

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, April 6, 2016
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97301

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

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

PUBLIC COMMENT

None.

PRESENTATION

(Video Time 00:01:10)

Marion County Employee Food Drive to benefit Marion-Polk Food Share – Rick Gaupo

Summary of Presentation:

- Between 2006-2014, the need for emergency food assistance grew significantly;
- The need has reduced slightly;
- The families that seek services are in need a little longer than in the past;
- The highlighted items of the year were:
 - Continue to operate food pantries throughout Marion County:
 - Most people who need food assistance can get it easily.
 - Have a large youth farm at Chemeketa Community College:
 - Partnership with OSU Extension and Chemeketa Community College; and
 - Will be a training site as well as a production farm.
 - Approached two years ago to run the Meals on Wheels program in Salem-Keizer:
 - Serves 250 seniors a day.
- Anyone who becomes a sustainer member or increases their sustainer gifts to the Marion-Polk Food Share will receive a string bag;
- The food drive is from April 18th – April 29th;
- The activities during the week include:
 - BINGO at Courthouse Square and Public Works:
 - Winner gets half of the pot.
 - Lunch at Courthouse Square on April 19th;

- Breakfast at Public Works on April 20th;
- Breakfast at Courthouse Square on April 26th;
- Jeans days:
 - Can buy passes to wear jeans on regular days.
- Join the sustainers circle starting at \$5 a month;
- Basket raffle; and
- One time gift donation.

CONSENT

(Video Time 00:09:42)

COMMUNITY SERVICES

Approve an order to distribute economic development funds using video lottery receipts in the amount of \$6,750 to KMUZ. – Sarah Cavazos

HEALTH

Approve the contract for services with Sohyon Rahe for \$269,000 to provide psychiatric mental health nurse practitioner services for the county's adult behavioral health program. - Rod Calkins

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

ACTION

(Video Time 00:10:42)

BUSINESS SERVICES

1. Consider approval of a proclamation designating April 10-17, 2016 as Volunteer Week in Marion County. – Lisa Miller

Summary of Presentation:

- Nationally recognized week that the county has supported over the years;
- 1,500 active volunteers in Marion County;
- Volunteerism recognition was first established in 1974 through an executive order signed by President Nixon;
- Goal is to inspire and taking action in our community; and
- During National Volunteer Week all volunteers will receive a thank you card from the Commissioners and a free pass to the Oregon Garden.

Board Discussion:

- Appreciate of all the hard work Marion County volunteers preform for our community.

MOTION: Commissioner Carlson moved for approval of a proclamation designating April 10-17, 2016 as Volunteer Week in Marion County. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

(Video Time 00:17:23)

PUBLIC WORKS

2. Consider approval of an order adopting the Environmental Services Tip Fee Proposal. –
Dennis Mansfield (*See Attachment A*)

Summary of Presentation:

- Held a public hearing on March 30, 2016;
- Solid Waste Management Advisory Council (SWMAC) supported the tip fee proposal;
- SWMAC created a budget subcommittee which met three times in meetings open to the public:
 - Two proposals received:
 - Recommend new tip fees; and
 - Subcommittee to remain intact to review financial viability of the Environmental Services Fund on a semi-annual basis.
- SWMAC held a public meeting on March 17, 2016 and voted unanimously in favor of both proposals;
- Economic factors impacted Environmental Services Fund:
 - Electricity decrease of \$4,000,000 a year;
 - Metal price decrease of \$2,000,000 a year; and
 - Consumer Price Index Inflation by \$1,500,000 increased over the last ten years.
- Garten Services Inc. opposed the tip fees and asked for an exemption:
 - Mr. Mansfield plans to meet with Todd Irvine from the Haulers Association to review how the recycling system works;
 - Will meet with Garten Services Inc. to discuss the financial impact; and
 - Will bring information to Management Update in early May to discuss possible options and next steps.

Board Discussion:

- Want to be completely transparent with the decision making process;
- Numerous work sessions were held on the topic beginning last year;
- Encouraged the public to “like” the Marion County Board of Commissioners Facebook page to receive information about what is going on in the community;
- Ms. Kelley contacted different newspapers about the tip fee proposal;
- Never an easy decision to raise fees;
- Garten issues are a concern but confident they will find solutions and options;
- Comfortable with moving forward with the decision with the caveat that Garten Services Inc. is a piece of unfinished business;
- Tip fee proposal is just an estimate and gets Environmental Services to a place that the program will be sustainable for five years;
- Department of Environmental Quality pass through fee has been raised by 10 percent;
- Record remains open for a week for receipt of written comment that will be entered into the record;
- Never anticipated impact or increase for Garten Services Inc.;
- A lot of time and education were expended to encourage reduction of waste being burned;

- Only eight percent of Marion County’s garbage goes into a landfill:
 - Average amount is 60 percent elsewhere.

