

Timber: Appeals court ruling can be appealed to Oregon Supreme Court

Continued from Page A1

The statute also directs that forests be managed for the greatest permanent value to the state, rather than to the counties, which means the text falls short of the clear and unmistakable intent of making a contractual promise, the ruling said.

For that reason, a Circuit Court judge in Linn County wrongly refused to dismiss the class-action lawsuit against the state government, the ruling said.

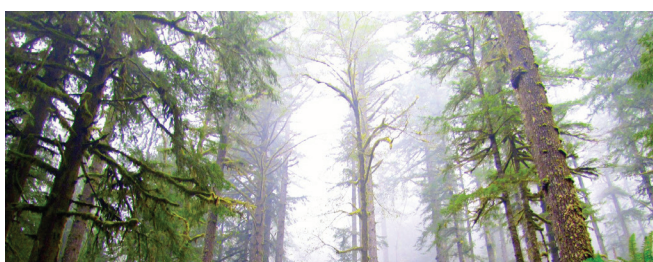
“The Court of Appeals decision today is a victory for Oregon’s environment as well as for sound forest management,” state Attorney General Ellen Rosenblum said. “The court agreed with the state’s legal position in recognizing that Oregon’s forests serve a full range of environmental, recreational and economic uses that the Department of Forestry has authority to balance in order to secure the greatest value to all Oregonians.”

John DiLorenzo, an attorney for the counties, vowed to challenge the ruling before the Oregon Supreme Court because it “does not align with the law or the evidence we presented at trial.”

The ruling doesn’t take into account the economic and social damage that rural communities have suffered after the state government changed its logging policies without input from the counties, he said in an email.

Oregon’s leaders have decided the timber economy is inconsistent with their “urban values,” but the resulting problems must be addressed to bridge the urban-rural divide, DiLorenzo said.

“The lack of productive



Picasa

The Oregon Court of Appeals has overturned a \$1 billion jury verdict against the state government that sought to compensate counties for insufficient logging on state forests.

employment in these communities has led to substance abuse, violence, lack of educational opportunity and general hopelessness and despair,” he said.

A jury determined the state violated a contract requiring it to maximize revenue from forestlands donated by the counties in the 1930s and ‘40s after a monthlong trial in 2019.

State forests must be managed for the greatest permanent value by law, but more than a dozen counties claimed the Oregon Department of Forestry impermissibly expanded that definition beyond its original intent. In 2017, the Clatsop County Board of Commissioners voted 3 to 2 to opt out of the lawsuit, citing a need for more balanced forest management. Under language adopted in the late 1990s, the greatest permanent value was changed to include environmental and recreational considerations that restricted timber harvests, shortchanging the counties and tax districts within them of revenues, the plaintiffs claimed.

Attorneys for Oregon appealed the jury verdict on the grounds that the counties didn’t have an enforceable contract that dictated how state forest officials must

manage the nearly 700,000 acres of donated property.

The law governing state forestlands pertains to matters of statewide concern that cannot be challenged in court by the counties, state attorneys claimed. As political subdivisions of the state government, the counties cannot sue over such state policies.

Federal environmental laws enacted since the property was donated, such as the Endangered Species Act, also effectively limit how much timber can be extracted from state forestlands, according to state attorneys.

The counties claimed that Oregon forestry officials weren’t obligated to create habitat for federally-protected species that resulted in logging restrictions. In any case, the counties said the state government can alter forest management policies but must still pay them damages for breaching the contract.

Counties provide health care and other functions under contract with the state government, so they must be able to rely on such agreements being enforceable, the plaintiffs said. If the counties had known the state government could reinterpret the contract’s terms at will, they’d never have donated such huge amounts of forestlands.

District 5: Ideological makeup of the nonpartisan board has become more conservative

Continued from Page A1

an innkeeper from Seaside who sits on the Port of Astoria’s Airport Advisory Committee.

At a candidates’ forum at Clatsop Community College last week, Dillard noted that some issues before the county — such as homelessness and a lack of affordable housing — have worsened over Thompson’s two terms. “I’m here because I represent change,” he told the audience.

Elected in 2014, Thompson is vice chairwoman of the Columbia-Pacific Economic Development District and works with the Association of Oregon Counties. Earlier this month, Clatsop County collaborated with the association to create a list of more than a dozen parcels of surplus county land that could be used for housing, child care and other social services.

