

MINUTES

WASHINGTON COUNTY BOARD OF COMMISSIONERS

JULY 7, 2009

CONVENED: 10:29 a.m.

BOARD OF COMMISSIONERS:

Chairman Tom Brian
Vice Chair Andy Duyck
Commissioner Dick Schouten
Commissioner Desari Strader
Commissioner Roy Rogers

STAFF:

Robert Davis, County Administrator
Loretta Skurdahl, Senior Assistant County Counsel
Brad Anderson, Sr. Assistant County Counsel
Kathy Lehtola, Director, LUT
Brent Curtis, Planning Division Manager, LUT
Joanne Rice, Principal Planner, LUT
Joy Chang, Associate Planner, LUT
Anne Elvers, Associate Planner, LUT
Rich Hobernicht, Director, Assessment & Taxation
Theresa Koppang, Solid Waste Supervisor, HHS
Bill Gaffi, General Manager, CWS
Bob Cruz, Deputy General Manager, CWS
Linda Gray, CPO Coordinator
Jim Thiessen, Audiovisual Technician
Barbara Hejtmanek, Recording Secretary

PRESS:

Jill Smith, *The Oregonian*
Kurt Eckert, *Hillsboro Argus*

APPROVAL OF MINUTES:

June 16, 2009
June 23, 2009

1. CONSENT AGENDA

Chairman Brian announced the following modifications to the Consent Agenda:

- There is award of bid on item 1.g. to Lyda Excavating, Inc. in the amount of \$129,429.50
- Item 1.m. is moved from the Consent Agenda to the Regular Agenda.
- An off docket item from Support Services entitled “Approval of an Amendment to the Oregon Nurses Association 2008-2011 Collective Bargaining Agreement” is added to the Consent Agenda.

It was moved to adopt the Consent Agenda, as modified.

Motion – Rogers

2nd – Strader

Vote – 5-0

CLEAN WATER SERVICES

1.a.

CWS RO 09-23

Acquire Easement for Sanitary Sewer (Approved Under Consent Agenda)

1.b.

CWS MO 09-75

Accept Construction of the Secondary Train One Rehabilitation Project and Release Retainage to Stettler Supply Company (CPO 4M) (Approved Under Consent Agenda)

1.c.

CWS MO 09-76

Approve Agreement with the City of Tigard for the Tigard Area Water Reuse Study (Approved Under Consent Agenda)

1.d.

CWS MO 09-77

Approve Agreement with Oregon Department of Environmental Quality for Receipts Authority Funding of the Tualatin Basin Coordinator (Approved Under Consent Agenda)

1.e.

CWS MO 09-78

Authorize Settlement of Property Damage Claim (Approved Under Consent Agenda)

1.f.

CWS MO 09-79

Approve Eleventh Amendment to Master Contract for Professional Services for Wastewater Treatment Plant Engineering Services with Carollo Engineers, a Professional Corporation, for the Tigard Area Water Reuse Study (Approved Under Consent Agenda)

LAND USE AND TRANSPORTATION

1.g.

MO 09-176

Approve Bid Award, Authorize Execution of Contract and Authorize Road Closure for the 2009 Culvert Replacement – Timber Road Culvert #1665 (CPO 13, 14) (Approved Under Consent Agenda)

1.h.

MO 09-177

Approve Ballot Measure 56 Notice for Proposed Land Use Ordinance No. 712 (CPO 7) (Approved Under Consent Agenda)

1.i.

RO 09-66

Approve Changes and Levy Assessments for Fiscal Year 2009-2010 Road Maintenance Local Improvement Districts (MLIDs) (All CPOs) (Approved Under Consent Agenda)

BOARD OF COMMISSIONERS

1.j.

MO 09-178

Change August 11, 2009 to Regular Board Meeting (All CPOs) (Approved Under Consent Agenda)

COUNTY ADMINISTRATIVE OFFICE

1.k.

MO 09-179

Authorize Agreement with Oregon State University Extension Services for Citizen Participation Organization (CPO) Program (Approved Under Consent Agenda)

ASSESSMENT AND TAXATION

1.l.

RO 09-67

2008-2009 Foreclosure List; Approve Resolution and Order Declaring Certain Properties Subject to Foreclosure and Designating Newspaper to Publish Notice of Foreclosure (Approved Under Consent Agenda)

HEALTH AND HUMAN SERVICES

1.m.

RO 09-68

Authorization for Tualatin Valley Waste Recovery and Aloha Garbage Company to Temporarily Conduct Salvage, Removal or Recycling Operations at Particular Sites in Unincorporated Washington County (Moved to Regular Agenda)

1.n.

MO 09-180

Grant Waiver and Authorization to Contract with Virginia Garcia Memorial Health Center to Support Tigard High School and Forest Grove High School Health Centers (Approved Under Consent Agenda)

HOUSING SERVICES

1.o.

MO 09-181

Approve FY 2008 Supportive Housing Program Grant Agreement – Hillsboro Graduated Independent Living Program (CPO 9) (Approved Under Consent Agenda)

SHERIFF'S OFFICE

1.p.

MO 09-182

Authorize Amendment of the Agreements Between Washington County and the Cities of Beaverton, Hillsboro, Tigard, and Tualatin, TVF&R and WCCCA for Management of the Urban Areas Security Initiative (UASI) Grant Program (Approved Under Consent Agenda)

1.q.

MO 09-183

Authorize Extension of the Agreement Between Washington County and the City of Portland for Management of the Urban Areas Security Initiative (UASI) Grant Program (Approved Under Consent Agenda)

SUPPORT SERVICES

1.r.

