

**Report on issues discussed at the weekly
Management Update meeting on April 21, 2014**

Commissioners present: Commissioners Sam Brentano, Patti Milne and Janet Carlson.

Others present: John Lattimer, Gloria Roy, Jolene Kelley, Brandon Reich, Sara McDonald, Jeff Bickford, Warren Jackson, and Lynne Coburn as recorder.

John Lattimer noted that the meeting was being held in the Silverton Conference Room in Courthouse Square and that today is Commissioner Patti Milne's last meeting as a Marion County Commissioner.

Commissioner Brentano presented Commissioner Milne with a 15-year service award. Commissioner Milne then excused herself from the meeting to participate in telephone conference call.

INFORMATIONAL

Keizer Rapids Park

Senior Planner Brandon Reich discussed the City of Keizer's proposal to expand the Urban Growth Boundary (UGB) by approximately 59 acres and then annex a portion of that acreage for Keizer Rapids Park. He explained that the City of Keizer is adding a playground structure to the park and that due to limitations on permanent structures in rural areas, the City of Keizer needs to bring the land into the UGB with urban park uses. Mr. Reich also explained that because the City of Keizer Comprehensive Plan is part of the Marion County Comprehensive Plan the county must agree with the City of Keizer's proposal. He added that the City of Salem must also agree because the City of Keizer and City of Salem share a UGB. Mr. Reich presented a map and aerial photo of the proposed acreage as well as a modified timeline to expedite the UGB expansion process. He said that the City of Keizer has requested that the county expedite its UGB expansion process so that work on the playground can begin in July. He said that by using the modified timeline the county could adopt an ordinance in June and asked the commissioners if they were comfortable with expediting the UGB expansion process. Commissioner Carlson explained that she is co-chair of the Community Build Play Structure Task Force Fundraising Committee and that the issue is on a fast track because hundreds of volunteers will be on site on September 17-22 to build the play structure. Commissioner Brentano asked what other state processes the City of Keizer has to go through. Mr. Reich said he understands the state has no objections to the City of Keizer's plan. County Counsel Gloria Roy referred to Legislative Amendment 14-003 map (Attachment A) and asked if the City of Keizer is bringing the shaded area into the UGB.

Mr. Reich said yes and added that the county will be dealing with the UGB process and then the City of Keizer will have to complete the city limits expansions. He said that the City of Keizer brought some land into their city limits, but left it outside of the UGB and explained that the county developed a special intergovernmental agreement (IGA) with the City of Keizer so that the city could use certain city funding to acquire the land. Mr. Reich said he would follow the modified timeline to expedite the ordinance process. The commissioners agreed and Commissioner Carlson asked that Planning stay in close contact with City of Keizer Community Development Director Nate Brown. Mr. Reich agreed.

Floodplain Substantial Damage/Improvement Procedure

Brandon Reich explained that at a January 21, 2014, work session the board had determined that substantial damage or substantial improvement would be 30 percent of the value of the structure and directed staff to return with a Substantial Damage/Improvement Policy. Mr. Reich said that once written, it was more of a procedure. He presented a draft Floodplain Substantial Damage/Improvement Procedure and three draft letters that would be sent to homeowners whose residences had sustained a significant amount of damage. Mr. Reich said that on March 21, 2014, the President signed the Homeowner Flood Insurance Affordability Act which sets the insurance percentage back to 50 percent and that FEMA may revisit the percentage in 2017. Commissioner Carlson said that if FEMA is at 50 percent and insurance is at 50 percent she does not want the county to be at 30 percent. Commissioner Brentano agreed. Mr. Reich said he could make the amendment 50 percent and bring it back to the board. He asked if the board had any comments on the draft procedure. The commissioners said the draft procedure was acceptable.

Mr. Reich said that in addition to what the county currently exempts in a floodplain overlay zone, the county can also exempt flagpoles, wire fencing, open rail fencing, and accessory structures smaller than 50 square feet that do not require a building permit. Building and Planning Division Manager Warren Jackson said that the net effect is that these items would not require a floodplain permit in the future versus requiring one today. There was discussion about the exempt items and that the items would not contribute to flood debris buildup. Commissioner Brentano said that he recently heard that anyone wanting to build or develop in a flood zone would have to prove that there are no endangered species on the subject property. He said that it is one more limitation or restriction on a person trying to develop and asked that Mr. Reich keep the board apprised of the issue. Mr. Reich agreed and explained that even with the numerous lawsuits regarding the Endangered Species Act (ESA) and floodplains there is no clear path out of Washington D.C. to follow. He said the biggest impacts coming are setbacks from streams which are twice the height of the most common species of tree

