

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, December 3, 2008
Marion County Courthouse Square

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

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

Commissioner Brentano called the meeting to order.

PUBLIC COMMENT

None.

PRESENTATION

Salem Convention and Visitors Association 2007-09 Business Plan and 2008-09 Budget – Angie Morris

Angie Morris, Travel Salem chief executive officer, gave an update of the Travel Salem 2007-09 Business Plan and 2008-09 Budget. She said she wanted to report on what they have done with some of the operational funding received from the county for tourism promotion. She passed out copies of the information packet including the Travel Salem 2008-09 Progress Report.

Ms. Morris talked about what tourism does for the community. The economic impact of tourism in Marion County is \$356 million and 3,820 direct jobs. She said the main focus of tourism is to increase jobs and the quality of life in the area.

Ms. Morris referred to various statistics from the progress report, which accounts for tourism activity in Marion and Polk Counties. There have been significant increases in earned media impressions thanks to the funding for public relations from Marion County. Their visitor information inquiries are up by 209% since 2007-08. Visits to their website and visitors center attendance are down somewhat, and they believe this is because of economic conditions.

Commissioner Milne asked if there was less convention business coming to the area. Ms. Morris said the number of events and the number of delegates was up, but the number of room nights was down. She said there appears to be more day travel and fewer overnight stays associated with the conventions. She is working with the Oregon Lodging Association to look at statewide trends in lodging to see if they can extrapolate this to the Marion County region.

Commissioner Brentano asked about the definition of “earned media impressions.” Ms. Morris explained that these are stories that they work strategically to try to get placed in the media, versus stories that are picked up by the media independently.

Travel Salem provides services to conventions and event-goers. They serviced 35 conventions from July to October 2008 and reached 22,448 people as a part of this program.

Their membership program is another revenue stream for the organization. They launched their membership program a year ago. It was a new program at that time and they are currently in the renewal phase of getting renewal from current members and going after new members. Membership was up 885% over the last year, going from 14 to 138 members.

Leverage is a line item that refers to in-kind products and services. They track this very carefully. Travel Salem is charged by the City of Salem that for every dollar they receive from the Transient Occupancy Tax fund, they have to generate three additional dollars in either cash or in-kind products and services to match that dollar. The things that count toward this total includes donated products and services such as professional services, volunteer work by community members, and press coverage value. Ms. Morris said the leverage builds capacity and without it, they could not function the way they do. They generated about \$422,354 in leverage during July-October 2008. It was down significantly from the previous year, but this is because the previous year they had received three TV spots on the national Rachael Ray \$40 A Day program promoting Salem. Each of those episodes was worth about \$250,000 in publicity. She said this is an example of how leverage changes each year and depends on the needs of the organization and what they are able to secure.

Ms. Morris said there are two pages of detailed description of the funds allocated to Travel Salem this fiscal year. Solution #1 was their regional public relations campaign. She said the support from Marion County has allowed them to hire someone to do in-depth public relations to increase the region’s profile both regionally and nationally. They secured 180 local feature articles and listings totaling \$57,841 in revenue. They also secured 137 regional and national feature articles and listings totaling \$218,442 in value. They also generated 14 press releases regarding a wide range of topics, including SEDCOR’s attendance at the photovoltaic conference in Spain. She said SEDCOR is working hard to bring in this kind of industry and they brought back 30 leads for possible companies to relocate in the area. Ms. Morris said tourism is closely connected with economic development for the region. They are trying to branch out and partner with local chambers of commerce, SEDCOR, and other economic development groups. She said they have been much better able to promote the region’s attractions because of the new public relations hire, Anthony Tham, who formerly worked with the Portland Rose Festival and is making good progress. Ms. Morris said it is very important to have a positive profile for the region.

Commissioner Milne asked about Travel Salem’s relations with the local and regional press. Ms. Morris said they have been working with the Statesman-Journal for the last eight or nine months to get them to think more about the importance of tourism. She said they are working together now in partnership, with the paper providing press coverage and a column once per month. The Statesman-Journal has asked them to do a Travel Salem blog and they will also be working on a video component with one of

their reporters. Commissioner Milne said she hoped they would be able to get the newspaper to focus more on some of the positive aspects of the community and the region.

