

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, February 28, 2018
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97305

PRESENT: Commissioner Janet Carlson, Commissioner Kevin Cameron, and Commissioner Sam Brentano. Also present were Jane Vetto as county counsel, John Lattimer as chief administrative officer, and Kristy Witherell as recorder.

Commissioner Carlson called the meeting to order at 9:00 a.m.

PUBLIC COMMENT

Video Time 00:00:37)

Laura Meisner:

- Asking for a positive vote for the revised ordinance that prohibits the sale of live animals on county property and public rights-of-way;
- Very important ordinance; and
- The City of Salem passed a similar ordinance.

Deborah West:

- Involved with rescues at the Marion County Dog Shelter;
- Selling animals on the streets could pose a health threat to the community:
 - Most animals are not vaccinated.
- There are reputable rescues that will help people rehome their dogs;
- Reputable breeders would never stand on the street corner and sell their animals; and
- Advocating for the amendment of the Marion County Code.

CONSENT

(Video Time 00:04:20)

BOARD OF COMMISSIONERS

OLCC Applications – Recommended Approval

Time Food Market – Salem, OR

Micheladas y Antojitos El Perico, LLC – Salem, OR

USA Retail Mart, LLC, dba Marion Grocery – Turner, OR

BUSINESS SERVICES

Approve Amendment #2 to the Contract for Services with Reece Complete Security Solutions to add \$84,000 for continued maintenance and repairs, planned Capital Improvement Projects and a lease renovation project.

Approve an order appointing Sandra Fixsen to the Marion County Compensation Board with a term ending October 31, 2018.

DISTRICT ATTORNEY'S OFFICE

Approve a grant from the Oregon Department of Justice for \$219,198.14 to assist with funding District Attorney positions that provide direct services to victims of domestic violence.

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

ACTION

(Video Time 00:05:52)

BOARD OF COMMISSIONERS

1. Consider an order approving New Policy #213, Public Records Request and approval of an order rescinding Policy #210, Standard Photocopy Fees for the General Public. – Lisa Trauernicht

Summary of presentation:

- Outlines the requirements for county departments responding to incoming public records requests;
- Identifies the need for the departments to select a public records officer that will manage requests;
- Includes guidelines for charging fees for county reimbursement in processing the requests;
- The legislature passed legislation regarding public records;
- This policy was developed to provide a framework to abide by the new law;
- The policy does outline the requirements for responding to records requests:
 - When a records request is received, the county has to respond within five days acknowledging the request was received; and
 - The county has 10 days to fulfill the public records request.

MOTION: Commissioner Cameron moved for approval of an order approving New Policy #213, Public Records Request and approval of an order rescinding Policy #210. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

(Video Time 00:15:31)

MOTION: Commissioner Cameron moved to add the agenda item, Consider approval of an order establishing a fee schedule for public records. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

1-A. Consider approval of an order establishing a fee schedule for public records. – Lisa Trauernicht

MOTION: Commissioner Cameron moved for approval of an order establishing a fee schedule for public records. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

(Video Time 00:16:53)

2. Consider approval of the 2018 Federal Agenda. – Barb Young, Kirby Garrett and Michael Skipper, CFM Strategic Solutions

Summary of presentation: *(See Attachment A)*

- Marion County started its federal agenda in 2001;
- Agenda focused primarily on earmarks;
- Marion County was going after funding for various start up programs:
 - Infrastructure programs;
 - Working with incarcerated population, helping integrate back into the community; and
 - Woodburn Interchange.
- Earmarks were discontinued in 2010;
- Since then, a strong focus on federal grants and federal policy issues;
- Working on roads and bridges infrastructure;
- Weighed in on tax reform policy;
- Working on clean energy and solid waste issues;
- Timber issues;
- Army Corps of Engineers:
 - Detroit marina projects; and
 - Fish passage issue.
- Transitional housing for survivors of domestic violence:
 - The Center for Hope and Safety has recently purchased property and are seeking funding for demolition, construction, and renovation:
 - Trying to get the federal government to have a role in paying for construction.

Board discussion:

- The commissioners appreciate the detail of the federal agenda;
- Great to see the cooperation of the city, state, and federal government helping the citizens in Marion County;
- The bridge in Mill City is a priority:
 - Main entry from Highway 22 to the town; and
 - It is old and weight restricted.
- The third bridge:
 - Having a hard time getting the environmental impact statement done.
- Detroit Dam passage is a threat to Marion County:
 - Threat to the farmers;
 - Cities;

- Fish; and
- Economy.
- The commissioners are working on putting together a meeting mid-summer with the two senators and the Army Corps of Engineers for an update on the dam; and
- Over 200,000 people depend on the water from the Santiam River for drinking and irrigation.

