

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, October 28, 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**

BOARD OF COMMISSIONERS

Approve an order reappointing Patricia Milne to the Oregon Garden Foundation Board for a term ending December 31, 2012.

BUSINESS SERVICES – HUMAN RESOURCES

Approve recommendation to reclassify position from accounting specialist to department specialist 2 in the East Marion Justice Court.

FINANCE/JUSTICE COURTS

Approve renewal of a lease with Khoury Development, LLC, for the lease of office space for the Woodburn Justice Court through June 30, 2014.

PUBLIC WORKS – PLANNING

Schedule a public hearing on December 2, 2009, to receive testimony on the proposed amendments to the Marion County rural and urban sign codes.

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

**ACTION**

CLERK'S OFFICE

1. Consider approval of an order adopting an administrative policy for Public Records Management. – Frank Milton, Kerri Nevers, Bill Burgess

Kerri Nevers, licensing and recording supervisor, stated she was requesting approval of an order adopting an amended administrative policy, which would establish an integrated approach for managing public records from creation to their ultimate disposition. Ms. Nevers said there was an original policy and procedure written in 1984. Due to technology and changes in how business is done, the policy and procedures required updating.

Frank Milton, records coordinator said that archives has hard copy, microfilm, microfiche and historical books that are vital to the history of Marion County. The warehouse consists of over 17,000 square feet of space. Currently, there is approximately 12,000 cubic feet of records. Examples of records stored with Marion County records are health client records, district attorney records, business services and human resources records, election records, clerk recording records, public works records, board of commissioners' records, financial records, survey records and assessor records. The Marion County archives personnel retrieve records upon request and will deliver in person or by interoffice mail, depending on size. Mr. Milton said he was also requesting the adoption of a revised public records management administrative policy. It is a countywide policy addressing public records management. Electronic records are now included in the policy and imaging systems have been added to the procedures. The revised policy conforms to the newer county formatting standards and provides a more detailed procedure for archiving and more detailed rules to follow for imaging systems. Mr. Milton provided (attachment A) a flow chart showing the process of public records and explained it to the board.

**MOTION:** Commissioner Brentano moved approval of an order adopting an administrative policy for Public Records Management. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

#### PUBLIC WORKS

2. Consider adoption of an ordinance amending the Marion County Code provisions relating to solid waste, by emergency procedure. – Jo Stonecipher

Jo Stonecipher, legal counsel, explained that for many years the revenue generated by the waste to energy sale of electricity was dedicated to paying off the bonds that paid the costs of constructing the facility. The bonds have since been retired and it is now appropriate to amend the ordinance to indicate that those funds no longer need to be used for that purpose. She said it is an emergency ordinance and needs to be read by title only twice and then adopted by a unanimous vote.

Commissioner Carlson said she attended the Solid Waste Management Advisory Council meeting last night. Jeff Bickford announced to the council that this ordinance was on the board's agenda for today. Commissioner Carlson said that approximately a year ago all revenues listed in the ordinance, plus the revenues coming from electricity out of the waste to energy facility were being used to pay off the bonds. The bonds are now paid and the revenue from the sale of electricity is accumulating. She said there are budgeted funds available to run the facility and there is still quite a bit in the ending balance. She said the board has discussed opportunities to apply those revenues to public purposes. She added there is one public purpose that the commissioners have agreed on and that is repairs to the HVAC system in the courthouse. It

currently is causing a great deal of problems for the employees in the building. This is the reason for the change in the ordinance and is to insure that the ordinance legally allows the commissioners to use a small portion of the ending balance for that one time capital cost.

**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 Marion County Code provisions relating to solid waste. Seconded by Commissioner Brentano; motion carried.