Ms. Morris said they are working very aggressively with out-of-market media. This includes Oregonian coverage, TV coverage and radio coverage outside the Marion County market. She said she has many relationships with area media from her previous work with Portland Opera. She said they are working aggressively to get the message to these media regarding Salem, Marion County, and the region, and over time this will make a difference.

As part of their regional public relations campaign, they have started to develop and actively push a web-based campaign to take advantage of viral technology such as videos on YouTube, photos on Flickr, and social networking sites such as FaceBook, MySpace, and blogs. They are doing Travel Salem videos and record their marketing exchange luncheons. The luncheons deal with reaching consumers through various online media and draw from 80 to 120 participants. They have had excellent feedback on these luncheons. They are trying to deliver a return on investment for the business community at large. They are trying to bring in a new perspective on how to market businesses and to help them gain a competitive edge. They will be putting the luncheon video on their sites and also promoting viral videos on YouTube for restaurant reviews and similar programming. She said 75% of internet users rely on videos and third-party recommendations for information on restaurants and destinations to visit.

Ms. Morris said they have said they have uploaded nearly 500 photos of area attractions on the Flickr photo-sharing site between July and October, and over 2,500 individuals have viewed these photos. She said Travel Salem has now developed a corporate profile on Facebook, which they will use to do viral marketing and messaging to build awareness of the region. They are also using Twitter, the social messaging tool, to provide up-to-the-minute updates and connection. It is new and is also free. They also have a blog at the Statesman-Journal, which has a readership of around 300,000. They will also be expanding into the social networking site MySpace. She said that as time goes on, she would be better able to describe some of the results and return on investment in this area.

The last item in the report is their effort to provide marketing support for Marion County communities. This includes their visitor's guide, of which they publish 150,000 copies annually for distribution at 800 locations along the west coast. They also distribute nationally and internationally. The guide is currently in production and they are working with regional and local chambers of commerce to get listings they want to feature in the guide. They are also providing website listings. They will print 180,000 copies of the guide this year to meet increased demand. They have developed new partnerships through Travel Oregon and the Willamette Valley Visitors Association, which will allow them to distribute more copies.

They are working on a regional presence in an advertising campaign by developing an ad for the February 2009 issue of Good Housekeeping, which will feature a Marion County attraction such as Silver Creek Falls or the Oregon Garden.

Ms. Morris said Travel Salem is now part of the Willamette Valley Visitors Association and they are included as a part of their marketing and promotional efforts. She said she also serves on the WVVA

board. She said they work closely together to be sure Marion County has a high profile in these promotion efforts.

They have worked with Travel Oregon to get the Travel Salem guide included in the regional packet they send out. It will cost more because they have to print more guides to send out, but this has generated over 7,500 inquiries in the first quarter so it is worth the effort. Ms. Morris showed a copy of the Willamette Valley Visitors Association guide and the publicity it includes for the Salem area. She said this is a good way for them to create economies of scale with the limited resources they have.

Ms. Morris went on to talk about the Travel Café, which is their plan for the visitors' center at 181 High Street NE in Salem. She said they feel a need to engage with the consumer more closely and have come up with a concept that involves integrating various partners and resources. The Travel Café will be a destination visitor's center and the first of its kind in Oregon. Other tourism groups in Oregon are watching this carefully. The location is about 4,000 square feet and will include their offices and the contents of their current visitors center at the Mission Mill Museum. They will build out the space in partnership with CB2 Architects/Construction, which has donated the design concepts and engineering for the project and will be executing the role of general contractor for the project. Ms. Morris said she wanted to change the perceptions of the Salem area and the concept of a visitor's center. She said the physical design of the project is very bold and vibrant.

Ms. Morris said another partner they will be working with is Garmin, a Salem-based company, which will provide GPS units for rent for walking and driving tours. She said it is important to promote recognition of the quality of life in the area for corporations that are recruiting employees. This is another case of leveraging and partnership.

