

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, July 9, 2014
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97301

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

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

PUBLIC COMMENT

Diane Young, Salem, Oregon:

- Founder/director of Salem Dogs rescue organization;
- Organization focuses on dogs with special needs;
- Marion County Dog Shelter, Willamette Humane Society, Willamette Hospice and others have asked for assistance in finding homes for dogs;
- Available to answer questions regarding how Senate Bill 6 affects small animal rescue organizations;
- Salem Dogs is not a 503(C)(3) organization; however accepts contributions; and
- Proposed amendment is a good start to preventing future animal abuse cases.

Gene Pfeiffer, Silverton, Oregon:

- Marion County Courthouse parking structure:
 - Design-build process only allows for two additional floors; and
 - Design-bid process would cost less and allow for three additional floors.

Elan Lambert, Salem, Oregon:

- Chair of Marion County Veterans' Task Force;
- Requested board sign Joining Community Forces Community Covenant certificate (Attachment A);
- Certificate will also be signed by Sheriff Jason Myers and District Attorney Walt Beglau; and
- Copies of certificate to be distributed at Marion County Fair in Heritage & Heroes area to recognize veteran service members/families.

CONSENT

Video Time (00:13:55)

FINANCE

Approve a seven-year lease with Pioneer Trust Bank for \$633,664.49 for leased office space for the Health Department at 3876 Beverly Avenue NE, Salem.

Approve termination of leased space with Pioneer Trust Bank located at 3886 Beverly Avenue NE, Salem, effective upon possession of new space at 3876 Beverly Avenue NE, Salem.

Approve a ten-year lease with Khoury Development for \$1,463,364 for leased office space for the Health Department at 976-986 N. Pacific Highway in Woodburn, OR.

HEALTH

Approve amendment #1 adding \$189,752 to the contract with Oregon Health Authority to provide HIV Medical Case Management services and extend the contract through June 30, 2016.

Approve an intergovernmental agreement with the Department of Human Services, Child Welfare Program to provide \$564,980 for the transitional treatment services through June 30, 2015.

Approve amendment #7 to add \$613,000 to the contract with Resource Connections of Oregon to allow for continued services and extend until September 30, 2015.

JUVENILE

Approve renewal of a contract with North Valley Medical Staffing to provide nursing services in the amount of \$240,000 to the Juvenile Department.

PUBLIC WORKS

Approve an order reappointing Jacque Keller-McCormick, Robert Dyk, and Dan Goffin to the Weed Advisory Committee for a term ending June 30, 2018.

Schedule adoption of administrative ordinance for July 16, 2014, granting zone change, ZC14-001, Phoenix Investment Group, Inc., Clerk's File #5686.

TAX COLLECTOR

Approve an order authorizing property tax refund to Salem-Keizer Community Development Corp. in the amount of \$16,557.70.

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

ACTION

Video Time (00:17:26)

COMMUNITY SERVICES

1. Consider adoption of an ordinance amending Marion County Code Chapter 6.05 relating to animal rescue entities, by emergency procedure. – Bruce Armstrong, Tami Goettsch, Sonya Pulvers

Summary of presentation:

- Proposal amends Marion County Code (MCC) Chapter 6.05.300A(2) to add that the board shall establish fees and the effective terms for certificates of registration and renewed certificates by board order; and
- Proposal is by emergency procedure because code is in effect.

Board discussion:

- General language allows board to work with fee schedule/establish fee;
- All fees collected will be applied to running program;
- Proposed fees do not cover all costs;
- Clarified intent of proposed language in MCC 6.05.300 is that the county does not exceed the "actual" cost of regulating animal rescue entities;
- Proposed amendment previously discussed at July 7, 2014, Management Update meeting; and
- Marion County forced by state to implement fee or risk of having writ of mandamus brought.

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

Commissioner Brentano read the ordinance by title only twice.

MOTION: Commissioner Cameron moved adoption of an ordinance amending Marion County Code Chapter 6.05 relating to animal rescue entities, by emergency procedure. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

Video Time (00:24:49)

2. Consider approval of an order establishing animal rescue entity registration fees and term length of registration certificates for Marion County Dog Services. – Bruce Armstrong, Sonya Pulvers, Tami Goettsch

Summary of presentation:

- Proposal aligns fees with dog shelter's current practice for collecting fees;
- Discounted rate for animal rescue entities that register for multiple years:
 - One-year certificate of registration \$75;
 - Two-year certificate of registration \$125; and
 - Three-year certificate of registration \$175.

Board discussion:

- Board has had several conversations regarding fees;
- Fee structure designed to encourage participation in program; and
- In a year, chance to bring motion to rescind order.

