

MINUTES OF DIRECTORS MEETING

LANE TRANSIT DISTRICT

EMERGENCY MEETING

Friday, August 19, 1988

Pursuant to notice given by telephone to members of the media on the mailing list of the District on August 18, 1988, an emergency meeting of the Board of Directors of the Lane Transit District was held on Friday, August 19, 1988 at 7:30 a.m. in the District's conference room at 1938 West Eighth Avenue, Eugene. An emergency meeting was called because James and Patricia Spicer wished to present testimony to the Board prior to the scheduled court date regarding the value of the Spicers' Glenwood property, which was taken by LTD in eminent domain proceedings for a new maintenance/administrative facility.

Present: Janet Calvert, President, presiding
Janice Eberly, Vice President
Keith Parks
Gus Pusateri, Secretary
Phyllis Loobey, General Manager
Jo Sullivan, Recording Secretary

Absent: Peter Brandt, Treasurer
Dean Runyan
Rich Smith

CALL TO ORDER: Ms. Calvert called the meeting to order at 7:30 a.m.

AUDIENCE PARTICIPATION: Ms. Calvert opened the meeting for public testimony. James and Patricia Spicer, of 880 East 43rd, Eugene, spoke to the Board regarding the history and use of their property in Glenwood, which had been taken through eminent domain for the District's new maintenance/operations facility. Mrs. Spicer stated that it was to be understood that their testimony was offered in the spirit of compromise, and was not to be shared with the jury. She said that she and Mr. Spicer had lived and farmed in Glenwood until 1976, when Lane County took 4-1/4 acres and their home through eminent domain, and they moved to Eugene. She said this ended their intensive farming operation, although they kept their farming tax deferral by planting wheat on the rest of the property, and planned to keep the property to develop it as an investment for themselves and their sons.

Mrs. Spicer said that she and her husband did not think the District's first offer of \$215,500 for their property was just compensation, which she said they are entitled to by law. During negotiations, she said they were "hit" with another offer which was \$26,000 lower, which caused them to change their minds about attending the groundbreaking ceremonies this spring.

She stated that they had asked the Board to meet that day so they could share with the Board some of the evidence they will be presenting to the jury on August 24. She said that they always believed that their Glenwood property had commercial potential. However, during the two days of depositions in July, the District's two appraisers, Mr. Knox and Mr. Lau, stated that in their opinion this property could not be zoned commercial, so they did not take that zoning into consideration when setting a value on the property. Mrs. Spicer said that Mr. Lau had further stated that if there was a reasonable probability of a change to commercial zoning, he would have to take commercial sales comparable into consideration when evaluating their property. She stated that she and Mr. Spicer feel that this is what should have been done. They brought with them that day a land use planning consultant, Dave Pedersen, to talk about the reasonable probability of the property being zoned commercial.

Mr. Pedersen said he had been asked by Mr. and Mrs. Spicer to advise them with respect to whether or not this property could be zoned commercial. He said it was his opinion, after going through some evidence, that it could. He stated that he was not an expert in valuation, and that he only gave them an opinion about the relative probability of rezoning this property commercial. He said there were a number of reasons for his conclusion, based on a similar case he worked on during the taking of the Spicer property, which was a comparable change from industrial to commercial at the corner of West 11th and Bailey Hill Road, adjacent to Fred Meyer. He said there were similarities in the situation regarding the Spicer property, in that the West 11th property was on a designated arterial street, approximately five acres in size, and has the capability of being serviced by water, sewer, and all necessary urban utilities. Mr. Pedersen said, as a final justification for his opinion regarding the Spicer property, that staff at the City of Eugene, in a recommendation to the Glenwood Planning Team, recommended that the other three corners of the 17th and Glenwood intersection be designated to eventually be rezoned commercial. This recommendation was made after the taking of the Spicer property; nonetheless, he said, he felt the recommendation buttressed his opinion of the capability of the Spicer site being rezoned commercial.

Mrs. Spicer stated that in preparing for the court date, her husband had spent a great deal of time checking comparable sales of industrial and commercial property.

Mr. Spicer thanked the Board for coming to listen to the presentation that morning. He said his feeling was that to compare public purchases, sales to public agencies should be used. At 10th and Tyinn in March of 1986, the Postal Service bought 4.26 acres zoned I-3 for \$315,000, or \$1.70 per square foot. Also in that area, the Department of Motor Vehicles purchased 1.64 acres zoned I-3 in July 1985 for \$155,235, or \$2.17 per square foot. Last week, the Eugene Water and Electric Board (EWEB) bought 38,400 square feet at 4th and Mill for \$160,000, or \$4.17 per square foot. This land was zoned I-2, designated MU/R. Mr. Spicer said that was a sale of commercial property that EWEB knew had a higher and better use based on the property valuation, even though EWEB is going

to use it for I-2. On River Avenue, about 1/4 mile from River Road, the Postal Service bought 3.89 acres zoned AGT but designated C-2 for \$425,000, or \$2.51 per square foot. In August 1986, Fred Meyer bought 2.86 acres zoned C-2 site review on Division Avenue for \$675,000, or \$5.41 per square foot.

