

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, March 3, 2010
Marion County Courthouse Square

9:00 a.m. Board Session
Senator Hearing Room

PRESENT: Commissioner Sam Brentano and Commissioner Patti Milne. Also present were John Lattimer as chief administrative officer, Jo Stonecipher as legal counsel and Kim Hulett as recorder.

ABSENT: Commissioner Carlson

PRESENTATION

Marion County Weed Control District Update – Tanya Beard

Tanya Beard, Public Works environmental specialist, presented the 2009 Marion County Weed Control District update with a PowerPoint presentation regarding Oregon's invasive plant species (Attachment A). She said invasive species have an incredible impact on Oregon's economy. Approximately 10 years ago, the Oregon Department of Agriculture (ODA) did a thorough report on invasive weeds. Twenty percent of the Oregon economy is agriculturally driven and invasive plant species have a tremendous negative impact on Oregon's agriculture as well as roadside operations and private lands. She said in the ODA's economic analysis report, it included only 21 of the listed invasive species at that time out of about 108. She said those 21 species actually decreased personal income in Oregon by about \$83 million a year. She said the overall cost for Oregon citizens was about a \$1 billion in lost asset value.

Ms. Beard said a noxious weed is any plant designated by a government body to be injurious to public health, agriculture, recreation, wildlife or any property. Noxious weeds normally exhibit unusually aggressive invasive characteristics. Characteristics of invasive plants include lack of natural enemies, fast growing, fast reproduction and effective dispersal, seed longevity, few habitat restrictions and the ability to form single-species stands. Ms. Beard gave two examples of a noxious weed. The first was Puncturevine, which causes problems in fields and along roadsides. One fruit from the weed will shut down an entire bean or pea field. The second example was Garlic Mustard, which is an escaped ornamental/edible. It is very fast growing and tenacious. It is not currently known to be in Marion County.

Ms. Beard summarized the weed district's goals and their successes for 2009 (see Attachment A). She commented that the weed district had put together a reference guide for Marion County invasive weeds. The guide has been well received and people are really using it.

The commissioners thanked Ms. Beard for her presentation and reiterated how important it was to educate the county regarding these noxious weeds.

PUBLIC COMMENT

Aileen Kaye, 10095 Parish Gap Rd SE, Turner, said that Ms. Beard's work is fabulous. She said she saw the same presentation at a Farm Bureau meeting. She said Ms. Beard has cultivated wonderful partnerships.

Ms. Kaye said she is speaking today at the public comment period since the commissioners continue to refuse to hold a land use hearing regarding the attempts to sell a piece of Spong's Landing Park. She said she knows the commissioners will vote today to sell, even though all but one person testified against the sale on October 1, 2008. She said that Marion County's Park Commission testified against the sale then and continues to protest it to this day. In her opinion the board should not even be allowed to take this matter up today as part of their meeting, because Commissioner Brentano had an undeclared *ex parte* contact before the October 1 hearing. She said she feels that they do not have a quorum on the Spong's issue. She said if the board does vote today to sell the parkland, two other citizens and herself intend to go back to LUBA. She said this is another example of what she feels is the commissioners' abuse of power. She said the commissioners did what they wanted on this issue and not what the Parks Commission wanted. She said it is not what the majority of the Marion County residents wanted.

CONSENT

BOARD OF COMMISSIONERS

OLCC Applications – Recommend Approval

Chang's Mongolian Grill, Salem
Courthouse Athletic Club, Salem
Gavin's Food Mart, Salem
House of Dragon, Salem
Marion Market, Turner
Mike's Food Mart, Salem
Monaghan's, Salem
Pilot Travel Center #386, Brooks
Safeway, Inc., Salem
Santiam Golf Club, Aumsville
Schroeder's Guest House, Salem
Stop N' Save #2, Brooks
Target Store, Salem
Toad's Brooks Grocery & Deli, Brooks

Approve an order reappointing Ray Burstedt, Lore Christopher, Bill Cummins, Jerry Lowder, Angie Morris and Larry Wells to the Economic Development Advisory Board for terms ending on January 31, 2012.

INFORMATION TECHNOLOGY

Approve renewal of the annual client support software service agreement for \$118,052 with Tyler Technologies for the assessment and taxation software system.

PUBLIC WORKS – PLANNING

Notice of adoption of administrative ordinance granting zone change/comprehensive plan amendment, case #ZC/CP 09-1, Phillips Family Limited Partnership, LLC. Clerk's File #5625; adoption scheduled for March 10, 2010.