MOTION: Commissioner Brentano moved for approval of the 2018 Federal Agenda. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 01:11:50)

COMMUNITY SERVICES

3. Consider approval of an ordinance revising and updating the Marion County Code Chapter 10.10 relating to business activities in the right-of-way and declaring an emergency. – Tamra Goettsch

Summary of presentation:

- During the Spring/Summer of 2016, the issue of selling animals on county rights-of-way was brought forward;
- The board directed legal counsel to pursue the issue;
- Legal counsel looked at other ways to enforce prohibiting sales of animals on county rights-of-way;
- Looked at the City of Salem’s code;
- Willamette Humane Society supports the ordinance amendment;
- Added to the code:
 - C:
 - No person shall sell, offer the sale, give away, or offer for free an animal in the county property or public road within Marion County.
 - D:
 - Marion County Code section 10.10.15C does not apply to Marion County Community Services, Dog Services, adoption events conducted on county properties by a registered animal control agency, or humane society if authorized in writing by Marion County, or adoption events conducted on a public road within Marion County if authorized by a dually issued right-of-way permit from Marion County.
 - Added a definition adjustment in the code:
 - Defined county property.
- Protects animals in the community; and
- Ensures appropriate sales of animals.

MOTION: Commissioner Cameron moved for the chair to read the ordinance by title only twice. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Commissioner Carlson read the ordinance by title only twice.

MOTION: Commissioner Cameron moved for approval of an ordinance revising and updating the Marion County Code Chapter 10.10 relating to business activities in the right-of-way and declaring an emergency. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

Video Time 01:21:21)

4. Consider an order approving the Oregon Garden Foundation's 2018 Annual Budget. – Tamra Goetsch and Allison Pennell, Oregon Garden Foundation

Summary of presentation:

- Lined out by expenditures and revenue;
- \$100,000 Marion County Economic Development Grant is included;
- The debt reduction proposal may change the budget throughout the year;
- Added a placeholder for the lease agreement; and
- Shows actuals for the budget for 2017.

MOTION: Commissioner Brentano moved for approval of the Oregon Garden Foundation's 2018 Annual Budget. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 01:25:43)

5. Consider approval of the Third Restated Nonprofit Corporation bylaws of the Oregon Garden Foundation. – Tamra Goetsch and Allison Pennell, Oregon Garden Foundation

Summary of presentation:

- The bylaws were last revised in 2014;
- Changes are as follows:
 - The foundation board membership to be expanded from five to seven members;
 - Gives Marion County weighted authority;
 - Updates language:
 - Removed outdated language.
- The bylaws now align with the way the foundation is operating;
- Seats six and seven will be appointed by the Oregon Garden Foundation Board;
- In the event that Marion County leaves:
 - One seat would go to the Oregon Garden Foundation and one would go to the City of Silverton.
- If the City of Silverton leaves:
 - Five members would go to Marion County and the two existing would go to the Oregon Garden Foundation.

Board discussion:

- Would like to have board members from all over Oregon.

MOTION: Commissioner Cameron moved for approval of the Third Restated Nonprofit Corporation bylaws of the Oregon Garden Foundation. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

(Video Time 01:30:15)

PUBLIC WORKS

6. Receive and consider the appeal of hearings officer's remand decision approving Conditional Use #17-020/Brush Creek Solar, LLC and Klopfenstein. – Joe Fennimore

Summary of presentation:

- Application establishing a photovoltaic solar powered generating facility on 12 acre portion of a 14.5 acre parcel in an Exclusive Farm Use zone on Selah Springs Road NE, Silverton;
- The planning director approved the request and the decision was appealed to the hearings officer;
- The hearings officer conducted a public hearing and issued a decision denying the request:
 - The decision was appealed to the board by the applicant.
- The board accepted the appeal on November 24, 2017 and remanded the issue back to the hearings officer for further consideration;
- The hearings officer conducted a second public hearing on the remand:
 - On February 8, 2018, issued a decision approving the request; and
 - The decision was appealed to the board by the opponents.
- Several issues are raised in the appeal:
 - Application was not signed by one of the property owners;
 - There is insufficient evidence in the record to conclude that the facility not to preclude more than 12 acres for use as a commercial or agriculture enterprise;
 - Proof meeting the erosion control plan is deferred until the development stage;
 - Soil compaction and weed control plans are inadequate;
 - Water run-off will channelize and will affect water quality of a stream that feeds Stadeli Reservoir, which is used for irrigation; and
 - The applicant has not proven that there will not be significant adverse impacts to watersheds, ground water, fish and wildlife habitat, slope and soil stability, and air and water quality.
- The board has the options of accepting the appeal:
 - Remand the matter back to the hearings officer for further consideration, which would require an agreement from the applicant to extend the 150-day decision making deadline;
 - Accept the appeal and schedule a public hearing, which would require an agreement from the applicant to extend the 150-day decision making deadline; or
 - Deny the appeal and uphold the hearings officer's decision approving the request.
- The 150-day extension deadline is March 1, 2018;
- In this case, the applicants, through their representative, have indicated that they will not make the decision granting additional time until the board makes a decision; and
- Staff recommends the board deny the appeal and accept the hearings officer's decision as its own.