“A lot of people don’t have necessarily a big-picture or a long-term view,” she said, “and I do.”

In an interview with The Astorian, Dillard said he wants to support local businesses recovering from pandemic shutdowns. He also wants the county to move beyond an emergency mindset — for example, by resuming in-person meetings of the Board of Commissioners at the Judge Guy Boyington Building in Astoria.

“The county building is hosting some homeless people at each of the doors, but they’re not having meetings there,” he said. “Now why is that, in April of 2022?”

Dillard said he and his wife had been looking to get more involved in the community. About six months ago, he began attending city meetings in Seaside. When he learned the county’s District 5 seat was open, he chose to run.

“I’m at a place in my life where I can serve, and I’m willing to devote time to the county,” he said.

As in the District 3 race in Astoria between Commissioner Pamela Wev and Nathan Pinkstaff, a deck mechanic, the District 5 election features an incumbent facing off against an opponent with sharply different political views. In the District 1 election in Warrenton, Commissioner Mark Kujala, the board chairman, is running unopposed.

Since Thompson first took office, the ideological makeup of the nonpartisan board has become more conservative.

Given the political divides in her district and countywide, Thompson, who at the forum did not return fire at Dillard, said she is “committed to building and maintaining connection and cooperation.”

“If I align with one side and want to demonize the other side, I don’t think I’m a good commissioner,” she told The Astorian. “So I went for the middle — the high road, the ridge line — not the swamp at the bottom of the hill.”

A divisive issue in her district is the burgeoning vacation rental industry. Although the county has permitted scores of short-term rentals in unincorporated areas, the development code does not recognize rentals as an explicit use except in Arch Cape.

The Board of Commissioners is weighing options on where to allow vacation rentals and how to regulate them.

County staff, based

on board direction, has recommended making short-term rentals a recognized use in both commercial and residential zones. A Planning Commission recommendation, however, would limit them to commercial and multifamily residential zones — and only as a conditional use — while eliminating them from other residential zones.

Before she decides on the issue, Thompson said she needs more information — for example, the extent to which rentals eat into housing stock that could be used by long-term renters. People looking to ban short-term rentals in residential zones have tied the lack of available housing, in part, to the region’s rental market.

“There may be an impact, but I want us to have data before we take actions that have unanticipated consequences,” she said earlier this month.

Dillard said in an interview that he would have approved the Planning Commission’s recommendation, aligning himself with the belief, expressed most volubly by residents in South County’s Cove Beach neighborhood, that short-term rentals are prohibited by default.

The Board of Commissioners was scheduled to discuss the issue again at a meeting Wednesday night as a moratorium on new vacation rental permits was set to expire.

On affordable housing, Dillard said the county should try to create incentives for developers. “Is there a way where we can step in and say, ‘OK, this is something that the county sees as

a priority? How can we help this along?’” he said.

As a commissioner, Dillard said he would use his position to push back against what he believes are excessive regulations from Salem.

Asked why he should be elected, Dillard cited his diverse background, including his experience owning an IT firm and founding a non-profit that serves the homeless. “I can work at the community service level. I can work at the business level. I get things done,” he said.

Thompson pointed to her “wide and deep administrative background in government.”

“Somebody can come into it and have an idea about how it works, but I know the inside way that things operate,” she said.

Thompson believes that, when progress on major issues is incremental, the best course of action is not necessarily to remove the person working on them. She said she has been “building capacity” at the county, in particular through the networking she has done to begin bringing resources to the region.

“It’s like a gardener who plants a seed, and just because it hasn’t poked through the earth and borne fruit yet, you don’t say, ‘Oh that’s worthless,’ and rip it out. You continue to nurture it so that it grows and produces the results that it promises,” she said. “Because I think I can promise results. I think we’re working effectively toward those. It’s just a longer-term gain.”

As of Tuesday, Thompson had more than \$11,000 in contributions. Dillard had raised more than \$4,000.

Ordinance: ‘My concern is to defend the rights of both the housed and the unhoused’

Continued from Page A1

“It’s a start,” Roxanne Veazey said. “In the long run, what they did in putting all those people in the Necanicum lot didn’t do any service to those people. They’re not going to walk over into the bathroom to use the restroom, they’re going to use the bushes. Then they’re going to take whatever comes out of their sewage and they’re going to put it in the trash.”