Chemeketa Community College is another partner that will be providing technological assistance for the Travel Café. Willamette University, Salem Hospital, SEDCOR, and Salem Art Association are other partners that will be involved. She said the Travel Café project has received significant support so far. It will cost \$236,000 to build the project, and they have raised \$100,000 from partners so far.

Ms. Morris said they will also be opening two satellite visitor centers along I-5 through public/private partnerships. They have partnered with the Best Western Mill Creek Inn on Mission and Hawthorne in Salem, which will serve as a 24-hour visitor center. She said the first challenge is to draw people off the freeways and get them to stay longer. This will be the first partnership of its kind in the state and will serve as a pilot program. They are working with the Oregon Travel Information Council on this. They are working with the Red Lion Hotel on Market Street in Salem in the same capacity to start another satellite visitor center.

Ms. Morris said that they are going back to the basics at Travel Salem and rethink what they are doing to try to have an economic impact and create jobs for the community. She asked if the Board had any questions.

Commissioner Carlson thanked Ms. Morris for coming to today's meeting and for her work with the Marion County Fair Board on promotion. She said Ms. Morris is also helping to publicize the Marion County 150th Birthday celebration. She is on the committee for this event and is hosting the website for

this celebration through Travel Salem.

Commissioner Milne thanked Ms. Morris for her hard work and the enthusiasm she has brought to Travel Salem. She said Ms. Morris really understands the connection between tourism and economic development.

Ms. Morris thanked the commissioners for their confidence and encouragement. She said they are trying to develop partnerships throughout the region and they could not do this without the support of Marion County.

Commissioner Brentano asked if there are any ongoing efforts to promote the Oregon Garden, as this is a project where the county has a lot invested. She said they have secured two conferences for the Oregon Garden over the last two months. She said they work closely with their sales staff and leadership to promote them and increase business whenever possible.

CONSENT

BUSINESS SERVICES – HUMAN RESOURCES

Approve recommendation to uphold the pay range of victim assistance manager, District Attorney's Office.

Approve recommendation to adopt and establish the classification of health educator 3, Health Department.

HEALTH

Approve amendment #61 to add \$1,652,675 to the Developmental Disability Program Area Limitation for eXPRS payment from the Department of Human Services intergovernmental agreement for financing of community mental health, developmental disability and addiction services.

PUBLIC WORKS – PLANNING

Receive hearings officer's recommendation in zone change/comprehensive plan amendment and conditional use, case #ZC/CP/CU07-7, Breitenbush Hot Springs Retreat and Conference Center, Inc., Clerk's File #5602, and schedule a public hearing for January 7, 2009.

Receive hearings officer's recommendation in zone change/comprehensive plan amendment, case #ZC/CP08-04, Abbott, Clerk's File #5603.

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

ACTION

BUSINESS SERVICES – HUMAN RESOURCES

1. Consider approval of amendment to Administrative Policy #518, Drug and Alcohol Use and Testing Policy. – Theresa VanDusen

Theresa VanDusen, human resources manager, reported that there are several changes that they are recommending to the board regarding the drug and alcohol policy. The first of these relates to a recent court of appeals case, which has resulted in the county's inability to conduct pre-employment drug testing for all new employees. Pre-employment drug testing now only occurs for prospective employees who are pursuing positions in job classifications that are designated as safety sensitive or special needs. She said that additionally, it is recommended that volunteers, who are placed in positions that are designated as safety sensitive and special needs be subject to the Drug and Alcohol Use and Testing Policy.

Commissioner Milne said it is unfortunate that legally the county's hands are tied to some extent regarding these policies though it would be better for the county to have more ability to test employees as needed. She thanked Ms. VanDusen for her work on this issue.

MOTION: Commissioner Carlson moved approval of an order that amends Administrative Policy #518, Drug and Alcohol Use and Testing Policy. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

PUBLIC WORKS - PLANNING

2. Consider appeal of hearings officer's denial of partition, case #P08-14, Miller Trust, Clerk's File #5600; suggested public hearing date is December 31, 2008. – Sterling Anderson

Sterling Anderson, planning manager, said this is an unusual case. The basic request is to divide a 5.95-acre parcel into Woodburn urban growth boundary.

