

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, February 11, 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

OLCC APPLICATIONS – Recommend Approval

Lancaster Market, Salem
State Market, Salem
US Market #115, Salem

Approve an order appointing Byron Hendricks, Ken Jundt, Paul Warner, Bill Burgess, Richard Kreitzer, and Chuck Swank to the Marion County Council of Economic Advisors for terms ending December 31, 2010.

BUSINESS SERVICES – HUMAN RESOURCES

Approve recommendation to adjust the pay range of Legal Counsel, Director of Public Works and Health Administrator and to uphold the pay ranges of Director of Business Services, Chief Financial Officer, Director of Juvenile, Chief Information Officer and Director of Children and Families.

Approve recommendation to adjust the pay range for the payroll clerk classification in multiple departments.

HEALTH

Approve amendment #2 to add \$217,590 to the contract with Resource Connections of Oregon to provide fiscal intermediary services for the developmental disability family support program.

PUBLIC WORKS – PLANNING

Receive hearings officer's decision denying case #CU08-46, Levy, Clerk's File #5587.

Notice of adoption of administrative ordinance granting comprehensive plan amendment/conditional use, case #CP/CU07-6, Sacher, Clerk's File #5576. Adoption scheduled for February 18, 2009.

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 a proclamation designating February 14, 2009, as Oregon's 150th Birthday Kick-Off. – Amy Vandegrift and Bill Penhollow, Marion County Oregon 150 Committee co-chairs.

Amy Vandegrift said she is the director of the Marion County Historical Society, but also has the privilege of co-chairing the Marion County 150 Committee. Bill Penhollow said he also co-chairs the Marion County 150 Committee and thanked the commissioners for the opportunity to attend the board session. He asked the commissioners to favorably consider the proclamation designating February 14, 2009, as Oregon's 150th Birthday Kick-Off.

Commissioner Carlson asked the co-chairs to talk about the activities they are encouraging the public to participate in and the website where people can access information regarding those activities.

Ms. Vandegrift said they are putting together a pamphlet, which is actually a passport that encourages the public to visit each of the 20 incorporated cities in Marion County. Also included in the passport are the communities of Champoeg and Butteville, which are historical. The passport is about 150 miles long and provides a great opportunity for people to get out and explore Marion County.

Mr. Penhollow added that a relay has been setup over four weekends ending on July 11, 2009, with a big celebration at the Marion County Fair. All twenty of the cities in Marion County are participating in the relay in some form or another. Mr. Penhollow said that Marion County has more cities than any other county in the state. Ms. Vandegrift added that they would like to have a gathering on Labor Day with the commissioners and those people that have completed their passports.

Commissioner Carlson stated that if people want to know more about the celebration they can access the county website at www.co.marion.or.us. On the homepage there is a map of Oregon that says "150". Click on this link and it will provide all the information of Oregon 150 and it is updated regularly.

Commissioner Milne stated this celebration could be a real economic boost if people participate.

Commissioner Brentano asked if the brochure was now available. Ms. Vandegrift said it would be available mid-March in all the cities of the county.

MOTION: Commissioner Brentano moved to approve the proclamation designating February 14, 2009, as Oregon's 150th Birthday Kick-Off, encouraging Marion County residents to participate in county activities. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

The Commissioners then read the proclamation.

PUBLIC WORKS

2. Consider adoption of an ordinance amending the dog control ordinance, by emergency procedure. – Bruce Armstrong

Bruce Armstrong, assistant legal counsel, stated that the Board of Commissioners adopted a new revised dog control ordinance on January 7, 2009. He said that during the process of running through some training with the dog control officers, they noticed that one method of serving notices of civil infraction was inadvertently removed from the ordinance. That method is substituted service and is one of the more common ways that dog control officers serve their notices of civil infraction. Mr. Armstrong said if it is necessary to serve the dog's keeper, one way is to personally deliver the notice of civil infraction to the dog's keeper, which is called personal service. Equally as common is if the keeper is not at home when the dog control officer arrives, but another resident of the dwelling is present, a substitute service method can be used. If this method is used, the dog control officer follows up with a letter to the dog's keeper at the home.

The revised ordinance that was adopted on January 7, 2009 did not include the substituted service method and this amendment will put it back in the ordinance. Mr. Armstrong advised that this was the only change to the amendment.

