

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, September 16, 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

OLCC APPLICATION – Recommend Approval

Gavin’s Food Mart, Salem

CHILDREN AND FAMILIES

Approve an order appointing Donalda Dodson, Ron Hays and Tim Sinatra to the Marion County Children and Families Commission to terms ending June 30, 2013.

Approve the 2009-11 Medicaid Administrative Claiming Intergovernmental Agreement between the Oregon Commission on Children and Families and Marion County.

CONTRACT REVIEW BOARD

Approve a board order to schedule a public hearing on October 7, 2009, to consider granting an exemption to allow the use of an alternative competitive process for a public improvement.

HEALTH

Approve the following amendments to extend the contract term through December 31, 2010, and increase funding for Integrated Delivery System services for:

- 1) Option Counseling Services of Oregon, Inc. – amendment #3 adding \$815,089;
- 2) New Perspectives Center for Counseling & Therapy, LLC – amendment #4 adding \$1,954,237;
- 3) Bridgeway Recovery Services, Inc. – amendment #1 adding \$217,200;
- 4) Catholic Community Services – amendment #3 adding \$394,016.

Approve amendment #2 to extend the contract through December 31, 2010, and add \$192,000 to the contract with Mid-Valley Independent Physicians Association for third party administrator services.

Approve amendment #98 to reduce funding by \$215,476 from the 2007-09 intergovernmental agreement with the Department of Human Services for the financing of community mental health, developmental disability and addiction services.

PUBLIC WORKS – PLANNING

Receive hearings officer's recommendation to grant comprehensive plan amendment/zone change, case #CP/ZC 09-006, SMMK Ventures, LLC. Clerk's File #5626 and schedule a public hearing for October 14, 2009.

Receive hearings officer's recommendation to deny comprehensive plan amendment, case #CP 09-001, Phillips Family Limited Partnerships, LLC, Clerk's File #5625.

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 designating September 17-23, 2009, as Constitution Week in Marion County. – Commissioner Milne and Karen Heuberger

Karen Heuberger introduced her mother, Jesse Betterton, who is also a member of the Chemeketa Chapter Daughters of the American Revolution. Ms. Heuberger stated that she is the Regent of the local chapter. She said that tomorrow is the 222nd anniversary of the signing of the United States Constitution. The Daughters of the American Revolution is a women's service organization and were founded 119 years ago. The Daughters of the American Revolution are all direct lineal descendents of a patriot of the American Revolution. They are all about historic preservation, patriotism promotion and educational scholarship. Ms. Heuberger said the Daughters of the American Revolution were responsible for Congress passing the law that annually, September 17 through 23, would be Constitution Week. President Eisenhower signed the law in 1956.

Commissioner Milne said that September 17 is Constitution Day and Citizenship Day. This piece of legislation was passed in 2004 and was an amendment to a spending bill. Part of this piece of legislation requires the federal government to provide educational materials to federal employees on September 17. It also provides that any school receiving federal funds must provide educational material and make opportunities available to discuss and learn about the United States Constitution.

Ms. Heuberger said that the legislation also requires colleges and universities that receive federal funding to instruct on the United States Constitution on September 17.

Commissioner Carlson brought a magazine that was processed by her church in 1987, which was the bicentennial of the United States Constitution. She said that there were a couple articles in the magazine that emphasized the great principles that the United States Constitution was founded on. She then read some excerpts from the magazine.

Commissioner Brentano said this day and age is wonderful. He said the United States Constitution begins with “We the people,” not the government, not the emperor or the king. He felt that phrase summed up what the Constitution is about.

MOTION: Commissioner Brentano moved approval of the proclamation designating September 17-23, 2009, as Constitution Week in Marion County. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

The Commissioners then read the proclamation.

PUBLIC WORKS – PLANNING

2. Consider appeal of hearings officer’s denial of administrative review, case #AR09-015, Mt. Angel Telephone Company, Clerk’s File #5624; suggested hearing date is October 14, 2009. – Joe Fennimore

Joe Fennimore, planning, stated this is an application to place a forest template dwelling on a 40.62-acre parcel in a farm timber (FT) zone, located in the 2100 block of Silver Falls Drive SE, Silverton. After holding a public hearing, the hearings officer found that the applicant failed to meet two of the criteria, which were related to the big game habitat policy and denied the request. The policy requires that development and density be controlled so that significant wildlife habitat will not be adversely affected in the county’s resource zones. The standard for dwelling density and big game habitat should be one dwelling per 80-acres in a major habitat area. The density may be doubled if dwellings are clustered within 200 feet of each other.