On October 29, 2008, the hearings officer issued a decision denying the application for partition in this case because the applicant did not meet the applicable criteria. The hearings officer said the property could not meet the criteria for partitioning in the UT-5 (urban transition-5 acre minimum) zone where it is located. The hearings officer did not accept the applicant's argument that the correct zone for this property would be the residential acreage-2 acre minimum (RA-2) zone. The applicant would have been able to partition the property as they requested while complying with the 2-acre minimum lot size for the RA-2 zone.

This property was included in the Woodburn Urban Growth Boundary (UGB) prior to the application for partition. When the Woodburn UGB was expanded to include this property, the UGB expansion went through the periodic review process before the Department of Land Conservation and Development (DLCD) and the Land Conservation and Development Commission (LCDC), which acknowledged these changes to the UGB as a part of the periodic review process for the expansion of the urban growth boundary. The Woodburn UGB expansion was later appealed and the applicant in this

case made the argument that the appeal had the effect of invalidating the application of the UT-5 zone to this property, which would mean that the AR-2 zone previously in effect on the property would apply until the Court of Appeals made an actual decision on the appeal regarding the UGB expansion and periodic review. This is before the Oregon Court of Appeals currently and no decision has been made regarding the appeal at this time.

The hearings officer found that the Woodburn UGB expansion and periodic review had been carried out in keeping with ORS 197. Mr. Anderson said an LCDC order amending a UGB expansion might be appealed to the Court of Appeals, but the filing of that appeal would not stay the enforcement of the zones as specified under the LCDC order acknowledging the UGB expansion. The applicant argues that this does not apply and that the zone for this property is still AR-2 as it was before the UGB expansion.

Mr. Anderson said one way to stop an order from taking effect would be to file a stay, but the hearings officer found there was not a stay filed regarding the appeal and the LCDC order remains in effect until it is acknowledged or overturned by the courts. There was no stay granted to delay its effectiveness, so the hearings officer concluded under the periodic review process the LCDC order is in effect. As a result, the hearings officer found that the UT-5 zone was the applicable zone and the applicant couldn't meet the criteria and denied the partitioning.

In the appeal the applicant makes the same argument. The appellant argues that the hearings officer is wrong in her application of the portion of ORS 193 relating to the State Administrative Procedures Act. The board can accept the appeal and remand it back to the hearings officer for further consideration, accept the appeal and hold a hearing or reject the appeal.

Commissioner Carlson asked if Marion County and the state approved the Measure 37 claim on this piece of property. Jo Stonecipher said that the hearings officer found that both a county and state claim were approved. Commissioner Carlson asked occurring at the same time. She asked if Woodburn would have had to approve the Measure 37 claim also. She asked if the applicants would have ever been in a position where they could have done the partition they desired. Mr. Anderson said that they were in an AR-2 zone until the Board of Commissioners acknowledged the Woodburn UGB expansion. At that point, they were put in a UT zone that took effect when LCDC acknowledged that by their order and then the appeal was filed.

Mr. Anderson said he was unsure what the state's decision was under Measure 37. After Measure 49 passed the county had to go back and look at those that were in urban growth boundaries under Measure 49. He said there were seven cases processed under Measure 49 in the UGB and this was one of them. The county concluded they did not qualify under Measure 49 because they were in the UGB. The county then issued an order to that effect. The effect of Measure 49 was that the applicants lost any rights they had under Measure 37, but because they were within the UGB their properties had significantly increased in value. This would allow the properties to be urbanized in the future. The City of Woodburn has objected to this appeal because they want to develop the area to an urban density instead of the 2-acre size lot the applicant desire. They want the parcel left with UT-5 zoning, which would prohibit the request by the applicants.

Commissioner Carlson asked about the applicants' attorney's claim that he would litigate the Measure

49 claim if the county did not approve the partition. Ms. Stonecipher said the applicant's counsel was trying to point out that there are various state and federal court proceedings that the applicants would be eligible to use if necessary. She said this is a very confusing and unusual case.

