

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, May 6, 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.

PRESENTATION

TravelSalem Update – Angie Morris

Angie Morris of TravelSalem gave the board a brief update on tourism promotion in Marion County. Ms. Morris reported the highlights of the 2008-09 progress report showing activity November-March (Attachment A).

Commissioner Milne thanked Ms. Morris for coming and suggested giving an update to the board each quarter. Commissioner Brentano asked if it would be possible to have the Oregon 150 brochures placed into the TravelSalem brochure for the next couple of months. He said both brochures compliment each other and it could possibly intrigue people to look at the different communities. Commissioner Carlson thanked Ms. Morris for coming and for the support of the fair and the Oregon 150 relay.

PUBLIC COMMENT

None.

CONSENT

Commissioner Milne announced there was an item to add to the consent calendar and asked for a motion.

MOTION: Commissioner Brentano moved to add the following item to the consent calendar: to cancel a public hearing for May 20, 2009, regarding conditional use, case 08-53, Smith, and schedule a new hearing date at a future regular board session. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

BOARD OF COMMISSIONERS

OLCC APPLICATIONS – Recommend Approval
Domaine Margelle, LLC, Scotts Mills

TAX COLLECTOR

Approve an order authorizing a property tax refund of \$71,931.25 to Willamette Estates II, LLC.

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 a proclamation designating May 8, 2009, as Military Family Appreciation Day. – Dan Estes

Commissioner Milne explained that Dan Estes, senior policy advisor, was going to present this proclamation today, but unfortunately could not attend. She added that when Mr. Estes brought this proclamation to her attention she felt it was a great idea because military members perform selfless acts. While the military members put themselves in harm's way protecting our freedom, their families also are making tremendous sacrifices and also need to be recognized and thanked.

Commissioner Brentano summarized that this appreciation day is a chance to publicly recognize the role that strong family support plays in maintaining the effectiveness of our military, and to connect military families with needed services to assist them in many ways while they have family members on deployment and when they return home.

Commissioner Carlson said there is a rather large deployment going out this week so the timing is appropriate. There will be activities at the capitol on Friday celebrating this appreciation day.

MOTION: Commissioner Carlson moved approval of a proclamation designating May 8, 2009, as Military Family Appreciation Day. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

The commissioners then read the proclamation.

PUBLIC WORKS – ENVIRONMENTAL SERVICES

2. Consider approval of an order directing the hearings officer to give notice, hold a public hearing and make findings whether the property located at 4656 Arizona Avenue NE, Salem, is subject to waste, justifying shortening the tax foreclosure redemption period. – Lucinda Moyano, Laura Pekarek

Lucinda Moyano, assistant legal counsel, introduced Laura Pekarek, code enforcement, and stated that there have been some ongoing violations of the solid waste ordinance and the building code provisions on this property for a number of years. As of October 27, 2008, a judgment of foreclosure was entered on the property. The normal redemption period is two years, which means the county would not take deed to the property until October 27, 2009. Unfortunately, the property is being subject to waste. The property is owned by Ms. Rene Ferrando, but is occupied by her brother-in-law, Toby Nando. Neither has been compliant with the code enforcement actions that have been taken against them. Ms. Moyano stated that the definition of waste is the destruction, material alteration or deterioration of land or improvements resulting in or

threatening to result in substantial loss of property value caused directly by the owner or person rightfully in possession of the property. She said it is a big concern to the county because they will be taking deed to this property and as the waste continues to occur, the value of the property is decreasing. Ms. Moyano requested the board of commissioners direct the hearings officer to conduct a hearing to make a determination of whether the property is subject to waste and whether the redemption period should be shortened. Once the hearing is held and the hearings officer makes a recommendation, it will be put before the board for final approval.

Laura Pekarek, code enforcement officer, said she has been the officer in charge of dealing with the issues regarding this property since early 2007. She explained the request for the expedition of the redemption period and the tax foreclosure of the property at 4656 Arizona Avenue NE, Salem. She showed some slides to the board demonstrating that the property owner and tenant have done little to resolve the continuing solid waste issues on this property. While the tenants initial actions could be explained by a limited awareness of ordinance and permitting requirements, the fact remains that even after informed of the violations on the property, the tenant has not only maintained the property in a state of disrepair, he has continued to create additional violations.

