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BAGG, Referee.

Based upon a Stipulation of Dismissal of Appeal and the recitals therein, a copy of which is attached hereto, it is ordered that the above captioned appeal is dismissed.

Petitioner's deposit for costs in the amount of \$150 shall be returned.

Dismissed.

APR 10 1 19 PM '81

BEFORE THE LAND USE BOARD OF APPEALS  
FOR THE STATE OF OREGON

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OCEANLAKE READY-MIX CO., )  
an Oregon corporation, dba )  
OCEANLAKE SAND AND GRAVEL, )  
Petitioner, )  
vs. )  
LINCOLN COUNTY, )  
Respondent, )  
and )  
RMS. INC., an Oregon )  
corporation, )  
Respondent-Intervenor. )

STIPULATION AND ORDER  
OF DISMISSAL OF APPEAL  
No. 80-79  
No. 80-80

This stipulation is hereby entered into between  
the parties through their attorneys on the 31<sup>st</sup> day of  
March, 1981.

RECITALS

1. WHEREAS, the appeal herein concerns a land use decision made by Lincoln County on June 30, 1980, and
2. WHEREAS, subsequent to that Land Use Decision, Respondent-Intervenor and the Bank of Newport filed a petition with the City of Lincoln City for the annexation of the property owned by said Respondent-Intervenor and the Bank of Newport and which property was the subject of Petitioner's appeal herein, and
3. WHEREAS, on February 10, 1981, the City Council of Lincoln City approved the annexation of the property

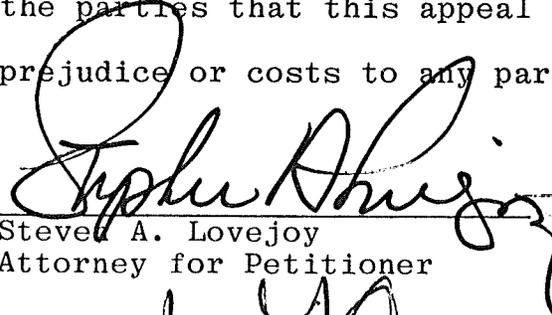
Attorneys at Law  
P. O. Box 29 97367  
Lincoln City, Oregon  
Telephone (503) 944-8105

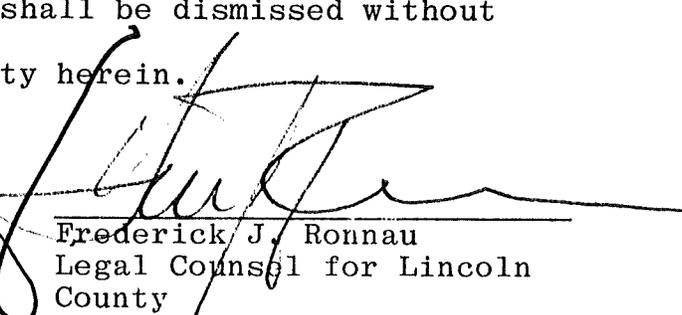
1 into the City of Lincoln City and thereafter entered an  
2 annexation order attached hereto as Exhibit "A", and

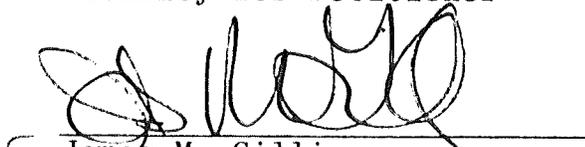
3 4. WHEREAS, said annexation order rendered  
4 "moot" all legal issues and factual disputes raised in the  
5 appeal herein, and

6 5. WHEREAS, it is the desire of all parties  
7 herein to dismiss this appeal without prejudice or costs  
8 to any party involved.

9 NOW, THEREFORE, it is hereby stipulated between  
10 the parties that this appeal shall be dismissed without  
11 prejudice or costs to any party herein.

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13   
14 Steve A. Lovejoy  
15 Attorney for Petitioner

16   
17 Frederick J. Ronnau  
18 Legal Counsel for Lincoln  
19 County

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21 James M. Gillis  
22 Attorney for Respondent-Intervenor

23 ORDER OF DISMISSAL

24 Based upon the foregoing stipulation and the Board  
25 finding that the appeal herein is moot, due to the annexation  
26 of the property in question to the City of Lincoln City,

IT IS HEREBY ORDERED that this appeal be and is  
hereby dismissed without costs or prejudice to any party.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 1981.

\_\_\_\_\_  
Referee

## ORDINANCE NO. 81-04

AN ORDINANCE ANNEXING CERTAIN PROPERTY KNOWN AS THE BANK OF NEWPORT ANNEXATION REQUEST, TO THE CITY OF LINCOLN CITY; AND DECLARING AN EMERGENCY.

## RECITALS:

WHEREAS, there has been submitted to the City of Lincoln City, Oregon a petition for annexation to the City of certain property contiguous to the City, said petition constitutes the one and only owner of the real property requested to be annexed and therefore said property represents 100% of the property owners, owning 100% of the property, and their real property is 100% of the total valuation within the proposed annexation to the City; and

WHEREAS, the Common Council of the City of Lincoln City passed Ordinance No. 81-01, initiating the annexation of said property, calling for a public hearing on February 10, 1981, and directing that notice be give thereon, and since the hearing was held on February 10, 1981, regarding the proposed annexation, the Common Council determined that the annexation is in the best interest of the City and of the contiguous property; and

WHEREAS, the Common Council by separate order adopted by the Common Council finds that the annexation request is in compliance with the applicable state-wide goals as adopted by the Land Conservation and Development Commission and the findings of fact regarding the applicable goals as set forth therein.

## THE CITY OF LINCOLN CITY ORDAINS AS FOLLOWS:

Section 1. The following described contiguous property is hereby annexed to the City of Lincoln City, Oregon:

Beginning at an iron pipe set on the intersection of the Easterly right of way line of the Oregon Coast Highway with the North and South centerline of the Southeast quarter of Section 22, Township 7, South, Range 11 West, Willamette Meridian, in Lincoln County, Oregon, which iron pipe marks the North corner of the W.P. and Kate C. Borton tract as described in deed recorded in Book 73, Page 512, Deed Records for Lincoln County, Oregon; thence South 30 degrees 54' West, along the Easterly right of wayline of said highway, 550 feet to the Northerly line of the public road as described in instrument recorded in Book 262, Page 30, Deed Records for Lincoln County, Oregon; thence South 59 degrees 06' East along the Northerly line of said public road, 325.95 feet to the North and South centerline of the Southeast quarter of said section; thence North along said North and South centerline, 639.4 feet to the point of beginning.

Section 2. City Recorder shall be directed to submit to the Secretary of State of the State of Oregon, a copy of Ordinance no. 81-01, a copy of the annexation request of the land owner and a copy of this Ordinance. In addition, the City Recorder shall forward a copy of

this annexation Ordinance to the Lincoln County Assessor, County Surveyor, and record said same annexation Ordinance with the Lincoln County Clerk.

Section 3. It is hereby adjudged and declared that it is necessary for the immediate preservation of the public peace, health and safety of the City of Lincoln City that an emergency is hereby declared to exist, and this Ordinance shall take effect and be in full force and effect upon its adoption by the City Council.

ADOPTED by the Common Council this 24th day of February, 1981.

SIGNED by the Mayor this 24th day of February, 1981.

  
ALLAN M. HATTON, Mayor

ATTEST:

  
D.W. WORKS, City Recorder