

**POLK COUNTY BOARD OF COMMISSIONERS**  
**MINUTES October 3, 2018**

**1. CALL TO ORDER & ATTENDANCE**

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

Staff present:               Morgan Smith, County Counsel  
                                  Matt Hawkins, Personnel  
                                  Greg Hansen, Administrative Officer

**2. ANNOUNCEMENTS**

Regular meetings of the Board of Commissioners are held on Tuesday and Wednesday each week. The meetings are held in the Courthouse Conference Room, 850 Main Street, Dallas, Oregon 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.

**3. COMMENTS (FOR ITEMS NOT ON THIS AGENDA) –**

**4. APPROVAL OF AGENDA AS AMENDED**

Greg Hansen added item number 8 to the agenda to discuss the process of appointing a Commissioner to for Position 1 following Commissioner Wheeler's retirement

**MOTION: COMMISSIONER WHEELER MOVED, COMMISSIONER POPE SECONDED, TO APPROVE THE AGENDA AS AMENDED.**

**MOTION PASSED UNANIMOUSLY.**

**5. APPROVAL OF CONSENT CALENDAR**

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

**MOTION PASSED UNANIMOUSLY.**

**6. APPROVAL OF MINUTES OF BOARD MEETING SEPTEMBER 19, 2018**

**MOTION: COMMISSIONER WHEELER MOVED, COMMISSIONER POPE SECONDED, TO APPROVE THE MINUTES OF SEPTEMBER 19, 2018.**

**MOTION PASSED UNANIMOUSLY.**

**7. PUBLIC HEARING – Vacation of Upper Autumn St. and Downgrade of Lower Autumn St.**

Todd Whitaker, Director of Public Works, and Eric Berry, County Surveyor, presented the staff report for

Lower Autumn St. and Upper Autumn St. The two roads are listed on the Agenda as one item but should be treated as separate decisions. Both roads were created in 1962 via subdivision plat and since then Lower Autumn has had no development on it. In 2007 they received a request to have the right-of-way gated off because of criminal activity. The Board approved, and when the gate was put in, it ended any maintenance that would have taken place. Eric stated that the county should have downgraded it at that time but they did not. The road is in poor shape and would take a significant amount of money to bring it up to County road standards, which is why staff is recommending a downgrade. Upper Autumn St. differs because it is being used to access a single residence and several vacant parcels. The landowner who uses Upper Autumn requested the gate permit and it was issued, and since that time the land owner has kept up the maintenance of the road and gate.

Dan Davis, 3518 Aster St NW, Salem OR 97304, lives north of Lower Autumn and claims that in the years living there, the county has not spent any money on maintenance for Lower Autumn St. He feels it is unfair to consider the downgrade because it will lower his property value. Years ago he was given permission to put a barrier up because the street was being used for illegal activities. He believes there will be homes built there in the future and if the barriers are left that it will discourage development on that street. His wife stated that they have maintained the vegetation along the street per the County's requests, but feels it is very unfair for the county to put that burden on them. According to the Assessor's office, some of the vacant parcels in this area are labeled and unbuildable, but she does not feel that is accurate or a valid reason for the downgrade.

Craig Evans, 1345 37<sup>th</sup> Ave NW, Salem OR 97304, read a written testimony into the record. Mr. Evans explained his wife operates a special needs program that uses the profits from their LLC to operate, which is primarily funded by the profits made from their LLC's that own the properties that would be affected by this decision. Mr. Evans reviewed the County Surveyors report and addressed several inaccuracies that he found:

1. The report states that 4 of the 10 lots are inaccessible due to steep grades, and does not specify which ones. Mr. Evans stated that he does not believe any of them to be inaccessible because there is minimal slope and with proper engineering could be built on. He is particularly concerned about lots 1 and 2 of the Eola Heights subdivision plat, and asks that the record be amended to correct the inaccuracy.

2. The report states that no residents are served by Lower Autumn St. which is incorrect. There are 3 residents on lot 1, 2, 3, & 4 of block 10 of the Eola Heights Subdivision that have access to their side and back yard from Lower Autumn St., this access could be important for septic or other repairs. Additionally he is currently negotiating the sale of lots 1 & 2. The buyer was not able to attend this meeting but did submit a letter for the record asking the Board not to downgrade because they are interested in purchasing the property but may change their mind if the county downgrades the road.

3. The report states that the road was gated by Public Works in 2007 at the request of local land owners, which he said was inaccurate because it was privately barricaded by Mr. and Mrs. Davis and would not have prevented the county from providing maintenance.

4. The report states that at the time the gate was installed Public Works effectively stopped maintenance. Mr. Evans stated that Dan Davis has lived on Aster St. and owned the lots on Lower Autumn St. for nearly 50 years and has said that since he has lived there he has not seen the county provide any maintenance. The poor condition of the road predates 2007 and Mr. Evans requested to see any records of past maintenance to Lower Autumn St. In the absence of those records he asked that the record be amended.

5. The report states that if the Board chooses to downgrade the road, any future maintenance would be shared by the users of the road. He requested Polk County staff to accurately describe what the post downgrade maintenance responsibility would be.

6. Mr. Evans referred to the third paragraph of the report that acknowledges that the property is within the Salem UGB. The City of Salem was not notified of this hearing and may want a chance to comment if the public record can be held open, because there are water lines in Lower Autumn St. that the City may own.

7. The report states that Lower Autumn St. serves a limited number of properties and no residents, so it does not benefit the County road system. Mr. Evans states that he is selling lots 1 & 2 to an individual who intends to build a home. He states that a home on this land would generate substantial tax revenue for Polk County. The road also provides access to the backyards of four homes currently and will serve

three additional homes on Mr. Davies' lots in the future, as well as connectivity to parcels to the west.

