what ‘measures designed to reduce adverse impacts’ will render it compatible with those adjacent uses. * * * [A]n adequate description of the nature of those agricultural uses followed by a discussion of how they might be impacted by construction of the Modified Project would seem to be a logical way to proceed in providing that explanation.”

Response and Explanation of Findings:

The adopted findings specifically address the Goal 2, Part II(c)(4) requirement cited by the Petitioners and LUBA. In doing so, the findings describe the agricultural uses adjacent to the Modified Project alignment and explain that the Modified Project alignment will be compatible with those uses. What follows is a description and explanation of how the local government findings conclude the actions adequately address Statewide Planning Goal 2, Part II(c)(4).

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The local governments adopted exceptions to specific Statewide Planning Goals through the following enactments: Eugene Ordinance No. 20258, Lane County Ordinance No. PA 1174, Springfield Ordinance No. 6022 and Lane Transit District Resolution No. 2002-028. Each of the local governments based their actions on findings contained in Exhibit C to their enactments. Exhibit C is composed of four documents (Exhibit C, Exhibit C-1, Exhibit C-2 and Exhibit C-3). The findings adopted as Exhibit C-1 (“C-1 findings”) quote the Goal 2, Part II(c)(4) requirement at page 8. In response to that requirement, the findings refer to and incorporate analysis provided in later portions of the findings, concluding that the requirement is satisfied. C-1 findings, page 8. On pages 9-12 of the C-1 findings, the local governments state and conclude that:

“[o]utside the UGB, most of the affected land is zoned for agricultural use. However, for reasons explained in more detail in the *Compatibility Memorandum*, incorporated herein by reference, much of the adjoining agricultural land is being used as open space for wetland mitigation or to protect threatened and endangered species. See Figure 2; see also *Compatibility Memorandum* at Figure 1. In terms of impacts on commercial farm enterprises, the northward realignment of the WEP does not result in any acreage loss of the four large commercial farms in the project vicinity. In fact, compared to the Approved Design, it reduces adverse impacts to commercial farm operations by moving the facility farther from the large cattle operation south of West 11th Avenue. West of Goble Lane, the facility essentially occupies the same area as the Approved Design, rendering no real impact differences from that alignment. Except for these places, there are no commercial farms in the project vicinity. Instead, this area is checkered with a

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pattern of hobby farms that do not contribute significantly to the commercial agricultural enterprise. The Modified Project creates no new parcels outside the UGB, and it should not increase the potential for encroachment beyond that associated with the Approved Design.”

The referenced Figure 2 of the C-1 findings is entitled Landuse Compatibility, Rural Impacts and shows the land uses in the vicinity of the Modified Project alignment, specifying the type of agricultural use (hay, sheep, cattle) for those sites where agricultural uses are in place. The Supplemental Draft Environmental Impact Statement (“SDEIS”) for the Modified Project alignment was cited heavily throughout the findings. The SDEIS contains two maps at figure 3-3, page 1 of 2, and figure 3-4 page 1 of 2. Figure 3-3 shows Existing Land Use along the Modified Project alignment. Figure 3-4 of the SDEIS shows the comprehensive plan designations adjacent to the Modified Project alignment. As shown in Figure 3-4 and described in the adopted findings, there is land adjacent to the Modified Project alignment designated as Agriculture. Though the existing uses along the proposed parkway vary widely, the findings note that the great majority of the land bordering the northern side of the Modified Project alignment is in parks/open space and is managed as part of the West Eugene Wetlands Plan.

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In addition, pages 47-49 of the C-1 findings are dedicated specifically to the requirement of Goal 2, Part II(c)(4). The discussion in this section of the findings largely summarizes the *Compatibility Memorandum* that was also adopted by the local governments (as Exhibit C-3) and incorporated into the C-1 findings. The C-1 findings on pages 47-49 explain the reduction of impacts on farm uses that will result from the Modified Project alignment. They also explain the Modified Project alignment’s effect on access to rural properties and the ways in which access is designed to “limit local access to the adjoining rural area, thereby reducing adverse farm impacts and maintaining compatibility.” C-1, page 47. The findings then explain in detail how the ownership interests and zoning of the areas adjacent to the Modified Project alignment will assist in ensuring limited access to adjacent agricultural areas. C-1, page 48-49.