Commissioner Milne said she didn't view the attorney's claim as a threat, but that they did have some other avenues they could pursue. She asked about the attorney's comments regarding the hearings officer coming up with a completely new legal theory, not previously advanced by the planning director or county counsel, stepping entirely outside the land use planning statutes. Ms. Stonecipher said she did discuss the effect of the statute with applicants' counsel. During the course of the hearing, the hearings officer concluded that the premise that was brought forward was the statute that says that once something is passed a decision should be made until it is acknowledged or until such time it is unacknowledged. The hearings officer concluded that this did not apply in this case and applied the Administrative Procedures Act.

Commissioner Milne commented that in the appeal the attorney stated that the planning director properly acknowledged that it might be possible, through the appeals process, or the hearings officer or board of commissioners to agree with their position that the partition is entirely proper under the AR-2 zoning. She asked Mr. Anderson for any comments he might have. Mr. Anderson said that he thought the applicant's attorney was trying to point out that the planning director and the hearings officer were using two different theories. He said this is a very unusual case and either theory used came up with the same result.

Commissioner Brentano asked if there was any chance that the appeal could be changed. Mr. Anderson said that if the theory was used that the planning director was working on, the UT zone applies. If the hearings officer's theory is used, again the UT zone applies. He added that with either theory you end up with the same result. Commissioner Brentano confirmed that this would be going before the courts. Commissioner Carlson added that although the client is saying it would be less expensive for the board to approve it, she didn't feel they could approve this case. She felt this case would have to go before the courts.

Jo Stonecipher said this case is difficult because there is a statute that discusses how you move forward when periodic review or post acknowledgement plan amendments are applied. She said the applicants' counsel has made arguments as to why those shouldn't apply and why it would be due to the appeal of this case and various other reasons, why it could be sent back and the acknowledgement thus undone. Ms. Stonecipher felt it was counsel's intention to give the board an opportunity to review and determine if the statute concerning which zoning would apply to the property were to be interpreted that the board could find the AR zoning, then the board could divide the property into two lots. The AR zoning would have allowed the division before Measure 37 and 49. She commented this is the argument counsel wants to make to the board.

Commissioner Carlson said she was concerned that if the urban growth boundary periodic review process doesn't apply here, the board has been arguing up to this point that it does apply for all the other things that Woodburn wants to do within its urban growth boundary. She asked if the board was contradicting themselves. She felt that this would be inconsistent. Commissioner Milne said the Millers are truly the victims of a bad system. This is a very unusual situation they are caught in. She said if the

board were to take this on there is not going to be any new material offered to the appeal. She felt maybe the best avenue for these people is to go through the courts.

Commissioner Carlson asked why the Measure 37 claim preceded the change in the zoning. Ms. Stonecipher said the property was acquired under contract in 1990, under zoning that permitted one-acre lots and has increased to 1.5-acre lots and now is 2.0-acre lots. In 1990, the Millers could have had approximately five lots. After Measure 37 they could have had two and this is what they are seeking now. She said they actually got caught up in a storm of Measure 37, 49, comprehensive plan amendments and urban growth boundary amendments for the city of Woodburn. They are basically left with less than they started out with and it doesn't seem fair.

MOTION: Commissioner Milne moved to deny the appeal and accept the hearings officer's denial of partition, case #P08-14, Miller Trust, Clerk's File #5600. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

3. Consider adoption of an ordinance banning backyard burning in certain areas inside the Salem/Keizer urban growth boundary, by emergency procedure. – Sterling Anderson, Kirstin Lurtz