### PUBLIC WORKS – PLANNING

3. Consider adoption of administrative ordinance, case #ZC09-010, Willamette Estates II, LLC, Clerk's File #5628; notice of adoption was October 21, 2009. – Joe Fennimore

Joe Fennimore, planning, said the item today is to change the zone from UD (urban development) to RM (multiple family residential) on a 0.24-acre parcel within the Salem Growth Boundary at 3986-3988 Fisher Road NE, Salem. The Marion County hearings officer held a public hearing on this application on September 23, 2009. On September 30, 2009, the hearings officer issued a report recommending that the board grant the requested change subject to certain conditions. The board held the application for the mandatory appeal period and no appeal was received. Notice of adoption of this administrative ordinance was made on October 21, 2009, and is now back before the board for final consideration and adoption.

**MOTION:** Commissioner Brentano moved adoption of administrative ordinance, case #ZC09-010, Willamette Estates II, LLC. Clerk's File #5628. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

4. Consider adoption of administrative ordinance, case #ZC/CP09-06, SMMK Ventures, LLC, Clerk's File #5626; notice of adoption was October 21, 2009. – Joe Fennimore

Joe Fennimore, planning, said this application was to change the zone from RM (multiple family residential) to CO (commercial office) and to change the comprehensive plan designation from multiple-family residential to commercial on a 0.42 acre parcel at 659 36<sup>th</sup> Avenue NE, Salem.

The hearings officer held a public hearing on this application June 10, 2009. On September 3, 2009, the hearings officer issued a recommendation to the board to grant the request subject to certain conditions. The board then held the required public hearing on October 14, 2009, and granted the request. Notice of adoption of this administrative ordinance was made on October 21, 2009, and is now back for final consideration and adoption.

**MOTION:** Commissioner Carlson moved adoption of administrative ordinance, case #ZC/CP09-06, SMMK Ventures, LLC, Clerk's File #5626. Seconded by Commissioner Brentano; motion carried.

5. Consider receiving appeal of hearings officer's denial of conditional use, case #CU09-019, Falls, Clerk's File #5629. – Sterling Anderson

Sterling Anderson, planning, stated that this is a conditional use application to establish a wind turbine facility as a utility on a 10.25-acre parcel in an exclusive farm use (EFU) zone. The property is located at 14934 Silver Falls Highway SE, Sublimity. Mr. Anderson said this case was denied by the hearings officer and the applicants did file the required appeal fee, prior to the expiration date. However, they failed to file the required written statement indicating where the hearings officer erred. Mr. Anderson contacted the applicant's legal counsel and they faxed the statement fulfilling that requirement, but it was received after 5:00 p.m., which was late. The cutoff for an appeal and written statement to be filed is by 5:00 p.m. Mr. Anderson said the question is whether this is still a valid appeal and can be considered under the circumstances. This written statement was to be filed in the same time frame as the appeal fee, but was sent to the planning department late.

Commissioner Milne asked legal counsel what reasons would there be that the board couldn't accept this appeal. Ms. Stonecipher said this was to be filed altogether and the fee was filed prior to the deadline, but the statement was not. She said it would be up to the board's discretion because they are considered an interpreter of the ordinance. She said the interpretation is whether the board feels they have satisfied the ordinance. She said if the board were to deny this appeal the applicant could come back immediately. Commissioner Milne said that due to the fee being paid there was a very clear intent, but she said the question would be if there were a misunderstanding or lack of understanding. Ms. Stonecipher said there was some confusion among the applicants and there may have been some confusing information given. The applicant's legal counsel explained that there was some confusion. She added that each person made a small mistake. Commissioner Carlson asked if we have ever received a letter and no check. Mr. Anderson said it is extremely rare and may have happened once or twice. Commissioner Brentano said he agreed that the check is evidence of intent and that the board shouldn't hold the applicants up.

**MOTION:** Commissioner Brentano moved to receive the appeal of the hearings officer's denial of conditional use, case #CU09-019, Falls, Clerk's File #5629. Seconded by Commissioner Carlson; motion carried.

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

None.

Commissioner Milne then read the calendar.

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

**Attachments:**

ABOVE MINUTES APPROVED

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CHAIR

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COMMISSIONER

\_\_\_\_\_  
COMMISSIONER

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