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The findings adopted as Exhibit C-3 and incorporated into the C-1 findings are those referred to above as ODOT’s *Compatibility Memorandum*. This ten-page memorandum identifies each tax lot that is adjacent to the Modified Project alignment and provides a detailed description of those properties and their uses. The memo contains an analysis of the six major ways that a roadway project can impact land uses in rural areas and concludes, with some detail, that “[t]he WEP would not have any major impacts on land uses in the project area. In general, it is compatible with adjacent uses.” C-3, page 10. ¹ Based on that analysis and the additional adopted findings as described above, the local government concluded the actions complied with applicable standards for exceptions to Statewide Goals, including the requirements of Goal 2, Part II(c)(4).

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¹ The analysis concentrates on the impacts (or lack thereof) based on the following six categories: 1) displacement of houses and buildings; 2) acreage losses from roadway rights-of-way and/or uneconomic remnants; 3) parcelization, resulting in more complicated farming practices; 4) complication of access to properties; 5) visual modifications to the rural setting; and 6) potential induced development.

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Subassignment of Error 1(e)

Petitioners argued that the local governments’ findings inadequately addressed OAR 660-012-0070(8) by failing to address whether the rural lands adjacent to the Modified Project alignment would be adversely affected by increased accessibility.

Criterion on remand: OAR 660-012-0070(8)

“To address Goal 2, Part II(c)(4), the exception shall:

- “(a) Describe the adverse effects that the proposed transportation improvement is likely to have on the surrounding rural lands and land uses, including increased traffic and pressure for nonfarm or highway oriented development on areas made more accessible by the transportation improvement;
- “(b) Adopt as part of the exception, facility design and land use measures which minimize accessibility of rural lands from the proposed transportation facility or improvement and support continued rural use of surrounding lands.”

LUBA’s direction on remand:

“Subassignment of error 1(e) is sustained to the limited extent that is assigns error to respondents’ failure to consider and address accessibility impacts that can be attributed to the change in the Approved Project that the challenged decisions made by approving the Modified Project corridor.”

Response and Explanation of Findings:

The local jurisdictions findings specifically address the requirements of OAR 660-012-0070(8) at pages 47-49 of the C-1 findings. In addition, the explanation provided above regarding Goal 2, Part II(c)(4) also addresses this remand item. What follows is a description and additional explanation of the findings that address accessibility impacts attributable to the changes contained in the Modified Project.

The findings discussed above show that the limited access design feature of the facility will minimize access to the neighboring agricultural land. Findings Exhibit C-1, pages 47 – 49. The Modified Project alignment will close the existing Highway 126/Goble Lane access, and relocate it to an existing driveway west of Goble Lane. That action will help limit local access by reducing the number of access points onto the new highway. C-1 findings, page 47. Also, contrary to the Approved Design, the Modified Project alignment will not have a direct connection with W. 11th Avenue west of Greenhill Road. That action will eliminate another access to the highway from the surrounding EFU land and is an improvement over the Approved Design. The railroad tracks south of the future Modified Project also create a barrier that minimizes accessibility to the rural lands in this area. C-1 findings, page 48. As the findings state:

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“Overall, the significant wetlands resource, the large amount of acreage in public ownership, and the EFU zoning should provide adequate protection for rural and resource lands and minimize their accessibility. The presence of the railroad, the locations of wetlands and public land ownerships, particularly at Green Hill Road and in close vicinity to the Modified Project alignment terminus, will minimize pressures for highway oriented development in the area.” C-1 findings, page 48.

The only access to the Modified Project outside the UGB is the combined Goble Lane/private driveway access, a combination of two existing access onto Highway 126. An access onto W. 11th, outside the UGB, which was part of the Approved Design, will be eliminated. Access to rural lands is not provided for along the facility between Green Hill Road and the Project terminus. As the findings conclude, these measures are adequate to reduce accessibility to the neighboring rural area.

