

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, October 21, 2020
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97301

PRESENT: Commissioner Colm Willis, Commissioner Sam Brentano, and Commissioner Kevin Cameron. Also present were Jan Fritz, chief administrative officer, Jane Vetto as county counsel, and Melissa Rounds as recorder.

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

PUBLIC COMMENT

None.

PRESENTATION

(Video Time 00:00:36)

COVID-19 (Novel Coronavirus) update. –Katrina Rothenberger

- Ms. Rothenberger reported the following updates for the COVID-19 pandemic as of 8:00 a.m. on Wednesday, October 21, 2020:
 - There are currently an estimated 5,589 cases within the county;
 - An estimated 62,394 individuals have been tested; and
 - An estimated 106 individuals have died from symptoms related to COVID-19.
- The percent positivity rate for the week of October 11, 2020, through October 17, 2020, was estimated at 9.7 percent:
 - An estimated 216 new cases were reported during this time period; and
 - The count is a reduction from the prior week which reported an estimated 276 new cases.
- On Monday, October 19, 2020, the Oregon Health Authority (OHA) updated their face covering recommendations:
 - Cloth face coverings or masks are recommended;
 - Face shields should be limited to people communicating with individuals who are deaf or hearing impaired where lip reading is necessary; and
 - Face coverings are required in all private and public spaces, which include some of the following:
 - Classrooms;
 - Office environments;
 - Meeting rooms;
 - Work spaces with two or more individuals;
 - Outdoor venues;

- Outdoor markets;
 - Street fairs; and
 - Public and private universities.
- Marion County Health and Human Services (MCHHS) is encouraging gatherings of 10 individuals or less:
 - The Center for Disease Control (CDC) has reported that small indoor group gatherings are driving the current spike in new COVID-19 cases and hospitalizations in the United States; and
 - MCHHS reported an increase in the following:
 - Sporadic cases:
 - Tracing the points of contact can be difficult or unobtainable.
 - Household cases; and
 - Close contact cases.
- MCHHS has used contact tracing to track infectious disease within the community for multiple years:
 - The intent is to ensure that citizens have the information that they need to protect themselves and their families;
 - Citizens that have potentially been exposed to the COVID-19 virus may be contacted by a MCHHS representative;
 - The information that is provided to the representative is considered private and will be treated as protected health information; and
 - The information will not be shared with other agencies.
- A free COVID-19 drive-up testing event will be held at Woodburn Ambulance in the City of Woodburn on Saturday, October 24, 2020, from 11:00 a.m. to 2:00 p.m.:
 - Individuals wishing to participate are encouraged to preregister.
- MCHHS is encouraging community members to obtain a flu vaccine to assist with reducing the strain of respiratory viruses on the county's health care system:
 - The vaccines may be obtained through some of the following:
 - Healthcare providers;
 - Clinics; and
 - Pharmacies.

CONSENT

(Video Time 00:07:01)

BOARD OF COMMISSIONERS

OLCC Applications – Recommended Approval

Desert Fire, LLC, dba The Firehouse –Salem, Oregon

BUSINESS SERVICES

Approve an order for the resolution of a litigation matter.

CLERKS OFFICE

Approve an order reappointing Bob Riggi as Chairperson and Jennifer Sasaki as Vice-Chairperson to the Chairpersons' Pool, and Gerald Bauman, Jack Yarbrough, and Micah Moskowitz as Board Members-at-Large to the Non Office-Holding Pool for the Marion County Board of Property Tax Appeals (BOPTA) with terms ending June 30, 2021.

PUBLIC WORKS

Schedule a public hearing for November 4, 2020, for Noise Variance (NV) Case #20-001/Section C, Concrete Pour.

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

ACTION

(Video Time 00:08:46)

PUBLIC WORKS

1. Consider approval of the Letter of Notice of Intent to Conduct Debris Removal from Private Property in Marion County and sign and send the letter to FEMA. – Brian Nicholas

Summary of presentation:

- Federal Emergency Management Agency (FEMA) protocols require local agencies to submit requests for resources or support;
- FEMA has approved two emergency response categories related to the forest fires for the state of Oregon:
 - Category A, Debris Cleanup:
 - Applies to public property which may include some of the following:
 - Road right-of-ways;
 - Public facilities; and
 - Parks.
 - Category B, Emergency Protective Measures:
 - Includes the household hazardous waste cleanup.
- The letter of Notice of Intent requests that FEMA also include debris cleanup on private properties; and
- Cleanup on private properties will assist with the following:
 - Water quality; and
 - Protecting the watershed.

