

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, January 14, 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 Jo Stonecipher as legal counsel and Kim Hulett as recorder.

PUBLIC COMMENT

None.

CONSENT

BOARD OF COMMISSIONERS

Approve an order reappointing Richard Morley as justice of the peace pro tempore for the East Marion County Justice of the Peace District for a one-year term ending December 31, 2009.

PUBLIC WORKS

Approve the Road Easement Acceptance Annual Report for 2008.

PUBLIC WORKS – PLANNING

Receive hearings officer's recommendation to grant zone change/comprehensive plan amendment #ZC/CP 08-07, Krivoshien, Clerk's File #5607 and schedule public hearing on February 11, 2009.

Receive hearings officer's decision granting partition/variance, case #P/V 08-015, Hunsaker, Clerk's File #5608.

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

ACTION

BOARD OF COMMISSIONERS

1. Consider approval of an order appointing Nicolas Castellano to the Marion County Weed Advisory Committee for a term ending June 30, 2012. – Glenis Chapin

Glenis Chapin, Marion County volunteer services coordinator, said she was in attendance to request approval of an order appointing Nicolas Castellano to the Marion County Weed Advisory Committee. Mr. Castellano is a student at Willamette University Law School and has done invasive species research. In addition, he has experience working with councils and groups to facilitate cooperation when there are different opinions and interests.

Mr. Castellano said he was grateful for the opportunity to serve on the Marion County Weed Advisory Committee. He said he plans on being in the area for a few years since he is in law school. Mr. Castellano said he is a transplant from Corvallis where he was born and raised. He just completed his undergraduate degree at Brigham Young University. While in Utah he graduated with a degree in English, but for several summers he was a research assistant to a soil and crop professor dealing with issues of trying to replace cheat grass on rangeland after it had been burned over with native vegetation. He said he was supposed to find the best combination of foliage replacement for the (Bureau of Land Management) BLM and other state agencies to spread on these burn over areas to replace the cheat grass that tends to creep into the fields.

Mr. Castellano said his experience with weed control and environmental issues goes back to an early age. His dad is a research scientist for the forest service and he spent a lot of time with his dad in the woods.

The commissioners stated they were very happy to have him serve on this committee.

MOTION: Commissioner Brentano moved approval of an order appointing Nicolas Castellano to the Marion County Weed Advisory Committee for a term ending June 30, 2012. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

Commissioner Milne recessed the meeting at 9:15 a.m.
Commissioner Milne reconvened the meeting at 9:30 a.m.

PUBLIC HEARING

9:30 a.m.

PUBLIC WORKS – PLANNING

A. Public hearing to consider zone change/comprehensive plan amendment, case #ZC/CP 08-4, Abbott, Clerk's File #5603. – Joe Fennimore

Joe Fennimore, planning department, stated this is an application to change the zone from community commercial to acreage residential – ten acre minimum parcel size and to change the comprehensive plan designation from commercial to rural residential on a 1.54 acre parcel, a 1.5 acre parcel and a 2.69 acre parcel located at 11192 and 11193 Kathy Lane SE, Stayton, Marion County, Oregon.

A public hearing was duly held on this application on May 14, 2008. On May 22, 2008, the hearings officer informed the hearing participants that the recording equipment failed to record the proceedings. On May 28, 2008, in response to a request by opponent Bullington, the

hearings officer extended the open record period to June 4, 2008, for opponents and until June 11, 2008, for applicants. On November 25, 2008, the hearings officer issued a recommendation to grant the request subject to conditions.

Commissioner Carlson said there were two opponents listed in the hearings officer's report and they are not in attendance now. She asked Mr. Fennimore what their opposition was about. Mr. Fennimore said the opposition has commercial property that is currently the same zone as the applicants. The access for all four of the properties goes through an easement on the opposition's property. He said they were concerned about the impact of additional traffic going back to these dwellings on their access point. He said the hearings officer, based on public works comments, concluded that if the zone change was approved there would be less traffic from the dwellings than from the businesses. The applicants would also be required to get the state approved access.

TESTIMONY:

Support:

Mark Hoyt, 693 Chemeketa Street NE, Salem, said he is the applicant's attorney. Mr. Hoyt said that Mr. Bullington and his wife own and operate a residence and a tax shop that is located on the property. The accesses to the tax shop as well as the access to the current residences share a common access point, which is an easement. The Bullingtons had objected on the basis of concerns regarding traffic. As the hearings officer found, the reduction in zoning from commercial to residential would reduce traffic. In addition, an agreement was reached with the Bullingtons to slightly reconfigure the easement while still complying with all applicable county and state access codes and fire access requirements that resolved their concerns. Mr. Hoyt said their objections to the application have been withdrawn. He said they did receive a copy of the decision and notice of the hearing today.

Mr. Hoyt said the three parcels at issue were created by way of a couple of partitions, one in 1999 and one in 2005. The lots are located on the north side of Highway 22 surrounded by property zoned acreage residential zoned property and surrounded by farm and forest uses. The applications seeks to take the commercially zoned property and down zone them to acreage residential, which will continue the existing development pattern where there is Highway 22, residential development and farming and forest activities. The existing properties are buffered from the existing farm and forest activities by already developed residential parcels, so the down zoning will not create any conflict with the existing farm and forest uses. The application satisfies the statewide planning goals and also complies with the community goals and requirements. Mr. Hoyt said that through this process they have been interacting with the Oregon Department of Transportation (ODOT). The current access to the property is actually a residential access. When the property was zoned for community commercial it was never a change in use application for the ODOT access. The current access to the property is constricted to residential uses, so the access right to the highway and the zoning are currently inconsistent. He said this application would create consistency. Accordingly, he felt the application should be approved for both the zone change and the comprehensive plan amendment.

Commissioner Carlson asked Mr. Hoyt if there were any concerns about the number of conditions or if there were any that were not feasible. Mr. Hoyt said they were concerned with

one condition and it is the requirement that they setback from the aquatic vegetation. The aquatic vegetation isn't defined in any code. The determination of how that would be handled was not clear. After talking with the county, the determination would be the high water mark on the creek.

Mr. Fennimore said that he agreed with what Mr. Hoyt said. Commissioner Brentano clarified that these lots would be changed to an acreage residential 10 - acre zone and then be divided into smaller than 10-acre lots. Mr. Fennimore said the lots were existing and less than 10 acres. The three lots would be recognized as legal lots and could be developed, but could not be divided any smaller.

MOTION: Commissioner Carlson moved to close the public hearing and accept the hearings officer's recommendation to approve the comprehensive plan and zone change application subject to the conditions, case #ZC/CP 08-4, Abbott, Clerk's File #5603. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Commissioner Milne read the calendar.

Commissioner Milne adjourned the meeting at 9:45 a.m.

Attachments: Agenda

ABOVE MINUTES APPROVED

CHAIR

COMMISSIONER

COMMISSIONER

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