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Subassignment of Error 2(d)

Petitioners argued that the local governments needed to provide findings showing that the challenged actions are consistent with the TransPlan policies that implement OAR 660-012-0035(5)(c)(D).

Criterion on remand: OAR 660-012-0055(1)(a):

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“(a) If by May 8, 2000, a Metropolitan Planning Organization (MPO) has not adopted a regional transportation system plan that meets the VMT reduction standard in 0035(4) and the metropolitan area *does not have an approved alternative standard established pursuant to 0035(5)*, then the cities and counties within the metropolitan area shall prepare and adopt an integrated land use and transportation plan as outlined in 0035(5)(c)(A)–(E). Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years[.]” (Emphasis added.)

OAR 660-012-0035(5)(c):

“(5) The Commission may authorize metropolitan areas to use alternative standards in place of the VMT reduction standard in 0035(4) to demonstrate progress towards achieving reduced automobile reliance as provided for in this section:

“* * *

“(c) If a plan using an alternative standards, approved pursuant to this rule, is expected to result in an increase in VMT per capita, then the cities and counties in the metropolitan area shall prepare

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and adopt an integrated land use and transportation system plan including the elements listed in (A) – (E) below. Such a plan shall be prepared in coordination with the MPO and shall be adopted within three years of the approval of the alternative standard: *** “

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LUBA’s direction on remand:

“OAR 660-012-0035(5)(c) sets out detailed requirements for ‘an integrated land use and transportation plan,’ * * *.

“We have some question whether [the state’s administrative rules] require adoption of the plan described in OAR 660-012-0035(5)(c), since respondents apparently have an approved alternative VMT reduction standard. * * *

“Respondents do not respond to this subassignment of error in their brief. * * * Petitioners’ approach in this subassignment of error is to fault respondents for not addressing unnamed TransPlan policies that petitioners contend must nevertheless exist *** “

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“* * * [W]ithout some assistance from respondents, we cannot say this subassignment of error is lacking in merit.”

Response and Explanation of Findings:

The local governments’ findings do not include analysis of the Modified Project alignment’s consistency with TransPlan policies that implement OAR 660-012-0035(5)(c)(D) because State law does not require that TransPlan contain such policies and such policies, therefore, do not exist in TransPlan.

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As stated in the rules quoted above, there are two circumstantial categories in which an area must adopt policies that implement OAR 660-012-0035(5)(c)(A)-(E):

- 1) if the MPO has not adopted a regional transportation system plan that meets the VMT reduction standard in 0035(4) and the metropolitan area does not have an approved alternative standard established pursuant to 0035(5) [OAR 660-012-055(1)(a)]; or
- 2) if the MPO has adopted an alternative VMT standard that is “expected to result in an increase in VMT per capita.” [OAR 660-012-0035(5)(c)].

Neither of the above circumstances exists for the TransPlan jurisdictions. TransPlan is a regional transportation system plan that includes an approved alternative VMT standard established pursuant to OAR 660-0012-055(1)(a). Therefore, it is not required to include the 0035(5)(c)(A)-(E) policies under the first category. Further, for the reasons discussed below, TransPlan’s alternative VMT standard is not expected to result in an increase in

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VMT per capita. Therefore, it is not required to include the 0035(5)(c)(A)-(E) policies under the second category, either. The local governments were not required to make findings on the nonexistent TransPlan policies.

Chapter 4 of TransPlan contains an analysis of Daily Vehicle Miles of Travel Per Capita on page 7. It provides that “[u]nder the Financially Constrained *TransPlan*, VMT per capita decreases slightly showing no increase over the 20-year period. The Transportation Planning Rule (TPR) seeks no increase in VMT per capita over ten years and a 5 percent reduction over 20 years.” It also states “[a]mendments to the TPR require areas not meeting the VMT reduction target to seek approval from the Land Conservation and Development Commission (LCDC) for the use of alternative measures in demonstrating reduced reliance on the automobile. This process is discussed further in *Part Three: TPR Alternate Performance Measures* of this chapter.”

