

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, October 9, 2019

9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97301

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

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

PUBLIC COMMENT

David Beem:

- Mr. Beem is an advocate for the special needs population;
- He expressed his concerns in relation to the following activities he has seen on the corner block of Courthouse Square:
 - Drinking;
 - Smoking; and
 - Drug activity.
- Police officers are frequently present issuing tickets;
- Mr. Beem would like to see more police presence; and
- Mr. Beem hopes that something can be done soon.

ACTION

(Video Time 00:02:44)

BOARD OF COMMISSIONERS

1. Consider approval of a proclamation declaring October 14-20, 2019 as Hands and Words Are Not For Hurting Week in Marion County. –Ann Kelly, Hands And Words Are Not For Hurting Project

Summary of presentation:

- Ms. Kelly thanked the commissioners for their continued support of the Hands And Words Are Not For Hurting Project, which was started in 1997 with participation from the Salem-Keizer Public Schools in Oregon;
- Educators have been implementing and sustaining the project which has had a positive impact;
- Ms. Kelly read a letter on behalf of Pete Teller, Leslie Middle School Peer Counselor, who was unable to attend;

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- Ms. Kelly stated that Mr. Teller has been bringing children to board session for many years to:
 - Provide an experience the children will always remember;
 - Be a voice for individuals that are afraid to speak out; and
 - Be a voice for change.
- Ms. Kelly shared four impactful videos that were viewed to raise awareness of, and offer solutions and resources for students, for the following issues:
 - Suicide;
 - Domestic and family violence; and
 - Child abuse.
- International countries are participating in the Hands And Words Are Not For Hurting Project;
- Ms. Kelly stated she is proud to represent the voices of the children within the county;
- She appreciates the support from the community for the public health awareness campaign to end and break the cycles of the following:
 - Family violence;
 - Child abuse; and
 - Bullying.
- Ms. Kelly stated it takes time to create social change; and
- The children are our hope, our future, and our hearts.

Board discussion:

- The commissioners expressed their appreciation to Ms. Kelly for her support and work on the project.

MOTION: Commissioner Brentano moved to approve a proclamation declaring October 14-20, 2019 as Hands and Words Are Not For Hurting Week in Marion County. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

The commissioners read the proclamation.
The Hands And Words Are Not For Hurting Pledge was recited.

PRESENTATION

(Video Time 00:22:05)

United Way Employee Contribution Campaign Kick-off –Melissa Rounds and Stephanie Bobb, Resource Development Coordinator, United Way

Summary of presentation:

- United Way of the Mid-Willamette Valley adapts to community needs to provide support and assure the success in the following focus areas:
 - Developing Housing for All;
 - Strengthening Children and Families;

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- Building Community Capacity; and
- Meeting Basic Needs.
- According to the ALICE (Asset Limited, Income Constrained, Employed) Report, 30 percent of households are in the poverty level;
- There are 66 percent of students in the poverty level that are receiving free or reduced lunches;
- There are 995 unsheltered individuals within the county:
 - 39 percent of the unsheltered individuals are women.
- Money received from the United Way Campaign can make a big impact on the community programs:
 - Creating Housing for All:
 - Individuals whose monthly income is approximately the same as their monthly rent are considered income restrained;
 - United Way has affordable housing options such as tiny homes;
 - One tiny home unit is 350 square feet and contains some of the following:
 - A full bathroom;
 - A kitchenette; and
 - Washer and dryer.
 - The units cost approximately \$60,000 to manufacture; and
 - Monthly rent on the units will be \$350.
 - Strengthening Children and Families:
 - Taylor's House opened in December, 2018; and
 - There have been 47 individuals, ages 11-17, who have been housed here.
 - Building Community Capacity:
 - United Way currently has 92 nonprofit partners they collaborate with for funding or providing grant funds to;
 - They have partnered with an organization known as the Service Integration Team (SIT):
 - SIT works to advocate and leverage dollars so that the value of the dollar goes further; and
 - SIT works with community members to provide assistance for issues such as repairs, housing, or aid for families in distress.
 - Meeting Basic Needs:
 - United Way purchased a mobile shower unit to assist with the hygiene needs of unsheltered individuals:
 - Local hotels are donating towels that are being laundered at the county jail; and
 - Hygiene kits are provided.
- Opportunities to help include monetary donations or volunteer service;
- Women United, a division of United Way Worldwide, has 75,000 members:
 - The program began in the Mid-Willamette Valley in April, 2019; and
 - Individuals from the community are reaching out to help others:
 - Feminine hygiene items have been provided to schools and shelters.

- Fundraisers within the county include the following:
 - The Public Works Department will host a bingo game and a bake sale;
 - The Sheriff's Office will host a Chili and Soup Feed;
 - The boards office and Legal Counsel will host their annual breakfast;
 - The Red Carpet Project will be collecting feminine hygiene products; and
 - The United Way pledge form can be found on the Marion County Intranet.

Board discussion:

- The leadership and staff at United Way are making a positive impact on the community;
- The idea for Taylor's House and the mobile shower unit came from high school students that serve on the United Way board; and
- The commissioners expressed their appreciation for United Way's contributions to the community.

CONSENT

(Video Time 00:40:04)

PUBLIC WORKS

Schedule adoption of an ordinance for October 16, 2019, amending the Marion County Urban and Rural Zone Code Chapters #16 and #17 to adopt revised floodplain maps for the area near Turner and adopt code amendments to comply with the National Flood Insurance Program.

Schedule final consideration adopting an administrative ordinance granting Zone Change/Comprehensive Plan/Property Line Adjustment (ZC/CP/PLA) Case #18-007/Tofte Family, LLC for October 16, 2019.

TREASURER'S OFFICE

Approve Amendment #4 to the Information Technology Products and Services Contract with Can/Am Technologies, Inc. adding \$42,000 for a total of \$301,142.88 for 50 user licenses for use of Teller, the county's cash handling and accounting software system through September 25, 2021.

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

ACTION

(Video Time 00:41:48)

PUBLIC WORKS

2. Consider adopting an administrative ordinance granting Zone Change/Comprehensive Plan Amendment/Conditional Use/Partition (ZC/CP/CU/P) Case #18-006/Marion Investment Group, LLC. –Joe Fennimore

Summary of presentation:

- The request is for the following:
 - To amend the Comprehensive Plan designation from Industrial to Primary Agriculture;
 - To change the zone from Unincorporated Community Industrial to Exclusive Farm Use on 5.35 acres of land;
 - Partition a 17- acre parcel into three separate parcels that will include the following sizes:
 - Fourteen acres;
 - Two acres; and
 - One acre.
 - A Conditional Use to expand the Marion Resource Recovery Facility onto adjacent property.
- The hearings officer conducted a public hearing on January 30, 2019:
 - A recommendation was issued on July 5, 2019, to deny the request based on the existing record at that time.
- The applicant submitted additional information and evidence at a public hearing held before the board on August 14, 2019;
- After considering all the evidence in the record, the board approved the request subject to the following conditions:
 - A right-of-way dedication;
 - A Non-Remonstrance Agreement for participation in future improvements to the Brooklake Road corridor;
 - Survey and platting requirements for dividing the property;
 - Obtain all required permits;
 - Limit access to Brooklake Road;
 - Construct a 30 foot wide landscaped berm to buffer properties to the south and the east; and
 - Limit hours of operation from 4:30 a.m. to 11:00 p.m.
- The ordinance and findings have been prepared;
- Notice of adoption was given on October 2, 2019;
- 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 at this time.
- Staff recommends the board adopt the ordinance as written.

MOTION: Commissioner Brentano moved to approve an administrative ordinance granting Zone Change/Comprehensive Plan Amendment/Conditional Use/Partition (ZC/CP/CU/P) Case #18-006/Marion Investment Group, LLC. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

(Video Time 00:44:29)

3. Receive and consider appeal of the hearings officer's decision upholding the planning director's decision revoking Conditional Use (CU) Case #16-014/Klopfenstein. –Joe Fennimore

Summary of presentation:

- Conditional Use (CU) Case #16-014 is a request to modify the approval conditions from CU Case #78-80;
- CU Case #78-80 approved a farm machinery equipment repair business on a property as a commercial activity in conjunction with farm use:
 - It specifically prohibited the repair of automobiles.
- The request for CU Case #16-014 is to allow a percentage of non-farm machinery repairs to be executed at the business;
- The request was approved by the planning director with the following conditions:
 - No more than 25 percent of the income generated from the business shall come from non-farm related vehicles;
 - The operator is required to maintain detailed records; and
 - A report must be submitted every year detailing the previous year's sales.
- If the income standards are met for three consecutive years, then no further reporting shall be required;
- The applicant appealed the decision and the hearings officer held a public hearing:
 - The request was denied after it was determined the use had discontinued for a period of more than six months.
- The decision was appealed and accepted by the board, and a public hearing was held;
- Evidence presented at the hearing proved the business had not been abandoned and the board approved the request subject to the same conditions, with the addition of the following:
 - Failure to maintain a 75 percent sales ratio for farm machinery repairs in a given year shall not, in itself, be grounds to terminate the use unless the sales ratio falls below 51 percent for two consecutive years.
- Information submitted by the applicant reports the following:
 - In 2017 only 29.85 percent of the income was generated by farm related vehicles; and
 - In 2018 only 36.43 percent of the income was generated by farm related vehicles.
- The planning director revoked the permit after it was determined that the income generated from farm related vehicles had fallen below 51 percent for two consecutive years;
- The planning director's decision was appealed to the hearings officer on April 24, 2019;
- The hearings officer held a public hearing on May 14, 2019;

- A decision was issued on September 10, 2019, upholding the revocation and denying the petitioner's request that would allow additional time to meet the conditions.
- The hearings officer's decision was appealed on September 25, 2019;
- In the appeal to the board, the property owners provided a number of letters from area property owners that supported the business;
- In the appeal the applicant states the closure of the business could result in a hardship;
- The applicant has also requested the income standard be lowered from 75 percent to 51 percent;
- The board has the following options:
 - Accepting the appeal and remanding the matter back to the hearings officer;
 - Accepting the appeal and scheduling a public hearing; or
 - Denying the appeal and upholding the hearings officer's decision approving the revocation of the permit.
- Staff recommends the board deny the appeal and uphold the hearings officer's decision.

Board discussion:

- The Public Works Department was contacted in 2017 by neighbors concerned about the volume of automobile repairs occurring at the business;
- Order #17-024, that was passed in 2017, required that the local agriculture sales ratio not fall below 51 percent for two consecutive years;
- The process to revoke the permit was started after the applicant submitted the second report that showed that the 51 percent sales ratio had not been met;
- If the applicant wishes to request that the percentage be lowered, they will need to submit a new application and start the process again;
- Oregon land use laws have put restrictions on what is allowed and what is not allowed;
- The applicant has the following options:
 - Request a CU permit to operate for another two years in order to try and meet the 51 percent agricultural sales ratio; or
 - Request a zone change that would allow for more nonfarm related vehicle repairs.
- The original CU permit that allowed the repair of farm machinery is still in effect and has not been revoked; and
- This allows the applicant to continue to work on just farm machinery.

MOTION: Commissioner Willis moved to deny the appeal, and receive and approve the hearings officer's decision upholding the planning director's decision revoking Conditional Use (CU) Case #16-014/Klopfenstein. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

PUBLIC HEARINGS

9:30 A.M.

(Video Time 00:54:36)

PUBLIC WORKS

A. Public hearing to consider Legislative Amendment (LA) Case #19-003/Urban and Rural Zone Code Amendments related to beekeeping in residential zones. –Joe Fennimore

Summary of presentation:

- On July 3, 2019, the board adopted a resolution initiating amendments to the Marion County Urban and Rural Zone Codes related to the keeping of bees in residential zones:
 - The resolution referred the matter to the Marion County Planning Commission for a public hearing and recommendation.
- The planning commission held a public hearing on August 20, 2019, and recommended the board adopt the same standards that the City of Salem had adopted;
- The recommendation also included:
 - That bees be allowed at any of the following locations that are zoned Single Family Residential or Urban Development:
 - A residence;
 - A community garden; and
 - A lot owned by the following:
 - A school;
 - A governmental agency; or
 - A religious organization.
- The recommendation was subject to the following standards and limitations:
 - A maximum of five hives;
 - A maximum of seven hives are allowed during the months of April through August;
 - The hives shall comply with the setback requirements for the zone area;
 - If a main building is located on the property, hives shall be located in the side or rear yard;
 - A hive located within 25 feet of a property line shall require one of the following:
 - The hive must be elevated ten feet above ground level; or
 - A flyaway barrier consisting of the following must be installed:
 - A wall, fence, dense vegetation, or a combination thereof;
 - It must be at least six feet in height; and
 - It must run parallel to the property line for a minimum of ten feet in either direction.
 - A constant supply of water is required within 15 feet of each hive located on the property;
 - No bee comb or bee wax shall be left upon the property grounds;
 - A 10x10 inch sign warning of hives must be installed at the primary entrance of a lot owned by the following:
 - A community garden;
 - A school;
 - A governmental agency; or
 - A religious organization.
 - Bee hives shall not produce noise or odor that creates a nuisance for adjacent properties; and

- No sale of honey or bees is allowed.
- Approval of the amendments requires adoption of the following at a subsequent board session:
 - An ordinance that adds beekeeping standards to Marion County Code Title #6; and
 - An ordinance amending zone codes to refer to these standards.
- The board has the following options:
 - Continuing the public hearing;
 - Close the public hearing and leave the record open; or
 - Close the public hearing and approve, deny, or modify the proposed amendments.
- The planning commission recommends the board approve the code to allow for beekeeping subject to the above mentioned standards.

Board discussion:

- It is suggested that the same sales restrictions from an ordinance related to backyard chickens and the eggs that they produce also be applied to the request for backyard beekeeping.

Testimony:

Support:

Ralph Rodia:

- Mr. Rodia is a local beekeeper, a member of the Oregon State Beekeepers Association, and a member of the Willamette Valley Bee Association;
- He states that the City of Salem allows residential beekeeping;
- Mr. Rodia believes there have been no major issues related to beekeeping in the city;
- In 2015, the legislature passed a number of bills to protect pollinators, and directed Oregon State University (OSU) to recommend some guidelines for backyard beekeeping in residential areas;
- Counties and cities within the state were asked to review OSU's residential guidelines by January 1, 2019, and make adjustments accordingly;
- On June 24, 2019, the City of Salem revised and adopted specific codes related to beekeeping;
- A portion of the Jan Ree neighborhood is under the county's jurisdiction and the remaining portion is under the City of Salem's jurisdiction;
- Mr. Rodia believes the county should have the same beekeeping regulations as the city; and
- Mr. Rodia suggests the county specify the following in the regulations:
 - That the sale of bees and honey be limited to retail and commercial markets; and
 - Clarify the code related to the ten foot elevation.

Support:

Harry Vanderpool:

- Mr. Vanderpool is a member of the Oregon State Beekeepers Association;
- Mr. Vanderpool believes that beekeeping in urban and rural zones will not negatively impact the surrounding land uses or zoning ordinances;
- Rural zones provide a buffer between the urban and rural areas, and larger land plots that contain orchards and vegetable gardens will have a positive effect from honey bees on the existing and surrounding land uses;
- In the Exclusive Farm Use and Specialty Ag zones, there are unrestricted use of bees, including commercial uses;
- He frequently travels the state with Dr. Rodia working with cities and municipalities on issues related to beekeeping;
- They have not received any phone calls or emails related to beekeeping issues; and
- He believes part of good beekeeping is being able to sell the bees to other beekeepers.

Board discussion:

- The board's decision on this matter will not be based off of the regulations that the City of Salem has implemented.

Opposition:

Kathy Rogers:

- Ms. Rogers was opposed to backyard beekeeping when she testified before the Marion County Planning Commission;
- Ms. Rogers stated she has changed her stance on the issue:
 - She now supports backyard beekeeping with mason bees only.
- She stated that mason bees will pollinate, but they will not sting:
 - Her main concern is bee stings.
- Ms. Rogers has interviewed neighbors and presented a signed petition opposing backyard beekeeping to the planning commission;
- Ms. Rogers stated she received the following information during her interview process:
 - People are not in support of backyard beekeeping;
 - Individuals are against having up to seven hives in their neighbor's backyard;
 - Several individuals stated that they were allergic to bee stings; and
 - Several individuals stated that they like bees.
- She believes mason bees are a better option for residential neighborhoods;
- Ms. Rogers expressed her concerns for the following:
 - Backyard bees may be an issue for the five day cares located in the area;
 - There is a potential for an allergic reaction for individuals who get stung;
 - Ten foot barriers can change the dynamics of an individual's back yard;
 - The bees may be attracted to the water features located in an individual's yard;

- The bees may be attracted to the flowers and foliage located in an individual's yard; and
- She believes the sale of bees and honey should be done in a commercial zone and not in residential neighborhoods.
- Ms. Rogers believes beekeeping has the potential to take away her livability in her backyard; and
- She believes this is not just a bee issue, but a people issue also.

Support:

Sarah Esch:

- Ms. Esch is an entomologist and beekeeping enthusiast;
- Ms. Esch stated neither she, nor her neighbors, have had any issues with bees;
- Ms. Esch has worked with mason bees and she stated the following:
 - They are great pollinators in early spring;
 - They drop-off and disappear halfway through the year; and
 - They have less pollinating power when compared to bumblebees and honey bees.

Support:

John Muizner:

- Mr. Muizner believes there have been no issues with bees within the Salem city limits;
- His intent is to make beekeeping legal for individuals that already have bees;
- Mr. Muizner started beekeeping because bees were dying at a rate of 25 percent per year:
 - The verroa mite is one contributor to the decrease in the bee population.
- Mr. Muizner believes human determination is contributing to keeping the species alive;
- Mr. Muizner states there are three major sectors related to beekeeping:
 - Commercial beekeepers, that focus primarily on the following:
 - Pollinating different crops; and
 - Making honey.
 - Research agencies, that are working hard to keep bees alive and improve productivity; and
 - Innovative commercial beekeepers, that work to introduce new ideas and solutions that the research agencies may not have the resources for.

Support:

David Lindquenter:

- Mr. Lindquenter is a former backyard beekeeper:
 - He stated that in 2018 the county contacted him with the request to remove his hives from his property.
- Mr. Lindquenter and his daughter started beekeeping as a hobby;

- He believes beekeeping has a positive effect on the environment and the ecology in the area;
- Mr. Lindquester has always received a positive response from his neighbors when discussing bees, and he stated that many individuals have an appreciation for bees;
- Mr. Lindquester stated that generally honey bees are not aggressive;
- Mr. Lindquester, who is allergic to bees, frequently works around the hives in shorts and a short sleeved t-shirt:
 - He stated he puts more safety gear on when the work is more entailed.
- Mr. Lindquister stated he was informed about a bee shortage; and
- He is concerned about the future of beekeepers.

Support:

Nathan Richard:

- Mr. Richard has been a beekeeper for three years;
- Mr. Richard stated honey bees are typically docile:
 - They will die after they have stung and they reserve their ability to sting for the following:
 - When honey is being absconded;
 - When they feel threatened; and
 - When the hive is being threatened.
- Mr. Richards stated the following:
 - Only 5 to 7.5 percent of the population will experience a severe allergic reaction to any insect sting in the course of their lifetime;
 - Individuals are experiencing a local reaction when they have been stung and swelling occurs;
 - Only a small percentage of individuals will experience a life threatening reaction where they have to seek medical attention;
 - EpiPens are available that will assist individuals experiencing a reaction; and
 - Other large cities within the United States have adopted beekeeping.

Support:

Kathy Williams:

- Ms. Williams lives within the City of Salem limits and is a first year beekeeper;
- She has received a positive reaction from her neighbors in regards to her beekeeping;
- Ms. Williams has one neighbor who is allergic to bees and she stated her neighbor has not experienced any issues; and
- Ms. Williams stated she has EpiPens available for visitors who get stung.

Support:

Chong Kee Tan:

- Mr. Tan is a local backyard beekeeper;
- Mr. Tan spoke about his personal experience with beekeeping and stated the following:
 - He has several fruit trees in his yard;
 - A few years ago, he noticed a large portion of bees were attracted to the flowers, which resulted in a great fruit harvest that year;
 - His entire hive died, possibly as a result of Colony Collapse Syndrome;
 - In 2018 he had no bees; and
 - As a result, his 2019 fruit harvest was dismal.
- Mr. Tan believes bees make a huge impact on the volume of fruit his trees produce;
- Mr. Tan stated he has been stung while working with the hives, which caused the bees to feel threatened; and
- He enjoys watching the bees in the flowers because he knows he will have a great harvest the following year.

Neutral:

Richard Temple:

- Mr. Temple would like to address two issues that were not commented on during the hearing:
 - Bees can fly up to five miles from their hive:
 - There is no way for an individual to determine where the bee has come from.
 - He believes an individual is only classified as allergic to bees when they are having trouble breathing after they have been stung.

Joe Fennimore:

- Mr. Fennimore stated that the City of Salem does not have a prohibition on the sale of honey or the sale of bees in their code.

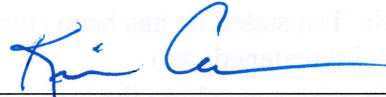
Board discussion:

- The code for the City of Salem allows for the personal use of bees:
 - It does not give a clear definition; and
 - It does not have an explicit prohibition on sales.
- Commissioner Willis believes individuals should be free to do what they like on their property so long as it is not impacting their neighbors;
- Commissioner Willis expressed his concerns in regards to commercial use;
- Additional language can be added to the ordinance with a clearer definition of personal use;
- The ordinance is not part of the zone code, and can be amended by the board without going through the land use process should issues start to arise; and
- On Tuesday, October 8, 2019, the Board of Commissioners Office received two emails that were submitted as public testimony in support of this issue.

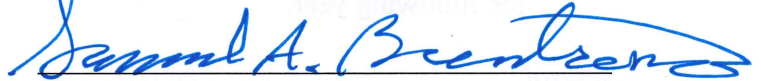
MOTION: Commissioner Brentano moved to close the public hearing and approve Legislative Amendment (LA) Case #19-003/Urban and Rural Zone Code Amendments related to beekeeping in residential zones subject to standards, remove the prohibition on the sale of bees and honey, and directed staff to include in the ordinance a limit on the number of hives allowed, and making beekeeping a personal use, not a commercial use. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

Commissioner Willis read the calendar.

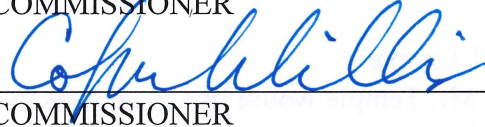
Commissioner Cameron adjourned the meeting at 10:48 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

Board Sessions can be viewed on-line at

<https://www.youtube.com/playlist?list=PLSUQ1gg6M78UsBE3q6w4rdf59Z5rXkEi5>