

MINUTES

Joint Planning Commissions
Lane County, Springfield, and Eugene
Public Hearing
Harris Hall
125 East 8th Avenue – Eugene, Oregon

February 1, 2005
7 p.m.

PRESENT: Juanita Kirkham, Chair; Marion Esty, Jacque Betz, Mark Herbert, James Carmichael, Ed Becker, Lisa Arkin, Jozef SiekielZdzienicki, Lane County Planning Commission members; John Lawless, President; Rick Duncan, Jon Belcher, Randy Hledik, Phillip Hudspeth, Eugene Planning Commission members; Steve Moe, Chair; Lee Beyer, Frank Cross, Gayle Decker, David Cole, Springfield Planning Commission members; Kent Howe, Stephanie Schulz, Jerry Kendall, Lane County Planning staff; Susan Muir, Kurt Yeiter, Eugene Planning staff.

ABSENT: Steve Dignam, Lane County Planning Commission member; Mitzi Colbath, Anne Marie Levis, Eugene Planning Commission members; Greg Shaver, Bill Carpenter, Springfield Planning Commission members.

1. Welcome and Introductions

Commissioner Kirkham welcomed those present to a joint public hearing of the Lane County, Springfield, and Eugene planning commissions.

Commissioner Kirkham opened the public hearing for the Lane County Planning Commission.

Commissioner Moe opened the public hearing for the Springfield Planning Commission.

Commissioner Lawless opened the public hearing for the Eugene Planning Commission.

Commissioner Kirkham called for public comments on non-agenda items.

2. Public Comments on Non-agenda Items

There was no one wishing to speak.

3. Joint Public hearing –Amendment to the Eugene -Springfield Metropolitan Area General Plan Policies to Clarify and Provide Greater Flexibility in Service Delivery for a Public Safety Special District.

Kent Howe, Lane County Planning Director, stated that pursuant to his remarks during the work session, the County had determined that because of the ambiguity in the Metro Plan language the “surgical” approach proposed by the County was the best way to make district formation consistent with the plan. He said that Growth Management Policy 15 of the Metro Plan was proposed for amendment and criteria

for review were that the proposal was consistent with the relevant statewide planning goals and resulted in internal consistency with the Metro Plan. He said staff had found that both of those criteria for amending the Metro Plan were met and supported a recommendation for the amendment. He said that the planning commissions could deliberate following the staff presentations and either act as a joint body or deliberate and act separately.

Bill Van Vactor, Lane County Administrator, stated that when the Metro Plan was acknowledged in 1982 funding of local government was significantly different and consisted of a tax base system that could grow at six percent per year. He said that Lane County, Eugene, and Springfield all had a funding mechanism that allowed for a reasonable amount of growth to occur each year; subsequently ballot measures had capped property taxes at \$15 per thousand, with \$5 for education and \$10 for general government. He said that when voters approved measures that exceeded those limits compression occurred, first of local option levies and then of permanent rates. He said that subsequently Ballot Measure 50 had the effect of rolling back assessed values statewide by 17 percent and capping growth at 3 percent annually, creating permanent tax rates for which no legal mechanism existed for requesting a permanent rate increase from the voters. He said that the service district was a permanent solution to stabilize funding and preferable to a local option levy that would be limited to five years. He stated that Lane County's current tax rate of \$1.27 per thousand was completely inadequate to provide the necessary services for 325,000 county residents. He said that the addition of Secure Rural Schools revenue still left Lane County with almost the lowest tax rate in the State and one more appropriate to a limited or special purpose district than a unit of general purpose government charged with providing critical life, health, and safety services. He indicated the public safety district would be established as an Oregon Revised Statutes (ORS) 451 financing vehicle and the Board of County Commissioners would remain the governing body with a five member citizen budget committee. He said the language was very narrowly drafted to avoid raising policy issues with regard to urban growth or the creation of other districts. He stated that the planning commissions' review was the first step in a lengthy process; when the proposal went before the Boundary Commission it would focus on the compression issue and viability for financing for the proposed district. He pointed out that in order for the district rate to apply inside the corporate limits of a city, the city would have to provide a resolution of support for inclusion in the petition formation application; a resolution of consent and approval would be required from all 12 cities within Lane County and a collaborative process to set the rate and services was anticipated.