MOTION: Commissioner Brentano moved approval of an order adopting the Environmental Services Tip Fee Proposal. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

PUBLIC HEARINGS 9:30 A.M.

(Video Time 00:36:29)

PUBLIC WORKS

A. Public hearing on appeal of hearings officer’s decision denying Administrative Review (AR) 15-033/Beyel. – Joe Fennimore

Summary of Presentation:

- The Administrative Review is to replace a dwelling that previously existed on a 10.75 acre parcel in an EFU zone located on Ankeny Hill Road SE, Jefferson;
- The planning director approved the application on October 22, 2015;
- Decision was appealed to the hearings officer on October 23, 2015;
- Hearings officer conducted a public hearing on February 10, 2016 and issued a decision denying the request;
- The decision was appealed by the applicant;
- On March 9, 2016 the board accepted the appeal and scheduled the hearing for April 6, 2016;
- The zone code contains provisions for replacement of dwellings in the EFU zone, changes in the state law supersede the zone code and must be applied directly until the code is updated;
- The hearings officer concluded in Item 16 of the decision that there is no evidence in the record showing the removed dwelling;
- The mobile home was assessed as a dwelling for the purposes of ad valorem taxation for the prior five year property tax years or less;
- The hearings officer concluded there is no evidence of when, how or whether the mobile home was removed from the tax rolls or whether the county stopped assessing it for tax purposes;
- The hearings officer concluded that although the 2013 law may not take into account the unique characteristics of mobile home ownership, placement, and taxation, based on the evidence in the record the criteria are not satisfied and the dwelling cannot be replaced;
- In the appeal the applicants, through their attorney, propose an alternative interpretation of the criteria based on a 2015 LUBA case and argue that additional evidence has come to light for the board to consider;
- It should be noted that the original decision by the planning director approving the request was appealed to the hearings officer by a neighboring property owner:
 - The neighbor indicated the property has an access easement across their property; and

- Approval of a dwelling will increase traffic and further disturb the peaceful enjoyment of their property.
- The hearings officer determined the replacement dwelling did not meet the replacement criteria and the matter of increased traffic on the easement was not addressed.

Testimony:

Kevin Shuba, Attorney for Alfred and Heather Beyel:

- Has always been a 30 foot easement that serves the properties;
- Previous owners of the property put a mobile home on the property in the 1980's;
- When the previous owners defaulted on their loan, the mobile home was repossessed and the land went back to the seller;
- Trip ticket shows the mobile home was moved to Washington and the fee paid in 1987;
- County tax records show there was a mobile home on the property;
- There was a covenant for road maintenance required when the Beyel's automotive repair shop was approved;
- Given that there was a structure onsite, it was taxed and was removed from the tax rolls, believe it meets the criteria in the 2013 law;
- Not an easy law to figure out; and
- No evidence of why it was removed from the tax rolls.

Pat Mann:

- Opposes overturning hearings officer's decision;
- Owned the property at Ankeny Road since 1988;
- Did know there was an easement;
- Easement only serves the Beyel's property;
- Never objected to the 15 feet to be driven on;
- Put up a fence along the easement before the Beyels moved in:
 - No one ever hit the fence prior to the Beyels moving in; and
 - Since the Beyels have moved in, the fence has been hit four times.
- There is an oak tree at Ankeny Hill Road next to the easement which is on another owner's property;
- In 1988 the manufactured home was gone;
- Was told that the manufactured home was not moved to Washington, was moved onto a different property nearby;
- Has an issue with only being a 15 foot easement on the roadway;
- The other 15 feet is undeveloped and serves as the back property;
- In order to make it a complete easement, need to open up the second 15 feet;
- Is opposed to paving the road due to water run-off;
- Since the Beyels moved in, significant potholes have developed in the roadway:
 - Would like to keep the potholes in order to slow traffic.
- Two occasions while sitting in the orchard, a car resembling one owned by the Beyel's has driven dangerously close to Ms. Mann.

Heather Beyel:

- Easement doesn't have a bearing on the whether or not a house can be built on the property;
- When the property was purchased, did not know what an easement was;
- Had the surveyors come out because they want to make Ms. Mann happy and want to access all 30 feet so two cars can use the roadway;
- The 15 feet of easement is not on the other property owner's deed but is on the Beyel's deed:
 - Currently, at a standstill.
- Is a very large oak tree that is on the property line between the Mann's and the Hill's property:
 - The Hills do not want to remove the tree.
- When the shop was built on the property, Ms. Mann had her fence moved from a curved fence to a straight line:
 - People then started inadvertently hitting the fence.

