

PANORAMIC ACCESS SPECIAL ROAD DISTRICT

Panoramic Access Special Road District

P.O. Box 1226, Sisters, OR, 97759; Email: panoramicroads@gmail.com

MINUTES: Regular meeting: 14 July 2020

Zoom Video Conference meeting: hosted by Whitney Lowe

IN ATTENDANCE:

Jim Becker, Brian Bubak, Jeff Burns, Bill & Ronnie Duff, Robert Eagles, Sonya Gangstead, Mike & Marcia Harris, Nyle Head, Steve Johnson, Pat Lenahan, Whitney Lowe, Lee Lucas, Risa Monroe, Mark Rubbert, Annie Wittenberg, Elise Wolf and Kerry & Henry Zenich.

PREVIOUS MINUTES: Minutes of the 6.17.2020 regular board meeting are amended to say “All asphalt bids received” rather than “All bids received” and approved: **MSP** (motion made, seconded, and passed; the vote is unanimous unless otherwise indicated).

TREASURER’S REPORT: The current balance is \$40,233.74; one check for ~~\$144~~ **\$114** has not yet cleared.

BUSINESS

Bills: None

In lieu of audit report: The in lieu of audit report is due. Annie is working on it.

Ethics query & OGE advisory opinion: Lee reported on the ethics query the board sent to the Oregon Governmental Ethics Commission and the OGE advisory opinion we received. Lee presented an example (chart attached) to explain the nature of the potential conflict of interest. The board has two options for raising the additional revenue required for any possible road improvement project: (1) increasing property taxes; or (2) doing an assessment on properties. Property taxes are proportional to assessed property value; while assessments would be the same for all properties. The two costs would be almost equal for properties at the median assessed value. Owners of properties valued above the median would pay less under an assessment; while owners of properties value below the median would pay less under a property tax increase. Two board members, Nyle and Lee, own properties valued way above the median and stand to benefit financially from an assessment as opposed to a property tax increase. Oregon ethics rules prohibit a public official from using the powers of their office for personal financial benefit. So, ordinarily Nyle and Lee would be required to recuse themselves from any decision to do an assessment. But, then the board loses its quorum and cannot act. The OGE advisory opinion is: Nyle and Lee can vote, BUT they must declare their conflict of interest and cannot participate in the discussion. The ethics query and OGE advisory opinion will be put on the district website.

Gannon complaint & Board response: Members of the board were notified on 5 June 2020 that a complaint had been filed against them with the Deschutes County Legal Counsel by Doug and Sheila Gannon. Annie summarized the Gannon complaint and the board response filed on 1 July 2020. The Gannon complaint had 7 parts that boiled down to two allegations: (1) members of the board are hiding relevant information from property owners; and (2) the board is intent on paving district roads regardless of opposition. The board believes the complaint is without merit and submitted a 7-page response along with 35 enclosures (list attached). We are currently awaiting a response from the county legal counsel. The Gannon complaint and the Board response will be put on the district website. Most of the 35 enclosures are already on the website. Any that are not will be put on the website – except the 5 contractor bids, which are considered confidential business documents.

Resolution 2020-4: Conduct Secret Ballot: Lee introduced Resolution 2020-4 (copy attached) to put the board on record that a secret ballot of property owners would be conducted before moving ahead with any possible road improvement. After discussion, the resolution is adopted: **MSP**.

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ROAD IMPROVEMENT

Survey 2 results: Whitney presented four charts summarizing the results of Survey 1 conducted in February and Survey 2 conducted in June (copy attached). As of 14 July, 100 responses have been received (69% response rate): 70 in support and 30 in opposition. About half said they would pay an assessment in full up front and most others wanted to pay part or all of the assessment over time. Only about half specified a time period with roughly equal numbers voting for 10 years and for 20 years. Here is a link to the survey results presentation: <https://bit.ly/2EC1UVs>

Comments: The letter sent with Survey 2 is too long. Survey 2 did not offer a clear option to vote to continue to maintain the roads within our current budget. Elise offered to edit the next survey to improve its understandability.