Notice of adoption of administrative ordinance granting zone change/comprehensive plan amendment/conditional use, case #ZC/CP/CU 07-07, Breitenbush Hot Springs Retreat and Conference Center Inc. Clerk's File #5602; adoption scheduled for March 10, 2010.

Notice of adoption of administrative ordinance granting zone change/comprehensive plan amendment/conditional use, case #ZC/CP/CU 09-05, US Leaseco, Inc., Clerk's File #5636; adoption scheduled for March 10, 2010.

TREASURER

Approve an order distributing revenues from ORS Chapter 530 timberlands.

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

ACTION

FINANCE

1. Consider adoption of the second supplemental budget for fiscal year 2009-10 (TO BE ACTED ON FOLLOWING PUBLIC HEARING). – Jeff White, Richard Minaker, Jerry Woelke

HEALTH

2. Consider approval of 2011-2013 Biennial Implementation Plan for prevention services, mental health, addictions and problem gambling. – Rod Calkins, Scott Richards

Rod Calkins, Health Department director, introduced Scott Richards as one of the behavioral health division directors. Mr. Calkins said they were here before the commissioners to request approval of the 2011-2013 Biennial Implementation Plan for mental health, alcohol and drug treatment as well as prevention services. He said all the statutorily required bodies have reviewed the plan. He said the Children and Families Commission (CFC) has reviewed the prevention plan and recommends the board approve it. He said the local Alcohol and Drug Planning Council has recommended approval of the plan as has the Health Advisory Board.

Mr. Calkins said the plan has changed in format, but the good news is it is much shorter than the biennial plans in the past. He said they were required to cover a wide range of topics and submit a plan for state money they receive with what services dictated. He said the county representatives for mental health, alcohol and drug services worked with the Department of Human Services (DHS) for a more concise format. He said Mr. Richards would direct the commissioners to the actual plan in the new format. He said they would submit the plan in an electronic format except for the signature sheet this year.

Mr. Richards said that the sixteen pages could be reduced even further as to what constitutes the plan portion of the document. There are four major components to the plan. The first component is the general information questions. Questions one through eight asks for descriptions of the Health Department and the agencies they contract, as do questions 15, 37, and 38. He said next come questions about a cultural competency plan for addictions and mental health and if the county had a plan. If they did not, then they need to complete one. He said the Marion County Health Department does not have a specific and discrete cultural competency plan, but the Health Advisory Board will assist them in drafting one.

Mr. Richards said other questions in the document ask them to describe their current services. Those are questions 14, 16-20, and 23, and another section has questions regarding funding. Those are questions 21, 24 through 28, 31 and 32. He said that if they set those major areas apart as more informational in scope, their plans and strategies occupy only a handful of questions. He said the first is question number nine. Number nine asks them to identify those priority areas in the coordinated and comprehensive planning process that coordinate with the Children and Families Commission. He said they identified two areas of overlap, which are access to care and children's mental health.

Mr. Richards said in addressing access to care in their planning process, they particularly looked at those individuals entering the mental health and addiction treatment system and how accessible mental health treatment or addiction services is for the uninsured or underinsured. The community and provider system feels they could improve in this area. He said their planning group is studying how to streamline the process and to make it easier to obtain services quickly. Children's mental health was identified as an area of overlap between the health department and the Children and Families Commission. It continues to grow in area and number of children needing services. He said that with the assistance of a community and provider system grant, they have expanded services to the Latino population in the Woodburn area with bilingual clinicians.

Mr. Richards said question number 22 is about integration strategies and prevention services and contains the actual planning portion of the biennial implementation plan. It asks for evidenced-based practices, goals, and objectives. He said they have expanded the number of hours that they are stationing mental health specialists onsite at a couple of primary care clinics. As future funding is available, Woodburn would also be another area where they would look at adult and children's mental health clinicians working side-by-side with primary care physicians. The primary care physicians could perform immediate and brief screenings with referral to mental health or addiction services. Mr. Richards said they also do tobacco screenings routinely. He said co-occurring disorder treatments are continuing to be developed.

Mr. Richards said questions 29 and 29a focus on strategies for identifying and serving particular population groups with drug and alcohol addictions and mental health issues. He said the health department is focusing on transition age youth with co-occurring disorders of drug and alcohol addiction, mental health, as well as gambling addiction. Another population focus is veterans. He said they would be offering training for those that work with returning veterans and link them to services.