which means it could be as much as 180 feet from rural streams. Mr. Reich said that in general it has not been a problem in the county, but for the cities it could be a big deal and they are trying to reduce to set back to 30-40 feet in cities. Mr. Reich said that property owners have the ultimate responsibility to comply with the ESA, but he does not want to put the full burden on the property owners and would like to discuss steps to minimize the impact to property owners. He added that staff has received some interim guidance from the state and is reviewing it now. Mr. Reich said that he would change the substantial damage or substantial improvement amount to 50 percent of the value of the structure and include the new exceptions. The board agreed.

Inclusion of Butteville area in Metro Metropolitan Area

Mr. Reich presented a draft letter to Metro Council President Tom Hughes. Commissioner Brentano noted an awkward sentence in the fourth bullet point and Mr. Reich said that he would rework the sentence. Commissioner Carlson referred to a letter and resolution the board sent to Jefferson on a similar issue and said the language in those documents might be useful in stating the board's position. She asked that Communications and Administrative Manager Jolene Kelley forward the Jefferson documents to Mr. Reich so that he could redraft the letter to Metro. She asked that the redrafted letter be emailed to the board for review before sending. Mr. Reich agreed.

Mr. Reich presented a draft letter to Metro Regional Transportation Planner Chris Myers and Metro Senior Transportation Planner John Mermin regarding the Federal Functional Classification Review and the Metro Regional Transportation Plan Update (RTP). He said staff is doing this with the Salem-Keizer metropolitan planning organization (MPO) and the Albany MPO and that staff would like to send the letter today. He added that the state requires that the county review the information every five years. Commissioner Carlson asked that the letter be prefaced with a paragraph stating that the county is doing this because it is a requirement and that if it were the county's choice we would not be doing it. Mr. Reich agreed. There was discussion about Arndt Road NE being considered an urban collector and Commissioner Carlson confirmed that County Engineer Cindy Schmitt had reviewed the letter. Mr. Reich asked if the board would like to approve the redraft before it is sent. Commissioner Carlson said no, but she would like to receive a copy of the letter. Mr. Reich agreed.

OTHER

Policy and Research Manager Sara McDonald discussed the Oregon Department of Forestry 2013 Customer Service Performance Measure Survey. Commissioner Brentano said he would meet with Ms. McDonald to discuss the survey.

Commissioner Carlson discussed an email she received from Association of Oregon Counties (AOC) Communications Manager Eric Schmidt about the definition of "media". She said she forwarded the email to County Counsel Gloria Roy and AOC is requesting the board's opinion on the matter by Wednesday. Ms. Roy said that she could send a query to the other counties' legal counsels and noted that the issue has been discussed in the past. Commissioner Carlson said that her concern is that representatives of the media follow executive session rules. She said that Legal could write up the board's opinion and that in her opinion, the media representative needs to be a credentialed member of the press. Mr. Lattimer suggested that the press association be contacted. Ms. Kelley said she would contact the press association and added that she has had bloggers request information based on their status as a blogger for the Statesman Journal and their requests were treated the same as any other public records request. Commissioner Carlson said that the Oregon Government Ethics Commission (OGEC) may update the definition of "media" and Marion County should provide input. She said that enforcement when bloggers do not follow the executive session rules is a concern.

Commissioner Carlson said that Marion County is one of the only jurisdictions where medical marijuana dispensaries would be allowed and that it may invite people to make applications. She suggested imposing a one-year moratorium on the medical marijuana dispensaries and grandfather in any permit applications that have been approved by the Oregon Health Authority (OHA). She said that she has asked Assistant Legal Counsel Bruce Armstrong to contact the OHA to find out if any permits for the unincorporated area of the county have been submitted or if the county could set a date certain stating that if an application has not been made by May 1, 2014, then a ban exemption permit would not be issued. She said she wants to make sure that applicants close to being approved do not get cut off in the process. Ms. Roy said that the county could state that a person must have an OHA permit and have shown substantial steps for complying with the county ordinance by verification of a location with Planning Department and payment of a fee. Commissioner Carlson said she would like the issue on the April 30, 2014, board agenda. Commissioner Brentano agreed, but said he would prefer not to exempt anybody. He said he does not want to encourage dispensaries and he does not want the county to be a facilitator. Ms. Roy said that Legal could tighten up the language to say an applicant has to be substantially in the process. Commissioner Brentano agreed.