Board discussion:

- Included in the packet is the original hearings officer's decision:

- Appeal letters; and
- Copy of the remand decision, which includes an interim decision.
- The nine issues in this appeal were addressed in the hearings officer's decision:
 - It is not signed by the property owner:
 - There is an acknowledgement that it is not signed and a condition that it be signed.
 - No evidence that the facility will preclude more than the 12 acres:
 - Discussed in the report:
 - More likely than not it will only be the 12 acres; and
 - A condition on a final site plan demonstrates that it is no more than 12 acres.
 - Erosion control plan and the compaction plan were presented, reviewed and heavily addressed in the report;
 - Weed control plan was discussed and presented;
 - Water run off was addressed;
 - A condition was to contact fire service before they obtain a permit;
 - The impacts on watersheds, ground water, fish, etc. were addressed in the discussion and the hearings officer stated it was satisfied;
 - The only basis the board would have to accept the appeal is the argument that the hearings officer misapplied Marion County Code 17.120.110(N)(5):
 - The planning director's decision can itself constitute substantial evidence even if it is not supported by other evidence.
- If there were things that weren't addressed in any of the hearings that are now being brought forth for consideration, the commissioners would be more inclined to take on the appeal;
- The commissioners views this as a rehashing of the same arguments that were addressed in the hearings officer's report;
- A lot of promises are made in the conditions that the applicant agreed to and concerns of farmers and nursery owners that the conditional uses will not be satisfied:
 - The planning director is pulling all cases in the last three years:
 - Conducting inspections three times a year to make sure the conditions are being continually satisfied; and
 - Public Works is being proactive and not relying on complaints.
- The hearings officer made her decision based on the language of the current code.

MOTION: Commissioner Brentano moved to receive and deny the appeal and accept the hearings officer's decision approving Conditional Use #17-020/Brush Creek Solar, LLC and Klopfenstein. Seconded by Commissioner Carlson; motion carried. A voice vote was 2-1 with Commissioner Cameron voting no.

PUBLIC HEARINGS 9:30 A.M.

(Video Time 01:52:15)

PUBLIC WORKS

A. Public hearing to consider Zone Change/Comprehensive Plan (ZC/CP) Case #17-003/R&K Properties, LLC. – Joe Fennimore

Summary of presentation:

- Application to change the Comprehensive Plan designation from Multiple Family Residential to Commercial:
 - Change the zone from Multiple Family Residential (RM) to Commercial Retail (CR) on a 0.14 acre parcel on the 3400 block of Ward Drive NE, Salem.
- The property is inside the Salem Urban Growth Boundary, outside city limits;
- Unapproved parcel on the west side of Ward Drive;
- Bordered on the north and west by properties zoned CR and the south zoned RM;
- If the request is approved, it will allow the applicant to expand the existing trailer sales business;
- The planning division requested comments from various governmental agencies:
 - Public Works Land Development and Engineering Permit Division reviewed the proposal and requested a condition requiring the applicant to obtain a stormwater permit prior to expansion;
 - ODOT indicated that this portion of Ward Drive where they receive their access of existing business is under their jurisdiction and have no concerns with the proposal;
 - The City of Salem notes that a housing needs analysis was conducted in 2014, which identified a deficit of land as needed for multifamily housing in the UGB:
 - Due to the small size of the property, it was not included in the inventory of available lands.
- A public hearing was held on November 8, 2017:
 - On January 12, 2018, the hearings officer issued a recommendation that the board approve the request.
- The board received the recommendation on January 31, 2018 and scheduled the public hearing;
- The recommendation includes a list of seven conditions, which are fairly standard for a request like this;
- The board has the options of the following:
 - Continue the public hearing;
 - Close the public hearing and leave the record open;
 - Close the public hearing and approve, modify, or deny the request; or
 - Remand the matter back to the hearings officer.
- Staff recommends the request be approved.

Testimony:

Support:

Margaret Gander-Vo, Saalfeld and Griggs:

- This is a minimal change that will allow for a more coherent use of land for the area.

Board discussion:

- All elements for the requirements were met.

MOTION: Commissioner Cameron moved to close the public hearing and approve Zone Change/Comprehensive Plan (ZC/CP) Case #17-003/R&K Properties, LLC. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Commissioner Carlson read the calendar.

Commissioner Carlson adjourned the meeting at 10:55 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

Board Sessions can be viewed on-line at <http://www.youtube.com/watch?v=VYF8Y6U7178>.