Mr. Spicer further stated that his property was a very unique piece of property that had been in his family for 54 years. He said they had lost parts of their property through eminent domain twice before. Each time, they gained better access, but now LTD had taken the body of the property and left him with the "head and tail." He stated that one of the unique features of Glenwood Boulevard is that it is the only I-5 exit in Eugene with four-way access. In the metropolitan area, the only other interchange with four-way access to the freeway is at Gateway in Springfield. Mr. Spicer stated that Glenwood is absolutely the best location in the metropolitan area if I-5 access and a central location are important, which is why UPS and Lane Transfer Station are located in Glenwood. Parts of Glenwood are visible to the freeway, and Mr. Spicer said that one of the unique features of his property is that, as you drive from the freeway north on Glenwood Boulevard, you are on a hill descending to the property and making a sweeping left turn, which lets you look right into the heart of the property, and as you turn to the left, you get a sweeping view of the property, not just a flat view from the side. He urged the Board members to drive north on Glenwood Boulevard and see the excellent exposure and how the street focuses your eyes on that property, which he says makes it more valuable as a commercial location. Mr. Spicer stated that LTD recognized the value of access and central location; if cost were the only factor, LTD could have bought property at the Brownsville exit or Creswell at a substantial savings. He said that if I-5 transportation is important, this property cannot be compared with property on West 11th.

Mr. Spicer further stated that on December 4, 1987, Standard Oil bought 43,360 square feet on Gateway zoned CC, or Community Commercial, a Springfield designation, for \$257,121, or \$5.92 per square foot. He said that property is 500 feet closer to the freeway than his property. He said he recognized that the Gateway property was superior to his, but he was not asking \$5.93 per square foot; he was asking \$2.20 per foot. He added that after 50 years' experience in Glenwood and reviewing sales, he and Mrs. Spicer consider \$2.20 a fair price for a choice piece of property.

Mr. Spicer went on to say that on February 23, 1987, the LTD Board sent Mr. and Mrs. Spicer a letter saying that LTD was taking their property, and gave them until June 1 to vacate. He said he immediately began preparations to move 50 tons or more of personal accumulation. Because it was still winter and because of the short time, he was forced to hire work done that he would normally do himself. He said that on April 2, 39 days later, the District's negotiator called; when Mr. Spicer returned the call, the negotiator was out. On April 7, the negotiator called again. By this time, Mr. Spicer said, he had spent about \$15,000 on materials and \$7,000 on labor to have a place to move without having to

move all his possessions into storage and moving them again. He said he had spent \$22,000 out of his pocket to prepare a place so he could get his junk off LTD's property. He was then denied moving expenses, and said that tends to give a person a bad attitude. He stated that when their property was condemned before, the letter was hand delivered and they were told what to expect. He said that a member of his staff asked him if he thought he had been mistreated by LTD. His response was yes; he was just minding his own business when LTD took his property, gave him 90 days' notice to vacate, refused to give him fair compensation, and now they were about ready to go to court.

Mr. Spicer went on to say that the remainder of his property has been damaged and that LTD's appraisers failed to recognize that damage. He said that the northern remainder, before the taking, had sewer, but after the taking does not, which is a damage. Before the taking, the property was on farm deferral. After the taking, the property is too small for farm deferral. Mr. Spicer stated that they have used the farm deferral as a tool to keep taxes down so they can hold the property, and now LTD has taken that tool away from them, which he also stated was a damage.

Mrs. Spicer stated that they will have to pay fees to an attorney, an engineer, a land use planner, and surveyors. She said she wished they could charge by the hour for the time that she and Mr. Spicer spent attending meetings, hearings, depositions, and preparing all the paper work they had to do. Unfortunately, she said, that falls under the term "non-compensable," as does the time and money they spent moving all their personal belongings and farm equipment. She said she supposed that also under non-compensable falls the feeling that they have of frustration, sadness, and bitterness. She said she knew it was hard for the Board members to understand her family's feelings if they have not had property condemned before. Mrs. Spicer said that when the Spicers wrote to the Board on August 2, they felt it was a fair compromise offer. As Mr. Bryson had pointed out to them in his response letter, their offer was \$1.72 per square foot. She said that she and Mr. Spicer had decided, in the spirit of settlement, to split the difference between the District's \$.96 in its original February 1987 offer and the \$2.20 which they feel is fair. She said that they are prepared to accept \$1.58 per square foot, plus interest, for the land taken from them, plus professional fees and damages to the remainder. The total amount they requested was clarified as being \$353,800 for property at \$1.58 per square foot; \$50,000 for damages; \$40,000 for fees; and \$25,000 for interest, for a total of approximately \$470,000. Mrs. Spicer said they had gone to the meeting in good faith and had made a substantial reduction in their compromise offer, and she hoped the Board would accept it. She asked if there were any questions.

Richard Bryson, District Counsel, wanted to clarify that the District did not take the Spicers' home. Mrs. Spicer stated that it was taken in 1976 by Lane County. Mrs. Calvert stated that she appreciates that this is a very difficult situation for the Spicers, and mixed with the Board members' obligation to deal with public money in the best, most careful

way they possibly can, obviously, that creates differences of opinions. She asked for questions from the staff or Board. There were none.

EXECUTIVE SESSION: Ms. Eberly moved that the Board move into Executive Session pursuant to ORS 192.600(e) and (h), to conduct deliberations with persons designated by the governing body to negotiate real property transactions and 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. Mr. Parks seconded the motion, which carried by unanimous vote.

RETURN TO REGULAR SESSION AND ADJOURNMENT: After the Board returned to regular session, Ms. Eberly moved that the meeting be adjourned to August 24, 1988 at 7:30 a.m. in the LTD Conference Room at 1938 West Eighth Avenue, Eugene. Ms. Calvert stated that if a meeting was not necessary, the August 24 meeting would be cancelled. Ms. Eberly stated that she will be out of town and unable to attend on August 24. With no further discussion, the meeting was unanimously adjourned at 9:15 a.m.

J. Pusateri 9-15-88
Board Secretary