Board Discussion:

- There is not a time limitation from when a home is removed and when you have to build again:
 - The time limitations are in place when there is approval from the county to rebuild.
- The mobile home was removed in the late 1980's:
 - It continued to be taxed;
 - There was no request by the owner to remove it from the tax rolls; and
 - LUBA's interpretation is that these are ad valorem taxes unless it falls within the scope of the 2013 law to allow the dwelling to be replaced.
- Client purchased a 10.75 acre parcel:
 - Would like to replace with a new dwelling that was previously on the property.
- Client agreed to pave the gravel road on the easement to make a nicer access.
- It is clear in Marion County statute that if a dwelling is destroyed there is a year to replace it;
- Can do an administrative review to show there was a building that was destroyed within the last year:
 - Have four years to replace it.
- The 2013 law allows a look back to see if there was a house on the property and if met the requirements, it can be replaced:
 - The law is poorly written.
- The decision today has to do with whether or not the statute allows for a replacement dwelling;
- The easement issue has been introduced and concerns have been expressed;
- The access easement issue will be addressed at the time the building permit is applied for:
 - Have to apply for a driveway permit at the same time.
- Feels like there was a household on the property that satisfies what is described.

MOTION: Commissioner Carlson moved to close the public hearing and reverse the hearings officer's decision denying Administrative Review (AR) 15-033/Beyel. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Commissioner Cameron read the calendar.

Commissioner Cameron adjourned the meeting at 10:47 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

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

Attachment A

Proposed Solid Waste Disposal Fee

WRITTEN TESTIMONY

Received by:

April 4, 2016

4:00 p.m.



Jolene Kelley - Additional public testimony on tipping fee increase, as requested

From: "Timothy Rocak" <trocak@garten.org>
To: <commissioners@co.marion.or.us>
Date: 4/4/2016 12:30 PM
Subject: Additional public testimony on tipping fee increase, as requested
Cc: "Board Of Directors" <Board@garten.org>, "Pamela Best" <pbest@garten.org>
Attachments: Trash costs & projected tipping fee increases.docx

Commissioners Brentano, Cameron, and Carlson,

Thank you for extending the time for public input to gain more information about the tipping fee increase's potential impact to Garten. Thank you especially for your comments in support of Garten and the willingness you stated in last Wednesday's public hearing to work with us to minimize any negative impact.

It was my understanding that you requested that Garten meet with Marion County Public Works Administration Division Manager Dennis Mansfield to provide data on the projected impact to Garten to submit by 4 p.m. today. While Dennis appears to have a different understanding (see below), we wish to honor our understanding of the commissioners' request and are submitting the data requested (attached). We realize the time line was short and we certainly would be happy to meet with Dennis for a thorough review of the data at a later date.

As a long term partner and key part of the local solid waste system, Garten thanks you for your careful consideration of the impact of this change to the entire solid waste and recycling system. As you know, worldwide commodity prices have been a formidable challenge to our recycling business for the past several years—please work with us to avoid adding to this challenge.

Sincerely,

Tim

Timothy Rocak

Garten Chief Executive Officer
500 Hawthorne Avenue SE / PO Box 13970
Salem, OR 97309

Phone: (503) 581-1984 ext. 3111

Mobile: (541) 760-0100

Fax: (503) 589-3119

Email: trocak@garten.org

www.garten.org

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Please consider the environment before printing this e-mail.

From: Pamela Best
Sent: Thursday, March 31, 2016 2:45 PM
To: 'Dennis Mansfield'
Subject: RE: meeting

Alright, I will pass on the information.

BTW I have looked at what the impact will be to Garten and know that as our volumes increase so does the annual estimate of the impact to our trash bill. The \$100,000 annually may turn out to be an understatement.

Thanks,

Pamela Best

Garten Chief Financial Officer
500 Hawthorne Avenue SE / PO Box 13970
Salem, OR 97309

Phone: [\(503\) 581-1984 ext. 3105](tel:(503)581-1984)

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Please consider the environment before printing this e-mail.

From: Dennis Mansfield [<mailto:Dmansfield@co.marion.or.us>]
Sent: Thursday, March 31, 2016 2:42 PM
To: Pamela Best
Subject: RE: meeting

Hi Pam,

The Board kept the record open as a result of the letters received, including Garten's, to receive additional comments from the public. The Monday time frame wasn't tied to us meeting.

I spoke with Todd Irvine. It sounds like we should be hearing within the next couple of weeks from the haulers what the impact will be to customers based on the new tip fees. With this information we could look at the impact to Garten and have a discussion about how to proceed.

Thank you,

Dennis Mansfield Jr.

Administrative Division Manager

Marion County Public Works

503-365-3111

>>> "Pamela Best" <pbest@garten.org> 3/31/2016 12:49 PM >>>

Dennis,

Our understanding is that Commissioner Brentano kept the public record open until end of day Monday so that we could meet and enter into the record the results of that meeting.