RO 09-69

Approve Resolution and Order Adopting the Fiscal Year 2009-10 Pay Plan (Approved Under Consent Agenda)

1.s.

MO 09-184

Authorize Purchase Order for Body Armor for the Sheriff's Office (Approved Under Consent Agenda)

SERVICE DISTRICT FOR LIGHTING NO. 1-A COUNTY SERVICE DISTRICT

1.t.

SDL RO 09-11

Form Assessment Area, Authorize Maximum Annual Assessment and Impose a First Year Assessment for Victoria Estates (CPO 6) (Approved Under Consent Agenda)

2. ORAL COMMUNICATION (2 MINUTE OPPORTUNITY)

None.

3. PUBLIC HEARING – CLEAN WATER SERVICES

3.a.

CWS RO 09-21

Approve Resolution and Order Adopting Priorities, Policies, Work Programs and Standards for the Sanitary Sewer and Surface Water Management (SWM) Systems and Amending Resolution and Order Nos. 07-46 and 08-21 (All CPOs)

Bob Cruz recalled that during the large effort called the "Service Delivery Study" over the past couple of years, one of the primary tasks was to develop standards for the District and for the operation and maintenance through contracts with larger cities of the sanitary sewer and surface water management systems. He said that these were adopted in October of the previous year and then slightly amended, with cooperation and help from the cities, at the end of the last fiscal year. Mr. Cruz stated that these now need to be amended further in primarily three areas:

1. Clarify the standards for line cleaning and TV inspection;
2. Update and clarify the standards for receiving and responding to emergency calls;
3. Add the procedures for responding to sewer overflows and spills.

Mr. Cruz remarked that an EPA inspection pointed to the need for clarification relative to items 1. and 2. above. He said that item 3. is now being adopted specifically into the standards themselves.

The public hearing was opened.

No public testimony was submitted.

The public hearing was closed.

It was moved to approve the amendment to R&O Nos. 07-46 and 08-21 relating to priorities, policies, work programs and standards for the Sanitary Sewer and Surface Water Management (SWM) Systems, with an effective date of July 7, 2009.

Motion – Schouten

2nd – Rogers

Vote – 4-0

(Strader away from dais at time of vote)

At the request of Commissioner Rogers, the Board now took up item 7.a. out of order so that Clean Water Services staff could get back to work following action on the Agency's last agenda item.

7. CLEAN WATER SERVICES

7.a.

CWS RO 09-22

Adopt Resolution and Order Regarding Clean Water Services Participation in the Urbanization Forum

There was a motion to adopt the Resolution and Order regarding Clean Water Services' participation in the Urbanization Forum.

Motion – Rogers

2nd – Schouten

Vote – 5-0

4. PUBLIC HEARING – LAND USE AND TRANSPORTATION

4.a.

RO 09-61

Plan Amendment 09-114-PA – Consider Plan Amendment to Change the Plan Designation from AF-20 to EFC for a 26.66 Acre Parcel (CPO 10)

Joanne Rice and Anne Elvers were sworn in by Loretta Skurdahl.

Ms. Rice clarified that it is a requirement for staff to be sworn in before providing the staff report on quasi-judicial matters.

Anne Elvers stated that Plan Amendment 09-114 is a request to change a 26.66 acre parcel from an agricultural and forest (AF-20) designation to an exclusive forest conservation (EFC) designation. She said that the site is currently in forest deferral. Ms. Elvers reviewed that it was logged in the Fall of 2008 and replanted in January of this year. She told the Board that there are no dwellings or structures on the property. She reported that the drainage hazard area is located on the western half of the property and said that the drainage way is an unnamed tributary of Heaton Creek. Ms. Elvers identified the site access as NE Mountain Top Road in Yamhill County via an

unimproved driveway located on two adjacent properties to the south. She added that the adjacent properties are also owned by the Helen V. Avery Trust. Ms. Elvers mentioned that no public comment or testimony has been received. She reported that on June 17, 2009, the Planning Commission voted unanimously to recommend approval of this plan amendment to the Board. Ms. Elvers said that staff finds that this request meets the criteria set forth in the Rural Natural Resource Plan Policies and recommends approval of this application.

Commissioner Schouten pointed out that the bottom corner of the map on the Notice of Public Hearing should read “Clackamas County” rather than “Marion County”.

Staff agreed with this correction.

The public hearing was opened.

No public testimony was offered.

The public hearing was closed.

It was moved to approve the proposed plan amendment based on evidence and findings in the staff report and the applicant’s submittal. Motion included authorization for the Chair to sign the Resolution and Order approving Plan Amendment 09-114-PA.

Motion – Rogers
2nd – Duyck
Vote – 5-0

Commissioner Schouten assumed the motion included making the correction on the map.

4.b.

ADOPTED

Proposed Ordinance No. 713 – an Ordinance Amending the Washington County 2020 Transportation Plan Relating to a General Update (CPO 11 and 12F)

There was a motion to read Proposed Ordinance No. 713 by title only.

Motion – Duyck
2nd – Rogers
Vote – 5-0

Loretta Skurdahl read the proposed ordinance by title.

Joy Chang stated that Ordinance No. 713 proposes to amend the Trails and Pedestrian System map of the Washington County 2020 Transportation Plan by adding the “B” Street Trail. She said that Forest Grove’s Transportation System Plan and the Park

Recreation and Open Space Master Plan identify this trail. Ms. Chang added that the trail is also designated on Metro's Regional Trails Master Plan. She stated that the "B" Street trail would extend from the city limits south to the bike and pedestrian facility on Highway 47 right-of-way. Ms. Chang clarified that this segment of the trail would be entirely in unincorporated Washington County and outside the Urban Growth Boundary. She reported that the City of Forest Grove has obtained the former Union Pacific Railroad right-of-way for the purpose of constructing a bicycle and pedestrian trail. Ms. Chang told the Board that the trail would be owned and maintained by the City. She indicated that the City's request is timely due to a limited window of funding sources. Ms. Chang reported that the Planning Commission considered Ordinance No. 713 at its June 17, 2009 meeting and voted unanimously to recommend adoption by the Board. She stated that no letters of comment have been received regarding this ordinance. Ms. Chang recommended adoption of Ordinance No. 713.

