

POLK COUNTY BOARD OF COMMISSIONERS
MINUTES July 22, 2020

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 Pope and Commissioner Mordhorst were present.

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

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)

None.

4. APPROVAL OF AGENDA

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

MOTION PASSED UNANIMOUSLY.

5. APPROVAL OF CONSENT CALENDAR

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

MOTION PASSED UNANIMOUSLY.

6. APPROVAL OF MINUTES OF BOARD MEETING OF JULY 15, 2020

MOTION: COMMISSIONER MORDHORST MOVED, COMMISSIONER POPE SECONDED, TO APPROVE THE MINUTES OF JULY 15, 2020.

MOTION PASSED UNANIMOUSLY.

7. PUBLIC HEARING

Sidney Mulder, Planning Supervisor, stated that the public hearing is regarding planning application ZC 18-02 and PA 18-01, which affects approximately 228 acres comprised of seven parcels under four different ownerships. The subject properties are currently zoned Exclusive Farm Use (EFU) and have a comprehensive plan designation of Agriculture. The applicants are proposing to change the zoning designation to Agriculture and Forestry – 10 Acre Zone and to change the Comprehensive Plan designation to Rural Land. To justify the Rural Lands Comprehensive Plan designation the applicants have also applied for an exception to statewide Planning Goals 3 (Agriculture Lands) and 4 (Forest Lands). The intent of this proposal is to create parcels 10-Acreas in size to allow for acreage residential development and the establishment of Hobby Farms. Ms. Mulder informed the Board that notice for the

public hearing was provided as required by Polk County Zoning Ordinance and reviewed the various notifications that were mailed, published and posted. The Polk County Hearings Officer held a hearing regarding this matter on October 15, 2019 and the Hearings Officer issued a recommendation of denial on June 1, 2020.

The applicant is Wally Lien, Land Use Lawyer, PO Box 5730, Salem, 97304. Mr. Lien represents Wayne Simmons and family who also appeared at the public hearing. Mr. Lien informed the Board that he was told that the record would be left open for a period of time, which they support considering the pandemic issues. Mr. Lien submitted a memorandum in response to the Hearings Officers recommendation of denial and proceeded to discuss the major points in their application that were undisputed. Mr. Lien stated that Polk County does not have this kind of property and there is a need for it and that it was a good location for Rural Lands and Agriculture and Forestry 10-Acre because the land isn't good for agriculture. Mr. Lien gave a brief review of the various studies that they had done and were accepted by the Hearings Officer. In regard to the rural residential policy, farm policies, and the statewide rules and guidelines were determined by the Hearings Officer to have all been complied with aside from the 2 exceptions that were applied for. Mr. Lien commented on the changes happening in Eola hills and the development that is happening all around the area including housing that was previously bare land. He stated that reason this should qualify for the irrevocably committed exception is because while the ability to grow something on the land in question is possible, it is not able to be done practically because of the issues that arise due to the surrounding developments. After a study of 8 Assessor maps and found there were 215 residential lots surrounding Mr. Simmons property, there were 3 roads, 2 tower sites, and 2 well sites. 71 % of those residential lots already have houses on them, 77% of those 215 residential parcels are under 10 acres. The application was not meant to change what is happening in the area but to conform to what is already happening there. Mr. Lien stated that if the Board adopted the standards for the exceptions how they were interpreted by the Hearings Officer, that nobody could ever meet those standards.

Kevin Stone, 1789 Best Rd NW, Salem. Mr. Stone resides on a property that inside the area requesting to be changed. He has tried to farm his property since he moved there and when he dug into it he found that approximately two thirds of it is very rocky and steep. Mr. Stone purchased his property for the view and he supports the applicants request and also pointed out how much more revenue in property taxes the County would receive each year.

Mrs. Simmons, 3287 Orchard Heights Road NW, Salem. Informed the Board that her husband has farmed over 600 acres in Polk and Marion counties and has received many awards for his farming. The land they currently are on has had very little productivity over the years because of the poor soil and weather conditions. It was purchased in the 1930's by Wayne's father for his retirement. She wants to submit the farming awards to the public record for this hearing.

Craig Evans, 1345 37th Ave NW, Salem. Mr. Evans testified in favor of the application because as leaders in the community it is important to support progress. It will provide jobs for builders, opportunity for housing, and there is revenue to be made by the county.