Commissioner Carlson discussed a recent newspaper article regarding the county's battery recycling program. She confirmed that the county is not inviting Batteries Plus to recycle their Southwest Washington and Portland area batteries in Marion County and asked what the county can do about the practice. Commissioner Brentano said the ordinance does not allow the county to exclude anyone. There was discussion about the county's battery

recycling pick-up and drop-off procedures and Commissioner Carlson said she would be open to the county establishing a fee for out-of-state battery recyclers so that the county can keep doing business with the companies, but have them pay for the service. John Lattimer said that there are two options. One is to ban it altogether and the other is to charge them; otherwise, the county will not be able to control it. Commissioner Carlson said she would vote that the county charge commercial enterprises so it does not affect individuals coming from West Salem. Commissioner Brentano asked how Environmental Services would know if the batteries are coming from out-of-county when they are dropped off at a box. Ms. Roy added that it gets more difficult when the county is talking about out-of-state (SW Washington) because of the federal commerce clause, but that Legal would look at what options are available. Mr. Lattimer said he is thinking about Batteries Plus specifically. Mr. Bickford said that Batteries Plus is definitely the county's largest supplier. There was discussion about excluding the commercial battery recyclers and that an outright ban might result in more alkaline batteries ending up in the waste stream. Commissioner Carlson asked why the county does not charge retail businesses. Mr. Bickford said that the program began in 1999 and businesses have never been charged; however, Batteries Plus was not a big player in 1999. He added that the majority of the batteries come from curbside recycling. Mr. Lattimer asked that Mr. Bickford work with Legal to try and come up with a way to deal with Batteries Plus. Commissioner Carlson agreed and requested a processing fee as well. Commissioner Brentano said that he really does not like a fee overall because of how it affects smaller businesses such as jewelers. There was discussion about whether or not Environmental Services could actually tell if recycled batteries are from out-of-county and Mr. Bickford said that Batteries Plus sent their batteries from other stores to their Salem store. Commissioner Brentano suggested that the county allow a normal amount of recycled batteries that is generated from a business and that Environmental Services and Legal could arrive at that number. Commissioner Carlson agreed and said it is a combination of a charge and a threshold because if it is just a threshold more batteries would end up in the waste stream and the county does not want that. Commissioner Brentano said that the board will have to revise the ordinance to prohibit batteries in the waste stream so that businesses cannot throw them away. Commissioner Carlson said the board needs to put some parameters around the program. Ms. Roy confirmed that the board wants to prohibit batteries from the waste stream and establish a maximum threshold for commercial battery recycling. Commissioner Brentano asked that Legal research what a normal battery business generates and allow that amount and then fine or exclude battery businesses period and make it somewhat incidental to their business more like a jeweler instead of someone who is in the battery business. He said if a person is in the battery business they should to be taking care of their own recycling.

Ms. Roy said the quantity might address that issue and asked if the board wants to allow recycling for amounts over the maximum threshold and then charge. The commissioners said yes. Mr. Bickford said that it is currently costing the county \$1 per pound to recycle batteries. Commissioner Carlson said the charge just needs to cover the county's cost. Ms. McDonald asked if the board would like letter drafted to Batteries Plus. The commissioners said yes. There was discussion about banning private residences from putting batteries in their trash and that enforcement would be challenging. Commissioner Carlson asked if Batteries Plus continued to dump batteries in Marion County, would the county go after them with a civil penalty? Mr. Bickford said that is correct. Commissioner Carlson confirmed that the county would not go after private citizens for throwing away a battery. Commissioner Brentano said if Legal has some way to get specific with Batteries Plus he would like to look at it. Commissioner Carlson agreed. Commissioner Carlson asked that Jolene Kelley inform Statesman Journal Reporter Tracy Loew that the board is going to be working on the ordinance.