The public hearing was opened.

Pete Truax, Councilor, City of Forest Grove, P. O. Box 326, Forest Grove, OR expressed support for adoption of this ordinance.

Tom Gamble, Director, Parks and Recreation, P. O. Box 326, Forest Grove, OR, stated that the region has taken an active role in developing trails, pedestrian pathways and transportation systems that allow for getting people out of vehicles. He said that this ordinance helps Parks and Recreation begin to complete what is affectionately known in the community as "the emerald necklace". Mr. Gamble reviewed that Forest Grove City Council was fortunate a couple of years ago to receive the right-of-way from the railroad. He said that this trail connection will help establish the perimeter trail around the community in a recreational framework; additionally, it provides a significant connection to Highway 47, where there is an existing multi-use path that will bring commuters into the core area.

The public hearing was closed.

Chairman Brian thanked the speakers for being here this morning. He thanked Councilor Truax for his leadership countywide on the "People for Libraries". Chairman Brian mentioned that he will be out of state for the first meeting of this group.

It was moved to adopt Ordinance No. 713.

Motion – Duyck

2nd – Strader

Vote – 5-0

Roll Call: All Aye

8. LAND USE AND TRANSPORTATION

8.a.

RO 09-64

Adopt Findings for Ordinance No. 713 (CPO 11 and 12F)

It was moved to adopt the proposed findings for Ordinance No. 713 and to authorize the Chair to sign the Resolution and Order memorializing the action.

Motion – Duyck

2nd – Strader

Vote – 5-0

4.c.

ADOPTED

Proposed Ordinance No. 716 – an Ordinance Granting a One-Year Extension of all Preliminary and Final Land Use Approvals that are Set to Expire between the Effective Date of this Ordinance and One Year from that Date (All CPOs)

There was a motion to read Proposed Ordinance No. 716 by title.

Motion – Schouten

2nd – Strader

Vote – 5-0

Loretta Skurdahl read the proposed ordinance by title.

Joy Chang stated that Ordinance No. 716 would grant an automatic one year extension for all preliminary land use approvals and all final approvals of subdivisions, partitions and property line adjustments that are set to expire between the effective date of this ordinance and one year from that date. She said that if this ordinance is adopted today, the dates would be August 6, 2009 to August 6, 2010. Ms. Chang explained that the purpose of this ordinance is to address the unprecedented downturn in the real estate market and the credit crisis. She reported that the current standards under the Washington County Community Development Code state that preliminary land use and final land divisions and property line adjustments shall automatically expire two years from the date of preliminary or final approval unless—prior to expiration—1) the land division or property line adjustment has been filed or recorded or 2) an extension has been requested or development has commenced. Ms. Chang stated that an extension request must be filed prior to the expiration of the preliminary approval and may be granted for a maximum of two years from the original date of expiration. She went on to say that subsequent two year extensions may also be granted. Ms. Chang remarked that the current economic status has caused an increase in land use extension applications. She reviewed that in 2006 and 2007, a total of 22 (11 each year) extension applications were submitted and approved. Ms. Chang said that in 2008 alone, approximately 28 extension applications were submitted and approved. She reasoned that the increase in

the extension applications is a clear indication that the building community is struggling to meet the existing two-year approval time period. Ms. Chang stated that over 80 land use approvals would be affected by this proposal. She told the Board that the Planning Commission considered Proposed Ordinance 716 at its June 17, 2009 meeting. Ms. Chang reported that the Planning Commission voted unanimously to recommend adoption of the ordinance by the Board and to include the fiscal impact of the proposal in the staff report. She said that a Type II extension application fee is \$1,692. Ms. Chang stated that if all affected land use approvals would come in, the cost could potentially be \$136,000 to the County. She reviewed that in 2008, 28 extension applications and 16 commencement of development applications were approved—collecting approximately \$64,000 in revenue. Ms. Chang acknowledged receipt of one letter of comment regarding this ordinance. She reported that the letter raised concerns specific to two subdivisions: Dumar Lane and McDaniel Glen. Ms. Chang reported that Dumar Lane was granted an extension that does not expire until September 28, 2010 and McDaniel Glen expires July 16, 2009. She summarized that both subdivisions are not impacted by the proposed ordinance. Ms. Chang recommended adoption of Ordinance No. 716.

The public hearing was opened.

No public testimony was provided.

The public hearing was closed.

It was moved to adopt Ordinance No. 716.

Motion – Schouten

2nd – Rogers

Vote – 5-0

Roll Call: All Aye

8.b.

RO 09-65

Adopt Findings for Ordinance No. 716 (All CPOs)

It was moved to adopt the proposed findings for Ordinance No. 716 and to authorize the Chair to sign the Resolution and Order memorializing the action.

Motion – Rogers

2nd – Duyck

Vote – 5-0

5. PUBLIC HEARING – COUNTY ADMINISTRATIVE OFFICE

5.a.

RO 09-62

Adopt Supplemental Budget for Fiscal Year 2009-10

Robert Davis stated that this agenda item is a supplemental budget for the 2009/2010 year. He explained that it recognizes resources from the Strategic Investment Program that were not accounted for in the budget recently adopted. Mr. Davis clarified that it recognizes \$1.4 million in resources and appropriates them.

