

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, January 7, 2009
Marion County Courthouse Square

9:00 a.m. Board Session
Senator Hearing Room

PRESENT: Commissioner Patti Milne, Commissioner Janet Carlson and Commissioner Sam Brentano. Also present were John Lattimer as chief administrative officer, Jo Stonecipher as legal counsel and Kim Hulett as recorder.

PUBLIC COMMENT

None.

CONSENT

BUSINESS SERVICES – HUMAN RESOURCES

Adopt and establish the classification of professional standards coordinator at pay range G24 A K, Sheriff's Office.

Uphold the pay range for juvenile detention supervisor.

CHILDREN AND FAMILIES

Approve an order appointing Commissioner Janet Carlson to the Children and Families Commission for a term ending June 30, 2012.

FINANCE

Approve contract for sale of tax foreclosed real property tax account no. R108948.

HEALTH

Approve amendment #66 to receive \$215,511 from the Department of Human Services for the financing of community mental health, developmental disability and addiction services.

Approve amendment #1 to the contract with Easter Seals Oregon, Children's Therapy Center, reducing funds by \$278,187 for providing Integrated Delivery Services and extending the term through December 31, 2009.

PUBLIC WORKS

Allow a reciprocal agreement between a private property owner and Marion County for access and utility easements.

MOTION: Commissioner Brentano moved approval of the consent calendar. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

ACTION

BOARD OF COMMISSIONERS

1. Consider approval of an order authorizing elected officials to participate on boards, commissions and committees.

Jo Stonecipher, legal counsel, stated the actual purpose of this order is to officially recognize all the activities that the elected officials of Marion County participate in. This includes commissions, boards and all organizations that elected officials serve. This makes it an official county function for purposes of liability and that board members are always acting in their capacity as a county official.

MOTION: Commissioner Carlson moved approval of an order authorizing elected officials to participate on boards, commissions and committees. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

PUBLIC WORKS

2. Consider adoption of a revised dog control ordinance, by emergency procedure. – Allison Barrows,

Allison Barrows, dog shelter manager, stated that the current ordinance was adopted in 2006 and the new dog shelter was opened in late 2006. During this time period, county personnel noticed that the ordinance could use some improvement. The suggested changes have been presented to the Board of Commissioners at a work session and a number of management updates. On October 22, 2008, the Board of Commissioners held a public hearing on the proposed revisions to the dog control ordinance. Ms. Barrow said that at this time the Marion County Dog Control seeks the Board of Commissioner's approval on the suggested amendments.

Bruce Armstrong, assistant legal counsel, said he felt the board was fairly familiar with the changes to the ordinance because it had been reviewed in work sessions and management updates. He reviewed some of the key changes. Mr. Armstrong said the county's ordinance is now separate from and intended to replace the statutory sections, which allows the creation of distinctions. As a general rule the county still follows the framework that is laid out in the statutes between the two. One of the distinctions is that the ordinance allows the district attorney or police to address the illegal behavior of the person, but allows dog control to address the problem dog. There were also a few changes in definitions that were made. The definition of dog used to be one that was owned or kept in Marion County, but there were situations where dogs were kept in Linn County and came across into Marion County and did bad things. The definition was enlarged to address the problem, whether the dog resides in the county or not. The definition of a dog control officer was expanded to include the director and manager so they could also issue citations and act the same way as a dog control officer.

Mr. Armstrong said that in section 6 there were some changes made to the licensing language where an individual can now offer evidence to the hearings officer that they have resided in the county for only thirty days or had the dog for thirty days when they were cited.

In section 7 language was added that only if a dog was cited for being a nuisance was it a violation to remove the dog from the county. He said that dog control deals with livestock cases and criminal cases. The language was made broader so if an individual is faced with a citation or criminal case, the dog cannot be removed from the county and hidden.

In section 8 a clarification was made as to when the dog control director can impound a dog through the administrative process. The dog would be held until the administrative process is concluded. Another clarification was that if law enforcement brings a dog to the shelter while dealing with a criminal case, that dog control may take the dog into the shelter.

Section 9 deals with redemption periods for a dog that's impounded. This section remains the same that if a dog has no evidence of licensing the dog has to be redeemed within three days. If a dog does have evidence of licensing then the dog has to be redeemed within five days of dog control sending out the notice that they have the dog. Mr. Armstrong added that even if a keeper does not redeem a dog, the dog control holds the keeper responsible for the impound and boarding of the dog during the redemption period. This clarifies that a dog cannot just be abandoned.