Ms. Pekarek stated the property has been under enforcement with Marion County Code Enforcement since 2003. The property is subject to waste and within 200 feet of the Scott Elementary School. The property is subject to waste because of the tenant's environmentally hazardous habits and the property owner's outright refusal to stop him. Some of those habits include the collection of wrecked and dismantled vehicles stored in the rear yard; car parts stored inappropriately deteriorating in the open elements and the inappropriate storage of engine fluids. The method in which these items are stored only escalates deterioration. Further, some of these vehicles are accessible from the roadway and create an attractive nuisance for the elementary students who walk past this property on their way to and from school every day.

Ms. Pekarek said that Marion County case file 03-0153 was opened in August of 2003 and continued through November of 2005. This case file was opened for over two years and meant the property remained in a state of noncompliance during the entire period. Even the minimum standard of compliance of the solid waste ordinance has been a stretch for this property. Marion County code enforcement case file C07-0039 was opened from January 2007 through April of 2007. To meet the minimum compliance standards, the tenant closed off the opening of the fence and parked all the vehicles behind the fence. The tenant also eliminated some of the solid waste issues that were in front of the fence, but the vehicles behind the fence remained. Within two months of case file C07-0039 closing there was a citizen complaint filed regarding the open storage of inoperable solid waste on the tenant's property. Because it was such a short time between the last case file closing and the new one being opened, code enforcement immediately issued a citation to both the property owner and the tenant.

During the course of the ongoing enforcement investigation Ms. Pekarek discovered that improvements were being completed to the dwelling without the required building permits. Ms. Pekarek said that letters were sent to both the property owner and the tenant informing them of the building permit requirements. Code enforcement received no responses. Even after the letter advising them of the permit requirements and process, the tenant has continued to make additional structural changes including a new window and changes to the porch without permits. Additional fencing has also been constructed creating a vision hazard and would require some modifications and possibly, a permit. These issues were addressed in the last two citations

issued to the property owner. Code Enforcement and the Justice Court Judge have encouraged the property owner to evict the tenant as a means to gain control of the property, correct the violations and receive relief from the enforcement actions against her. However, to date she has been unable, and seemingly unwilling, to complete that action.

Ms. Pekarek said since this case's inception, five citations have been issued in an effort to encourage the property owner and tenant to resolve the solid waste and permitting issues on the property, with no tangible results. Ms. Pekarek then displayed an aerial map of the property so the commissioners could see the volume of solid waste and the proximity to the grade school.

Ms. Pekarek asked the board for their consideration in this matter.

Commissioner Milne asked if the owners were past due on their property taxes and Ms. Moyano said that was correct and the reason they were in foreclosure. Jo Stonecipher added that it takes three years of taxes being unpaid before the foreclosure process can be commenced. There is some amount of time after the third year, so the timeline is actually closer to three or four years before the foreclosure process can begin. Various notices are sent out and this process usually takes 60-90 days to complete and begins the redemption period of two years. This entire process is usually a four to five-year timeframe from the first failure of unpaid taxes. By the time the property is actually redeemed and deeded to the county it is approximately six to seven years. Ms. Stonecipher said the purpose of the request today is to take the two-year redemption period and shorten it. The landowner would still have the opportunity to pay the taxes and redeem the property. If the owner chooses not to pay the taxes it will be available to the county sooner and allow cleanup.

Commissioner Milne said she supported this case going to a public hearing and continuing the process.

Commissioner Brentano said the history of all the interactions with the owners and tenants has gone on for years. It is frustrating when you try to work with people and do not get anything in return.

MOTION: Commissioner Brentano moved to approve an order directing the hearings officer to give notice, hold a public hearing and make findings whether the property located at 4656 Arizona Avenue NE, Salem, is subject to waste, justifying shortening the tax foreclosure redemption period. Seconded by Commissioner Carlson; motion carried.

3. Consider approval of a resolution recognizing the Mid-Willamette Watershed Alliance as a formal watershed council within Marion County. – Matt Knudsen, Leslie Grimes

Matt Knudsen, environmental services, introduced Leslie Grimes who is the watershed coordinator. Mr. Knudsen said the importance of recognizing a watershed council is that the council can then seek funding through the Oregon Watershed Enhancement Board and they also can approach the County on a recognized basis. He said the first meetings of the alliance were held in December 2008 and the bylaws were passed in January 2009. The council consists of representatives from the Mill Creek, Battlecreek, Pringle Creek and Claggett Creek watershed councils and from the Friends of Battlecreek. In addition, there are representatives from Marion County, City of Salem, City of Keizer and the Marion Soil and Water Conservation District.