Sterling Anderson, planning director, said the issue before the board is the proposed adoption of an ordinance banning backyard burning in certain areas inside the Salem/Keizer urban growth boundary. The Marion County Solid Waste Advisory Council considered and passed at their January 2007 meeting a recommendation from one of their subcommittees to ban backyard burning within the Salem/Keizer urban growth boundary. This particular backyard burning ban is currently in effect within the city limits of both Salem and Keizer. Mr. Anderson said that public hearings were held on December 5, 2007, and August 8, 2008, regarding the draft ordinance. One of the overriding concerns was from landowners with large parcels. Since the hearings, the draft ordinance has been reviewed and amended to address the concerns of the public and the commissioners on this issue. The current ordinance excepts from the ban certain activities including agricultural burning, recreational and ceremonial fires and barbecues. Additionally, there are a number of permitted exceptions, which include burning for pest and disease control, burning performed on properties that are two acres in size or larger, burning of materials from natural disaster or burning on properties that are classified by the Assessor's Office as specially assessed for farm or timber deferral. Burn barrels are banned categorically in all cases. The department anticipates a phased in approach to enforcement of the proposed ordinance with education being the primary tool taking place during the first full burn season after passage of this ordinance. Mr. Anderson clarified that the education process would begin and continued through the spring burn season and the actual permitting and enforcement process would not start until next fall.

Mr. Anderson said the options for the board are to adopt the proposed backyard burn ban by emergency procedure or adopt the proposed ordinance by the regular process, or decline to adopt the proposed ordinance. He added that Public Works recommends that the board of commissioners adopt the ordinance by emergency procedure.

Commissioner Carlson asked about the amendment stating that "an event such as a fire, storm, flood or earthquake that is of significant magnitude." She asked if by being less specific on the declaration allows staff the ability to determine when an event is of significant magnitude. Kirstin Lurtz, assistant

legal counsel, stated that on page 4 of the ordinance there is a delegation of the board's authority to the Public Works Director to determine what a natural disaster is. She agreed that this is less formalized and less caught up in other technical definitions of natural disaster.

Commissioner Milne stated she didn't have any questions because this ordinance had been thoroughly worked on for quite some time. She said she was ready to support the ordinance.

Commissioner Carlson asked for an update in approximately a year regarding how many people have come in for permits, issuance of citations and circumstances that have arose. Commissioner Milne agreed and said that this was one of those ordinances where you cannot please everyone.

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

Commissioner Brentano read the ordinance by title only twice.

MOTION: Commissioner Carlson moved that the board adopt the ordinance banning backyard burning in certain areas inside the Salem/Keizer urban growth boundary, by emergency procedure. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

4. Consider adoption of administrative ordinance granting approval of subdivision, case #SUB07-12, Elkhorn Golf and Resort, LLC, Clerk's File #5577. (Notice of adoption occurred on November 26, 2008). – Sterling Anderson

Sterling Anderson, planning director, stated this is an application for detailed approval to implement the conceptual approval granted to Elkhorn Estates Planned Development in plat case #879 and Marion County Ordinance No. 677. This includes subdividing 65.3 acres into 153 lots, (150 single family dwelling lots, 1 condominium lot, and 2 commercial lots), with exceptions to statewide planning goals 11 (public facilities goal) and 14 (urbanization goal), on a total of 464 acres in an AR- LU (acreage residential – limited use overlay), P (public) and TC (timber conservation) zone, located at 32295 North Fork Road SE, Lyons.

The Marion County Planning Commission held public hearings on this application on October 16, 2007, and December 18, 2007. During deliberations on February 8, 2008, it deferred the decision to the Marion County Board of Commissioners with recommendations on conditions of approval if the board granted the application.

The board held a duly noticed public hearing on the subject application on June 18, 2008. The hearing was closed, but the record was left open for additional written testimony until July 23, 2008. On October 15, 2008, the board considered all information that was submitted and granted the application subject to 46 conditions. The board instructed staff to prepare the necessary ordinance and this ordinance is now ready for consideration.

Commissioner Milne asked Mr. Anderson to clarify section 4 regarding the golf course and other

improved recreational facilities that may be owned separately from the remainder of the development. Mr. Anderson explained that as part of the conditions of an approval, the golf course could be under a separate ownership from the homeowners association (HOA) or the balance of the properties. He said they could be two separate ownerships. He added that the conceptual approval had two conditions; one condition and one decision said the properties had to be owned jointly and the other said they could be owned separately. Mr. Anderson said that it couldn't be both ways. The board granted the ownership under the HOA. The owner of the golf course is part of the HOA for the rest of the development. Mr. Anderson said this insures they stay connected together under the HOA as a single operating resort.