The public hearing was opened.

No public testimony was given.

The public hearing was closed.

It was moved to approve the Resolution and Order for Supplemental Budget for 2009/2010.

Motion – Rogers

2nd – Strader

Vote – 5-0

6. COUNTY ADMINISTRATIVE OFFICE

6.a.

RO 09-63

Approve Urbanization Forum Resolution with Transmittal Letter

This matter was discussed at length during today's Worksession.

Robert Davis stated that this Resolution came out of the Urbanization Forum. He said that it includes major provisions that address both existing urban unincorporated areas and future additions to the Urban Growth Boundary. Mr. Davis stated that it also includes a Letter of Transmittal to the participants in the Urbanization Forum. He explained that the Letter of Transmittal is intended to be a part of this agenda item. Mr. Davis said that the Letter of Transmittal makes it clear that, should the Board approve the Resolution, it is subject to the provisions of the letter. He quoted from the letter,

“Washington County’s approval of the Urbanization Forum Resolution is conditioned on the understanding that nothing in the Resolution precludes Washington County from opposing or refusing to consent to ‘cherry-stem’ annexations.”

Mr. Davis and Brent Curtis were available to answer Board questions.

Chairman Brian said that despite the fact that this item is not a public hearing, the Board has agreed to allow public comment.

Lisa Hamilton-Treick, 13565 SW Beef Bend Road, Portland, Oregon, appreciated the opportunity to speak today. She recognized that the Board has a huge challenge in representing the interests of those living in unincorporated areas, those living in cities and elected officials in cities and districts. Ms. Hamilton-Treick believed that this was a well-intended process from the beginning. However, as someone who attended and spoke at the Urbanization Forums, she characterized the process as quite flawed and hoped that something will be learned from this for future processes. Ms. Hamilton-Treick felt that it is a shame that the public was not involved from the beginning. She continued to have concerns about how the word “consensus” was really reached (or not). Ms. Hamilton-Treick said that this term has been misused to try to get to an end result that was not really there. She was also concerned about the funding of this process. Ms. Hamilton-Treick’s understanding was that the process cost nearly \$170,000 and that the County footed the bill from the beginning. She stated that recently, the City of Tigard agreed to contribute its fair share. Ms. Hamilton-Treick told the Board that this gives the appearance to the public that the cities were not willing to contribute to the cost unless they were able to accomplish their one-agenda goal, i.e., this Resolution. She did not like seeing that. Ms. Hamilton-Treick understood some of the practical aspects of the Resolution and agreed with certain components of it. She did have a lot of concern about the cherry-stem annexation issue. Ms. Hamilton-Treick’s experience in Washington County watching those cherry-stem situations is that, without exception, these have been a train wreck. She hoped those issues are handled very carefully in the future. Ms. Hamilton-Treick wished there could have been more discussion about the most efficient way to deliver services to these areas and that it could have been broad and creative. She stated that the best way for cities to grow and reach their aspirations is to learn to engage with the people whom they want to govern in the future. Ms. Hamilton-Treick characterized this as a type of “win friends and influence people” philosophy. She felt this could work with the cities and hoped for some learning to have happened. Ms. Hamilton-Treick appreciated the transmittal that was added to the Resolution.

John Leeper, 11160 SW Muirwood Drive, Portland, Oregon, said it is his understanding that the current iteration of the Resolution and Order and Transmittal Letter have not been made available to or acted upon by the CCI. He pointed out that the CCI represents a significant number of the County’s citizens. Mr. Leeper posed two questions:

1. What is the sense of urgency on this particular issue today? It has taken the County many years to evolve to its current status. Action on this Resolution and Order and Transmittal Letter should be deferred for 60 to 90 days to enable these to be sent to the CCI (the umbrella organization for the CPOs in the County) and get their reaction. Their comments need to be factored into the Board’s consideration before action is taken.
2. What happens if the Resolution and Order and Transmittal Letter are not approved? The world will not come to an end.

Chairman Brian observed that this has actually been several months in the making. He said that it is a marker of where the discussion is today and that there is agreement to work specifically on the issues of future Urban Growth Boundary expansions. Chairman Brian stated that this is also an agreement to continue working with seven or eight subareas around the County and the citizens affected there—to determine what their long-range desire is for services, governance, and so forth. He said that a further look would be taken at those options and how people would be best served over the years. Chairman Brian commented that some have not been satisfied with the amount of citizen participation to date but he has assurances that that will increase as we enter the area discussions. He looked forward to that. As to the urgency, Chairman Brian noted that 14 jurisdictions have approved this item as a marker as to where our discussion is. He felt that further delays on the part of Washington County would slow everything down without a lot of likely gain.

Commissioner Schouten referenced point 5 and said that the sooner that the County can begin to do the kind of work that it needs to do at the State level and locally and to get the kind of financial tools that we might need to better serve the unincorporated areas of the County that are unlikely to be annexed long into the future, the better. He did not think it is too early now to begin that work, given that the next Legislative Session is in February. Commissioner Schouten wanted to see us begin pushing on this now, knowing that we have the cities' commitment that they will be very cooperative in that area. He said that this piece and the annexation piece have been hashed over for quite some time. Commissioner Schouten borrowed a phrase used by former Commissioner John Leeper and said that it is time to get off the dilemma wheel and approve this.

John Leeper said he attended and spoke at all four of the Urbanization Forums about the lack of involvement on the part of the CPO organizations and representation for the urbanized unincorporated County citizens. He commented that this still sticks in his craw.

