

**CLARK COUNTY BOARD OF COMMISSIONERS
MINUTES OF JULY 27, 2010**

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Boldt, Mielke, and Stuart, Chair, present.

10:00 A.M.

PLEDGE OF ALLEGIANCE

The Commissioners led the Pledge of Allegiance.

BID AWARD CRP 401947

Reconvened a public hearing for Bid CRP 401947 – NE 32nd Avenue Stormwater Facility Retrofit. Mike Westerman, General Services, read a memo recommending award of Bid CRP 401947 to the low bidder.

ACTION: There being no public comment, moved by Mielke to **AWARD** Bid CRP 401947 to Kerr Contractors of Woodburn, Oregon, in the total bid amount of \$450,910.50, including Washington State sales tax, and grant authority to the County Administrator to sign all bid related contracts. Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

CONSENT AGENDA: ITEMS 1-8

Discussion

It was the board's consensus to approve the consent agenda.

ACTION: Moved by Mielke to **APPROVE** consent agenda items 1-8. Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

PUBLIC COMMENT

- 1) Dave Grumbois, #3 Treetop Road, Longview, spoke in regards to Ballot Measures 1100 and 1105, which will be before voters in the fall and seek to privatize alcohol in Washington State. Mr. Grumbois further explained and expressed opposition to both measures. (Materials submitted to record.)
- 2) Josephine Winsel, Vancouver, addressed the board about bridge tolling in Clark County (Columbia River Crossing). She stated that people can't afford and do not want tolls. She asked the board to stand up for the people. Commissioner Stuart responded that he does not support tolls for a number of reasons. He said the only way he could support tolls would be if his constituents had a say and state that there is a price point that they would be willing to pay and that there is a benefit that's worth it. As far as light rail, Stuart said it must go to the vote of the people.
- 3) Aleta Beck, 8909 NE 223rd Circle, Battle Ground, commented about commercial kennels. She stated that unless the number of dogs is severely restricted, commercial

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kennels are inappropriate on residential acreages. Mrs. Beck stated that code enforcement has been suspended for kennels, which means there is unchecked development of commercial kennels in violation of building codes, environmental laws, the Clean Water Act, and County health regulations. She said unlicensed kennels have been afforded the protection to operate unlicensed, without penalty, and neighboring properties have been penalized through non-enforcement. Marty Snell, Community Development Director, responded that two key staff members familiar with the issue have retired so he would have to further look into things with various staff in order to get the full background information.

- 4) Steve Madsen responded to the issue of kennels. He stated that he owns a professional kennel raising sled dogs, breeding and selling dogs, under license of Cowlitz County. He explained the permit requirements in Cowlitz County, including one air exchange per hour and its own septic system. Mr. Madsen said if there's a regulatory regimen that most can agree upon for commercial kennels, there needs to be steady enforcement and it will work itself out.
- 5) David Beck, 8909 NE 223rd Circle, Battle Ground, commented on commercial kennels. Mr. Beck stated that there is a particular kennel operator who has been operating for the past seven years in violation of setback rules, doesn't have a business license, and has not paid dog licensing fees. He expressed frustration about the lack of code enforcement for that operator. Commissioner Stuart said they would further check into the issue and be back in touch with Mr. & Mrs. Beck.

PUBLIC HEARING: TITLE 40

Item Description: Clark County regulates development through its Unified Development Code, also known as Title 40. The Board of Clark County Commissioners is undertaking an update of Title 40, the proposed Batch #1 code amendment titles and related code sections.

Department: Community Development-Development Services

Staff Contact: Marty Snell, Director; Michael Butts, Development Services Manager

Staff Summary:

Community Development Director, Marty Snell, provided an overview of the propose Batch #1 code amendment titles and related code sections. [See Hearing file for Batch #1 documentation.]

Comments from the public:

- 1) Meridee Pabst, Miller Nash, 500 East Broadway, Suite 400, Vancouver, referenced the letter submitted by Miller Nash on behalf of Columbia Credit Union, which owns property in the Highway 99 area zoned Limited Commercial. Ms. Pabst commented on the issue of allowing assisted living facilities in commercial zones (item #1 Retirement Housing), namely the Community Commercial, Limited Commercial, and General Commercial Zones. She stated that Columbia Credit Union proposes that these types of facilities continue to be permitted in those zones as a conditional use.

