

POLK COUNTY BOARD OF COMMISSIONERS
MINUTES April 16, 2014

1. CALL TO ORDER & ATTENDANCE

At 9:00 a.m., Commissioner Pope declared the meeting of the Polk County Board of Commissioners to be in session. Commissioner Ainsworth and Commissioner Wheeler were present. A CD of the proceedings is on file in the Board of Commissioners' Office.

Staff present: Greg Hansen, Administrative Officer
 Austin McGuigan, Community Development Director

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 the Friends of Polk County Candidates Forum on Thursday, April 17, 2014 at 7:00 p.m. in the Independence Public Library, 175 Monmouth St, Independence, OR 97351.

The Board of Commissioners will attend the West Salem Neighborhood Association Candidates Forum on Monday, April 21, 2014 at 7:00 p.m. in the West Salem Roths, 1130 Wallace Rd NW, Salem, OR, 97304

The Board of Directors for the Polk Extension Service District will meet on Wednesday, April 23, 2014 at 12:30 p.m. in the OSU Extension Service Office, Suite 301, 289 E Ellendale Ave, Dallas, OR 97338.

The Board of Commissioners will attend a meeting of the Mid-Willamette Jobs Council on Wednesday, April 23, 2014 at 3:00 p.m. in the Chemeketa Center for Business & Industry 626 High St NE room 203 Salem, OR.

The Board of Commissioners will attend the Dallas Chamber of Commerce Candidates Forum on Thursday, April 24, 2014 at 5:00 p.m. location to be determined.

The Board of Commissioners will attend the Green Villa Candidates Night on Friday, April 25, 2014 at 6:00 p.m. at the Green Villa Farms, 3110 Independence Hwy, Independence, OR 97351.

3. COMMENTS (for items not on this agenda)

4. APPROVAL OF AGENDA

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

MOTION PASSED UNANIMOUSLY.

5. APPROVAL OF CONSENT CALENDAR

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

MOTION PASSED UNANIMOUSLY.

6. APPROVAL OF MINUTES OF MARCH 26, 2014

MOTION: COMMISSIONER AINSWORTH MOVED, COMMISSIONER WHEELER SECONDED, TO APPROVE THE MINUTES OF APRIL 9, 2014.

MOTION PASSED UNANIMOUSLY.

7. PUBLIC HEARING - ORDINANCE 14-03

Austin McGuigan, Community Development Director presented the staff report. The County has looked into the issue of the County imposing a temporary moratorium on the establishment of medical marijuana dispensaries in the unincorporated areas (outside of incorporated city limits) of Polk County. In 2013, the State of Oregon passed a Proposition that permits medical marijuana dispensaries. Under Oregon Revised Statutes 475.314 facilities registered with the state to dispense medical marijuana were permitted in zones that allow commercial uses; including agricultural zones. Senate Bill 1531 was introduced into the Oregon Legislature in 2014 to allow cities and counties to regulate, restrict, or prohibit registration of medical marijuana facilities that are authorized under that statute. By the end of that session, a compromise was reached that allows cities and counties to enact a temporary moratorium on the operation of registered medical marijuana facilities until May 1, 2015, as long as that moratorium is enacted no later than May 1, 2014.

This is not a land use decision. Under ORS 197.015 the decision to enact this moratorium is an act of general law, not an act of land use law. Regardless, Polk County did provide notice to the Oregon Department of Land Conservation and Development on March 11, 2014, and published notice of the public hearing in the Itemizer Observer on March 26, 2014, and are treating this through a public hearing process to receive public comment. Staff included a copy of Ordinance 14-03 as an attachment to the staff report in the agenda packets provided and the ordinance was made available to the public more than a week in advance of this public hearing. Polk County passed Ordinance 14-02 on February 19, 2014 outlining the process to establish a medical marijuana dispensary outside of the incorporated city limits. An applicant would need to go through a similar use analysis or a conditional use process in order to establish a dispensary. There have been no applications through the planning department to establish a medical marijuana dispensary outside of the incorporated city limits to date.

If the Board chooses to enact a moratorium today, it would afford the County an opportunity to evaluate the potential to regulate the time, place, and manner of medical marijuana dispensaries in Polk County. It would afford more opportunity for the Oregon Health Authority to adopt administrative rules that regulate medical marijuana dispensaries and allow the Oregon Legislature in 2015 full legislative session an opportunity to address the concerns of the public prior to the County permitting medical marijuana dispensaries in the unincorporated areas of Polk County.

Chairman Pope opened the hearing for public testimony.

Kelly Cobb of 3707 Anita Dr. NE Salem, testified that her daughter, Rachel is an OMMP cardholder, and Ms. Cobb serves as her registered care giver. Rachel has had epilepsy for eleven years, and has been treated with eleven different medications, a Vagus Nerve Stimulator implant, special diets, and now has a service dog who responds to seizure activity. Ms. Cobb did not have experience with cannabis therapy to medical marijuana facilities until the last year. Through research and speaking with her daughter's OHSU neurologist, she pursued cannabis therapy for Rachel. Ms. Cobb was referred by other parents with chronically ill children to David Ordonez, who is the owner of Top Shelf Medicine in West Salem. David offers compassionate care to patients with illnesses and learning how medical marijuana is beneficial to patients. Rachel has never been stoned. She is treated with raw plant material in capsule form that is non-psychoactive. So far, the cannabis therapy has been helpful at reducing anxiety levels. Growing marijuana at home, while legal, would not be something that Ms. Cobb and her family would be able to do in the area where they live. The most secure way to obtain this medicine is through this dispensary. This facility is not a pot shop; it is a progressive cannabis facility. Closing the business for a year will give the County time to figure out how to proceed with these dispensaries in the future, but it also deprives the owners of their livelihood and deprives the patients of a safe facility from which to purchase their medications. Ms. Cobb recognized the County concerns are not the same as her concerns as the parent of a sick child, but asked the County to consider allowing the two dispensaries that are already operating in Polk County to remain in business, and just imposing the moratorium on new applications.