The hearings officer noted that the comprehensive plan provides no guidance regarding how to calculate the density and different approaches have been used through the years. The density calculation has always been based on a study area of at least 640 acres. The applicant, through a study by a biologist, is suggesting a smaller study area of 80 acres. The hearings officer concluded that because of the difficulty in determining the density and the fact that the applicant is suggesting a much smaller study area that this is up to the board to determine on any appeal whether an alternative interpretation should occur in this case. The applicant appealed the decision. In the appeal letter the applicant indicates that since the application complies with all other applicable criteria, they are only addressing the calculation of the density policy as part of the appeal.

Commissioner Brentano asked what a forest template dwelling is. Mr. Fennimore said that in the two forest zones there is a farm timber zone (FT) and the timber conservation zone (TC). There are different ways to get a dwelling in those zones. One way is to put a template on the center of the property and the template can be a 160-acre square. Within this square there has to be a certain number of dwellings and a certain number of properties in that square. Commissioner Brentano asked what is the dwelling that is proposed. Mr. Fennimore answered that it is a house on the property and can be a mobile home or a conventional built home. Mr. Fennimore added that the template dwelling is actually the template test.

Commissioner Carlson asked if the template has to be a square. Mr. Fennimore said the template test is actually state law rules and it has to be applied directly. The big game density is where there is the ability to interpret what needs to be done on the property. Commissioner Carlson asked if the hearings officer is saying the test doesn’t pass both or just the density portion. Mr.

Fennimore said the application did not pass the density part under the calculations that were used in the past. Commissioner Carlson confirmed that this is the area where there is some latitude in the interpretation. Mr. Fennimore stated that was correct. Commissioner Carlson said she felt the board would want to get more information on this case. Commissioner Milne agreed.

Commissioner Carlson confirmed that it sounds like since 2003 planning has worked on some sort of methodology. She said she didn't recall this new methodology coming to the board level since it has been used. Mr. Fennimore said he recalled going from a general item where planning looked at the section and counted the number of houses there. When computer-mapping capabilities were available, planning started using the 640-acre circle for density purposes. Commissioner Carlson clarified that the board had not dealt with this since 2003. Mr. Fennimore said that was correct.

MOTION: Commissioner Carlson moved that the board accept the appeal of the hearings officer's denial of the administrative review, case #AR09-015, Mt. Angel Telephone Company, Clerk's File #5624 and schedule a public hearing for October 14, 2009. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

3. Consider adoption of an ordinance amending the Marion County Comprehensive Plan by re-adopting City of Donald Comprehensive Plan amendments with supplemental evidence and findings in response to the LUBA decision remand on the appeal of County Ordinance No. 1270, by emergency procedure. – Les Sasaki

Les Sasaki, planning, said the issue before the board is an amendment to the Marion County Comprehensive Plan as it relates to an urban growth boundary (UGB) expansion proposal from the City of Donald. The City of Donald submitted its UGB amendment package to the county in July of 2008. The board held a public hearing on this matter in September 2008 and issued its decision concurring and approving the amendment proposal in October 2008. The county decision was appealed to the Land Use Board of Appeals (LUBA) in October 2008 and LUBA issued a decision in February 2009. During the period from February through August, the city and the county worked together to address the LUBA remand issues. Mr. Sasaki said there were two items that LUBA felt needed to be corrected. One was a procedural item relative to the notification of other jurisdictions that the amendment proposal included a coordinated population forecast. The second item that needed to be corrected was a goal 9 issue that required an employment growth forecast to be part of the economic development analysis. The employment growth forecast had to correlate with the land need determination being made by the particular jurisdiction.

The Donald City Council and the Marion County Board of Commissioners held a joint hearing on August 11, 2009, to address the remand items. Following that public hearing, the board concluded that the remand items were sufficiently and adequately addressed by the supplemental evidence and findings presented at the hearing.

Mr. Sasaki said the ordinance before the board today would implement the board's decision following the public hearing.

MOTION: Commissioner Brentano moved to 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 adoption of an ordinance amending the Marion County Comprehensive Plan by re-adopting the City of Donald Comprehensive Plan amendments with supplemental evidence and findings in response to the LUBA decision remand on the appeal of County Ordinance No. 1270, by emergency procedure. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

Commissioner Milne then read the weekly calendar.

PUBLIC HEARING
9:30 a.m.

None.

Commissioner Milne adjourned the meeting at 9:48 a.m.

Attachments:

ABOVE MINUTES APPROVED

CHAIR

COMMISSIONER

COMMISSIONER

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