MOTION: Commissioner Carlson moved approval of an order establishing animal rescue entity registration fees and term of length of registration certificates for Marion County Dog Services. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

Video Time (00:27:35)

PUBLIC WORKS

3. Consider adoption of an ordinance concurring in an amendment to the Salem/Keizer Urban Growth Boundary for a portion of Keizer Rapids Park, by emergency procedure. – Brandon Reich

Summary of presentation:

- Senior Planner Brandon Reich presented a summary of the proposed ordinance (Attachment B).

Board discussion:

- Opportunity for Marion County to assist City of Keizer in moving forward with Keizer Rapids Park;
- Keizer Rapids Park to be destination park/playground:
 - Playground designed by children in Keizer and will be built by volunteers with donated materials.
- Proposal ensures property zoned appropriately; and
- City of Salem has adopted resolution amending Salem Comprehensive Plan/Salem Revised Code for an UGB expansion for Keizer Rapids Park.

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

Commissioner Brentano read the ordinance by title only twice.

MOTION: Commissioner Carlson moved adoption of an ordinance concurring in an amendment to the Salem/Keizer Urban Growth Boundary for a portion of Keizer Rapids Park, by emergency procedure. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

4. Consider adoption of an ordinance amending the Noise Code Provisions, by emergency procedure. – Bruce Armstrong, Joe Fennimore (**TO BE ACTED ON FOLLOWING THE PUBLIC HEARING**).

PUBLIC HEARING

9:30 A.M.

Video Time (00:33:24)

PUBLIC WORKS

A. Public hearing to consider amending the Noise Code Provisions. – Bruce Armstrong, Joe Fennimore

Summary of presentation:

- Senior Planner Joe Fennimore presented a summary of the amendments to Marion County Code (MCC) Chapter 8.45 Noise (Attachment C);
- Board previously discussed issue at May 19 and June 16, 2014, Management Update meetings;
- MCC Chapter 8.45.080(H) includes exemption that allows any level of noise that is made in conjunction with permitted industrial or commercial uses;
- In 2008, Marion County added code provisions to align its noise ordinance with the City of Salem's noise code for areas outside city limits, but inside urban growth boundary (UGB):
 - City of Salem code provision does not include exemption for permitted commercial uses.
- Proposed amendment:
 - Would allow enforcement for prohibited sounds made in conjunction with permitted commercial uses inside Salem-Keizer UGB;
 - Exemption would remain for areas outside UGB; and
 - Clarifies recreational vehicles that are lawfully occupied constitute "dwelling units" under MCC Chapter 8.45 Noise.

Board discussion:

- Proposed amendment would bring Marion County's code provision in line with City of Salem's noise code within Salem-Keizer UGB;
- Marion County/City of Salem same decibel levels during evening hours within UGB; and
- Marion County Code Enforcement requested that "lawfully occupied recreational vehicle" be included in definition of dwelling.

TESTIMONY:

Support:

Todd Call, Salem, Oregon:

- Owner of Phoenix RV Park;
- Acquired property in August 1997;
- Spent \$2.7 million remodeling/upgrading RV park;
- Issue of loud music coming from nightclub began in 2001;
- 2004 nightclub went out of business;
- May 2013 new business moved into building (Remmy's Nightclub) and loud music became an issue on Thursday, Friday and Saturday nights:

- Nightclub approximately 275 feet from RV park's south property line; and
- Loud music also impacts residents at front of RV park.
- Have contacted owner of nightclub;
- Marion County Sheriff's Office has investigated; however, no action taken because RV park and nightclub located in commercial zone;
- Recently acquired two additional acres adjacent to RV park for development;
- Phoenix RV Park severely impacted by noise from nightclub; and
- Requested board amend current noise ordinance that will allow enforcement.

Board discussion:

- Public hearing is legislative hearing rather than quasi-judicial hearing;
- Each commissioner has been to Phoenix RV Park site;
- Verified Phoenix RV Park has received negative reviews online due to loud music coming from the nightclub on weekends;
- Verified Mr. Call has lost business due to loud music;
- October 2013, Listening Acoustics hired by Mr. Call to conduct noise study:
 - Study cost \$6,500;
 - Monitored two weekends; and
 - Analysis showed 80 percent of the time noise levels would have violated Marion County Code if enforcement were allowed for prohibited sound made in conjunction with permitted commercial uses inside the Salem-Keizer UGB.
- Verified bass levels in music also impact RV park;
- Marion County monitored decibel levels; however, equipment not as sophisticated as Listening Acoustics;
- Sergeant Chris Baldrige:
 - Confirmed there is a dispute between Phoenix RV Park and Remy's Nightclub; and
 - Loud music substantiated by numerous Marion County Sheriff's deputies that have responded to neighborhood complaints regarding bass noise.
- Reviewed "plainly audible" language and how it applies to current situation:
 - Excessive noise disturbance plainly audible within a complainant's dwelling unit;
 - Definition of plainly audible sounds includes understandable spoken words, comprehensible musical rhythms or vocal sounds at any time between 10:00 p.m. and 7:00 a.m.; and
 - Enforcement is often pursued on plainly audible.
- Reviewed decibel sound levels in MCC Chapter 8.45; and
- Confirmed mediation efforts by Sheriff's Office.