COMMISSIONERS UPDATE

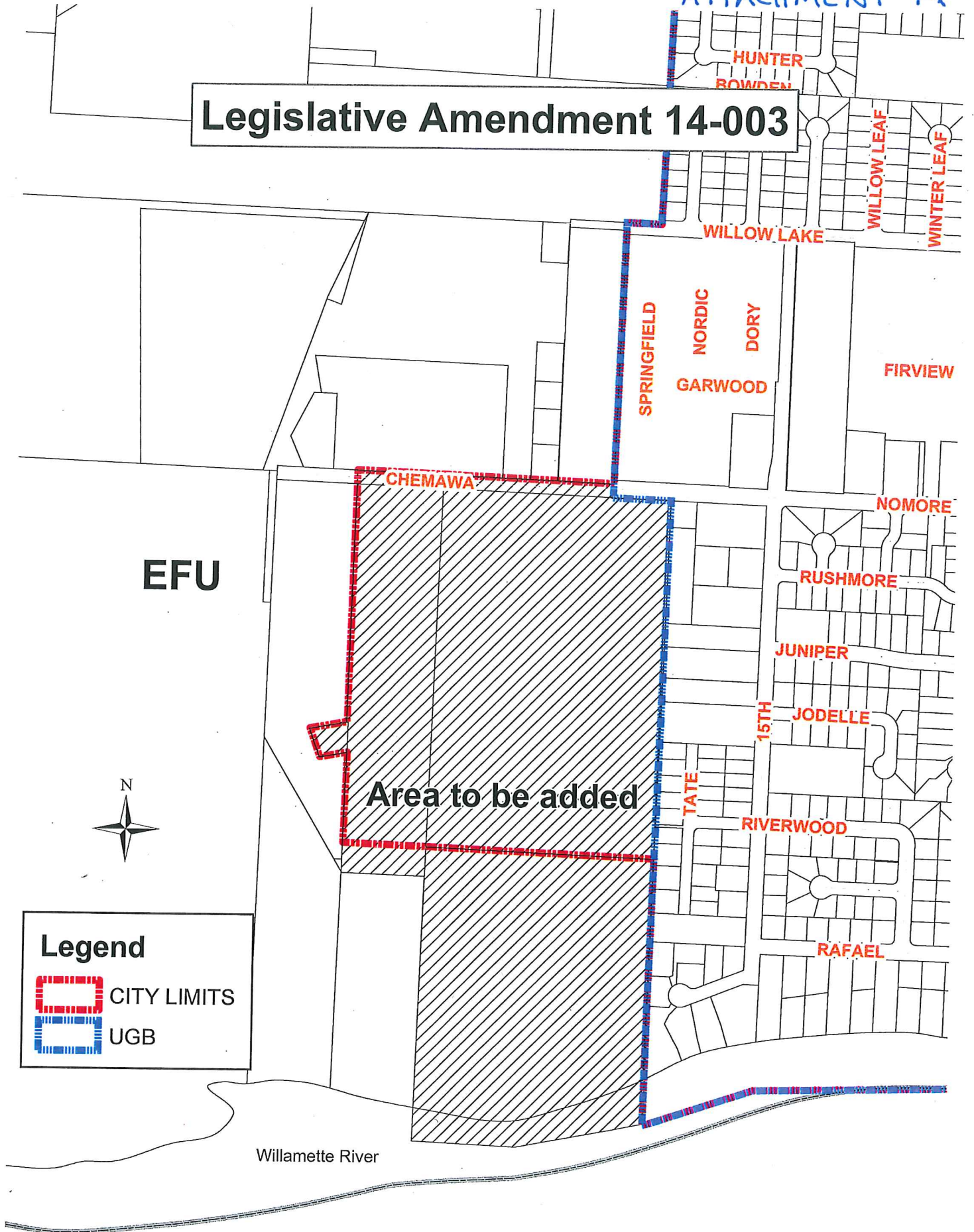
Commissioner Brentano reported on his trip to Washington D.C. He said he met with Senator Jeff Merkley, Congressman Kurt Shriver, the Economic Development Administration (EDA), Environmental Protection Agency (EPA), and Bureau of Justice. He said they were all very helpful and praised the county's second chance efforts and that it looks like the county has some opportunity for additional funding. He said there is quite a bit of interest in the North Santiam Canyon on the Opal Creek issue and getting that revived. He said that he was well received and felt that he made some progress.

Commissioner Carlson said that she is chairing Job Growers Request for Proposal Committee and that they received four proposals. She said that one proposal has been eliminated and the committee has asked some supplemental questions and should receive responses by the next day.

Gloria Roy confirmed that there would be an executive session on April 22, 2014.

Attachments: (A) Legislative Amendment 14-003 map

Legislative Amendment 14-003



Legend

-  CITY LIMITS
-  UGB

Willamette River