Commissioner Milne asked how it was determined who the keeper of the dog is. Mr. Armstrong said it is often based on what the dog control officers learn when they are performing their investigation. Commissioner Milne asked if there was any law or rule regarding age and if a child could be served. Mr. Armstrong said that the child must be over 14 years of age. Ms. Stonecipher added that a letter is sent to follow-up.

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

Commissioner Milne read the ordinance by title only twice.

MOTION: Commissioner Carlson moved adoption of an ordinance amending the dog control ordinance, by emergency procedure. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

PUBLIC WORKS – PLANNING

3. Consider LUBA remand and whether to accept applicants' appeal and schedule a public hearing for zone change, case #ZC08-05, Fultz, Clerk's File #5597 and partition, case #P08-78, Fultz, Clerk's File #5596; suggested public hearing date is March 18, 2009. – Sterling Anderson

Sterling Anderson, planning director, said the issue before the board is should the Board of Commissioners receive a remand from the Land Use Board of Appeals (LUBA) and reconsider whether to accept the applicants' appeal and schedule a public hearing. On January 16, 2009, LUBA remanded the referenced cases back to Marion County at the request of all parties. This case involves the county denial of an application appealing a change on the unofficial zone maps to reflect the officially adopted zoning on the subject property and denying a partition of that property. The purpose of the remand is to allow the board to reconsider whether to accept applicants' appeal of the hearings officer's decision and to hold a hearing that would allow them to present evidence and make legal arguments regarding the county's ability to apply the officially adopted zoning map on this particular property.

Mr. Anderson said that staff recommends that the board receive the remand, accept applicants' appeal and schedule a public hearing. The suggested public hearing date is March 18, 2009.

Commissioner Carlson said that her recollection was that when the board denied the hearing in the first place there was discussion that there wasn't much the board could do to rectify the problem and they wanted to allow the applicants to pursue other options. She said her understanding is that there have been more discussions about this and if the board were to remand and hold the hearing there are potentially some solutions. She asked legal counsel if this was a fair statement. Ms. Stonecipher said that when this case was at LUBA she consulted with the counsel for the applicants concerning various procedural matters at LUBA. At one point, their counsel expressed great surprise and dismay that the board had not taken this up with a hearing. Ms. Stonecipher explained the advice she had given the board at that time and what the boards' intentions had been. With further discussion, applicants' legal counsel felt he could offer some solutions to the board. She said she told applicants' legal counsel she would talk to the board to see if they would be willing to remand it and consider whether to hold a hearing in the matter. Ms. Stonecipher said that staff is not convinced there is a solution in this matter, but if the applicants' counsel wishes to bring forward alternatives to the board it seems that the board would want the opportunity to hear that.

Commissioner Milne clarified that possibly there could be additional information that the applicants' legal counsel would like to present. Ms. Stonecipher said they are quite adamant that they would like the opportunity to talk to the board.

MOTION: Commissioner Brentano moved to accept the applicants appeal and schedule a public hearing for March 18, 2009, case #P08-78, Fultz, Clerk's File #5596. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

PUBLIC HEARING

9:30 a.m.

PUBLIC WORKS – PLANNING

A. Public hearing to consider zone change/comprehensive plan amendment, case #ZC/CP08-07, Krivoshien, Clerk's File #5607. – Sterling Anderson

Sterling Anderson, planning director, said this application is a request to change a zone from acreage residential (AR) to commercial (C) and to change the comprehensive plan designation from rural residential (RR) to commercial and it involves also taking an exception to statewide
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planning goal 3 (agricultural lands) on a .43-acre parcel located at 5957 Mt. Angel Highway NE, Silverton. A public hearing was held before the Marion County hearings officer on October 28, 2008. On January 5, 2009, the hearings officer after reviewing all the evidence in the record and against the criteria for this kind of an application recommended to the Board of Commissioners that the application be granted subject to certain conditions. The case is now before the board for the second public hearing that's required on a comprehensive plan change.

TESTIMONY:

Support:

Norm Bickell, 1180 Boone Road South, Salem, stated that he and the applicants have read the hearings officer's recommendation and they find it complete and that the conditions are acceptable. They have no further evidence to submit and are here to answer any questions.

MOTION: Commissioner Carlson moved to close the public hearing, approve the comprehensive plan amendment and zone change and direct staff to bring back the ordinance with the appropriate conditions and addressing the goals listed in the hearings officer's report. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Commissioner Milne read the calendar.

Commissioner Milne adjourned the meeting at 10:00 a.m.

Attachments: Agenda

ABOVE MINUTES APPROVED

CHAIR

COMMISSIONER

COMMISSIONER

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