Commissioner Rogers stated that the forums were designed to contain representatives from special service districts, cities and the county. He said that there really was not an opportunity for any meaningful kinds of conversations with the urban unincorporated area. Commissioner Rogers believed that it seems prudent in the future to involve more folks who have other points of view than simply those who sat at the table. He intended to vote for this today to move forward with the understanding that there will be much more participation in the future and an opportunity for people with a message to be heard.

Commissioner Strader was perplexed by testimony about the representation issue. She stated that there were people at the table throughout cities and the county who were elected to represent. Commissioner Strader said that we would not even have had the Urbanization Forum if we did not have an unincorporated Washington County. She noted that the premise of the entire Urbanization Forum was founded on what we do with unincorporated Washington County (those who are already set up and established) and what do we do in the future to ensure that we don't continue to grow the way we have

grown in unincorporated Washington County. Commissioner Strader said if you are near a city and contiguous, you would be the first service provider for that area. She regarded the entire forum with 21 jurisdictions in itself to constitute representation. Commissioner Strader said that the Urbanization Forum tackled what to do with this big population, a large portion of which has said and taken to the State Legislature it does not want to be in a city or have cherry-stem annexation. She stated that when the County makes a good faith effort to move forward with that, it hears consistently that there is a group of people that is not being brought to the table. Commissioner Strader was not sure where the disconnect is happening and would love to hear the speakers' suggestions as to how that occurs. She was trying to figure out how to resolve this. Commissioner Strader referred to today's Worksession discussion, where the Board talked about Metro and its similar urban/agriculture reserve process that has gone out to the public. She believed that a majority of citizens do not even know about this, let alone have participated in it despite as much as it is advertised, discussed and put in the papers. Commissioner Strader was aware that a lot of people do not have time to track their local government issues on a weekly basis. She wanted to figure out how to best serve people so that we do not come back in a year and still have people say they are not involved in the process.

Commissioner Schouten said that the key point is about "no cherry-stems" and about being able to pursue additional opportunities—financial or otherwise—to serve those areas that are not likely to be served for a long time by cities but will continue to be served by the County. He has heard a lot of consistent feedback from citizens for a long time on that and felt confident that this represents not only the views of the Board but of a very large number of people on the citizen side, including the CPOs.

Ken Henschel, P. O. Box 230281, Portland, Oregon, represented the Tigard Water District, where he is Chairman of the Board of Commissioners. He said that the Tigard Water District is a special district that has provided water since 1938. Mr. Henschel stated that the District serves more than 3,000 residences and yet was not invited to the table at the Urbanization Forum. He noted that several special districts were invited but he characterized them as the "super service districts". Mr. Henschel reported that the Tigard Water District attended a number of the forums and provided comments. He said that this Resolution was not transmitted to the Tigard Water District and the District was not provided the opportunity to comment on it even though it is a special district in Washington County. Mr. Henschel charged that not all of the governments were included in this process. He said that if this process ultimately results in changes to urban planning area agreements, the County will need those special districts on board and they are not on board. Mr. Henschel stated that at its last meeting, the Tigard Water District had a robust discussion on the latest copy of the proposed Urbanization Forum Resolution (which it had to fight to get). He reported that the Tigard Water District voted unanimously to oppose the Resolution for a variety of reasons and passed a Resolution of its own explaining the reasons for opposition. Mr. Henschel believed that this is in the mail and did not have a copy with him. He viewed the whole process as fundamentally flawed in how the Urbanization Forum came together. Mr. Henschel reiterated that the Tigard Water District was not represented; nor were other water districts such as Raleigh

and West Slope. He cautioned the Board that it may have a problem when it comes time to implement the Resolution. Mr. Henschel again said that the Tigard Water District voted to oppose this Resolution.

Chairman Brian disagreed that this process was fundamentally flawed. He said that this is the first time we have ever had this number of jurisdictions sit down to talk about some very complex and charged issues. Chairman Brian acknowledged that not all special service districts were involved: there are four or five small water districts, a number of small fire districts, and others. He explained that there were already 35 or so people at the table and added that at some point it gets so big that there is hardly any conversation. Chairman Brian was glad that the Tigard Water District took advantage of every one of the meetings, which were all public and at which the public was invited to comment. He recalled that the water districts, such as the one Mr. Henschel is involved in, came forward and testified. To the comment that "citizens were not represented", Chairman Brian replied that he serves countywide and each Commissioner represents unincorporated areas. He stated that the whole reason the Urbanization Forum began was to figure out how to look out for the unincorporated areas and to examine how services will be delivered to those areas. Chairman Brian regarded this as a significant part of the County's constituency. He noted that you cannot have 530,000 people at the table, you cannot have 50 special service districts, and so forth; sometimes you have to make these calls. Chairman Brian recognized that every regional meeting and every statewide commission selects and does not get all groups. He was sorry that offends Mr. Henschel but acknowledged that you cannot always have everybody on every committee. With regard to water districts opposing future implementation, Chairman Brian was not sure how you would define what is to be implemented because it has not been decided yet.

Commissioner Strader stated that it is the Board's job to determine for the County what services are provided, at what rate and to what parts of the County. She said that it is necessary to work with our cities in order to do that and represent the 526,000 or so people of Washington County. Commissioner Strader noted that it is not Mr. Henschel's water district that decides for the entire county how to continue to provide services. She said this is like saying that we should not implement the State Legislature's laws because the entire population of the State of Oregon was not involved when those decisions were made. Commissioner Strader observed that that is the job we give the Legislature and we elect them to do that for us, just as the people elected the Washington County Board to decide what services are provided when and how.