Linda Nein, Keizer, Oregon:

- Similar noise problem near residence outside city limits and outside UGB;
- Hitchin' Post Bar & Grill plays amplified music outdoors until 2 a.m.;
- Has not approached business owner;
- Contacted Code Enforcement who stated they are well aware of the Hitchin' Post; and
- Requested board consider noise ordinance outside UGB.

Peggy Vaughn, Salem, Oregon:

- Currently staying at Phoenix RV Park;
- Deprived of sleep due to nightclub's loud music; and
- Loud music played until 4 a.m. on weekends and sometimes holidays.

David Osburn, Salem, Oregon:

- Resident of Phoenix RV Park;
- Nightclub plays music until 3:00 a.m.;
- If problem not alleviated will look for another place to stay; and
- Nightclub owner needs to address adverse impact business is having on neighbors quality of life.

Val Wiseman, Salem, Oregon:

- Phoenix RV Park manager:
 - Takes overnight guests complaints/concerns. Some say they will not stay at park again; and
 - Try not to rent back parking spaces near nightclub.
- Visually impaired RV park resident upset about loud music.

Barb Albright, Salem, Oregon:

- Resident of Phoenix RV Park since August 2012;
- Worked in park office since November 2012:
 - Takes guests complaints/concerns about loud music.
- Lives on opposite end of the park from nightclub, but still impacted by loud music on the weekends;
- Now wears earplugs and runs air conditioner/fan to try to cover loud music; and
- Elderly resident's moved from park because loud music affected health.

Judy Howard, Salem, Oregon:

- Resident of Phoenix RV Park; and
- Lives four rows from fence line and music is very annoying on Thursday, Friday, Saturday, and Sunday nights.

Opposition:

Carlos Navarro, Salem, Oregon:

- Manager for Remmy's Nightclub;
- Only one person has called to complain;
- Can barely hear bass when standing at property line;
- Nightclub tries not to bother neighbors;
- Willing to talk with Phoenix RV Park owner; and
- Nightclub is not close to fence line.

Board discussion:

- Established Mr. Navarro has been manager for approximately one year;
- Confirmed owner of Phoenix RV Park has called Mr. Navarro's supervisor regarding loud music;
- Supervisor, Joel Loera, is in attendance;
- Confirmed Marion County Sheriff's Office has had contact with Remy's Nightclub:
 - Sergeant Baldrige reviewed police reports regarding excessive noise/bass; and
 - Ongoing complaints from residents.
- Board noted good faith effort needed by both parties to resolve issue.

Billy Dalto, Salem, Oregon:

- Attorney representing owner/landlord Wyant Pioneer Square II LLC and Wyatt Pioneer;
- Sent correspondence to board yesterday;
- Client has no objection to the ordinance as proposed;
- Client does have issue with how current noise ordinance affects landlords:
 - Concerned landlords held responsible for other's actions;
 - Unclear where ultimate responsibility lies;
 - Definition of "permit" not clear; and
 - Code Enforcement sent email stating Sheriff's Office holds the property owner responsible for the situation with Remy's Nightclub. Email entered into record. Believes statement is a legal conclusion and incorrect.
- Disagrees Marion County's noise ordinance is in line with the City of Salem's noise ordinance;
- Requested board consider amending Marion County noise ordinance to better mirror City of Salem's noise ordinance that better explains what a violation by the property owner would constitute;
- Client willing to do sound mitigation;
- Requested board amend current amendment and include proposed language he provided to board; and
- Client wants to work with county in a way that is fair for the property owner.

Board discussion:

- Open to reviewing ordinance again at a later date;
- Reviewed Mr. Dalto's proposed language to include terms "intentionally" and "recklessly;"
- Clarified Code Enforcement email referenced last step in stepped process;
- Landlord cannot be completely absolved of responsibility. Once made aware and action continues, expectation that landlord would follow through on enforcing provisions of lease;
- Violation/citation would go to justice court;
- Typically clause in lease states tenant has to obey all laws. If violation, landlord can start process to break lease;
- Reviewed Code Enforcement stepped process for handling complaints;
- Activities being conducted on a property should be confined to the property and not cause annoyance outside the property;

- Noise ordinance outside UGB to be reviewed;
- Ordinance should require that property owner has stake in matter and does everything possible to remedy situation; and
- County resources should not be spent settling neighborhood disputes. Issue should be resolved at landlord/tenant level.