Thanks,

Pamela Best

Garten Chief Financial Officer

500 Hawthorne Avenue SE / PO Box 13970

Salem, OR 97309

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Please consider the environment before printing this e-mail.

From: Dennis Mansfield [<mailto:Dmansfield@co.marion.or.us>]

Sent: Thursday, March 31, 2016 11:06 AM

To: Pamela Best
Subject: Re: meeting

Hi Pamela,

I apologize for the delay in getting back to you. It's good to hear from you. Unfortunately, none of these times work for me. I'm off tomorrow and I'm in meetings all day Monday. The good thing is, we're not in a major rush. As Commissioner Brentano pointed out, the rate increases aren't taking affect until October 1st, 2016 so we have time to review the impact and if need be, make any additional changes agreed upon for Garten.

I am interested, (as is our Board of Commissioner's) in further understanding the impact of the rate increase to Garten. In the letter provided by Tim it mentions that the rate increase will add close to \$100,000 a year in costs. If you could provide some data, (tonnage & hauler rates) this would be really helpful.

Based on the estimates provided in the letter it's roughly a 27% increase, or approximately what the tip fee is being raised to the haulers. As it stands, the County has not heard from the haulers what the impact will be to their customers. I know they are diligently working on that now. I can tell you with pretty good certainty that the percentage increase to the haulers is not the percentage increase that will be passed on to their customers, as disposal is only one component of the services they provide. We're anticipating a less percentage but have not received a figure from the haulers yet.

As Garten is an indirect customer to the County in regards specifically to your garbage service, it will be imperative that we include your hauler in this as they are ultimately billing you for their service. I'm meeting with Todd Irvine today with the Hauler's Association in regards to another matter but will ask him his thoughts on proceeding with this discussion.

Thanks and we'll be in touch soon.

Thank you,

Dennis Mansfield Jr.
Administrative Division Manager
Marion County Public Works
503-365-3111

>>> "Pamela Best" <pbest@garten.org> 3/30/2016 4:46 PM >>>

> 

> Dennis,

We were hoping that we could schedule some time with you before Monday the 4th. Attending this meeting will be Tim our CEO and Will Posegate our COO and myself. If you could look at your calendar and see if Monday the 4th at 10:00 or Friday the 1st at 11:30 for a possible one hour (plus) meeting we would greatly appreciate it. Thanks, Dennis. I am looking forward to seeing you again.

Regards,

Pamela Best

Garten Chief Financial Officer

500 Hawthorne Avenue SE / PO Box 13970

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CONFIDENTIAL

April 4, 2016

Currently Garten pays \$285,000 annually in total trash fees--an average of \$102 per ton.

A 27% increase to the portion associated with tipping fees will put the total annual cost at \$343,000 per year, an annual increase initially due to the fee change of \$58,000. Garten's outgoing trash will average \$123 per ton.

The planned increase of our incoming tonnage (already underway) to 1800 tons per month in conjunction with the 27% increase in tipping fees puts total annual trash fees at \$584,000 per year. The increase due to the tipping fee rate increase at this volume is \$119,000 annually.

Calculating the impact to Garten due to the 27% fee increase at volumes of 2400 tons per month (anticipated in 18-24 months) results in a cost of \$158,000 more per year than Garten would pay without the increase.

Respectfully submitted,

Pamela Best, Chief Financial Officer

Garten Services, Inc.

Jolene Kelley - Bicycle tires and tubes

From: Michael Wolfe <sscycpleworks@comcast.net>
To: <commissioners@co.marion.or.us>
Date: 4/3/2016 10:04 PM
Subject: Bicycle tires and tubes
Attachments: C1ABD429-FA17-4866-9971-7A58F9C9DDC6[58].png

Marion County Commissioners:


I understand that tipping fees will be increased shortly.

We used to send our used innertubes to Alchemy Goods in Seattle, who would send a call tag for a weighed box of them. They've found that enough of the local shops in Seattle now supply them that they no longer have a need from outside Seattle.

While there is a charge for recycling bike tires, along with car tires, the tubes are sent to the burner. Tubes have no casing, and the valve cores can be easily removed, leaving butyl rubber as the remainder. I would think that product would be much more easily recycled than car tires, using less energy, and saving the burner from additional maintenance fees.

I'd actually like to see no charge for recycling both bicycle innertubes and tires as an incentive for the use of bicycles, of course!

And please come to the Progressive film series in May featuring Cars Vs. Bikes documentary. Should be some interesting speakers following the film.



Michael Wolfe
 www.sscycpleworks.net

SOUTH SALEM **503-399-9848**
 Fax 399-9546

CYCLEWORKS

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