Ken Henschel stated that one of the big issues the smaller special districts had was the implied truism that cities are the best providers of urban services. He said that the common thread that went through the process was that cities in the future shall provide urban services because they are the best at it. Mr. Henschel remarked that Clean Water Services, Tualatin Valley Fire & Rescue, etc. have proven just the opposite in some cases. He questioned why that has changed and reiterated that his District did not get to sit at the table and bring up those issues.

Commissioner Strader did not believe that has changed. She did not think that cities are always the best provider of urban services. That said, Commissioner Strader recalled that she was the minority voice in that regard when she started on the Board two and one-half years ago. She stated that her fellow Commissioners, who have lived with this longer than she has, have been open-minded to seeing this differently and taken courageous stands. Commissioner Strader added that there have been quite a few city mayors who are now also seeing it a little differently. She felt that a lot of progress has been made through the dialogue. Commissioner Strader said she would not assume that because one group's 100% views are not represented does not mean that a majority of their views are not represented.

Vice Chair Duyck asked if Mr. Henschel recalls any of the substance of the letter that is in the mail to the Board. He wondered if the opposition is based on the process or on the Resolution itself.

Mr. Henschel responded that all of that is included in the letter. He said that the Tigard Water District believes that harm will come to the district from the ultimate impact of the Urbanization Forum. Mr. Henschel did not know for sure where the process is going but said that the way it seems to be going appears to be detrimental to the small special districts.

Commissioner Schouten did not think there is anything in either the Resolution or the Transmittal Letter that would say that the cities in each and all circumstances are always the best providers in all times and places. He has consistently said he is something of an agnostic about that point of view. Commissioner Schouten did not think there is anything that speaks of the cities being the best providers and noted that this is a point that the Board has not taken opposition to Mr. Henschel on. He looked forward to seeing Mr. Henschel's letter and did not know if it anticipates the Transmittal Letter, which addresses the issue of cherry-stem annexation.

Mr. Henschel said he had not seen or heard of the Transmittal Letter until today.

It was moved for adoption of the Urbanization Forum Resolution subject to the provisions of the Transmittal Letter dated July 7, 2009, which letter is attached to the Resolution and thereby made a part of the Resolution.

Motion – Schouten

2nd – Strader

Vote – 4-1

(Nay – Duyck)

Vice Chair Duyck was not prepared to vote for the motion and wanted to state his position clearly so that there is not too much read into it because his position is not extreme one way or the other. As he stated at Worksession, he is not quite sure what the real purpose of the Resolution is. Vice Chair Duyck understood that it has been said that

this is to memorialize where the group is today. However, he had to look at what it causes us to do. The only substantive thing he reads that it causes us to do is to advocate with Metro that the land that comes into the UGB is immediately adjacent to cities. Vice Chair Duyck was not yet prepared to do that because some basic questions have not been answered—the questions about whether or not cities truly are the only ones who should be providing urban services. He said that until that question is answered, it is premature to pass the Resolution. Vice Chair Duyck clarified that this does not mean that he would not get there eventually; it means that we need to have that discussion first. He observed that it has been very open-ended; in a roundabout way, we have stated that we do not think that cities are always the best provider but we have not come right out and said it. Vice Chair Duyck added that we have not gotten the cities to buy into that completely. He stated that until we know the answers to those questions, it is a little premature to pass the Resolution, which leads us down the path of having cities be the only providers. Vice Chair Duyck wholeheartedly supported the Letter of Transmittal.

Chairman Brian referenced page 2 of the Resolution, where it says, “*Whereas, it was determined during Urbanization Forum discussions that the following seven (7) urban unincorporated areas within the existing UGB required an area-by-area approach to determine if any changes are appropriate or desired in current service and governance solutions,...*” He pointed out that part of this Resolution has to do with expansion of UGB, part is an agreement to proceed with trying to answer exactly the question as to what, if any, changes/what kind of services would be most appropriate on an area by area basis. It seemed to Chairman Brian that this is what Vice Chair Duyck is saying and that it is pretty healthy to discuss this. He said it seems that there is an interest in determining what these needs are before the Resolution when, in fact, the Resolution is the stepping stone to doing what Vice Chair Duyck is concerned about.

Vice Chair Duyck said that the Chair’s comment is very well taken. However, he said that the areas defined here are existing urban centers. Vice Chair Duyck noted that future urban centers are not talked about at all and whether or not it is appropriate to have other areas come into the Urban Growth Boundary that may not become part of a city. In his mind, that discussion has not been fully vetted yet. Vice Chair Duyck believed that it may be highly appropriate to have urban unincorporated areas that have a basic level of service—provided it is understood that it will only be basic because the County is not in the business of providing city-type services. He listed sewer, water, roads and maybe a little higher level of law enforcement as very basic services. Vice Chair Duyck believed that there is an appropriate place for that and that it is not just in existing urban areas but may be in ones that we have not even envisioned yet. He thought that is a discussion that ought to occur.

Commissioner Strader was very much in favor of this Resolution and wanted to see us get to resolution. She observed that we do not think cities are the best provider of services and yet we do not see room to expand our own services. Commissioner Strader was then not sure how we get to resolution ever.

Vice Chair Duyck said that the problem that we have always faced with our cities is that we don't maintain discipline in providing just the base level of services; we expand beyond that. He noted that this gets us into trouble every time. Vice Chair Duyck clarified that when we try to become a city, we get into trouble with other cities.

Commissioner Strader replied that we did that because there were so many citizens in areas too far away from a city for a city to provide service. She said that some of it was due to circumstances and how we grew. Commissioner Strader asked how we move to resolution and what this would look like to Vice Chair Duyck—to be open to a County special district and to be supportive of this Resolution.