Commissioner Arkin asked if revenue from the district would be overseen by the county commissioners. Mr. Van Vactor said that a budget committee composed of the five commissioners and five citizens would provide oversight.

Russ Burger, Lane County Sheriff, stated that the public safety system included services ranging from prevention, enforcement, arrest, incarceration, prosecution, treatment and transition, and supervision. He said the system was broken and he and other County department heads were there to discuss degradation of the system currently utilized to address public safety in Lane County. He said that there were 119 empty beds at the jail, no burglary or property crime investigators, the domestic violence position was in jeopardy each year, and the interagency narcotics enforcement team was closed last year due to budget cuts. He said those were issues faced by the Sheriff's Office and similar problems existed throughout the system. He stressed the importance of the fact that the system had degraded to the point that a permanent solution was critical. He said the Metro Plan amendment to allow for a public safety district was the opportunity for citizens to decide if they wanted dedicated funding for public safety in Lane County.

Lisa Smith, Lane County Department of Youth Services (DYS), declared that the public safety system in Lane County faced persistent and significant financial and resource challenges. She pointed out that the challenges did not occur in isolation within any department but were interconnected; what impacted one part of the system impacted all other parts of the system and ultimately affected citizens and communities. She said that DYS was the sole juvenile justice provider, by statute, for detention and probation services

in Lane County. She used charts to illustrate referrals by area, with 42 percent of referrals from the Eugene area, 27 percent from the Springfield area, and 31 percent from rural areas. She commented that citizens' expectations of DYS were threefold:

1. hold youth offenders accountable,
2. lock up youth offenders who posed the greatest risk to the community, and
3. provide appropriate and adequate treatment to juveniles so they left the system with more skills than when they entered.

Ms. Smith said the current system had incurred such significant reductions that those expectations were at peril and reductions in beds and treatment options undermined DYS' ability to provide a balance of correction and treatment services, with most facilities operating at less than 50 percent capacity. She indicated that DYS had sustained major cuts in State funding and was facing significant reductions in federal funding. She stated that while DYS had been successful in securing grant funding over the past ten years, those grants were expiring and a permanent, stable funding source was essential in order to provide a balance of correction and treatment services to ensure community safety.

Alex Gardner, Lane County Assistant District Attorney, said the County's proposal would not be before the commissions if there was any other feasible way to establish permanent, stable funding for public safety services. He said that County employees had been struggling with grossly inadequate staffing for a long time and there had been some by-products of that disadvantage that would allow citizens and elected officials to determine if they were getting "bang for the buck." He encouraged commissioners to compare caseloads in the District Attorney's office and supervisor to line worker ratios; the organization was very lean and had existed in starvation mode for some time – there was no place else to cut. He pointed out that by Constitution the District Attorney (DA) was a State employee and the DA's duties could not be assumed by the cities. He said that given current caseloads the DA provided services at about one-third of the cost for a city to provide those services. He provided as an example of a collaborative effort in the DA's office the "24 hour team" services for victims. He said that one employee was dedicated to supervising the team's 30,000 volunteer hours and the office provided a car, telephone, and pager system. He said the program had been eliminated because the paid employee position was cut from the budget.

Rob Rockstroh, Department of Health and Human Services (DHHS), said that his department's role in the public safety system was parole and probation, mental health, and alcohol and drug treatment. He described the services provided by his department that could not be provided by other entities because it required police power, including civil commitment holds, closure of restaurants because of unsafe practices, and quarantine for communicable diseases. He said that DHHS services were funded primarily by the County with state and federal matching grants. He noted that while parole and probation services were countywide, in reality most offenders were from the cities. He said that a partnership between the State and County resulted in provision of services throughout the County. He described the probation and parole services that provided supervision of offenders in the community and had not been funded adequately in many years. He discussed the impact to DHHS of cuts in the Oregon Health Plan, including loss of methadone treatment. He emphasized the seriousness of problems related to methamphetamine, which demanded services from across the system.