Commissioner Brentano recessed the meeting at 10:40 a.m.

Commissioner Brentano reconvened the meeting at 10:55 a.m.

Commissioner Milne said that in the document there is discussion regarding uses and related activities that are limited to those uses, which are requested by the applicant in the detailed plan proceeding and otherwise allowed by ordinance #677. She said the board went through these individual items and were able to check off all that they agreed with. She said there were a couple of items that staff was going to work with the applicant to fine tune the language. She asked Mr. Anderson to review those issues where language had to be edited. Mr. Anderson said there were some changes of language in the findings, but primarily in the conditions of approval. Ms. Stonecipher said she recalled one issue that was concerning the need for there to be some sort of financial bond or letter of credit in the event the county needed to support condition #15. There was concern in condition #15 that it only provided for the developer to provide a bond or letter of credit and the (HOA) was added to this condition. This makes it a continuing obligation on the HOA. The purpose of the continuing obligation was that if the county determines that it needs to step in to preserve the resources that surround this area; it allows the county to do so.

Mr. Anderson stated that another area that needed some change in language had to do with the fish and wildlife habitat protection and the ability to have a bird feeder, as opposed to not feeding the other wild animals. He said there was also some question on the applicant's contribution to road improvement requirements (SDCs, etc), recognizing that the North Fork Road has some landslide problems. There was some work done on this as well as requirements for the traffic impact analysis (TIA). Mr. Anderson said they also worked on conditions to insure the HOA went through a review process and that legal counsel reviewed the covenants and restrictions. He said there was some requirement pertaining to one of the conditions regarding the timing of additional development on the property and the phasing of the development of the properties. These would be the commercial uses coming in concurrent with development of phase I of some residential development. The purpose of this was to avoid the commercial uses going in and then no residential uses. Commercial uses are primarily intended to serve the residents of the area, not only the development residents, but any other residents in the area that might use these services.

Mr. Anderson stated that one of the conditions was modified that originally said that the applicant "shall develop a plan" for fish and wildlife habitat and protection. A plan had actually been developed by the time the public hearing was held with the board, so the condition had to be reworded to "implement the plan." Involved would be the CC&R's relative to the fish and wildlife and the bird feeder issues. The applicant had proposed some conditions, which the board wasn't quite willing to go the way the

applicant wanted. The applicant was recommending having a condition banning alcohol. The boards' stance was that if they chose to ban the sale of alcohol that was fine, but it was not a restriction that the board was willing to place on the applicant. In addition, there was a condition relative to a development of an education resource center. The applicant was recommending that they would be required to develop this center in conjunction with the ancient forest center and the Opal Creek group. The board changed the condition to say "may" as opposed to a mandatory condition. The applicant intends to develop these things, but this gives them the opportunity if something didn't work out, they could build it as part of a clubhouse on the property. One of the conditions relative to constructing a 6-foot high chain link fence along both sides of the concrete bridge to inhibit access to the river was modified. It states that if the Marion County Department of Public Works determines this is appropriate, the applicant will contribute \$15,000 toward the fence. It was previously worded that it would be the applicant's responsibility. If it is determined necessary the county would put in the fence and the applicant pays for the cost. The last condition was also an amended condition. The condition deals with the uses and related activities to be allowed on the subject site are limited to those uses that are requested by the applicant in the detailed plan proceeding and otherwise allowed by ordinance #677.

MOTION: Commissioner Milne moved to adopt the administrative ordinance granting approval of subdivision, case #SUB07-12, Elkhorn Golf and Resort, LLC, Clerk's File #5577. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

PUBLIC HEARINGS
9:30 A.M.

None.

Commissioner Brentano read the calendar.
Commissioner Brentano adjourned the meeting at 11:00 a.m.

Attachments: Agenda

ABOVE MINUTES APPROVED

CHAIR

COMMISSIONER

COMMISSIONER