John Speckman of 1135 6th Street NW, Salem, testified that he is a volunteer worker at Top Shelf Medicine. Mr. Speckman did not know any OMMP patients prior to volunteering at this facility, But now understands that these patients that use this facility are in pain, and are able to use cannabis to manage that pain instead of using addictive opiates. The dispensary does good things, and gives back to the community in different ways such as through a collection barrel for the Oregon Food Bank. Mr. Speckman read a letter from Audra Marsh, it is included in written public testimony.

David Ordonez of 304 SW Maricopa, Bend, Oregon, and the owner of Top Shelf Medicine, testified that he has a true passion for the people in need of this medicine. Top Shelf Medicine provides a full medical staff available to the patients, including a licensed physician, massage therapist, psychotherapist, and chiropractor. This is a compassion center for people to get help. Mr. Ordonez does not charge for the medicine that children receive from his facility, and gives discounts to veterans and Social Security/Medicaid recipients. Mr. Ordonez expressed concern that this moratorium would take away the medicine for these children and patients. The Board questioned where this facility was located, because according to the County Planning Department, there are no permitted medical marijuana dispensaries located in the unincorporated areas in Polk County. Mr. Ordonez explained that this facility is located on 50th Avenue, next to Knorr Steel, outside of West Salem city limits. Mr. Ordonez claimed that he was not issued permits yet, but County staff reported that no application for a permit was ever submitted to the County for this facility. The concern for the Board was that the Mr. Ordonez's current dispensary is illegal because he has not applied for or received a zoning permit from the County. Mr. Ordonez confirmed that he has not applied for a permit through the County. The permit that Mr. Ordonez applied for was through the State, not the County.

Steve Pickering of 1895 Church St, Dallas, testified that the increased use and open consumption of marijuana will cost more to cash strapped government agencies than what comes in from permitting and taxes. In the state of Colorado, where marijuana is legal (against federal law), is already seeing the sale of marijuana candy and vending machines targeted to

young people. In Polk County, the City of Independence has approved a dispensary; the City of Dallas has imposed a one-year moratorium on these facilities. Mr. Pickering does not want Polk County to become a haven for the illegal operations outside the borders of the cities. A business producing income from the sell of an illegal drug is not the business Mr. Pickering wants in Polk County without long and careful thought. The spread of dispensaries would create problems for our local Sheriff who is already understaffed. The individuals operating these facilities are not pharmacists, they are growers or users of the product, and are not trained to dispense medication. The Board should not want that liability in Polk County. Mr. Pickering testified that he knows of two dispensaries that have sold marijuana illegally out of the 'back door' to individuals that did not have an OMMP prescription, and is a common practice with dispensaries. The State should not have made laws in violation of the federal law. Mr. Pickering encouraged the Board to enact the moratorium to give the State time to gather evidence from Washington and Colorado to make an educated decision on whether to allow these facilities. This also keeps the County from being liable for the illegal actions that could happen if these dispensaries are allowed.

Hearing no further public testimony, Chairman Pope closed the Public Hearing and Public Record.

The Commissioners expressed compassion for the families and individuals who testified, but the Board has a concern for any type of marijuana in the County. Commissioner Ainsworth shared that he sits on the Polk County Drug Court, and at the last graduation, there were nine graduates and thirty participants present. Judge Graves from Marion County was the keynote speaker. He asked the audience how many of them had used marijuana first before moving up to something stronger. Every participant raised his or her hand. That is the concern the Board shares. That marijuana is a gateway drug to a majority of the citizens of Polk County. The Board was also very concerned that Mr. Ordonez is already running an illegal operation in the County because his facility is not permitted or in compliance with zoning.

MOTION: COMMISSIONER WHEELER MOVED, COMMISSIONER AINSWORTH SECONDED, TO ADOPT ORDINANCE 14-03 IN THE MATTER OF IMPOSING A MORATORIUM ON THE OPERATION OF REGISTERED MEDICAL MARIJUANA FACILITIES WITHIN THE UNINCORPORATED AREA OF POLK COUNTY, OREGON.

MOTION PASSED BY UNANIMOUSLY.

At 9:32 a.m., Administrative Officer announced that the meeting was recessed to Executive Session for the purpose of discussing labor negotiations pursuant to ORS 192.660(2)(d). Although the public will be excluded, no vote may be taken in executive session. A CD of the meeting is on file in the Board's office, but is confidential under ORS 192.660.

Chair Pope called the meeting back into regular session.

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

Chair Pope adjourned the meeting at 09:50.

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

(a) RESOLUTION 14-03

Adopt Resolution 14-03 in the matter of requesting that the Dallas, Independence, Monmouth, Polk County Enterprise Zone be designated for Electronic Commerce.

(b) FORESTLAND CLASSIFICATION COMMITTEE REAPPOINTMENT

Approve the reappointment of Terry Lamers and Tom Parsons to the Polk County Forestland Classification Committee for another 4-year term.

(c) PUBLIC WORKS - Contract No. 14-44

Approve contract #14-44, intergovernmental agreement with the City of Monmouth for Talmadge Road Bike and Pedestrian Improvements.

POLK COUNTY BOARD OF COMMISSIONERS

Craig Pope, Chair

Jennifer Wheeler, Commissioner

Mike Ainsworth, Commissioner

Minutes: Heather Merrill
Approved: April 23, 2014