Tom Huggins, part owner of the Eola Hills Legacy Vineyard, 7341 NW Mountain View Dr, Corvallis. Mr. Huggins expressed his concern is about people moving from the city into the country that do not understand methods farmers use to protect crop and it causes problems. He also has two streams that flow out of the ground that he and surrounding homes rely on for water and he doesn't know what would happen if a big development occurred above them. He does agree that it can be difficult at their elevation to grow crops but it is possible.

Sara Doylny, 4550 Oak Grove Road, Dallas, acting Chair of Friends of Polk County. She owned Mr. Huggins property before he did and they are very beautiful springs. Ms. Doylny stated that she will submit written comments but stated that her and many others that treasure the rural qualities of the neighborhood. She has concerns with million dollar homes being put in when there is such a need for lower cost housing as well as climate and natural resources that are affected by climate. Ms. Doylny said that the soil studies done on the Simmons property indicated soils that we actually have better average soil than her own which is less than a mile north and they do make a living off of forestry.

Shawn Malone, on behalf of Friends of Polk County, 259 E 5th Ave, Suite 200C, Eugene. Mr. Malone was part of the application process when it originally was appealed and he found the Hearing Officers decision to be comprehensive and thorough and should be affirmed. The soil on the property has been tested and is classified agricultural land. Mr. Malone stated that the study area that was put together was very large which dilutes the analysis and the number of large parcels. The Board would have to determine that something that is 4 miles away is considered adjacent. The applicant is also relying on the possibility of development in surrounding lands and not the actual development, and the proposed future partitions, proposed future property line adjustments. Mr. Malone stated that the applicant is alleging that they can't farm the property but that other people will be able to have hobby farms.

Mr. Simmons, applicant and land owner, explained that the plan is to not allow more than 5 gallons per minute from the wells by restricted outlets, which would prevent the housing from ever exhausting the wells. He also rebutted that yes crops can grow on the property but not very well or very easily so production was not enough to make money. Land use laws changed in 1965 after his father died and prevented him from doing anything with it. Measure 37 passed and they got 53 home sites, and legally drilled wells for water and put in a road and then measure 49 prevented them from continuing their project and making that money back.

Mr. Lien said that in reference to the streams, they are referenced and reviewed in the hydrological review and would not be a problem. In regards to claiming it's a contradiction saying that because the land is not good for agriculture but can have hobby farms. They are completely different things, a family can have a small garden that they water and tend to regularly is entirely different than a large commercial operation.

Hearing no further testimony Commissioner Ainsworth closed the public hearing. Ms. Mulder recommended an open record period of two weeks which would leave it open until August 5, 2020 at 5:00pm, and then a rebuttal of the new evidence between now and August 5 of one week which puts it at August 12th, at 5:00 pm and then the applicant would have the final argument for one week which would be August 15, 2020 at 5:00 pm.

Austin, McGuigan, Community Development Director, stated that because some people were not comfortable coming to the hearing in person there was dedicated phone line that they could call in and listen and still submit written testimony during the open record period.

MOTION: COMMISSIONER POPE MOVED, COMMISSIONER MORDHORST SECONDED, TO APPROVE THE RECOMMENDED SCHEDULE WITH A TWO WEEK OPEN RECORD PERIOD WITH THE CONDITIONS SET FORTH BY THE DIRECTOR AND A REVIEW DATE OF THE OF OCTOBER 7, 2020 AT 9:00 A.M.

MOTION PASSED UNANIMOUSLY.

At 10:13 a.m. County Counsel announced that the meeting was recessed to Executive Session pursuant to ORS 192.660 (h) To consult with counsel concerning the legal rights and duties of a public body with regard to current litigation or litigation likely to be filed.

Commissioner Ainsworth called the meeting back into regular session and adjourned the meeting at 10:25 a.m.

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

- (a) CONTRACT NO. 20-127 – FAMILY & COMMUNITY OUTREACH**
Approve Contract No. 20-127 with Central School District to continue to house School Based Mental Health staff within their schools.

- (b) **CONTRACT NO. 20-128 – DISTRICT ATTORNEY OFFICE**
Approve Contract No. 20-128 for the labor agreement between Polk County and the Deputy District Attorney's.
- (c) **CONTRACT NO. 20-129 - BEHAVIORAL HEALTH**
Approve Contract No. 20-129 with Project Able to provide Peer Support services to referred Polk County clients.

POLK COUNTY BOARD OF COMMISSIONERS



Mike Ainsworth, Chair



Craig Pope, Commissioner



Lyle Mordhorst, Commissioner

Minutes: Ciera Atha
Approved: July 29, 2020