Mr. Richards said the last section of the plan addresses preventative services, which they would like to coordinate with the Children and Families Commission planning process. He said the top three prevention priorities that were also a part of the comprehensive plan from Senate Bill 555, are reducing teen alcohol use, increasing perception of the harmful nature of substance abuse, and improvement in parenting skills and family management. He said it contains a lot of specific detail of what they hope to accomplish in the next biennium as they address those top three priorities.

Commissioner Milne asked if family planning was in this biennial plan. Mr. Calkins said family planning would be in the public health planning process that is currently in progress. He said public health has a triennial plan and this year is an update to last year's triennial plan. He said it is more of a progress report and is due toward the end of April. Commissioner Milne said question number nine mentions reducing teen pregnancy. She said that was confusing because it is under drugs and alcohol. Mr. Calkins said that the Children and Families Commission identifies teen pregnancy as an issue for Marion County because the occurrence rate in Marion County is higher than the state's. He said the county needs to address the issue with a multifactorial approach. Disinhibition increases with substance abuse and leads to behaviors that otherwise would not be engaged in. Commissioner Milne thanked Mr. Calkins for the clarification. Commissioner Brentano acknowledged the health department's hard work.

MOTION: Commissioner Milne moved approval of the 2011-2013 Biennial Implementation Plan for prevention services, mental health, addictions and problem gambling. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

PUBLIC WORKS - PLANNING

3. Consider decision to convey property in Spong's Landing Park to private owners pursuant to remand of LUBA case #2008-190, Kaye vs. Marion County. – Sterling Anderson, Jo Stonecipher

Commissioner Brentano said that for the record he had no conflicts to report.

Sterling Anderson, planning director, said the item before the board today is consideration of a decision to convey property in Spong's Landing Park to private owners pursuant to a Land Use Board of Appeals (LUBA) remand case #2008-190. On October 1, 2008, the Board of Commissioners issued Order #08-142 approving the sale of 6,135 square feet of the Spong's Landing Park to an adjacent property owner. An appeal to LUBA followed. On February 18, 2009, LUBA issued under a stipulated remand back to the county to allow the county to deal with findings regarding one of the policies in the comprehensive plan. He said that policy was a Parks and Recreation policy and it states that the county should acquire 10 acres adjacent to Spong's Landing Park and further develop the park to include additional trails, paths, open playfields, and nature studies. On October 30, 2009, the Marion County hearings officer issued a property line adjustment decision and a floodplain and greenway permit because of the location, granting the applicants in this case, the Swishers, a request to adjust the property line between the Swisher property and the Marion County park. This decision became effective on November 17, 2009, when no appeal of the hearings officer's decision was submitted. The property line

adjustment is required by the county zoning code to transfer any portion of one property to another before a sale could occur between the property owners of that portion. He said it was also required in the board order previously mentioned.

Mr. Anderson said that in reaching a decision in the property line adjustment, the hearings officer considered and made findings regarding compliance with the Marion County Comprehensive Plan Parks and Recreation policy objective for Spong's Landing Park. He said the hearings officer found that reducing the parkland resulting from the property line adjustment was not in conflict with this policy. Options for the board to consider are the board can schedule a public hearing to receive testimony on the remand, the board can take official notice of the county's final land use decision, which was the property line adjustment decision, or the board could defer a decision to a future date. He said that staff recommends that the board take official notice of the county's final notice of the county's final land use decision in the hearing officer's case, which is the property line adjustment, case #09-017 between the Swishers and Marion County.

Jo Stonecipher, legal counsel, said that Mr. Anderson inadvertently left out one of the board's options. She wanted to be sure that it is on the record that the board also has the option of rejecting the hearings officer's decision since it was not one that the board considered previously. The board also has the option to reject the decision if they choose to make their own determination of whether the comprehensive plan policies were met. She said the board is not bound by the hearings officer's decision. It is not a previous decision that the board itself has addressed.