MOTION: Commissioner Brentano moved to approve the Letter of Notice of Intent to Conduct Debris Removal from Private Property in Marion County and sign and send the letter to FEMA. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:11:11)

2. Consider adopting an administrative ordinance granting Zone Change/ Comprehensive Plan/Conditional Use (ZC/CP/CU) Case #19-002/TLM Holdings, LLC. –Joe Fennimore

Summary of presentation:

- The 16.5 acre parcel is located on Airport Road NE in the City of Aurora;
- The applicant is requesting the following:
 - To change the CP designation from Primary Agriculture (PA) to Public (P) and Semi-Public;
 - Change the zone from Exclusive Farm Use (EFU) to P;
 - A conditional use to establish airport related uses;
 - An exception to Statewide Planning Goal 3, Agricultural Lands:
 - Request is to remove the agricultural land restrictions.
 - An exception to Statewide Planning Goal 14, Urbanization:
 - Request is to allow an urban level development on rural lands.
- The hearings officer held a public hearing on March 27, 2019;
- On November 19, 2019, the hearings officer issued the recommendation for board approval of the following, if the applicant provided additional information:
 - The goal exceptions;
 - The CP amendment;
 - The Zone Change (ZC); and
 - Application of a limited use overlay to set uses conditionally permitted on the property.
- The board held a duly noticed public hearing for the application on the following dates:
 - June 3, 2020; and
 - June 24, 2020.
- The record was left open until July 15, 2020;
- On August 5, 2020, after consideration of all the evidence, the board approved the request subject to conditions;
- The conditions outline the following:
 - The approved uses;
 - Road frontage improvements to Airport Road;
 - Proportional share contributions to four different intersection improvements located in the area;
 - Aircraft are prohibited from hovering in a manner not associated with normal takeoff and landing procedures;
 - Requirements for adequate fire protection; and
 - Requirements for on-site sewage disposal prior to any building permits.
- The ordinance and findings have been prepared;
- The notice of adoption was given on October 14, 2020;
- The ordinance is ready for formal adoption;
- The board has the following options:
 - Adopt the ordinance as written;
 - Direct staff to prepare a modified ordinance; or
 - Choose not to adopt the ordinance.
- Staff recommended the board adopt the ordinance as written.

Board discussion:

- The commissioners have thoroughly reviewed and discussed the case in prior meetings.

MOTION: Commissioner Cameron moved to approve an administrative ordinance granting Zone Change/ Comprehensive Plan/Conditional Use (ZC/CP/CU) Case #19-002/TLM Holdings, LLC. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

(Video Time 00:14:08)

3. Consider approval of the Purchase Order Contract with McCoy Freightliner in the amount of \$184,103 for the purchase of one 2021 Freightliner 12 yard dump truck. –Dennis Mansfield

Summary of presentation:

- The Marion County Public Works (MCPW) Department has approximately 12 dump trucks that they utilize throughout the year for some of the following:
 - Chip seal;
 - Road shoulder maintenance; and
 - Ditch maintenance.
- The new dump truck will replace an existing truck purchased in 1991:
 - The truck being replaced has logged over 100,000 miles.
- Staff recommends approval of the Purchase Order.

Board discussion:

- Commissioner Cameron stated the county works to maintain equipment in order to increase longevity and get the most value for the dollars that have been spent; and
- The county utilizes the trucks on a daily basis.

MOTION: Commissioner Brentano moved to approve the Purchase Order Contract with McCoy Freightliner in the amount of \$184,103 for the purchase of one 2021 Freightliner 12 yard dump truck. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:18:03)

4. Consider approval of the Purchase Order Contract with Peterson Machinery Co. in the amount of \$148,933.13 for the purchase of one 2020 Caterpillar 440 Backhoe Loader. –Dennis Mansfield

Summary of presentation:

- The backhoe loader is utilized at the North Marion Transfer Station:
 - The backhoe loader assists with unloading construction debris and moving the debris into 48 yard drop boxes; and
 - The loader also compacts debris down to allow for more material.
- The new backhoe loader will replace an existing backhoe purchased in 2005:
 - The backhoe loader being replaced has logged over 9,000 hours; and
 - An increase in debris volume has necessitated the replacement of the current loader.