Vice Chair Duyck responded that we should have had that discussion about whether or not it is appropriate to do that. He did not think we have had that discussion.

Commissioner Schouten agreed with Vice Chair Duyck in the sense that in some ways, point #5 does not philosophically square up with the County 2000 plan. He believed that we have answered a few points, some of which arguably could be in variance with County 2000. Commissioner Schouten thought that in some cases, especially if we get these financial tools, the County can provide services that are as good as cities—certainly ones that are appropriate for the kinds of services that people in unincorporated areas want. He viewed this as taking a step forward. Commissioner Schouten said that although ideally we would have completed the overhaul of County 2000, this is a start. He thought that further work needs to be done at some point.

Vice Chair Duyck acknowledged that the discussion has been had at the Urbanization Forum. However, he pointed out that there is a big difference between having a discussion and passing a Resolution. Vice Chair Duyck said that there has never been a Resolution in the Forum that has acknowledged that fact, i.e., that it may be highly appropriate—including for new areas.

Commissioner Rogers intended to vote for the motion. He identified two issues:

1. Was there representation? Commissioner Rogers believes that there was but did not know if there was an opportunity for people to speak their minds and to have the sort of input they wanted. He took it at face value that that will change.
2. Point #5 speaks to the issue of having to come up with some kind of an understanding of how we will fund and will maintain quality of life in all areas of the County. Commissioner Rogers recalled that we did that with our housing policy many years ago. He said that is the same kind of issue we are faced with here: there are many areas that are not prepared and will not be prepared for a number of years to be in a city. Commissioner Rogers remarked that there has to be some kind of mechanism so that they don't become blighted and that there are services available and some mechanisms to pay for those. He believed that this is where the discussion has to go and we have to talk in the future about how to maintain those areas. Commissioner Rogers said that if there is a menu of things people buy, cities have been designed to have a larger menu. He noted that even

with our smaller menu, what is on it, what is not and how do you pay for it and how you don't. Commissioner Rogers hoped to get beyond the paradigm of "cities are good and unincorporated areas are bad" or vice versa. He pointed out that there is no good or bad; they are both good and are just different models. Commissioner Rogers hoped to get beyond that issue and how to progress into the 21st and 22nd centuries such that future Boards are not left with decayed areas. He was sorry that Mr. Henschel's district said "no" but he saw promise here and was hopeful these issues could be worked out.

Chairman Brian appreciated Vice Chair Duyck's fair and honest questions. He commented that one thing that has come out of the discussions about the Urban Growth Boundary expansion is that we will not have UGB expansions in the future like we have had in the past. Chairman Brian remarked that State law, State rule, Metro ordinances and rules prescribe a level of density and type of development that we have generally not had in the unincorporated area. He stated that these are going to be much more municipal-looking areas, with transit and needs for urban planning, code enforcement and all kinds of things. Chairman Brian explained that we are not funded to provide municipal levels of service. He said that the new expansion areas that eventually happen in the UGB will be very urban. Chairman Brian did not think anyone who has been participating in the Metro process over the last year understands otherwise. He specified that these areas will not be like the areas that represent a lot of the existing unincorporated area; they will be different, dense and very urban-like. Chairman Brian said that the idea of trying to explore those being under a city government that has more financial tools available under the current laws makes some sense, rather than trying to get the County, which is focused on basic services, to ramp up to an urban-like level. He indicated that this might include multi-story, mid-rise development. Chairman Brian offered his Vice Chair an opportunity to make closing remarks.

Vice Chair Duyck felt that this topic has been well vetted. He stated that Chairman Brian's last point was certainly not lost on him and is something that he has thought of before. Vice Chair Duyck said that this is exactly why he thinks that a Resolution should have been passed to that effect, i.e., that for that reason, we believe that cities are the best provider in future urban areas.

Chairman Brian remarked that this is not the end but the end of the beginning, perhaps. He thanked his fellow Commissioners for the discussion.

HEALTH AND HUMAN SERVICES

1.m.

RO 09-68

Authorization for Tualatin Valley Waste Recovery and Aloha Garbage Company to Temporarily Conduct Salvage, Removal or Recycling Operations at Particular Sites in Unincorporated Washington County

Brad Anderson stated that Metro's Enhanced Dry Waste Recovery Program became effective July 1, 2009. He said that it requires that dry solid waste recovered within the Metro jurisdiction be processed prior to disposal to recover recyclable materials. Mr. Anderson explained that as a result of this requirement, Waste Management and Aloha Garbage Company built material recovery facilities (MRF) in unincorporated Washington County to process the dry waste. He told the Board that staff has reviewed the facilities and determined that under current Code, the facilities did not meet a franchise agreement as a disposal site but do need written authorization from the Board of Commissioners as a salvage removal or recycling operation. Mr. Anderson indicated that that is what is before the Board today. He specified that the request is to approve the Resolution and Order that authorizes these facilities under our Code. Mr. Anderson explained that the authorizations in the Resolution and Order are temporary for six months because the Code revisions have been prepared and will come before the Board within the next six months to address these types of facilities, as has been previously discussed with the Board last year. He commented that the authorizations are conditioned on the facilities operating in accordance with all permits and requirements from other jurisdictions that are required. Mr. Anderson reported that if either facility is non-compliant with those requirements, then the authorization by the Board is immediately withdrawn.

Commissioner Rogers asked why this item was removed from the Consent Agenda.

Mr. Anderson responded that Consent items are routine and an authorization of this nature has never been done before by the Board. For this reason, he said that it was placed on the Regular Agenda.

It was moved to adopt the Resolution and Order authorizing the operation of the identified salvage, removal or recycling operations at particular sites in unincorporated Washington County.