Jim Gangle, Lane County Assessor, provided a brief overview of the issue of compression that resulted when passage of Measure 5 limited the maximum rate, based on the real market value, on which property could be taxed. He said there was a \$5 rate for education and a \$10 rate for government and any time that \$10 rate was exceeded based on the real market value, the tax collected was compressed down to \$10. He said the vehicle proposed to fund the public safety district was property tax by creating a new permanent rate for the district and as a consequence there would begin to be compression in other governmental districts depending on the amount of rate established for the public safety district. He reminded the commissions that local option levies would be compressed first, then the permanent rates.

Anna Morrison, Lane County Board of Commissioners chair, commended the efforts of staff to demonstrate the nature of the problem within the public safety system in Lane County. She hoped that Mr. Gangle's discussion of compression issues was helpful. She stressed the crucial condition of the public safety system. She described the composition of the Public Safety Coordinating Council (PSCC), which was mandated in all counties by the State. She said the council had discussed at length the lack of resources for public safety and been unable to agree on a solution the public would accept, despite the continuous complaints related to lack of capacity in the system. She said the County's proposal was an effort to address the problem as inaction was no longer acceptable and the State would not provide financial assistance. She indicated a willingness to send jail prisoners back to the state if adequate resources to operate that facility did not become available. She noted the presentations from department heads that illustrated the lack of resources throughout the system. She agreed that methamphetamine use was reaching levels that dramatically affected the community and had personally witnessed its impact during ride-alongs with deputies.

Commissioner Hudspeth referred to an e-mail from Eugene City Councilor David Kelly asserting that the City of Eugene was on record as not having any interest in special districts. He asked what the implications of that were for the public safety district proposal.

Ms. Morrison said that the e-mail reflected a territorial issue within Lane County, although Eugene had been represented on the PSCC and understood the urgent need for a solution. She said that all of the cities in Lane County would have to agree to the formation of a district. She was disturbed by the e-mail but not surprised because of the territorial issue. She hoped that jurisdictions could work collaboratively and pursue a solution through a communitywide perspective. She noted that cities did not compensate the County for loss of revenue from urban renewal districts, but the County was willing to discuss with the cities all options for moving forward with the public safety proposal.

Mr. Howe referred to Metro Plan Growth Management Policy 15 and said the County was proposing to add subsection f, which would read: "Notwithstanding the above provisions of this policy and all other related policies and text in this Plan, a district or zone of benefit may be created and maintained to provide for these public safety services..." He reminded the commissions that their role was to determine whether the amendment was consistent with State goals and guidelines and internally consistent with the Metro Plan policies.

Commissioner Kirkham called for public testimony.

Charles Biggs, 540 Antelope Way, Eugene, asked that the record be held open 21 days in order to give a person who owned property in each of the jurisdictions 7 days to research the impacts to their investments. He stated that the term "public safety services" was vague, unending, and expandable and should be submitted to a double majority vote.

Lauri Segel, 1000 Friends of Oregon, 1192 Lawrence Street, Eugene, asked commissioners to consider tightening the language in the proposal but did not have comments on the merit or lack of merit of the proposal. She said the findings and policy amendment were in some respects poorly crafted. Regarding the findings in attachment B to the staff report, she said she did not see the appropriateness of the fifth bulleted item as the proposal did not relate to providing services on the urban fringe and requested that the public safety services be more defined and the policy amendment did not list a number of services and state "...not limited to these." She said that there were references to interim district provision with the expectation of annexation to the appropriate city but the proposal was not meant to be an interim response; it was meant to be permanent. She did not think the amendment went far enough in addressing consistency with the Metro Plan by only adding a subsection f.