- Staff recommends approval of the Purchase Order.

MOTION: Commissioner Cameron moved to approve the Purchase Order Contract with Peterson Machinery Co. in the amount of \$148,933.13 for the purchase of one 2020 Caterpillar 440 Backhoe Loader. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous

(Video Time 00:20:00)

The Board of Commissioners provided updated information related to a virtual Town Hall held on October 20, 2020, and requested the Marion County Public Works (MCPW) Director, Brian Nicholas, present information related to the recovery, rebuilding, and cleanup efforts associated with the Beachie Creek forest fires:

Board discussion:

- Commissioner Willis advised the public of a virtual town hall that was held with constituents via Zoom on October 20, 2020, at 6:00 p.m.;
- Questions related to the recovery, rebuilding, and cleanup efforts associated with the Beachie Creek forest fires were addressed during the virtual meeting;
- The virtual town hall will be posted on the Marion County website; and
- It was announced that an in-person town hall would be held in the City of Mill City on October 21, 2020, at 5:30 p.m.

Summary of presentation:

Brian Nicholas:

- An Environmental Protection Agency (EPA) household hazardous waste cleanup will begin on Saturday, October 24, 2020;
 - The EPA will have crews available;
 - Information related to the cleanup, and some of the following, can be found on the Marion County website under Wildfire Recovery:
 - Debris cleanup efforts;
 - Right-of-entry (ROE) submission:
 - Property owners wishing to be included in the household hazardous waste efforts will need to submit a ROE:
 - Property owners can submit documents for Phase I;
 - The Phase II request can be delayed to an extended date allowing property owners to determine if they wish to participate;
 - FEMA and the state of Oregon are paying 100 percent of the hazardous waste cleanup; and
 - There is no cost to the following for participation in the household hazardous waste cleanup:
 - The property owners; and
 - Insurance companies.

- Property owners who do not submit a Phase I ROE will be excluded from the cleanup.
- A link to the EPA website that provides some of the following:
 - Photographs;
 - Work schedules;
 - A tracking map that lists properties that have submitted ROE's;
 - Information related to the hazardous waste cleanup; and
 - Completed properties for hazardous waste cleanup.

Board discussion:

- The only landfill in Oregon that accepts hazardous waste materials is located in the City of Arlington:
 - Hazardous waste materials will be shipped to the landfill;
 - Companies that haul garbage can refuse the hazardous waste; and
 - Property owners will need to find an alternative for disposal of the hazardous waste.
- MCPW is encouraging all property owners to submit a ROE application:
 - Submit the application on-line;
 - The submission will be routed directly to the MCPW database;
 - MCPW will review the application;
 - The application is then forwarded to the EPA; and
 - The EPA will add the information into their database.
- Special testing and handling of ash debris is required for property owners that intend to remove ash themselves; and
- Participation in Phase I and Phase II of the ROE waste cleanup process is believed to be the lowest cost alternative for property owners.

The commissioners adjourned at 9:27 a.m.

The commissioners reconvened at 9:30 a.m.

PUBLIC HEARINGS

9:30 A.M.

(Video Time 00:30:02)

PUBLIC WORKS

A. Public Hearing to consider Zone Change/Comprehensive Plan (ZC/CP) Case #20-003/ M.F. Bakke Builders, Home Exit LLC, 25 Years LLC, Jean M. Miller Family Trust, and Harlan Miller Trust. –Lindsey King

Summary of presentation:

- The application is for a 21 acre parcel located on the north side of Gaffin Road SE in the City of Salem;
- The applicant is requesting the following:

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- To amend the Comprehensive Plan (CP) designation from Special Agriculture (SA) to Commercial (C);
- Change the zone from SA to C; and
- An exception to Statewide Planning Goal 3, Agriculture Lands:
 - Land use applications are required to be consistent with Statewide Planning Goals; and
 - It was determined that all applicable Statewide Planning Goals except Goal 3 were met.
- The Statewide Planning Goal exception process requires specific findings to justify why lands are not available for resource use:
 - Findings can include the following:
 - Physically developed;
 - Irrevocably committed; and
 - Reasons.
- The applicant indicated that the proposal meets the following exceptions:
 - Physically developed; and
 - Irrevocably committed.
- The hearings officer held a public hearing on August 13, 2020;
- The hearings officer reviewed the applicable CP policies and the ZC criteria;
- On September 22, 2020, the hearings officer issued a recommendation to approve the request subject to the following condition:
 - Application of a trip cap limiting the development to the following:
 - 448 daily trips; or
 - 55 peak hour trips.
- The properties are legal parcels for land use purposes;
- Adjacent properties are zoned as follows:
 - Properties to the east are zoned C;
 - Properties to the northeast are zoned SA; and
 - All other adjacent properties are located within the City of Salem limits and are developed with industrial uses.
- Options for the board to consider include 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.

