

BOARD ORDERS AND MINUTES

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY (“the Board”) sat for the transaction of county business in formal session on April 23, 2008 at the Public Safety Building, Newberg, Oregon, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George being present.

Also present was Rick Sanai, Assistant County Counsel; Ken Friday, Planning Division Manager; Barton Brierley, Newberg Planning & Building Director; and Elaine Taylor, Newberg Planning Department.

Commissioner Stern called the meeting to order.

PUBLIC HEARINGS:

1. The Consideration of Planning Docket PA-03-07(KF), a request for adoption of the Southeast Newberg Transportation Plan, applicant City of Newberg, as continued from March 26, 2008.

Commissioner Stern opened the public hearing at the point of staff recommendation.

Staff Recommendation - Ken Friday stated the following: “I need to start off with a reminder that neither of these projects are required by state law. The state law does not require the city and county to identify and adopt an urban reserve area. For adoption of the Urban Reserve it is not required that there be a transportation plan. There was not a transportation plan adopted with the original 1995 URA. State law does require an Urban Growth Boundary - but not an Urban Reserve.

“Years ago I spoke with Barton and questioned why the city didn’t do a transportation plan in the existing urban reserve. He indicated how difficult it would be to identify future road right-of-ways and that it was more appropriate to do that work when it came into the UGB.

“I would like to support the SE Transportation plan because I think it is appropriate to do this work and I want to encourage it. However, the lack of access with the Corral Creek north area to the city and the effects of that on county roads and residents are major concerns. The problem is that the solution for this area cannot be found with any real confidence due to the uncertainty of the bypass. Now I do believe that the bypass will be constructed, but no one knows when, due to the issue of funding.

“In addition, any plan put forward now would be revisited when the property goes into the UGB. For these reasons, I recommend that you do not adopt the SE Transportation System

Plan. One thing I do want to note - some may think if the SE Transportation System Plan is not adopted, then all of the work done on it would have been wasted. And that is absolutely not true. The information of the plan could be used when property is proposed to be taken into the Urban Growth Boundary.”

Ms. Lewis asked Mr. Friday if there is a possible middle ground to strike, since much work and planning went into this conceptual transportation plan for the southeast area, which was viewed by the residents who live in and adjoining that area as extremely important. Ms. Lewis feels there needs to be an acknowledgment that several conceptual ideas have been discussed. There is no solution at this time, for the north end pre-bypass access, however, there are solutions out there with various pros and cons for each. Ms. Lewis referred to the letter received from Terry Cole from ODOT, which pointed out a number of factors ODOT would have difficulty with. The access pre-bypass is not an unsolvable problem. Ms. Lewis doesn't want to adopt the report since some issues have been raised and doesn't meet the transportation planning rule, but asked if the commissioners can accept it as a conceptual idea that solves some of the transportation issues in the southeast area, while not solving them all, particularly the north end pre-bypass connections.

Mr. Friday said he believes that can be acknowledged and doesn't want to lose the work that's been completed thus far and has no objection if the Board wants to make reference to it.

Ms. Lewis agreed this will all be revisited when properties are brought into the UGB and there should be an acknowledgment.

Rick Sanai explained if the county accepts this proposal, then it will become part of the County Transportation System Plan. He said he doesn't see how the county can accept, acknowledge, or adopt this plan without the county subsequently being bound by its terms.

Mr. Friday suggested making a statement that says the Board adopts the urban reserve and adopts all the areas identified with a reference in the back that recognizes the work that has been done on the transportation system plan and specifically says it's not adopted or a part of transportation plan, yet is an important document that should be looked at for any development that is proposed to occur when the property comes into the UGB.

Mr. Sanai stated he would be much more comfortable with the caveat that Yamhill County does not adopt this plan and is not integrating this plan into its transportation system plan and Yamhill County is not bound by its terms.

Mr. Friday stated he wants to preserve what the city and the county identified as future classifications of the roads as development occurred. Even though it may not be adopted, the

information would be there and referred to, if needed, in the future.

Ms. George disagreed with Mr. Friday and referred to past experience over the last two to three years with Crestview and Mountain View roads, which were never adopted and not more than a squiggle on a planning map and have caused a great deal of mitigation. Ms. George agreed there has been a tremendous amount of work, but there are many flaws and uncertainties that would prevent her from adopting this in any way. If this is adopted, the hospital area would lose its integrity.

Ms. Lewis asked Barton Brierley how the URA and the transportation plan would be affected if the Board votes for denial without a recognition of the transportation plan.

Mr. Brierley replied that the city's adoption does have a caveat that the transportation plan must be adopted in order for the urban reserve. He said that he is sensitive to the intergovernmental agreement which mandates cooperation between the city and the county on plan adoption. If the plan is denied, the matter will need to go back to City Council for a decision on how to move forward.