Commissioner Milne asked Mr. Anderson to recap this case. Mr. Anderson said that in the hearings officer's report she devotes most of a page to the discussion of the comprehensive plan policy. She concludes that the policy directs the county to expand the park for more trails, paths, playfields, and areas for nature studies when money allows for an expansion. He said that the acreage added to the park needs to be of a size and contain the attributes that would facilitate the intended uses. Land of that size and with those attributes appears to exist to the north and to the south of the park. To the north is a 20.58-acre parcel that is mostly undeveloped and generally level 20 acres of woodlot and riparian vegetation adjacent to the Willamette River. This parcel appears to be suitable for playfields, paths, trails, and nature studies. Adding these types of parcels is what is envisioned in the Spong's Landing policy. The hearings officer states the small reduction of parkland resulting from the proposed property line adjustment is not in conflict with the Spong's Landing Park objective.

Mr. Anderson said the hearings officer analyzed what this policy is directing the county to do. Mr. Anderson said it was directing the county to look for these areas where you can have paths, nature studies, and that kind of an environment that is conducive to the park and expands on the existing park facilities. The only land that she found existing around the park that could be added, was the one area of open fields to the north that could be used for the playfields. However, the 20 acres that is part of the 107 acres to the south of the park is probably the ideal area where this policy is directed. This is due to the riparian vegetation, the area for nature studies, paths, and more as you would find in some portions of Minto-Brown Park where you have the paths that go through riparian and natural areas. This is not so in this case of a small

piece of property adjacent to an existing dwelling near the entrance of the park. He said he knew when staff reviewed this proposal they also looked at what uses could be made of that 6,100 square feet and determined it was not conducive for these kinds of park uses. It is small, narrow, and somewhat isolated from the primary park area and near the entrance.

Commissioner Milne said the initial dilemma was the fence was in the wrong place. She said they had various ways to solve the problem. She said that while this 6,000 square feet sounds like a nice-sized piece of property, it is not a usable space. She said “we all want to have more and better park areas, play areas, hiking paths and access to the river, but this area does not provide it.” She said it was unfortunate they did not have a map this morning that they could put up and remind people that Mr. Anderson is talking about space that really is not usable. Mr. Anderson said the commissioner was correct that this is a narrow strip along the south side of the private ownership and along the west side or the back of the private property parcel. He said when the Swishers bought the property, the fence was already installed by a previous owner who thought he was following the property line. There was also a small area where the actual fence was inside the Swisher property and some of their property was on the county’s side of the fence. He said the board looked at the different solutions and made the decision to take the transfer approach.

Commissioner Milne said in some places you are talking about just a few feet. She said logic and common sense dictate how to solve the problem. She said the sale of the property to make that adjustment is not detrimental to the use of the park. It does not change the use of the park because this is where the fence has been for many years. Commissioner Brentano said he agrees with Commissioner Milne and this was what they discussed several months ago. He said the question today is in direct regards to whether selling this piece violates the comprehensive plan goal of adding 10 acres. He said he rejected that at the time and he rejects it today. He said it has nothing to do with whether you find property available. They still have the goal of finding 10 usable acres, preferably on the river where people can truly use and enjoy it. That does not mean they have resources to do that, but it is where he would hope to be in the future.

Commissioner Milne said 6,000 square feet is very different from even one acre. Commissioner Brentano said it is .14 acre. She said she does want to make sure that our parks are usable, enjoyable, and meet the needs and the policies that we have set for the park system. She said this does not accomplish that.

Commissioner Brentano said if it was your personal property and you find out a neighbor has put a fence up on the wrong spot there are three choices. A neighbor could say it didn’t bother them and just leave the fence where it is, or the neighbor could say it really does bother him and want the fence gone or he could say just pay me for the disputed ground and call it good enough. He said this is not the subject. The subject is if it does conflict or prevent the county from purchasing or expanding the park by ten acres. Commissioner Brentano stated it does not and so did the hearings officer. Commissioner Milne said she agreed with. Jo Stonecipher said the commissioners need to take official notice of the hearings officer’s determination that the shift of that piece of property out of parkland and into private ownership would be consistent with the comprehensive plan policies and make their own determination that it is consistent.

Commissioner Brentano asked if the list of orders in the hearings officer's decision were included or did, they need to be mentioned separately. Ms. Stonecipher said no. The board held a public hearing in October 2008 based on ORS 275.330(3), which was required to sell any portion of parkland. She said the board gave proper notice and held the public hearing at that time. However, staff did not advise the board to address the comprehensive plan provision, so that is why they advised the board to request the remand from LUBA, to bring it back so that the board could make sure that their decision at that time was consistent with the comprehensive plan park policies. She said the other part of the process is the land-use application for the lot line adjustment as they cannot change the boundaries between two ownerships without doing a lot line adjustment. She said that has to be done before the transaction is finally consummated. She said there are two parts to this and they follow two different avenues. There is the land use application that will be binding on the owners of the property at the time that the county actually deeds it, assuming this continues to final approval and the county deeds the property to the Swishers. She said those are binding whether the board adopts them or not. She said it is not before the board today. The question before the board today is merely the comprehensive plan.