John Brosy:

- Mr. Brosy is a land use planning consultant representing the property owners;
- Zoning at the end of Gaffin Road has gradually changed over the past several years:
 - The SA zoning and the CP designation have remained the same for the property owners; and
 - The property owners are requesting to change the zone to County Rural Commercial.

- A lengthy and thorough analysis was performed which included the following:
 - A traffic impact analysis:
 - Four key area intersections were analyzed:
 - The intersection of Cordon Road and Gaffin Road SE;
 - The interchange for Gaffin Road SE and the north Santiam Highway;
 - The intersection of Deer Park Drive SE and Gaffin Road SE; and
 - The intersection of Deer Park Drive SE and Culver Drive SE.
 - The analysis resulted in a recommendation for a traffic cap condition:
 - The property owners have no opposition to the condition.
 - Statewide Goal 3 exceptions required a thorough analysis.
- A proposal was submitted approximately one year prior to this public hearing:
 - COVID-19 has impacted the time frame for the proposal.
- The Rural Commercial designation has numerous restrictions which include the following:
 - Building size; and
 - Trip cap conditions.
- The property owners have no opposition to the conditions;
- Mr. Brosy requested that the following be noted:
 - The hearings officer has recommended approval; and
 - The Oregon Department of Land Conservation and Development did not comment after notification was given.
- Mr. Brosy stated the following:
 - A thorough review was completed; and
 - The case is applicable for the following:
 - A CP amendment;
 - A ZC; and
 - An exception to Statewide Planning Goal 3.

Board discussion:

- Three residential structures are located on the subject properties;
- One business is operating on one subject property;
- A number of commercial and light industrial businesses are located east of the subject properties and are already zoned County Commercial;
- Currently the applicants are only requesting the CP and the ZC;
- All the lots combined are estimated to be 21 acres:
 - An average lot size is estimated to be two to five acres.
- The last land use for farming is undetermined;
- There may be jurisdictional wetlands in the area;
- Land uses around the applicant properties include the following:
 - Agriculture is located to the north:
 - The county has planning jurisdiction in this zone;

- The land parcels are smaller;
 - There is improved quality for soil generation; and
 - There are fewer drainage courses which may result in wetlands.
 - Commercial businesses are located to the east; and
 - The area immediately west is zoned Industrial:
 - The land is currently fallow; and
 - The property is currently owned by the City of Salem Redevelopment Authority.
- The “physically developed” and “irrevocably committed” are two types of exceptions that may be granted for Statewide Planning Goal 3;
- The application states the following:
 - The properties are already developed;
 - The parcels are not currently being used for farming;
 - The parcels have not been used for farming for an extended period of time;
 - There are surrounding industrial uses that are located within the City of Salem limits;
 - There is commercial usage east of the subject properties; and
 - Multiple small businesses are located in the area.
- Commissioner Brentano stated the location is a developing area;
- Individuals wishing to develop property are required to submit a permit request:
 - Traffic caps are tracked once the permit request is made; and
 - Traffic count information is used to track the number of trips being generated:
 - Property owners address any issues that arise; and
 - The permit process can be suspended until it has been demonstrated that the property owners have met the conditions required to address issues.
- The City of Salem is the government body that required the traffic cap.

MOTION: Commissioner Brentano moved to approve *Zone Change/ Comprehensive Plan (ZC/CP) Case #20-003/M.F. Bakke Builders, Home Exit LLC, 25 Years LLC, Jean M. Miller Family Trust, and Harlan Miller Trust.* Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

Commissioner Brentano read the calendar.
Commissioner Willis adjourned the meeting at 10:01 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

Board Sessions can be viewed on-line at
<https://www.youtube.com/playlist?list=PLSUQ1gg6M78UsBE3q6w4rdf59Z5rXkEi5>