Committee Report: Jim presented a 10-page report (<https://bit.ly/3gnj86Z>) summarizing the mission, activities and findings of the Road Improvement Committee. Comments:

- The Norwegian Otta Seal Guide mentions single-layer Otta Seal and double-layer Otta Seal. It may be cost effective to do a double-layer Otta Seal.
- If we finance for 20 years, will that exceed the useful life of an Otta Seal road surface?

The board then voted to resolve into a committee of the whole to allow Jim to poll committee members on a recommendation to the board. The committee unanimously voted to recommend Otta Seal.

Returning from committee of the whole, the board receives the committee recommendation and takes it under advisement: **MSP**. Board recognizes the huge effort by members of the Road Improvement Committee and adopts a motion of appreciation to Jim and his committee: **MSP**.

Chat sidebar: The Zoom chat sidebar was used during the meeting to clarify things. This is a summary:

- Most, but not all, of the lowest assessed properties are bare land. Some have mobile homes on them.
- To our knowledge, no road district in the county has dealt with the ethics question before.
- A vote to “oppose” on Survey 2 is effectively a vote to continue doing maintenance within our current budget.
- The roads currently are in the best shape in 20 years – says one long-time resident.
- The decision between Otta Seal and asphalt will be made later taking this discussion into consideration.
- We need to get at least one more Otta Seal bid because the contract award must be competitive.
- The committee and board expect that annualized maintenance costs would go down with either Otta Seal or asphalt; however, there is no long-term data yet to confirm that.
- Question: will a future board have to go through this process again when the Otta Seal surface reaches the end of its useful life? Response: Maintenance costs for Otta Seal are expected to be minimal for the first 5 years or more, so we can establish a reserve fund to pay for anticipated future maintenance. We don’t expect another assessment. Plus, once the Otta Seal bottom layer is done, maintenance consists of redoing the chip seal and fog seal layers only, which costs less.
- Question: how do you cover the funding shortfall if you have several not able to pay an assessment? Response: first, if owners pay the full amount up front, they avoid the long-term financing costs, much like a cash discount; second, the bond payments are structured so that this year’s lien payments cover next year’s bond payments; third, the district has the option to foreclose, but also (unlike the tax increase route) has the option not to foreclose if the bond payments can be covered in some other way. We are currently working with our financing and legal advisors to devise some way to do this.

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Next Steps: The Board needs to get more information from our SDAO consultant, David Ulbricht on financing costs for interim financing and for 10 year financing. (We have a projection for 20 year financing.) We also need more information from our legal advisor on assessment procedures. And we need updated contractor bids. Then, we need a public hearing.

ROAD MAINTENANCE

Expanding road maintenance boundaries: Historically, the road district has maintained the roads within the Panoramic View Estates subdivision, plus Enewetak and Emerald Valley. Property owners within this area have the roads graded, snow-plowed and occasionally graveled right up to their driveways. But this is not true of properties in the road district located to the north of the subdivision. There are two residences on Pine Ridge and 4 residences on Lake that must plow and grade their own access roads.

Extending snow plowing to these properties would cost little extra. The Board commits to snow plow Pine Ridge up to 69620 Pine Ridge and to snow plow Lake up 69710 Lake and 69725 Lake, subject to permission to operate on the private portion of Lake Drive: **MSP**. Lee agreed to talk to Dwayne Boswell on Pine Ridge and Whitney agreed to talk to the owners along Lake Drive. Note that all of these properties pay taxes to the road district.

ADMINISTRATIVE

Website report/status: Meeting minutes and the current letter and survey to property owners are on the website. Whitney requested that only one board member OK the posting of materials on the website in order to eliminate confusion. Nyle designated Annie as the point of contact for the board. Whitney will also be responsible for sending out materials to the district email list.