MOTION: Commissioner Cameron moved to close the public hearing and that the chair read the ordinance by title only twice. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

Commissioner Brentano read the ordinance by title only twice.

Board discussion:

- Ordinance more equitable to businesses within Salem city limits that are required to abide by noise provisions after 10 p.m.;
- Adding terms “recklessly” and “intentionally” removes ability to work with landlord;
- Potential consequence will create greater intent to solve problem;
- Objective standards in ordinance will demonstrate if noise level exceeds sound levels allowed in Marion County; and
- Suggested Remy’s Nightclub work with Sergeant Baldrige to find out limits/times.

MOTION: Commissioner Cameron moved adoption of an ordinance amending and updating the Marion County Code Chapter 8.45 relating to noise, by emergency procedure. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

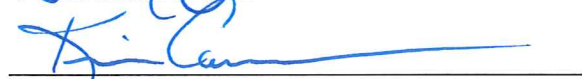
Commissioner Brentano read the weekly calendar.

Commissioner Brentano adjourned the meeting at 11:05 a.m.

- Attachments: (A) Joining Community Forces Community Covenant
 (B) Summary of proposed ordinance concurring in an amendment to the Salem/Keizer Urban Growth Boundary
 (C) Summary of the amendments to MCC Chapter 8.45 Noise


 CHAIR


 COMMISSIONER


 COMMISSIONER

This board session can be viewed online at <https://www.youtube.com/watch?v=SxCy0301RTg>.

Marion County Salutes Our Veterans, Service Members and their Families

WE RECOGNIZE...

- The commitment and sacrifices that Service Members, past and present, and their Families make for our community.
- The strength of Service Members, past and present, comes from their Families.
- Service Members' and Veterans' Families must be supported by the community.
- The strength of the community comes from each and every resident.

WE ARE COMMITTED TO...

- Building partnerships that support the strength, resilience, and readiness of Service Members and their Families.
- Supporting Families through programs and volunteer efforts to mitigate the impact of deployments.
- Remembering and honoring all Service Members, PAST AND PRESENT, who have served and sacrificed on our behalf.

WE RECOGNIZE AND REMEMBER...

- The lifelong sacrifice and enduring commitment by our POW/MIAs and their families by keeping them in our thoughts and waiting for them to come back home.

THANK YOU FOR YOUR SERVICE!


Commissioner Sam Brentano, Chair


Commissioner Janet Carlson


Commissioner Kevin Cameron



ORIGON

Sheriff Jason Myers

District Attorney Walt Beglau

Dated the 9th day of July, 2014

Good morning commissioners

For the record, Brandon Reich, staff representing the planning division

The City of Keizer is proposing an urban growth boundary expansion of approximately 58 acres for park land at Keizer Rapids Park.

On June 11th and June 25th, the board held a hearing on the matter. After reviewing the testimony in the record, the Board voted unanimously to concur with the amendments to the Keizer Comprehensive Plan and Urban Growth Boundary. Before you today is an ordinance reflecting that decision.

Properties added to the urban growth boundary would be re-designated from a Marion County rural plan designation of Primary Agriculture to a city urban plan designation of Public and the zoning would change from a rural Exclusive Farm Use zone to an urban Public zone.

Because of the city's timeline in this process, and the need for zoning certainly moving forward, staff recommends the ordinance before the board be adopted by emergency procedure so that the city may proceed with its ordinance adoption.

With that, I'm available for any questions you might have.

7/9/14 - Joe Fennimore

Good morning commissioners. For the record this is Joe Fennimore. The item before you today is a public hearing to consider changes to the noise code. Under the code certain sounds and sound levels are considered violations and subject to enforcement, however the code contains an exemption that allows any level of noise in conjunction with permitted commercial or industrial uses.

County staff has been receiving complaints that a nightclub, which is a permitted commercial use within the Salem-Keizer UGB, is disturbing residents of an RV park and apartments on nearby properties. The disturbance cannot be addressed through enforcement because of the exemption.

At a public meeting on May 12th the Board directed staff to provide options for it to consider to address the concerns of residents. At a public meeting on June 16th staff provided the board with options to consider and the Board directed staff to prepare an ordinance for it to consider at a regular session.

The ordinance would remove the exemption for commercial uses in unincorporated Marion County inside the Salem-Keizer UGB and specifically identify a lawfully occupied recreational vehicle as dwelling.

The ordinance was scheduled for consideration at regular Board session on June 25th. Prior to that session, and during the public comment period, a request made to the Board that it conduct a public hearing on this matter. The board agreed and scheduled the hearing for today.

I will let Bruce go over the details of the proposed changes.