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March 29, 2021

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Senator Sara Gelser
Representative Cedric Ross Hayden
Representative John Lively
Representative Dan Rayfield

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Rep.cedrichayden@oregonlegislature.gov
Rep.JohnLively@oregonlegislature.gov
Rep.danrayfield@oregonlegislature.gov

Re: Request for Consideration of Amendment to ORS 478.000
Rural Fire Protection Districts to Authorize Districts to Participate Financially in
the Acquisition, Construction and Maintenance of Fire Evacuation Roads and
Easements serving the District and Taxpayers within their District

Senators and Representatives,

This requested legislation is being forwarded to you for your consideration of an emergency state-wide fire related issue. Ann Eissinger and her neighbors, who live within the Oak Creek Valley, a small unincorporated community of approximately 380 households just northwest of Corvallis, Oregon, Benton County are requesting your help. The households / property owners, are all tax payers within the Corvallis Rural Fire Protection District Boundary.

The Oak Creek Valley currently has one public egress and one primitive evacuation route that is shared with another community. Given the growing danger of wildfires in Oregon, the citizens have been working with Benton County and Oregon State University regarding the development of a viable alternate shorter and safer fire evacuation route. An Agreement is under consideration by Benton County and OSU which, if implemented, would provide a viable alternate fire evacuation route to the citizens, however funding is limited.

The Corvallis Rural Fire District Board has refused to participate. The District states it lacks statutory authority to participate financially in developing an evacuation road, even though it has ample funds to do so. The basis for this statement is an Opinion of the Special Districts Association of Oregon which provides insurance to the Fire District. A copy of the Opinion is attached.

Could you help with a legislative amendment which would address this issue.

It is suggested that this opinion as to lack of authority could be remedied by adding a new Section (5) to ORS 478.260 like the one below:

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“(5) The District may acquire real property and easements for the purpose of fire evacuation routes and construct and maintain such evacuation routes, and participate in agreements for the provision of such routes.”

Or its equivalent, as may be suggested by Legislative Counsel. If Legislative Counsel also has a better location to place this amendment within ORS 478, that is fine.

The important point is to provide the authority for the District so a Fire District Board may choose to help safeguard its citizens/tax payers by provision of such evacuation routes. This specific Fire District Board may still choose not to do so – and then the provision or non-provision by a Board of an alternate evacuation route would be a matter of discussion for citizens of the District.

Thanks for your attention to this request.

Please contact Ann Eissinger directly at 541-753-4670 or ann.eissinger@gmail.com for further information.

Sincerely,

LEAHY COX, LLP

JOSEPH J LEAHY

Joseph J. Leahy
JJL:deb
Enclosure



CRFPD Evacuation Rt. Decision Feb. 2021

Email Stream between Ann Eissinger and George Mears

Contact: George Mears CRFPD Board Member - Phone 541-745-7665

From: George Mears [<mailto:geomears@comcast.net>]

Sent: Monday, February 1, 2021 2:50 PM

To: Ann Eissinger

Cc: Bob Conder - CRFPD; Alex Polikoff; Don Barton; Phil Sollins

Subject: OSU Evacuation Road

Hi Ann,

I understand that during last week's CRFPD meeting you requested a more detailed summary of my conversation with the (SDAO) attorney that I spoke with recently regarding the OSU evacuation road. The following will be similar to what I presented, but a bit more detailed

First, I asked him the basic question that we wanted answered:

"Can the District participate financially, if permitted by the Oregon Revised Statute, in building an evacuation road through Oregon State University property?" We asked the question this way in order to take a neutral position in regards to influencing his answer. He gave his answer with sufficient confidence while presenting relative background information. We discussed the other attorneys' advice that he spoke with and he referenced long time fire department consultants' opinions too. Both sets of advice cautioned the CRFPD "not to participate financially in this project" and then he explained why he agreed with them and restated that the ORS did not give fire districts the powers to spend money in this way.

After stating his position, he offered an "if" situation, whereby "if" the CRFPD were to disregard this "no" advice it would face legal consequences. It dealt with the "precedent" that participating financially would create. The CRFPD would become liable for the costs of future evacuation routes, whether on public or private land, if the Board rejected future overtures to participate. He said if challenged in court, this Board's current actions of setting a "precedent" would weigh heavily in favor of a verdict against itself in the future.

I know that it is difficult to hear this news, knowing all of the work you and others have done in order to make your project happen. We wish you the best.

Sincerely,

George Mears

On 2/3/2021 4:03 PM, Ann Eissinger wrote:

Hello George,

Thank you for your explanation. I do have a couple of questions.