Leslie Grimes reported on the progress the alliance has made. She said they have passed their bylaws and are going through the process of becoming a non-profit organization. Ms. Grimes said this organization is willing to support each of those smaller watershed councils that have been recognized in the past, but can't afford to hire one person to handle the restoration and different activities in that area. She said they are doing projects at Pringle Creek on May 16 as part of the Oregon 150 celebration. Projects will also be done at Claggett Creek in the coming months. Ms. Grimes said she also has submitted a grant for a substantial amount of money for a one-year assessment of all the watersheds that are covered in the Mid-Willamette Alliance. They will be looking at the health of those watersheds and what needs to be done to improve them.

Commissioner Milne said it was important to have broad representation from the smaller cities as well. Ms. Grimes said that Mill Creek is the largest watershed and it runs through Sublimity, Aumsville, Stayton and Turner. Traditionally, there has been a rotating position on the Mill Creek Watershed Council, which allows for the time commitment not to be as great from the smaller cities.

Commissioner Carlson asked if the Oregon Watershed Enhancement Board was only recognizing this alliance for their funding, but not giving money to the individual watershed councils as they used to exist. Ms. Grimes said that at this that was a correct statement. She said she would be submitting a letter asking them to recognize the umbrella organization and smaller councils in the future. She said she is hoping that once the new organization is built up, the board would be recognizing the smaller watershed councils because they can bring in their own money and support the overall umbrella organization. Commissioner Carlson asked how the smaller groups were feeling about this. Ms. Grimes said they feel that they are individual councils and want to be recognized that way, but they also understand that because of funding issues it is hard to fund each group individually at this time. She added that the smaller groups are hoping to have a diversity of projects in each watershed that will illustrate that each is individualized and that they should be recognized as such.

Mr. Knudsen said that they have two representatives from each watershed council, which makes the group representation well rounded. He felt that this would create less of an effort on each individual council and more of an effort on target areas that are important to each individual watershed region.

MOTION: Commissioner Carlson moved approval of a resolution recognizing the Mid-Willamette Watershed Alliance as a formal watershed council within Marion County. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

PUBLIC WORKS – PLANNING

4. Consider adoption of an ordinance concurring in an amendment to Industrial Development Policy #12, an urban area policy of the Salem Area Comprehensive Plan, by emergency procedure. – Les Sasaki

Les Sasaki, planning, said this matter came before the board at the request of the City of Salem for county concurrence in an urban area policy amendment to Industrial Development Policy #12, of the Salem Area Comprehensive Plan. Policy #12 sets forth the criteria for the land division of large parcels (40 acres or larger in size) that are within the Salem/Keizer Industrial Land Inventory. He said that the amendment that is being considered is the deletion of a portion

of that policy that deals with a special review process for three specific sites within the inventory that are 40 acres or larger. The amendment would delete that section of the policy. The board held a public hearing on this matter on April 29, 2009, and concurred in the policy amendment. Before the board today is the actual ordinance that formalizes the board's concurrence in this matter.

MOTION: Commissioner Brentano moved to approve the reading of 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 adoption of an ordinance concurring in an amendment to Industrial Development Policy #12, an urban area policy of the Salem Area Comprehensive Plan, by emergency procedure. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

Mr. Sasaki stated that he would be working with the City of Salem through their attorney's office to create the termination of the actual intergovernmental agreement that formalizes that portion of the policy that was deleted.

SHERIFF

5. Consider approval of a proclamation designating May 3 – 9, 2009, as Corrections Professional Week. – Jeff Holland

Jeff Holland, Sheriff's Office, said he wanted to recognize corrections professionals. Marion County has more than 160 corrections professionals. He said they work hard every day and are unsung heroes. They are not seen by the public a lot, but do a lot to preserve the peace and provide for public safety in the community. He asked the commissioners to consider approval of this proclamation, which designates May 3 – 9, 2009, as Corrections Professional Week.

Commissioner Milne said she knew there were Sheriff's Officer personnel serving in Iraq. At the moment there are three. Mr. Holland said they are currently on a 400-day deployment and are very committed to serving our country.

MOTION: Commissioner Carlson moved approval of a proclamation designating May 3-9, 2009, as Corrections Professional Week. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

The commissioners then read the proclamation.

PUBLIC HEARING

9:30 a.m.

None.

Commissioner Milne read the weekly calendar.

Commissioner Milne adjourned the meeting at 10:17 a.m.

Attachments: A - TravelSalem

ABOVE MINUTES APPROVED

CHAIR

COMMISSIONER

COMMISSIONER

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