Mr. Armstrong added that section 10 allows dog control to enter into a payment plan if someone is redeeming a dog and is unable to pay all the costs accrued. He added that there were a few changes to how notices of civil infraction can be served. If service cannot be achieved through personal service or certified mail, then the dog control officers can post the citation at the dwelling and follow up with a mailed letter notice to insure the individual knows about the hearing process.

Mr. Armstrong said one other significant change was if a dog is found to be a dangerous dog and presumed that it cannot be safely kept then it needs to be euthanized. The definition of dangerous dog includes a dog that has acted as a potentially dangerous dog twice. A potentially dangerous dog includes dogs that have been menacing.

Mr. Armstrong said that the last change relates to the decision and appeal process. These changes were after the public hearing that was held on October 22, 2008, and comments from the public were received. Issues were worked through and language was clarified. The general rule is that once the hearings officer's rule comes out dog control will hold off on enforcing the case if there is a potential appeal. In situations where a dog is ordered euthanized or surrendered to dog control, enforcement would be stayed for 15 days and the keeper would need to submit a notice of intent to appeal to the dog control director within those 15 days. A boarding deposit would also need to be paid. In addition, if the hearings officer's order is upheld on appeal, the court has discretion to reduce that amount to be paid for boarding if good cause is shown. A good cause means that the keeper would be under an undue financial hardship if required to pay.

Commissioner Carlson commented that she watched the public hearing that was held on October 22, 2008. She said the changes made to the ordinance reflect the concerns and comments made at that public hearing.

Commissioner Brentano commented about how much work went into this revised ordinance and he felt it was very fair and practical.

MOTION: Commissioner Brentano moved to have the chair read the ordinance by title only twice. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

Commissioner Milne read the ordinance by title only twice.

MOTION: Commissioner Brentano moved to approve the ordinance that provides for the regulation and control of dogs, by emergency procedure. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

3. Consider approval of an order establishing the boarding deposit amount required when a notice of intent to file a petition for writ of review is submitted in a dog control case. – Allison Barrows, Bruce Armstrong

Bruce Armstrong, assistant legal counsel, said that part of the dog control ordinance requires that if a dog is held in the county's possession and the keeper seeks to appeal a decision that involves euthanasia, surrender or relocation of the dog, he then has to file the notice of intent to appeal and provide a boarding deposit. Mr. Armstrong said that dog control seeks to have that boarding deposit set at \$500.00. He added that these appeals could run a great deal of time. A serious case could take as long as 3-5 months and the boarding costs would be \$600.00 per month. Mr. Armstrong said that any dog control hearings officer's case could be appealed. This boarding deposit requirement only applies if the dog is being held in the county's shelter. The order provides that these fees take effect on February 1, 2009.

Commissioner Carlson commented that Commissioner Brentano was the one who suggested that the deposit be \$500. Commissioner Milne said it appears this deposit is very reasonable.

MOTION: Commissioner Carlson moved approval of an order establishing the boarding deposit in the amount of \$500.00, which is required when a notice of intent to file a petition for writ of review is submitted in a dog control case. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

PUBLIC WORKS – PLANNING

4. Consider adoption of an administrative ordinance granting zone change, comprehensive plan amendment and property line adjustment, case #08-01, Lovrien Trust, Clerk's File #5598; notice of adoption was December 31, 2008. – Sterling Anderson

Sterling Anderson, planning director, said this item involves an application to adjust the property lines on a 6.29-acre parcel and a 1.23-acre parcel to create a 5.52-acre parcel and a 2-acre parcel. The application also is for a zone change from exclusive farm use to commercial and the comprehensive plan designation from primary agriculture to commercial and take an exception to statewide planning goal 3, the agriculture lands goal, on the resulting 2 acre adjusted parcel. This property is located at 8755 Silverton Road NE, Silverton.

The Marion County hearings officer held a public hearing on this application on March 12, 2008. On October 20, 2008, the hearings officer issued a recommendation to the board to deny the zone change and plan amendment, but recommended approval of the property line adjustment.

The board held a duly noticed public hearing on the application on November 19, 2008. Based on more detailed information submitted at the hearing by the applicant's representative, the board granted the requested comprehensive plan zone change and goal exception, as well as the property line adjustment. Notice of adoption of the administrative ordinance implementing the board's decision was held on December 31, 2008, and is now back for final consideration of adoption.

MOTION: Commissioner Brentano moved to adopt the administrative ordinance that grants the zone change/comprehensive plan amendment and property line adjustment, case #08-01, Lovrien Trust, Clerk's File #5598. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

**PUBLIC HEARING
9:30 a.m.**

None.

Commissioner Milne read the calendar.
Commissioner Milne adjourned the meeting at 9:50 a.m.

Attachments: Agenda

ABOVE MINUTES APPROVED

CHAIR

COMMISSIONER

COMMISSIONER

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