There being no one else wishing to testify, Commissioner Kirkham called for deliberation by commissioners.

Commissioner Siekiel-Zdzienicki requested a copy of the minutes of the Eugene City Council meeting during which action on a special service district was taken in order to better understanding why the council had adopted its position.

Regarding amending the Metro Plan and internal consistency, Commissioner Hledik called for information and further discussion on the fundamental principle of the plan addressing cities as the logical providers of urban services, citing language in Lane County 04-8-25-8 that stated "...Lane County is the logical provider of many countywide public safety services for urban, suburban, and rural Lane County." He said that language appeared to contradict the fundamental principle that cities were the logical providers.

Commissioner Herbert said that a request during public testimony to hold the record open so that property owners could analyze the financial impact of a special district on their investments was unrealistic as it would take months of negotiations among the jurisdictions before financial impacts could be ascertained. He said that the special district was chosen as the financing vehicle for public safety because it was permanent and stable instead of a five-year levy that would have to go back to the voters. He interpreted the Metro Plan policy to say that if something came under the jurisdiction of a city because of an annexation, at that point it would revert to the city, which was a different issue; one related to stable funding and the other to a change in jurisdiction. He listed four issues that would need to be addressed from the perspective of the County:

- public safety issues, broadly defined, were compelling and systemic
- the County was legally responsible for providing certain services and was the most efficient vehicle for providing those services
- was the amendment consistent with the planning goals and did it fit the criteria
- was the amendment defined in such a narrow way that it did not open "Pandora's box" and create an easy way for special service districts to be created to fund other things

Commissioner Herbert said he felt that those issues were satisfactorily addressed and his recommendation from the Lane County Planning Commission was to recommend approval to the Board of Commissioners immediately.

Commissioner Esty agreed with Commissioner Herbert's remarks. She added that the proposal was clearly drawn, easy to understand, and did not conflict with the interests of cities. She also had witnessed the problems created by methamphetamine use, which was a countywide issue that affected all aspects of community life. She thanked staff for their presentations and urged support for the proposal.

Commissioner Belcher said that he understood the significance of the problem but the issue before the commissions was a Metro Plan amendment and that should be the focus of their attention. He asked of the phrase "...not limited to" in the proposed language was necessary as it raise issues of ambiguity for future interpretations. He cited the existing criteria in Policy 15 for forming a special district and asked if consistency could be achieved by an amendment that said those criteria could be ignored.

Commissioner Beyer agreed that there was a problem that needed to be addressed. He reflected on the adoption of the Metro Plan at a time when general purpose governments had the ability to create revenue that the public supported in order to deliver services and that situation had now changed. He said the plan was not written for the purpose that was being discussed and if that was an agreed upon direction then other changes that recognized some services would always be done by the County should also be

included. He agreed with Commissioner Belcher's remarks about internal consistency issues. He urged caution in considering amendments to the Metro Plan. He suggested that the Springfield Planning Commission take additional time to deliberate the matter and reminded the commissions that it was essential for elected officials to support the proposal.

Commissioner Carmichael thanked staff for their compelling presentations and agreed with Commissioner Beyer about the magnitude of the issue and the need for support from elected officials. He suggested that the commissions take an additional seven days to review the language, leave the record open, and then meet individual to vote.

Commissioner Lawless agreed with commissioners Beyer and Carmichael that it was important to take additional time to carefully consider the implications of a Metro Plan amendment and the proposed language. He suggested that the Eugene Planning Commission also deliberate the matter independently and supported the seven day extension of time.

Commissioner Herbert moved that the Lane County Planning Commission recommend approval of the Metro Plan Growth Management Policy 15 amendment to provide greater flexibility in service delivery for a public safety district.

Commissioner Kirkham declined to accept a motion until deliberations had been concluded.

Commissioner Siekiel-Zdzienicki agreed with Commissioner Carmichael that the commission should extend the comment period and deliberations for seven days and tighten the language and discuss the matter separately. He repeated his request for a copy of the June 28, 2004, Eugene City Council work session minutes.

Commissioner Cole said his main concern was uncertainty about how many districts could be created under the amendment and wanted to see revisions to the language that would restrict the amendment to a single district.

Commissioner Decker remarked that a recommendation from the planning commission to the council carried some weight and she agreed with the need for additional time to review and discuss the proposed Metro Plan amendment.

Commissioner Moe said it was the consensus of the Springfield Planning Commission to delay action on the amendment.

Commissioner Lawless said it was the consensus of the Eugene Planning Commission to delay action on the amendment.

Commission Hudspeth disagreed with Commissioner Lawless. He said he did not feel that action should be delayed and the commission should move forward with a vote of support and further deliberations would occur when the issue came before the City Council.

Commissioner Herbert moved, seconded by Commissioner Esty, to recommend that the Lane County Board of Commissioners adopt the Metro Plan Growth Management Policy 15 amendment to provide greater flexibility in service delivery for a public safety district.

Commissioner Herbert expressed confidence that the commission had the support of local elected officials, specifically the Board of County Commissioners.

Commissioner Becker asked if the motion reflected certainty that the applicable criteria had been satisfied. Commissioner Herbert replied that it did.

Commissioner Arkin expressed appreciation for comments from staff and elected officials and supported the concept of increasing taxes to support public services. She was hesitant to vote affirmatively only because she felt more time was needed to discuss the implications to assure that the language was appropriate to the commission's intentions.

The motion failed, 5:3; commissioners Betz, Esty, and Herbert voting in favor.

Commissioner Carmichael moved, seconded by Commissioner Siekiel-Zdzienicki, that the Lane County Planning Commission extend the deadline for public comment for seven days and reevaluate the matter at its next meeting.

Commissioner Siekiel-Zdzienicki stated that he always voted for taxes as taxes operated the government.

Commissioner Herbert said he did not perceive a negative vote on his motion as being against the proposal; he was sensitive to the need to move forward with the matter given the number of jurisdictions that would need to be involved.

The motion passed, 7:1; Commissioner Betz voting in opposition.

Commissioner Beyer moved, seconded by Commissioner Decker, that the Springfield Planning Commission leave the public record open for seven days and take up the item at a future meeting. The motion passed, 5:0.

Commissioner Belcher moved, seconded by Commissioner Duncan, that the Eugene Planning Commission leave the public record open for seven days and work with staff to schedule deliberation of the matter on a future agenda.

Commissioner Duncan thanked staff for the information provided to the commission. He said that the language of the proposal would be reviewed to assure it was acceptable to Eugene's elected officials, which was why additional time had been requested.

The motion passed, 4:1; Commissioner Hudspeth voting in opposition.

Commissioner Kirkham adjourned the joint public hearing.

Commissioner Moe adjourned the meeting of the Springfield Planning Commission at 8:25 p.m.

Commissioner Lawless adjourned the meeting of the Eugene Planning Commission at 8:25 p.m.

4. Approval of the August 3, November 9, and December 1, 2004, Lane County Planning Commission Minutes

Commissioner Esty pointed out that she was not present at the August 3, 2004, meeting but the minutes indicated she had seconded a motion to keep the record open for comments on a conformity amendment to the Rural Comprehensive Plan.

Commissioner Herbert stated that he had provided the second to the motion.

Commissioner Herbert moved, seconded by Commissioner Carmichael, to approve the minutes of August 3, 2004, as amended and December 1, 2004, as submitted. The motion passed, 6:0; commissioners Siekiel-Zdzienicki and Arkin abstaining.

Commissioner Esty moved, seconded by Commissioner Carmichael, to approve the minutes of November 9, 2004, as submitted. The motion passed, 6:0; commissioners Siekiel-Zdzienicki and Arkin abstaining.