Ms. Lewis stated that transportation plans haven't been done for a number of other urban reserve areas. It's important to keep faith with the individuals who worked with the Ad Hoc Committee for many years, as well as the many who testified not only at NUAMC and before the City Council, but also before the Board. Those individuals desire some concept, although not perfect, of what transportation will be like in the future when the UGB is brought in.

Ms. Stern asked Barton Brierley about point #9 on the Staff Report, the feasibility requirement and Goal 14, and the boundary location factors that need consideration. She asked how feasible a transportation plan would be with three failed intersections.

Mr. Brierley replied in looking at the statement, there needs to be a finding for an urban reserve that has orderly and efficient provisions for public facilities and services, which would include transportation, but as stated in the staff report, that can be done without adoption of a transportation plan proposal.

Close of Public Hearing / Deliberation - Ms. Lewis reiterated the importance of recognizing the plan with the caveats that have been explained, unlike what happened with Crestview, which was not a squiggle but an existing road located on a map that Newberg latched onto. The county commissioners stated in the TSP that there needs to be a northern connection to 99W and declined to state where that may be.

Ms. George stated there was an actual notation that the road not be located there. Ms. Lewis replied that was early on when Newberg did their TSP in the mid-'90s. Ms. George said the notation was added before it was developed, which is the same situation being faced now.

Ms. Lewis replied this plan states there is not a set place as to where the collector road will be located, which will be based on topography and other criteria at the time the UGB is done. She expressed her opinion that, due to much testimony from residents on Parrett Mountain, the development should not end up on county roads and the plan addresses a number of ways to protect the county roads from carrying the traffic the development will incur. An acknowledgment needs to be in effect to protect the county citizens when this area comes into the UGB.

Mr. Sanai stated that the Board has the option of accepting or rejecting this proposal as it is now. At the city level, the city has predicated adoption of the URA on the previous adoption of the Southeast Transportation Plan, which the board doesn't seem willing to do, nonetheless, that predication at the city level is the city's doing and they could unlink them. The URA could occur without the adoption of the Southeast Transportation Plan and if the city chooses to do that, it will need to go back to the Newberg City Council. Mr. Sanai said he appreciates the fact that the Board is the voice of the people who live in the Newberg area outside of the city limits, but he doesn't see how it can be done in the proposal before the Board today.

Ms. Stern suggested acknowledging receipt of the plan while declining to adopt it, in that there are unfinished issues that are better done at the UGB stage.

Ms. Lewis said she would like to recognize some principles upon which this was based, such as the transportation network that's provided in the southeast Newberg area once it's inside the city limits and the need to minimize the amount of traffic from the development on the adjoining county roads. The phasing concept is also important due to the transportation system being built as development comes in, with respect to the county road system. Funding needs to come from developers and SDCs, since the county is unable to provide funding. Lastly, a number of different solutions have been offered pre-bypass for connecting to 99W, all of which have pros and cons. A solution has to be found, but is not evident at this point.

Ms. Stern asked about the classification of roads. Mr. Friday replied that the agreement of road classifications might be one of the recognized principles, as well as balancing the concerns stated by Commissioner George in identifying too much and the potential of obligating the county in the future.

Ms. Stern stated if the URA is adopted, there has to be some recognition of transportation to these areas. Perhaps the principles could be listed, recognizing receipt of it and the amount of work put into the plan by staff and the citizens, without adoption. Ms. Lewis agreed with the idea that as part of the URA, the principles could be stated that support what the citizens objectives were in asking for the Southeast TSP.

Ms. George stated that the wording is extremely important and may limit the choices for the future. Ms. Lewis replied there needs to be some expression by the Board of what it believes is important, then the city will bring these lands into the UGB and the city will make the decision as to what is best for the city. Ms. George stressed that the principles listed must be clearly stated without too much reference to possible preliminary work on the Southeast TSP.

Mr. Sanai stated he's faced issues like this before and agrees with the concerns voiced by Commissioner George. In Oregon land use law, there are comprehensive plans that are full of vague concepts and aspiring language, which seem to be general mission statements for a community, but can cause many difficulties. The court of law usually looks at it as binding if a unit of government has gone through an elaborate process of adoption of principles if they're meant to be meaningless.

Ms. Stern moved to acknowledge receipt of the Newberg Southeast Transportation System Plan and the tremendous amount of work put forth by the staff of the City of Newberg and the citizens of Newberg, including citizens who live in rural areas, but decline adoption of this plan. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. Consideration of Planning Docket PA-04-07 (KF), a request for expansion of the Urban Reserve Area, applicant City of Newberg, as continued from March 26, 2008.

Commissioner Stern opened the public hearing at the point of staff recommendation.

Staff Recommendation - Ken Friday stated the following: "As for the proposed Urban Reserve Area, from a legal standpoint, I have some real concerns with the amount of rural residential land that is excluded and the amount of farmland that is included. I am also concerned about some of the reasons given for eliminating some of the rural residential areas. I stated that in an early staff report and noted that in my recommendation to NUAMC.

"In addition, the DLCD staff has raised some of the same concerns in their correspondence. My concerns have grown a little greater since the NUAMC recommendation was modified at the City Council hearing to eliminate more rural residential ground. Specifically, the parcels adjacent to Putnam and Benjamin Roads were eliminated.

"Having said that, one of the reasons I support the Urban Reserve plan going forward is due to Goal Citizen Involvement. Both the City and the County Board of Commissioners went far above their legal requirements for sending out notice and gathering public comments. I believe the outcome of this outreach was successful. All you have to do is to look at the sheer volume of the comments to know that the public outreach was a success.

"The strange thing is that with all of the criteria, there really isn't an administrative rule requirement that directly states how you are to consider the public comments. However, why take all of this testimony if you are not going to listen to it and seriously consider it? I believe that each level has seriously considered the testimony and adjustments have been made to both the Urban Reserve Area and SE Transportation Plan. Of course, not everyone is happy - but not everyone is going to be happy with a project this large.

Because of the testimony and the adjustments made, I believe the proposed Urban Reserve Area is truly a plan put forward by the citizens that deserves to be adopted and presented to the Land Conservation and Development Commission. Now I think it is very likely the LCDC will send portions of the plan back for revision. But at that point at least it will be better known what revisions

will be needed to make the plan successful.”

Close of Public Hearing / Deliberation - Ms. Stern said she's unsure if it's proper for the Board to approve the URA if Newberg has approved it based on the Southeast Transportation Plan. Ms. Lewis said there is a provision in the NUAMC I.A. stating that the Board can have a different decision from the city and there's a process for a joint meeting if needed.

Mr. Sanai stated that the three possible courses of action by the Board are to adopt the URA, reject it, table the matter. He said that if the matter is tabled for the time being, it should be sent back to the City of Newberg with the following instructions:

- 1) Remove the linkage requiring the prior adoption of the Southeast Transportation System Plan;
- 2) Have a joint meeting with the Board; or
- 3) City Council does nothing, requesting the Board to vote on it as proposed and if it's rejected by the Board again, a joint meeting is required.

Mr. Brierley stated in looking at the ordinance adopted by the City Council, the Southeast TSP is included in the URA, contingent upon the approval of the TSP. He would prefer the Board make a decision at this meeting, adopting their own findings.

Mr. Friday stated for the record the specific language required by law on this matter. Ms. Stern stated that the Board would need to change the language for this to be approved. The city should make the determination after reviewing the concerns set forth by the Board. Mr. Sanai will talk with Terrance Mahr concerning this matter. Mr. Brierley said he believes the City Council will be able to review this at the May 5, 2008 meeting.

Ms. Lewis agreed with Mr. Friday that various opinions are encountered on rural residential, farmland, etc. She said there has been a lot of public comment and she believes the plan that Newberg has forwarded has taken into consideration the public comments received. Although it's likely the plan will be sent back from LCDC with recommendations, it's time to move this on to the state and await their determination.

Ms. George concurred with Commissioner Lewis. This has been in process since 2003. It's difficult to know how much land is needed for industrial and commercial since this is so far in the future. A hindrance could be placed on business if the amount of industrial or commercial land is lessened.

Ms. Stern agreed that there are concerns, particularly with the rural residential lands. Because

of the amount of citizen input, the Board needs to support what those rural citizens want to do. On the issue of resource land, there is good guidance from the LCDC. Some agricultural lands are much with production and some are not, but it's being included in the industrial base. There is a push by the state for economic development of shovel-ready properties of large acreage, of which there are none, yet the state is pushing toward a greener economy and wanting to attract industry here. Having enough land for that would be beneficial to the city and the state as a whole.

Ms. Lewis moved to continue docket PA-04-07 to May 14, 2008, 9:00 a.m., Room 32 at the Yamhill County Courthouse at the point of deliberation, hoping at that point to hear back from the Newberg City Council regarding the Board of Commissioner's desire not to include the TSP as part of the URA. The motion passed, Commissioners Stern, Lewis, and George voting aye.

The meeting adjourned at 7:45 p.m.

Dawn Karen Bevill
Office Specialist 2

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair

MARY P. STERN

Commissioner

LESLIE LEWIS

Commissioner

KATHY GEORGE