Mr. Evans stated that in addition to his concerns about the Road Officials report he also informed the Board that he has recently had the blackberry bushes removed from Lower Autumn St., have deeded lots 1 & 2 from Kee Investments, LLC to CP Development, LLC and have secured a residential septic site evaluations approval from Polk County Community Development to serve his lots. He will be providing written copies of his testimony as well as copies of his previous correspondence with the County on this matter for the record. He stated that he appreciates the county officials wanting to be responsible with tax dollars but he feels that since the county has not been maintaining Lower Autumn for so long it seems reasonable to him that they re-invest some of those saved dollars back into the road that was neglected for so long. He believes the decision to downgrade Lower Autumn St would be a mistake and cost the county both the good will of the residents and stands to lose out of future property taxes.

Craig Evans' attorney, Wes Hill, of Martinez & Hill located at 110 Madrona Ave SE, Salem OR 97302, home address 1561 40<sup>th</sup> Ave NW, Salem OR 97304, stated that he is representing his client Craig Evans but also will comment as a resident of the county. Mr. Hill clarified that the discussion is a downgrade and not a vacation, and the Board acknowledged that. Mr. Hill has three main areas he would like to bring up: First being that he doesn't believe this downgrade is legally feasible, second being that he doesn't think the downgrade would accomplish the goals that he believes the county is trying to accomplish with this downgrade and third being that it would be financially shortsighted because of the development pressure that is happening in that area. Mr. Hill stated that the Polk County Transportation System Plan is incorporated into the Polk County COMP plan, and in the road network and standards of the Polk County Transportation System Plan, it sets the standard for local access roads. He does not think you can look solely at the downgrade provisions but also have to look at the COMP Plan and the Transportation Systems Plan. In developing these plans the county was very specific in the language used relating to a local access road and also the definition of a county road, and that a downgrade would not be consistent with the policies of the COMP plan. A county road is a road that which has been accepted by the county and for which the county is responsible for improvements and maintenance, so the county had all of the maintenance obligation. A local access road which has been dedicated for public use and has been accepted by the county but without obligation, responsibility, or agreement for improvement. Lower Autumn doesn't fall under that description because the county did accept that obligation at the time that the plat was accepted. If the road is downgraded it is excusing the county from future maintenance but the county is still responsible for any disrepair there now. He stated that if the downgrade is to take place that does not shift the maintenance responsibility to the adjacent land owners because it will still be a public road.

Mr. Hill said there is a lot of development happening in that area and the types of homes that will be built will be substantial homes which would generate a lot of tax revenues that should pay for the maintenance that is needed now. Mr. Hill stated as a private citizen he is proud of the roads we have in Polk County and he feels that the downgrade would be contradictory to that standard. Commissioner Pope clarified that property taxes do not pay for road maintenance. Funding for road maintenance is provided through gas taxes.

Bill Connolly, 3576 Upper Autumn St, Salem OR 97304, owns two lots and in 2004 he was given permission to put in a gate to keep people out because they were using that street for illegal behavior. At that time he was told that the road would be vacated. He has been maintaining the gate and road himself since that time. Mr. Connolly stated that he was in support of the decision to vacate Upper Autumn Street.

Commissioner Wheeler stated that she would like to know who determines when a lot is buildable or not. Mrs. Davis stated that she did not think it was fair for somebody to be able to determine if the lots they own are buildable and wants to know who and why do they get to decide. Morgan Smith, County Counsel explained that it is a classification from the Assessor's Office that exists for evaluation purposes and if they changed it to buildable it would increase the property's taxable value. Commissioner Wheeler asked that since there have been multiple requests to leave the record open they clarify with the Assessor's office how those determinations are made and if the lots accessible by Lower Autumn are truly unbuildable.

Commissioner Ainsworth asked Mr. Whitaker to find out approximately how much it would cost to bring

those roads up to standards. The Board would like to schedule a site visit to view the maintenance needs on the road.

Hearing no further testimony, Commissioner Ainsworth closed the public hearing, but left the record open for 30 days

**8 COMMISSIONER WHEELER RETIREMENT/OPTIONS TO FILL OPENING** - Greg Hansen, Administrative Officer, provided the Board with options of how to proceed with appointing a candidate to the Commissioner Position #1. The first option would be a direct appointment, which is not as open to the public. The second option would be an application process. Greg recommends having candidates submit a resume and letter of interest in lieu of a county application. The last option is a panel interview, which would get more people involved and can make the process more difficult. Greg recommends option two and would recommend posting the opening as early as Monday, October 8, 2018. The job announcement would be posted to Facebook, the county website, as well as the Board of Commissioners website. Mr. Hansen suggests both remaining Commissioners review the applications and select their favorites, and then interview the candidates who are selected by both Commissioners.

BY CONSENSUS, THE BOARD DIRECTED STAFF TO PROCEED WITH AN APPLICATION PROCESS FOR FILLING THE COMMISSIONER POSITION #1 VACANCY.

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

**(a) CONTRACT NO. 18-132**

Approved Contract No. 18-132, Staff recommendation for employee agreement with Donna Hemmen.

**(b) CONTRACT NO. 18-129**

Approve Contract No. 18-129 (Amendment #3 to Contract No. 17-55) for the financing of Community mental health, substance use disorders, and problem gambling services.

**(c) RATIFY VALID VOUCHERS, LICENSES, PERSONNEL ACTIONS, PAYROLL, ETC., FOR THE MONTH(S) OF SEPTEMBER 2018.**

**POLK COUNTY BOARD OF COMMISSIONERS**

---

Mike Ainsworth, Chair

---

Craig Pope, Commissioner

---

Jennifer Wheeler, Commissioner