5. Election of 2005 Lane County Planning Commission Officers

Commissioner Siekiel-Zdzienicki, seconded by Commissioner Arkin, nominated Commissioner Carmichael as chair.

Commissioner Herbert, seconded by Commissioner Becker, nominated Commissioner Dignam as chair and Commissioner Carmichael as vice chair.

Mr. Howe explained that typically the vice chair, currently Commissioner Dignam, succeeded the chair and a new vice chair was elected.

The motion to elect Commissioner Carmichael as chair failed, 5:3; commissioners Siekiel-Zdzienicki, Arkin, and Carmichael voting in favor.

The motion to elect Commissioner Dignam as chair and Commissioner Carmichael as vice chair passed, 6:1; Commissioner Siekiel-Zdzienicki voting in opposition, Commissioner Arkin abstaining.

Commissioner Kirkham thanked the commission for the honor of serving as chair.

Commissioner Carmichael said that he had served on the commission when commissioners Herbert and Kirkham had chaired it and they had set high standards.

6. Work Session on Marginal Lands Law

Jerry Kendall, Lane County Land Use Planning and Zoning, presented an overview of the Marginal Lands law. He distributed materials including an information sheet on land use designation and zoning and direction from the Board of County Commissioners on how to interpret provisions. He discussed use of farm and forest income tests.

Commissioner Becker observed that the County had no meaningful way to verify information presented in the income test. Mr. Kendall agreed that a lower standard of evidence applied to income tests and the

county commissioners had determined that an affidavit was acceptable proof. Mr. Howe noted that the forest income test was more complicated than the farm income test and required an evaluation of the soils.

Continuing, Mr. Kendall explained the three marginal lands tests A, B, and C, at least one of which had to be met by the proposed marginal land, that were set forth in Oregon Revised Statutes (ORS) 197.247(1)(b). He discussed test C, which required that at least 50 percent of the subject property consist of class V through VIII soils as identified in the Agricultural Capability Classification System in use of the United States Department of Agriculture Soil Conservation Service on October 15, 1983. He said that the updated information on Lane County soils was not used.

Commissioner Becker asked if an applicant could submit a new soil survey that demonstrated the reference manual was inaccurate. Mr. Kendall said that an applicant could indicate that the information in the manual was wrong, but the County had to start with the 1983 information.

Mr. Kendall stated that for the forest productivity test an applicant in Western Oregon would have to prove that the subject property could not produce more than 85 cubic feet per acre per year of merchantable timber per acre.

Commissioner Arkin asked how many acres had been moved over the years from resource land to marginal land. Mr. Howe replied that the law was a valuable tool that recognized that not all lands were commercial farm or forest lands outside the cities. He said the law provided a narrow opportunity for a few owners who could qualify lands to be designated as marginal. He said when the County adopted its Rural Comprehensive Plan in 1984 approximately 1,400 acres were acknowledged by the State as being marginal lands and since that time approximately 1,500 additional acres had been added. He said the total acres of marginal lands represented less than one percent of Lane County.

Commissioner SiekieleZdzienicki asked if the issue of marginal lands fell under the errors and omissions law for wrong zoning. Mr. Howe said it was a post-acknowledgement plan amendment. He indicated that the 1,500 acres that had been designated as marginal lands in the past 20 years were scattered throughout the County where there were poor soils.

Commissioner Becker asked if staff was confident that consultants were accurately assessing soil types and productivity. Mr. Kendall replied that consultant reports were submitted to Lane Council of Governments (LCOG) soil scientists for review.

Mr. Howe observed that the County's zoning effort was a broad-brushed, generalized approach using aerial photographs to determine use and there were transition lands not might not have been accurately categorized; the law allowed lands to be removed from the more restrictive commercial resource designation but remain in the resource land base.

Commissioner Carmichael adjourned the meeting of the Lane County Planning Commission at 9:15 p.m.

(Recorded by Lynn Taylor)

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