

MINUTES

WASHINGTON COUNTY BOARD OF COMMISSIONERS

MAY 11, 2010

CONVENED: 10:13 a.m.

BOARD OF COMMISSIONERS:

Chairman Tom Brian

Vice Chair Desari Strader

Commissioner Dick Schouten

Commissioner Roy Rogers

Commissioner Andy Duyck (Left to honor another commitment at 11:53 a.m.)

STAFF:

Robert Davis, County Administrator

Rob Massar, Assistant County Administrator

Dennis Mulvihill, Government Affairs Manager

Dan Olsen, County Counsel

Andrew Singelakis, Director, LUT

Brent Curtis, Planning Division Manager, LUT

Joanne Rice, Principal Planner, LUT

Mike Dahlstrom, Program Educator, LUT

Bill Gaffi, General Manager, CWS

Bob Cruz, Deputy General Manager, CWS

Linda Gray, CPO Coordinator

Jim Thiessen, Audiovisual Technician

Barbara Hejtmanek, Recording Secretary

PRESS:

Brad Schmidt, *The Oregonian*

Kurt Eckert, *Hillsboro Argus*

Nick Christiansen, *Hillsboro Argus*

1. CONSENT AGENDA

None.

2. ORAL COMMUNICATION (2 MINUTE OPPORTUNITY)

None.

3. PUBLIC HEARING – LAND USE AND TRANSPORTATION

3.a.

MO 10-145

Proposed Ordinance No. 733 – an Ordinance Amending the Comprehensive Plan Relating to Designation and Adoption of Urban and Rural Reserves (All Rural CPOs and CPOs 9, 12 F, 4 B, 5 and 6)

There was a motion to read Proposed Ordinance No. 733 by title only.

Motion – Duyck

2nd – Strader

Vote – 5-0

Dan Olsen read the proposed ordinance by title.

The public hearing was opened and testimony was limited to two minutes per person.

James Shepherd, 7555 NW 214th Place, