

POLK COUNTY BOARD OF COMMISSIONERS
MINUTES January 13, 2016

1. CALL TO ORDER & ATTENDANCE

At 9:00 a.m., Commissioner Wheeler declared the meeting of the Polk County Board of Commissioners to be in session. Commissioner Ainsworth and Commissioner Pope were present.

Staff present: Greg Hansen, Administrative Officer
 Matt Hawkins, Administrative Services Director
 Morgan Smith, County Counsel
 Austin McGuigan, Community Development Director
 Mark Bernard, Senior Planner

2. ANNOUNCEMENTS

Regular meetings of the Board of Commissioners are held on Tuesday and Wednesday each week. The Tuesday meeting is held in the Board of Commissioners' Office Conference Room, 850 Main Street, Dallas, Oregon. The Wednesday meeting is held in the Courthouse Conference Room, 850 Main Street, Dallas, Oregon. Each meeting begins at 9:00 a.m. and is conducted according to a prepared agenda that lists the principal subjects anticipated to be considered. Pursuant to ORS 192.640, the Board may consider and take action on subjects that are not listed on the agenda.

Department Head/staff meetings with the Board of Commissioners are held on Monday, Thursday, and Friday. The meetings are held in the Board of Commissioners' Office Conference Room and are conducted between 9:00 a.m. and 5:00 p.m. The principal subjects anticipated to be considered are on-going, upcoming, and new matters bearing on County operations. Pursuant to ORS 192.640, the Board of Commissioners may consider and take action on subjects not listed within this announcement.

The Board of Commissioners will attend a meeting of the Compensation Committee meeting on Wednesday, January 13, 2016 at 1:00 pm in the Polk County Courthouse conference room, 850 Main St., Dallas, OR 97338.

The Board of Commissioners will hold a public hearing regarding a County Road Hazard on Wednesday, January 20, 2016 at 10:00 am in the Polk County Courthouse conference room, 850 Main St., Dallas, OR 97338.

The Board of Directors for the Polk Extension Service District will meet on Wednesday, January 20, 2016 at 1:30 pm in the Polk Extension Service District office, 289 E Ellendale Ave Suite 301, Dallas, OR 97338.

3. COMMENTS (FOR ITEMS NOT ON THIS AGENDA)

Commissioner Pope held a moment of silence for former Commissioner Ben Magill, and Sheriff's Correction Deputy Curtis Alexander who both passed away last week.

4. APPROVAL OF AGENDA

MOTION: COMMISSIONER AINSWORTH MOVED, COMMISSIONER POPE SECONDED, TO APPROVE THE AGENDA.

MOTION PASSED UNANIMOUSLY.

5. APPROVAL OF CONSENT CALENDAR

MOTION: COMMISSIONER AINSWORTH MOVED, COMMISSIONER POPE SECONDED TO APPROVE THE CONSENT CALENDAR.

MOTION PASSED UNANIMOUSLY.

6. APPROVAL OF MINUTES OF BOARD MEETING OF JANUARY 6, 2016

MOTION: COMMISSIONER POPE MOVED, COMMISSIONER AINSWORTH SECONDED, TO APPROVE THE MINUTES OF THE BOARD MEETING OF JANUARY 6, 2016.

MOTION PASSED UNANIMOUSLY.

7. LENGTH OF SERVICE AWARDS

The following employee was recognized for their length of service to the County:
Barb Filippini – 20 years

8. PUBLIC HEARING

Commissioner Wheeler opened the public hearing regarding Legislative Amendment LA 15-02 in the matter of regulating marijuana uses.

Mark Bernard, Senior Planner and Austin McGuigan, Community Development Director presented the staff report. Staff reviewed the timeline of HB3400, and the Planning Commission process up to this point. After considering the applicable review and decision criteria and receiving public testimony, the Planning Commission on December 15, 2015 recommended the Board of Commissioner adopt amendments to the Polk County Zoning Ordinance which identifies the recommended zones for recreational and medical marijuana uses that the Planning Commission found appropriate, consider reasonable standards recommended by the Planning Commission, and consider the findings of consistency with the applicable review and decision criteria supporting the Planning Commission's recommendation. Staff recommends the Board adopt the amendments and supported findings recommended by the Planning Commission, with the identified additional staff changes to Polk County Zoning Ordinance Chapters 136, 138, and 177 (found in staff report).

Pat Wheeler, 12090 Rolling Hills Rd., testified on behalf of the Friends of Polk County, and presented a letter from their Board. The Friends of Polk County group feels the Planning Commission and Staff did a thorough and thoughtful job of reviewing issues, and the group is in favor of the recommendation, and especially the opportunity for the public to comment on Conditional Use Permit applications.

Shawn Anan, 2310 McKinney Lane, Lebanon, thanked the planning staff for their work on these amendments, and echoed the testimony of Pat Wheeler in support of the Legislative Amendments.

Mylo Lupoli, 1490 SE Brookside St., Dallas, testified that he owns property on the border of Dallas City/Polk County limits that he would like to petition for the opportunity to have his property permitted for marijuana uses. Commissioner Wheeler directed him to the Community Development department to address his questions.

Jarrod Howard, 1114 12th St. SE, Salem, submitted written comments to the Planning Commission and summarized those comments for the Board. Mr. Howard commended the Planning Commission on a very detail and thorough job, but thinks that there was one oversight/omission regarding farm use in the resource zones. There are a number of resource

zones that the recommendations allow for marijuana production (EFU, FF, TC), however, Mineral Extraction zones are not included in these recommendations, which make up less than 1% (480 acres) of the total acres of Polk County. These ME zoned lands currently provide little economic benefit to Polk County, but if marijuana production were allowed in this zone, these lands would then be made beneficial to the County once again. Mr. Howard also explained that marijuana production, if allowed on this land, would be a 'topical use', not a permanent development, so the property use would be able to change at some point in the future.

Harlan Howard testified that he owns 41 parcels in the county, including two old rock quarries zoned ME. These properties are useless, and would like to use the property for marijuana production if the Board would modify the recommendation to include ME zones.

Roy Zimbrick testified that he has been working with Planning Staff to get a farm dwelling on his property in Grand Ronde, but continues to encounter road blocks. Mr. Zimbrick expressed his frustration that he feels like the only option he has now to qualify for a dwelling is either to grow marijuana, grapes or filberts.

Wes Lewis thanked the Planning Commission for clarifying many of the questions of the marijuana industry workers throughout this process, and thanked the Board of Commissioners for the opportunity to testify. Mr. Lewis testified in support of the Howards and feels that marijuana production should be allowed in the ME zones. Mr. Lewis is excited to be a part of and be able to make positive contributions to this community.

Jerry Norton, 4242 Chambers, testified that he would like to work with the Planning Staff to ensure that the Family Farm Act is followed in the County to prevent cross-pollination issues as the County moves forward with marijuana production.

Tyler Williams, 1262 Lyle St, Dallas, testified in support of the Planning Commission recommendations, but requested clarification on the difference between primary processing and other processing as it is worded in the Legislative Amendments. Mr. Williams also feels that the retail sales should be more evenly distributed around the County instead of just allowed in the Valley Junction corridor.

Bill McCue, 3310 Crocker Lane, Albany, a Commercial Real Estate Broker with Keller Williams, testified that in the last 18 months, he has received a lot of training about the marijuana industry. Over 75% of his inquiries are from the marijuana industry. Mr. McCue explained that unlike other crops, marijuana does not require the waste and water needs of other food and farm processing, and requested the Board consider having the processing and production be allowed at one location.

Doug Hart from Scio, thanked the Planning Commission and Planning Staff for their work on this project. Mr. Hart also thanked the Commissioners for taking an open minded approach with the marijuana regulation instead of being one of the more than 96 other Oregon cities and counties who are dragging their feet on addressing this issue.

Mark McKay, 19393 French Prairie Road, St. Paul, testified that he grows grass seed, hops, mint all on his farm, and he is able to process all of those crops on site. Why would marijuana be different? Planning staff clarified the regulations on marijuana processing: OLCC issues multiple processing licenses, from primary processing to making edibles. The proposed staff recommendations ensures that the marijuana crops are treated the same as other farm crops, and that marijuana farmers have the same rights available to do the processing of their crop, that any other farm commodity has, except those rights expressly prohibited by HB3400.

HB3400 allows for the creation of a product or by-product of a crop, but does not allow the mixing of a by-product with other components to make a new value added product (commercial activity in conjunction with farm use authorization). The Planning Commission recommendations ensure that there are viable lands available in zones that will meet every aspect of the market demand in this community for these value added products. However, staff reminded growers that in order to be able to legally (primary) process their crops, marijuana producers, just like any other farmer would need to apply for a primary processing of a farm crop under ORS215.

Joseph Patterson, 333 Fairview St., Falls City, expressed concern with the zoning recommendations for retail establishments, which are only permitted in the Grand Ronde area. These retail establishment locations do not benefit the entire county. Mr. Patterson feels that these establishments provide jobs and increase economic development and that should be more evenly spread out around the county.

Margo Lucas, Buena Vista, explained that the legislaure is in discussions to raise the income limits of the 'gross income test' outlined in HB3400. Ms. Lucas also expressed her support for allowing ME zones to be included for marijuana production, and her support for allowing retail dispensaries in more populated areas throughout the county. Ms. Lucas has reviewed different marijuana land use regulations from different counties and feels that these proposed recommendations are the most thoughtful and practical for the structure of the marijuana industry within the county.

Hearing no further testimony, Commissioner Wheeler closed the public hearing.

Commissioner Ainsworth expressed his appreciation for all of the hard work of County staff and the Planning Commission in developing these recommendations, but is in strong opposition to the marijuana industry in Polk County. Polk County voters voted against Measure 91 52%-48%, and Commissioner Ainsworth would have preferred to put this issue back in the hands of the voters. Commissioner Ainsworth feels that marijuana is a gateway drug, and the state legalization of marijuana is the "oxymoron of the Government" since it is still illegal on the federal level. Commissioner Ainsworth expressed his concern with the security and banking issues surrounding this industry, the safety risks of having this product more easily accessible to children, and the higher risk of deaths and injuries occurring as a result of people being under the influence of this drug.

Commissioner Pope shares Commissioner Ainsworth's concerns, but understands that this is a land use function, and does not believe the County should impair the ability to farm an ag use crop.

MOTION: COMMISSIONER POPE MOVED, COMMISSIONER WHEELER SECONDED, TO ADOPT LEGISLATIVE AMENDMENT 15-02.

MOTION PASSED 2-1, WITH COMMISSIONERS WHEELER AND POPE IN FAVOR, COMMISSIONER AINSWORTH OPPOSED.

The Board of Commissioners directed staff to draft an Ordinance to formally adopt the changes to the Polk County Zoning Ordinance for approval on the Board of Commissioners agenda on February 3, 2016.

At 10:22 a.m., County Counsel announced that the meeting was recessed to Executive Session

pursuant to ORS 192.660(2)(d) to conduct deliberations with persons you have designated to carry on labor negotiations. Although the public is excluded, no vote may be taken in executive session. Written minutes from the meeting are on file in the Board of Commissioners' office, but are confidential under ORS 192.660.

Commissioner Wheeler called the meeting back into regular session.

BY CONSENSUS, THE BOARD DIRECTED STAFF TO PROCEED AS DISCUSSED.

Commissioner Wheeler adjourned the meeting at 10:23 am.

The following items were approved by Motion under **5. APPROVAL OF CONSENT CALENDAR:**

- (a) NEW JOB SPECIFICATIONS AND SALARY RANGE**
Approve new job specification and salary range for the position of Certified Recovery Mentor.
- (b) MID-WILLAMETTE HOMELESS INITIATIVE TASK FORCE APPOINTMENTS**
Appoint Steve Bobb Sr., Heidi Mackay, Irma Oliveros, Sheriff Mark Garton, and Commissioner Jennifer Wheeler to the Mid-Willamette Homeless Initiative Task Force.

POLK COUNTY BOARD OF COMMISSIONERS

Jennifer Wheeler, Chair

Mike Ainsworth, Commissioner

Craig Pope, Commissioner

Minutes: Heather Chase
Approved: January 20, 2016