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- She also asked that if the board chose to approve the changes as proposed by staff, that the effective date be delayed by 90 days.
- 2) Eric Golemo, Development Engineering Advisory Board (DEAB), highlighted the changes he thought would have the most impact: Retirement Housing; Accessory Dwelling Units; Conditional Use; Site Plan Review; Planned Unit Development; Non-Conforming Uses, Structures and Lots; and Legal Lot Determination (see hearing file for DEAB's June 15 memo).
 - 3) Steve Madsen, Building Industry Association of Clark County, and Clark County Association of Realtors, commented on Accessory Dwelling Units and the Type 2A process issues.
 - 4) Milada Allen, PO Box 61552, Vancouver, commented on providing open spaces for those who reside in institutionalized care. She expressed concerns about designated loading space being removed.

Discussion:

Commissioner Stuart asked staff if they had identified the several changes that were discussed.

Snell pointed out the letter submitted by Perkins Coie.

Alan Boguslawski, Planner, outlined the changes to Table 40.230.010-1 Uses to add a line for Assisted Living Facilities, which would be listed as permitted in the CR-1, CR-2, C-2, C-3, CL, and CG zones.

ACTION: Moved by Mielke to **APPROVE** the amendment to Table 40.230.010-1 Uses, to add Assisted Living Facilities to all commercial zones as a permitted use.

Chris Horne, Prosecuting Attorney, commented that as far as rural commercial, he didn't think there would be a GMA issue. The issue may become the question of the associated infrastructure, such as development capacity, sidewalks. Stuart said they already have septic/sewer/environmental/traffic codes to help them with additional impacts.

Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

Boguslawski stated that the next suggested change was to Table 40.220.020-1 Residential and Office Residential Uses, under Category 4. Services, Medical, and Health, to list Nursing or convalescent homes as a conditional use under all residential and office residential zones.

ACTION: Moved by Mielke to **APPROVE** the amendment to Table 40.220.020-1, Category 4. Services, Medical and Health, to make nursing or convalescent homes a conditional use under all zones. Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

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Snell said that for Retirement Housing the only contested issue was whether or not to leave open space, as well as loading zones, in as proposed, or go with the Planning Commission's recommendation. Also, for 40.520.040 Site Plan Review regarding the proportionality of the change of use for landscaping and screening, the discussion was to leave the standard in there as anticipated and then come back to the board with a clear identifiable percentage of what is reasonable.

Horne said his understanding was that the board would vote on the issue today, staff would clean it up and bring back on consent with a defined number. The board's issue was that to the extent they do further amendments—either in terms of defining reasonable or open space—that those would come back directly to the board as part of the next batch. He said the board could do it either way—separately or include in the next batch.

Stuart wanted to know if the board would be within the bounds of what is acceptable to make those changes without going back to hearing—could they give guidance to staff to define it and include it, and bring it back in the resolution.

Horne said the board could do that, as long as they do give some guidance to staff as to what the ordinance should include. So the board would give the guidance now and staff would include that within the ordinance they bring back to the board, which they can adopt without further public hearing.

ACTION: Moved by Mielke to direct staff to define “reasonable” under the Site Plan Review, 40.520.040, Subsection E.5(3). Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

Snell stated that for Planned Unit Development, the board would be adopting all but the open space, which will be further defined. He further explained that the Planning Commission's recommendation is to not have open space requirements under the PUD. He referenced Tab 3 of the amended items, page 3, and explained that they amended the definition of common open space, dropping the term “common,” and the board had said they need a better definition of open space in the PUD.

Stuart summarized that the Planning Commission recommendation does not have an open space requirement under PUD. The question is do they want to add in the requirement for open space under PUDs and then get a further definition of what that means, or do they go with the Planning Commission's recommendation to not have the specific requirement.

[brief discussion continued]

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Butts and Snell referenced Tab 8 (Planning Commission Recommendations), page 40, line 1, 4. Common Open Space, and Stuart asked if the board wanted to amend it to remove the word "Common" and ask staff to define "Open Space."