The ordinance is intended to protect the safety of residents and regulate the use of public and private property by establishing time, place and manner guidelines for homeless camping. It puts in place a permit program for temporary overnight camping on both residential and nonresidential properties. Vehicles, including vans or motor homes, would need to be registered in compliance with vehicle insurance responsibilities.

Without locations for people to go, “then basically the public streets are fair game,” Police Chief Dave Ham said. “The fact is that if we don’t have locations to identify for somebody to go with the least impact on the community, neighbors, houses in the area, then they’re going to go wherever they please. We have to either provide shelter or we have to provide public locations for them to be able to camp.”

Overnight camping permits, from 8 p.m. to 8 a.m., would be valid for three weeks, at which time they could be renewed.

While individual parking or camping locations were not designated, proposed locations for limited numbers of permitted vehicles include parts of Shore Terrace, Necanicum Drive, parts of Broadway, Avenue G and Mill Ponds Park.

Camping would be prohibited at all public park areas, public parking lots, restrooms or publicly owned properties within residential zoning districts, along with U.S. Highway 101, Avenue U, Wahanna Drive, First Avenue to Avenue A, Necanicum

Drive and other locations. Violators could be fined \$25 per day.

‘Don’t push it off to somebody else’

Many in the vocal audience at the City Council meeting said they were confused by conflicting court rulings and interpretations of the law.

“Don’t push it off to somebody else,” James Hoffman, a resident, told city councilors.

“Do your job. Do what you’re supposed to do by being in these seats. Fix it. I’m tired of seeing junk, needles, drugs, everywhere we go. I’m tired of being harassed.”

The 10th and Necanicum “RV experiment” is a disaster, Bruce Rosebrock, a resident, said.

“Needles, drugs, RVs with ‘for rent’ signs, increased theft in the neighboring blocks,” he said. “Who pays for the storage? Who pays for the demo? Lots of unanswered questions. Get this ordinance right and vote ‘no’ tonight until you have the right parameters in place. If this City Council gets it wrong and this town goes down the toilet, that’ll be quite a legacy for all of you.”

Others questioned how the city would force campers to move, the expense associated with the process, daytime parking issues and the potential lure of “free camping” for people from outside the area.

“I don’t understand why they just get to be there for free,” Linda Iles Martin, a resident, said. “You don’t get to camp for free, everybody has to pay something. That’s just part of our civilization, of our society. And these people are trying to screw up our societal program here. You just don’t get to go camp in front of somebody’s house.”

Throughout the process, city officials have said that without an ordinance with options for the homeless, the camp on Necanicum could not be cleared. But Josh Marquis, a former Clatsop County district attorney, said those interpretations were incorrect. He challenged the tenet that the city needed to enact

the ordinance before starting eviction.

“I think this is a really serious misunderstanding,” Marquis said.

The City Council ultimately relied on advice from City Attorney Dan Van Thiel to proceed with the reading of the ordinance before putting it to a vote. “I’m suggesting that we get this off the table,” he said.

Mixed response

City councilors were mixed in response.

City Councilor Tita Montero, an organizer and member of the homeless task force, asked for a new look at the ordinance. She said the camp on Necanicum could be cleared with or without the ordinance. “It’s our property. We have the right to put rules on anybody who was staying on that property,” she said. “I’m also very concerned that we have yet to hear from CIS (Citycounty Insurance Services), our insurance company, on a review of this ordinance. We have passed an ordinance without proper review. I’m very disturbed about this.”

City Councilor Dana Phillips also voiced concerns that more study was needed.

City Councilor Randy Frank said it “was the right thing to do.” City Councilor Steve Wright said the measure was the best way to give police the tools to enforce regulations.

Mayor Jay Barber and Frank, Wright, City Councilor David Posalski and City Councilor Tom Horning voted for the ordinance. Montero and Phillips voted against it.

The ordinance goes into effect in 30 days.

City councilors agreed to consider additional public comment for amendments in a workshop scheduled for May 9 before the next City Council meeting.

“My concern is to defend the rights of both the housed and the unhoused,” Barber said. “And I think we’ve got to work together to refine this ordinance so that it covers both bases.”

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ASTORIA CHIROPRACTIC

Alicia M. Smith, DC
Owner

503-325-3311
2935 Marine Drive
Astoria, Oregon

Heather Jensen
Advertising Representative

the Astorian

971-704-1716

www.dailyastorian.com

949 Exchange St.
Astoria, OR
503-325-3211