

POLK COUNTY BOARD OF COMMISSIONERS
TUESDAY MEETING MINUTES
May 7, 2019

1. At 9:00 a.m., Commissioner Pope declared the Tuesday meeting of the Polk County Board of Commissioners in session. Commissioner Mordhorst and Commissioner Ainsworth were present.
2. **MINUTES** **COMMISSIONER AINSWORTH MOVED, COMMISSIONER MORDHORST SECONDED TO APPROVE THE MINUTES OF APRIL 30, 2019.**

MOTION PASSED UNANIMOUSLY.

3. **COMMUNITY DEVELOPMENT UPDATE** – Austin McGuigan, Director of Community development, stated that he wanted to start by asking for them to provide an interpretation of PCZO 111.220. He provided them with his memo that explains that the term “agent” could be interpreted as a bar to easement holders submitting a land use application, as PCZO 111.220 requires that applications be submitted either by the property’s fee owner, or an agent of the fee owner “when duly authorized in writing”. In some instances, a beneficiary of an easement is not an “agent” under the common law of agency. If an underlying fee owner has changed since the easement was purchased, and the new fee owner objects to the permitting of uses of development on land that they purchased subject to an easement that permits the uses of development, is the Planning Director authorized to accept an application for said uses or development authorized by the easement?

Staff’s concern is that a more restrictive reading of the criteria in PCZO 111.220 would place the County in the position of denying those the benefit of the bargain they obtained when they purchased the easement. Austin would like to know if Community Development should interpret our codes in a manner that could invalidate an otherwise legal and binding land transaction that is a valid encumbrance on the property, simply because a subsequent purchaser does not like the encumbrance that were on the property when they bought it? Or could “agent” include the beneficiary of an easement so long as the land use permit is for a use or development that is within the legal scope of the fully executed easement?

BY CONSENSUS, THE BOARD DIRECTED STAFF TO INTERPRET THE TERM “AGENT” IN PCZO 111.220(A) MORE BROADLY TO INCLUDE THE BENEFICIARY OF AN EASEMENT, DEVELOPMENT AGREEMENT OR OTHER SIMILAR FULLY EXECUTED LEGAL STATEMENT.

Austin continues, stating that in regards to the department update building permits were very busy during the first and second quarter and slowed down in the third. This is the first year with the department having their own building official, who is also a electrician and plumber. Because of this he expects the year to be very successful. Environmental Health has been getting busier and he is looking to make one of the health inspectors a full time sanitarian because she is now certified. He informed the Board that next weekend the household hazardous waste event will be taking place.

4. **HANNA ROAD DISCUSSION** – Todd Whitaker, Director of Public Works, informed the Board that Hanna Road is rapidly deteriorating and is in need of major improvements to maintain its serviceability as a paved road. There are only 3 businesses that utilize this section of the road and he urges the Board to consider that there is no other benefit to the County but only to the few business that are located off this road. There is a lot of semi truck’s using this road making deliveries and picking up from the plant at the end of the road. These trucks

do not have an easy turn around and often times will just park on the side of the road which is what is causing the majority of the deterioration on the side of the road. Robert Day, the Plant Manager at the Scotts Company, LLC, was in the audience and said they also try to deter the trucks from parking on the side of the road and will ask them to move when they see it. He also says that it has gotten better in the last couple years since the no parking signs were posted. Todd stated that they are still parking there because there is no easy alternative. The trucks would have to back up and into a road to turn around and it is not clearly marked for them to turn around there. Commissioner Pope stated that the deteriorating road problem will continue to be a problem even after they repair the road, if they do not come up with an easier option for the drivers to turn around. Todd explains that the option he would recommend considering would be to continue maintaining the road which he believes would cost approximately \$500 - \$600,000 to put 5 - 7 inches of asphalt down, which is what it would take to repair the road and have it be able to withstand all of the heavy truck use. Or they could return the road to gravel and still maintain it where the water flows across it. He explained that most of the roads in Polk County that are heavily utilized by semi-trucks and big trucks are gravel. The other option Todd suggests recommending would be to downgrade it and it would still be available for public use but the County would not maintain. Todd asked the Board if they would like him to do a more thorough review and cost estimate for each of these options. Commissioner Pope told Mr. Day that he knows part of the business was moved to Washington and he wanted to know if the whole business will eventually be moved also. Mr. Day stated that moving the rest of the plant is not in the plan, but it could also depend on what the Board decides to do with Hanna Road. If the County is no longer going to maintain the road that will mean operational costs will be significantly higher. Commissioner Pope would like to know if there are any feasible solutions to correct the issue drivers are having with nowhere to conveniently turn around. Todd wondered if the gate could be electric so the drivers that he knows are coming can have a code to come in and turn around to get to an appropriate parking area. Mr. Day stated that the only drivers that are parking on the shoulder are the ones they do not have good communication with which also means they would not be people he would feel comfortable giving a code to access the property after hours. Mr. Day said maybe there a way to get an easement for nearby and create an easier turn around. They will continue looking at these options.

BY CONSENSUS, THE BOARD DIRECTS STAFF TO GET COST ESTIMATES ON ALL OF THESE OPTIONS AND BRING IT BACK TO THE BOARD.

5. **NON-LISTED ITEMS** - (Pursuant to ORS 192.640, the Board of Commissioners considered the below identified non-listed items.)

Commissioner Pope adjourned the meeting at 9:47 a.m.

Minutes: Ciera Atha
Approved: May 14, 2019