ACTION: Moved by Mielke to **AMEND** Planned Unit Development, 40.520.080, Section C.4, to remove the word "Common" and have staff further define the word "Open Space." Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

The next amendment was to Conditional Use, 40.520.030, Section E. Concurrent Application Requirement. The question before the board was whether associated site plan review applications shall or may be submitted concurrently, where applicable.

Following discussion, the board agreed to change the language to "may" instead of "shall."

ACTION: Moved by Mielke to **AMEND** Conditional Use, 40.520.030, Section E. Concurrent Application Requirement, to read "may" instead of "shall" Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

Snell added that the title of the section was Concurrent Application Requirement and they might want to delete the word "Requirement" just as a minor housekeeping amendment.

ACTION: Moved by Mielke to **AMEND** Conditional Use, 40.520.030, Section E. Concurrent Application Requirement, to read "may" instead of "shall" and delete the word "Requirement." Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

Snell went over the next change to Post-Decision Review, 40.520.060, Section A. Purpose, to add the following language – "The responsible official may approve some de minimis changes without a Post-Decision Review using the final plat/final site plan process."

ACTION: Moved by Mielke to **AMEND** Post-Decision Review, 40.520.060, Section A. Purpose, to add the following language – "The responsible official may approve some de minimis changes without a Post-Decision Review using the final plat/final site plan process." Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

Marlia Jenkins referenced Tab 3 – Planning Commission, DEAB and Staff Recommendations, Amended Items.

Snell said for Zero Lot Line they would just add a diagram, Figure 40.260.260-1 Zero Lot Line Development.

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ACTION: Moved by Mielke to **ACCEPT** the amendment to page 1 of Staff Report – Section C, #3 Zero Lot Line, to add the diagram Figure 40.260.260-1 Zero Lot Line Development. Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

Stuart referenced #10 Transportation Concurrency, page 6 of Staff Report – Section C. He said the staff recommendation to the Board of County Commissioners, which was also approved by the Planning Commission, was to concur with adding the following language to 40.350.020 (g)(1)(d)(2) – “The projected volume to capacity ratio for the worst lane movement on the approach with the highest delay, exceeds 0.9 during the peak traffic hour...”

ACTION: Moved by Mielke to **ACCEPT** the amendment to page 6 of the Staff Report – Section C, #10 Transportation Concurrency, to change the language to 40.350.020 (g)(1)(d)(2) to read – “The projected volume to capacity ratio for the worst lane movement on the approach with the highest delay, exceeds 0.9 during the peak traffic hour,” as indicated on page 6 of the Staff Report – Section C. Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

Snell referenced Tab 4, Staff Report – Section D, page 3, #2 Accessory Dwelling Unit, and the Planning Commission recommendation to eliminate minimum lot size for ADU’s. He said staff’s recommendation was to provide on lots less than 5,000 square feet, parking is prohibited within the front yard between the street frontage and living space portions of either the primary dwelling or ADU.

Stuart said he wasn’t moved to go forward with the change as recommended because when they’re talking about Accessory Dwelling Units on small lots, they have had those people come in to say there is an accessory dwelling unit very close to someone else’s house and it doesn’t fit, and ends up creating problems in a neighborhood.

Snell the last one the last one they received correspondence on, but no physical testimony, was the Rural Landscaping, which is in.

Horne clarified that he thought the board was probably inclined to accept DEAB’s recommendation to defer the Legal Lot Determination to Batch 2 (see Tab 8, page 63, #15. Legal Lot Determination, 40.520.010 & 40.100.070).

Mielke referenced Tab 4, page 3, and the amendment #2 Accessory Dwelling Unit, and the Planning Commission recommendation to eliminate minimum lot size for ADU’s. He asked if action needed to be taken on that.

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Stuart pointed to Tab 8, Accessory Dwelling Units, 40.260.020, C. Development Standards, page 13, line 31, to add back the strikeout lines – “No accessory dwelling unit shall be permitted on a lot of less than five thousand (5,000) square feet.”