Commissioner Brentano asked Ms. Stonecipher to confirm if the board goes with the recommendation as listed, to cover all issues as they need to. Commissioner Milne added she thought it summarized everything Ms. Stonecipher was explaining. Ms. Stonecipher confirmed.

MOTION: Commissioner Milne moved for the board to take official notice of the county's final land use decision and adopt the hearings officer's findings in property line adjustment, floodplain, greenway development permit case #09-017, Swisher and Marion County. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Discussion: Commissioner Milne said she wanted to address the request for a public hearing. The board has had the public hearing and there has been a great deal of input. As Mr. Anderson was describing, the board has taken it step by step to thoroughly review everything and have the opportunity to have all the information that is necessary. She said she is certainly very respectful of the park advisory committee and people have different opinions about things. She said the board is following the legal process, format, and guidelines.

PUBLIC HEARING

9:30 a.m.

FINANCE

A. Consider adoption of second supplemental budget for Fiscal Year 2009-2010. – Jeff White, Jerry Woelke

Jerry Woelke, finance department, stated that the changes presented would increase the overall Marion County Budget by \$5,035,249 from \$335,761,428 to \$340,796,677. Mr. Woelke said they reviewed this budget in detail at the February 22, 2010, management update session. He said the supplemental budget was published in the Statesman Journal on February 26, 2010, and has been available to the public in the Board's Office since that date. He then covered the

highlights of the supplemental budget. He said the general fund would increase by \$893,924 due to resources that have exceeded their original projections. It will be transferred to the capital improvement projects fund. He said the capital improvement projects fund will be increased by \$893,924 in order to fund a \$450,000 replacement of the heating boiler at the jail and a \$444,924 project to replace some roof sections also at the jail. He said the Children and Families fund will have an increase of \$28,646 in federal funding and will be used to fund increases in the after-school program and the Healthy Start program.

Mr. Woelke said the community corrections fund would increase by \$511,785 due to increases in state funding. He said it would be used to fund the Student Opportunity for Achieving Results or SOAR program and the alternative incarceration program and increase their contingency. He said the Health fund would increase by \$2,432,499 due to many increases and intergovernmental funding and charges for services in certain programs. Those increases would be used to fund increases in personal services and material services to support those programs as well as an increase in contingency. He said personnel have increased by 5.4 FTE to support those programs. He said the Lottery Distribution Fund would increase by \$181,777 due to a higher networking capital than anticipated. These funds would be used to fund contracted services for economic development. He said the Sheriff's Grant Fund will increase by \$92,694 in intergovernmental funding and would be utilized to fund personal services, material services, and capital outlays related to those same increases. He said the Traffic Safety Team Fund would shift funds from personal services to materials and services with no effect on their budget.

Mr. Lattimer said while this is a large increase in Marion County's budget, it is primarily due to new receipts from the state and federal government for health fund, community corrections, and the sheriff's grants fund. He said they are not just adding to the budget, they are increasing programs at the request of the state and federal government.

Commissioner Milne said it was that interesting role that county government plays. The county gets the mandates, sometimes with a little money, to provide programs and then has the opportunity to carry them out and deliver the service. She said they make it work with Mr. Woelke, Mr. White and their team, then the county makes it work by making sure they can deliver the service with the few dollars they give the county to do so. She said they have had some opportunities to go over the budget and ask questions in a previous public meeting.

MOTION: Commissioner Milne moved to close the public hearing and adopt the second supplemental budget for fiscal year 2009-2010. Seconded by Commissioner Brentano.; motion carried. A voice vote was unanimous.

Commissioner Brentano then read the calendar.

Commissioner Brentano adjourned the meeting at 10:23 a.m.

Attachments: (A) Annual Weed Control District Update

ABOVE MINUTES APPROVED

CHAIR

COMMISSIONER

COMMISSIONER

If you require interpreter assistance, an assistive listening device, large print material or other accommodations, call 503-588-5212 at least 48 hours in advance of the meeting. TTY 503-588-5168.

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