Part Three: TPR Alternate Performance Measures of TransPlan explains:

“Oregon’s Transportation Planning Rule (TPR) requires that TransPlan comply with certain performance measures (either a Vehicle Miles Traveled per capita target or alternative measures). As described in Table 6 (Chapter 4, Page 5), VMT per capita is expected to remain virtually unchanged through 2015 (1-percent decrease). As a result, the region will not meet the reduction in VMT per capita called for in the TPR. The TPR provides that, should a plan not meet the VMT reduction targets, alternative measures can be developed to demonstrate compliance with the TPR.

“* * *

“Alternative Performance Measures were developed to address this requirement. While these measures have been incorporated into Table 6, a more detailed description of the measures and related interim benchmarks are presented in Table 7. These measures were approved by LCDC on May 4th, 2001.”

More specifically, Table 6 of TransPlan (Summary of Key Performance Measures) shows that VMT per capita is projected to decrease by 1 percent from 1995 levels. TransPlan then discusses the approved alternative VMT standard and addresses the conditions that LCDC attached to the alternative standards’ approval. LCDC’s Order approving the alternative standard is included in TransPlan’s Appendix G.

These provisions of TransPlan show that the local governments have an approved alternative standard established pursuant to OAR 660-012-0035(5). Therefore, TransPlan is not required to by OAR 660-012-055(1)(a) to include findings addressing OAR 660-012-0035(5)(c)(D). Further, the TransPlan provisions discussed above show that the adopted alternative VMT standard that is not “expected to result in an increase in VMT per capita.” Therefore, TransPlan is not required by OAR 660-012-0035(5)(c) to include findings addressing OAR 660-012-0035(5)(c)(D). Since TransPlan is not required to (and does not) contain a policy specifically intended to implement OAR 660-012-

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0035(5)(c)(D), petitioners subassignment of error 2(d) is without merit, as LUBA suggests.

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Assignments of Error 5, 6, and 7

Petitioners argued that the City of Eugene and Lane County erroneously changed the designation of 'Protect' and 'Restore' wetlands at the western end of the Parkway to the 'Planned Transportation Corridor' designation without demonstrating that the changed designations comply with Goal 5 with respect to the Oak Hills Significant Vegetation and Wildlife site.

Criteria on Basis for on remand: OAR 660-023-0250(3)(b):

"Local governments are not required to apply Goal 5 in consideration of a PAPA [post acknowledgment plan amendment] unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list."

LUBA's direction on remand:

"Although it is not entirely clear, we understand petitioners to argue that the area now designated Planned Transportation Corridor crosses protected Goal 5 significant vegetation and wildlife areas.

The maps from the WEWP and the Metro Plan are not sufficiently precise in the relevant delineations to confirm respondents' argument [that the Oak Hills Significant Vegetation and Wildlife Area lies outside the boundaries of the WEWP and is not affected by the WEWP amendments]. Another Map, entitled Figure D 3, Metro Plan Update, Natural Assets and Constraints Working Papers, Significant Vegetation & Wildlife Areas, appears to confirm respondents' position. However, petitioners object that respondents have not demonstrated that the map is a county 'enactment' that is subject to official notice by LUBA. Because respondents do not provide a basis for us to take official notice of that map, we do not do so.

On remand, respondents may take appropriate action to confirm that the designated Significant Vegetation and Wildlife area designated on the Metro Plan is unaffected by the WEWP amendments. If that is not the case, and the disputed WEWP amendments affect the Significant Vegetation and Wildlife Area, respondents must demonstrate that such action is consistent with Goal 5."

Response and Explanation of Findings:

The City of Eugene adopted amendments to the West Eugene Wetlands Plan through its Ordinance No. 20259. Lane County did so through its Ordinance No. PA 1175. Both Ordinances included as their "Exhibit B" findings that analyzed the WEWP amendments' consistency with Statewide Planning Goal 5 and with applicable policies from the Metro Plan. Each jurisdiction also adopted as findings three documents prepared by ODOT. The ODOT documents also contain analysis of environmental considerations ...