FUTURE MEETINGS

The regular monthly meetings will be held on Tuesdays rather than Wednesdays: **MSP**.

Meetings for the foreseeable future will have to be via Zoom, unless someone can identify an alternative – it would have to be either a very large indoor venue or be out of doors and have public restrooms.

General Meeting: 7pm, Tuesday, 4 August 2020 – video conference

Special Meeting: 7pm, Tuesday, 18 August 2020 – video conference

General Meeting: 7pm, Tuesday, 8 September 2020 – videoconference

Lee Lucas, Secretary

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ETHICS QUERY

Property Tax Increase vs Assessment

Property Tax Increase	Assessment
% of property assessed value	Equal per lot
County collects taxes - guaranteed	District collects assessments – deals with defaults
Requires ballot measure & vote – delays project a year or more	No ballot measure needed
Resident non-owners vote & non-resident owners do not vote	Only property owners vote
Must pay over 10 years	Option to pay up front
Higher assessed properties pay more	Lower assessed properties pay more

Example: Assume \$700K project cost for 10 years = \$4,895 per lot assessment OR
\$70K per year in new taxes = 2 X current taxes, for 10 years

Current property tax	Assessment/year	Tax increase/year	Difference
\$547 (near top)	$\$547 + \$490 = \$1037$	$\$547 * 3 = \1641	-\$604
\$243 (median)	$\$243 + \$490 = \$733$	$\$243 * 3 = \729	\$4
\$168 (near bottom)	$\$168 + \$490 = \$658$	$\$168 * 3 = \504	\$154

Ethics query:

2 board members own properties near the top of assessed values. They will benefit financially from an assessment. Ethics rules prohibit public officials from using their office for private benefit. Help!!

OGEC opinion: The two board members can vote since without them the board cannot act BUT they must declare their conflict of interest and cannot participate in the discussion.

RESOLUTION 2020-4: CONDUCT SECRET BALLOT

Be it resolved that the Board of Commissioners of the Panoramic Access Special Road District hereby commits to conduct a secret ballot of property owners for any proposed road improvement project and will not move forward with said project without majority support from property owners.

The above resolution was approved and declared adopted on the 14th day of July 2020.

Lee Lucas
Secretary

Date

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(Board Response to Gannon Complaint – page 8)

ENCLOSURES

The most salient enclosures are letters to property owners: enclosures 4, 11, 24, and 26 and the results of the two surveys: enclosures 17 and 27.

You may also want to consider the letters from Doug and Sheila Gannon and our replies: enclosures 18, 19, 20, 21, and 22.

Please protect the confidentiality of contractor bids: enclosures 28 – 33.

Table of enclosures

1	Attendees 2018	21	First reply to Sheila Gannon
2	Attendees 2019	22	Second reply to Sheila Gannon
3	Attendees 2020	23	Photo of district kiosk board
4	Dec 2017 letter to owners	24	Apr 2020 letter to owners
5	Minutes 2019.5.8	25	Minutes 2020.5.13
6	Minutes 2019.5.15	26	Jun 2020 letter/survey to owners
7	Minutes 2019.6.12	27	Preliminary survey results
8	Minutes 2019.6.19	28	R&O bid for gravel
9	Minutes 2019.7.10	29	Russell bid for Otta Seal
10	Minutes 2019.11.13	30	Russell bid supplement
11	Oct 2019 letter to owners	31	Bartlett bid for asphalt
12	Minutes 2019.12.11	32	High Desert bid for asphalt
13	Minutes 2020.1.8	33	Tri-County bid for asphalt
14	Minutes 2020.2.12	34	Ethics query to OGEC
15	Excerpts from Engineer's Report	35	OGEC advisory opinion
16	Feb 2020 survey of owners		
17	Minutes 2020.4.15 – survey results		
18	Doug Gannon letter		
19	Reply to Doug Gannon		
20	Sheila Gannon letter		