Motion – Schouten

2nd – Strader

Vote – 5-0

9. ORAL COMMUNICATION (5 MINUTE OPPORTUNITY)

Ken Henschel, 14530 SW 144th Avenue, spoke now as a citizen about two topics. He recalled that he spoke to the Board over a year ago about reflectors on Bull Mountain

Road. Mr. Henschel reviewed that in 2006, the County put much-needed reflectors on Bull Mountain and Beef Bend Roads. He said that there was a snow storm that winter and the County came through and scraped them all off. Mr. Henschel stated that the County came back and replaced the reflectors, which were scraped off the next winter. He reminded the Board that this is when he asked the Board to replace the reflectors and to put a procedure in place so that would not happen again because it is costing a lot of money to the taxpayers. Mr. Henschel reported that the County did not ever replace the reflectors. He spoke of how important the reflectors are and described how the yellow ones delineate the center line, the white ones the side lines and the blue ones show where the fire hydrants are. Mr. Henschel said that during this year's snow storm, the remaining reflectors were pulled up by the thousands. He brought a bag of these reflectors in a plastic bag to leave with the Board. As a citizen who pays taxes, Mr. Henschel wanted to see this stopped.

Chairman Brian recalled that the Board did discuss this at Worksession because the Board was also concerned about this matter. He said that because of the severity of last December's storm, the County's equipment was used and also a private Contractor's. Chairman Brian explained that the point was to try to make the road safe for driving, including getting the ice off. He noted that it is nearly impossible for the equipment to keep dodging those little reflectors. Chairman Brian remembered seeing the total cost of the storm and the shocking amount for replacing all of these things.

Kathy Lehtola did not recall the exact amount. She stated that staff did set the snow plow blades higher but observed that that creates a problem as the road ices up because the plows must get under the ice. Mrs. Lehtola said that the County also put in—under the Economic Stimulus request—to recess the reflectors in the road. She did not recall that that was approved and pointed out that that is quite expensive.

Chairman Brian said the County was very much aware of this issue and hated wasting precious transportation dollars. He stated that our crews are out there in very adverse circumstances making calls about what is most beneficial for the motoring public.

Mr. Henschel found it odd that in other parts of the unincorporated areas of the County, he has not seen this problem. He questioned why it is exclusive to his area.

Commissioner Schouten remarked that he saw lots of reflectors on Murray Boulevard in the days and weeks after the series of snow storms this past year.

Chairman Brian encouraged Mr. Henschel to follow up with the Department of Land Use if he would like to see the numbers.

Kathy Lehtola believed that Dave Schamp gave the report to the Board at Worksession.

Chairman Brian recalled that the report talks about the total cost of the storm reaction and response. He knew that Mr. Henschel would find that the issue is countywide and that the severity of the storm varied quite a bit depending on hills, no hills, and the like. Chairman Brian indicated that that report is available to the public.

Ken Henschel turned to the separate topic of unsolicited advertisers coming onto private properties. He said that it has gotten really bad at his house. Mr. Henschel brought a bag of materials that have arrived at his home for the past few months. He showed the Board a bag of rocks that were thrown on his lawn by a company and another bag that landed on his car. Mr. Henschel has tried to talk with these people but was frustrated when they did not speak English. He displayed a number of papers that were placed in the *Oregonian* newspaper boxes. Mr. Henschel showed some items that were glued to his mailbox post, to the siding of his house and to the “No Solicitor” sign on his garage door. He did not think there is an ordinance in the County right now that prohibits this and remarked that it getting worse. Mr. Henschel found this very intrusive and wanted something done to make that process illegal.

Chairman Brian offered to ask Counsel to see what our ordinances are relative to this. He commented that he receives similar items at his house.

Mr. Henschel said that these people come right on his property. He added that they make dogs start barking, which could wake up sleeping babies.

Vice Chair Duyck remarked that this goes back to the issue of urban services.

Mr. Henschel said that it is happening in the cities too. He wanted to see the County address this problem. Mr. Henschel recognized that the County does not have a lot of money for code enforcement. However, he stated that it would be nice to have a code there to address it.

Commissioner Schouten remarked that there is an element of free speech involved in this also.

Mr. Henschel admitted that is true but said that the right of free speech stops at his driveway or property line. He said that the materials are all on his property.

Commissioner Rogers commented that Mr. Henschel is always one to bring thoughtful things forward. He recalled when Mr. Henschel told him about a petroleum line that goes over Bull Mountain that is not on the maps.

Kathy Lehtola verified the existence of this line and clarified that it is on the maps. She said this line is well known and is called the Kender Morgan Line.

Mr. Henschel asked the Board to talk about his issue with staff and see if anything can be done about it.

Chairman Brian was trying to think about how to attack this problem because it is everywhere. He appreciated Mr. Henschel's testimony.

Commissioner Strader asked if Mr. Henschel has the same problem with political literature being dropped at his door.

Mr. Henschel personally felt that there is a line between politics and advertising.

Commissioner Strader mentioned that the Supreme Court of the United States would disagree with that.

Commissioner Schouten agreed that the lines are not so easily drawn.

Ken Henschel said that he does not think there is anything now in the County that prohibits someone from throwing something on his car from the road.

Chairman Brian thanked Mr. Henschel for his testimony.

10. BOARD ANNOUNCEMENTS

Chairman Brian announced that the Board will have a Regular Board Meeting on August 11, 2009—a date that would normally be Extended Worksession only.

11. ADJOURNMENT: 11:48 a.m.

Motion – Strader
2nd – Rogers
Vote – 5-0

MINUTES APPROVED THIS ____ DAY _____ 2009

RECORDING SECRETARY

CHAIRMAN