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**LANE TRANSIT DISTRICT
RESOLUTION NO. 2003-049**

A Resolution Responding to the Remand of LTD Resolution No. 2002-028

A. In July 2002, the City of Eugene, the City of Springfield, Lane County and Lane Transit District (the “local governments”) took actions that collectively amended TransPlan. Lane Transit District (“LTD”) took action to amend the TransPlan by adopting Resolution No. 2002-028.

B. The amendments were made in response to a request from the Oregon Department of Transportation (“ODOT”) to enable ODOT to proceed with plans to construct the West Eugene Parkway in a modified alignment.

C. The local governments’ actions were appealed to the Land Use Board of Appeals (“LUBA”). On March 24, 2003, LUBA issued its decision upholding the local governments’ action on most of the issues raised by the petitioners, but remanding the actions based on four of the issues raised by petitioners. Only three of those issues are relevant to LTD’s action.

D. The petitioners appealed LUBA’s decision to the Court of Appeals. On August 27, 2003 the Court of Appeals affirmed LUBA’s decision, without providing a written opinion. The petitioners did not seek the Supreme Court’s review of the Court of Appeals’ decision. The appellate judgment of the Court of Appeals became effective October 7, 2003 and LUBA issued a notice of appellate judgment on October 8, 2003 that indicated the appellate judgment required no change to the earlier LUBA decision.

E. None of the issues on remand require the local governments to reopen the record for additional evidence or to adopt additional findings. Instead, for each of the issues remanded by LUBA, the local governments need only describe the findings already adopted in support of the actions taken or, as necessary, provide additional explanation of evidence in the record that supports the findings already adopted.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Lane Transit Board of Directors responds to the remand of Resolution 2002-028 with the Remand Response and Explanation of Findings contained in the Exhibit A attached and incorporated herein by this reference.

Adopted by the Lane Transit Board of Directors on the 17th day of December, 2003.

December 17, 2003

Date

/s/ Pat Hocken

Board Secretary

RESOLUTION - 1

AGENDA ITEM SUMMARY

DATE OF MEETING: December 17, 2003

ITEM TITLE: WEST EUGENE PARKWAY (WEP) APPEAL

PREPARED BY: Mark Pangborn, Assistant General Manager, and District Counsel—Arnold, Gallagher, Saydack, et al.

ACTION REQUESTED: Approval of attached resolution

BACKGROUND: The planning and approval process for the WEP has been lengthy, complicated, and contentious. In July 2002, the Cities of Eugene & Springfield, Lane County, and LTD took action to collectively amend TransPlan to allow for the WEP to proceed to the next step in the planning process. That amendment was contested before the Oregon State Land Use Board of Appeals (LUBA) by a local group opposing WEP. The City of Eugene and the Oregon Department of Transportation (ODOT) have taken the lead in arguing this issue in the review process. After lengthy administrative and judicial review, the courts have remanded four issues to the parties to be addressed before WEP moves to the next step in the planning process. LTD is affected by only three of the four remands because one deals with the West Eugene Wetlands Plan, which LTD has not been part of. A detailed description of the remand issues can be found in Exhibit A to the attached resolution.

The LTD Board was and I presume still is in full support of the WEP project. In order to move the project forward, the Board, along with Eugene, Springfield, and Lane County, must approve the attached resolution that addresses the remand issues. The other three parties have approved or have indicated that they intend to approve this resolution.

RESULTS OF RECOMMENDED ACTION: The judicial review process will move forward.

ATTACHMENT: LTD Resolution No. 2003-049, A Resolution Responding to the Remand of LTD Resolution No. 2002-028

PROPOSED MOTION: I move the adoption of LTD Resolution No. 2003-049, A Resolution Responding to the Remand of LTD Resolution No. 2002-028.

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