ACTION: Moved by Mielke to **RESTORE** the original language to Accessory Dwelling Units, 40.260.020, C. Development Standards, page 13 and line 31 of Tab 8, to add back – “No accessory dwelling unit shall be permitted on a lot of less than five thousand (5,000) square feet.” Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

ACTION: Moved by Mielke to **APPROVE** Ordinance 2010-07-15 for Title 40 updates, Batch #1, as amended by the board with a polished copy to come back before the board on consent on August 10, 2010 at 10:00 a.m. Commissioners Stuart, Mielke, and Boldt voted aye. Motion carried.

PUBLIC HEARING: RAILROAD INDUSTRIAL OVERLAY

Item Description: To consider the adoption of a work plan for implementation of the Resolution 2010-06-12, which was approved by the Clark County Board of Commissioners on June 22, 2010 and relates to land use and adoption of a railroad industry overlay district.

Department: Community Planning

Staff Contact: Oliver Orjiako, Director; Fred Abraham, Railroad Coordinator; Gordy Euler, Planner

Staff Summary:

Community Planning Director, Oliver Orjiako, introduced the hearing item and presented background information.

Mr. Abraham described the outreach process involved for the project. He said through that process there was a lot of good debate between staff, Andresen Plastics, and the Neighborhood Association of Brush Prairie, which culminated in a meeting on June 19 where a motion was made and letter submitted from the Greater Brush Prairie Neighborhood Association (read into the record). Abraham also read Andersen Plastics letter into the record from.

Orjiako requested that the board adopt a revised ordinance to place it on the work plan to be adopted permanently.

Comments from the public:

- 1) Bob Rodgers, 16019 NE 145th Avenue, Brush Prairie, Andersen Plastics, commented that it was a great project and thanked the Board of County Commissioners; Greater Brush Prairie Neighborhood Association; neighbors in the area, and county staff. Mr.

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Rodgers expressed support for the ordinance and work plan. He noted that the project would create about 30 jobs.

- 2) Robyn Kim, 14915 NE 126th Avenue, Brush Prairie, Vice-President, Greater Brush Prairie Neighborhood Association, expressed appreciation for the outreach process. Mrs. Kim read a letter into the record submitted by Tony Morell.
- 3) Jack Dunn, 18401 NE 255th Circle, Battle Ground, President, Andersen Dairy and Greenwall Trucking, which owns Andersen Plastics. Mr. Dunn thanked the county for working with them, as well as the citizens of Brush Prairie.
- 4) Lloyd Handlos, 12904 NE 151st Street, Brush Prairie, asked if there would be a map to go with the resolution. Orjiako referenced the map for Mr. Handlos.
- 5) Cherry Wilson, 17217 NE 127th Avenue, Battle Ground, Greater Brush Prairie Neighborhood Association, stated that there are too many unknown and unanswered questions regarding the project, which is why she didn't vote for it.

Discussion:

Following brief discussion/comments by the board, Chair Stuart asked if there was a motion.

ACTION: Moved by Mielke to **APPROVE** Resolution 2010-07-14. Commissioners Stuart and Boldt voted. Commissioner Mielke absent. Motion carried.

COMMISSIONER COMMUNICATIONS

There were no comments.

Hearing adjourned

2:00 P.M. PUBLIC BID OPENING

Present at bid opening: Rebecca Tilton, Board of Commissioners Office; Mike Westerman and Beth Balogh, General Services-Purchasing Department

BID OPENING CRP 330322

Held a public hearing for Bid Opening CRP 330322 – Salmon Creek Interchange Park & Ride Grading. Mike Westerman, General Services-Purchasing, read bids and stated it was the Purchasing Department's intention to award Bid CRP 330322 on Wednesday, July 28, 2010 at 1:00 p.m. in the Commissioners hearing room, 6th floor, Public Service Center.

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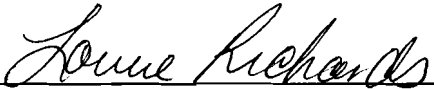
Steve Stuart, Chair



Tom Mielke, Commissioner

Marc Boldt, Commissioner

ATTEST:



Clerk of the Board

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Please Note: The Board of Commissioners' minutes are action minutes. Digital recordings can be provided upon request. In addition, the Commissioners' hearings are broadcast live on CVTV, cable channels 21 and 23, and are also videotaped and repeated several times (www.cvtv.org).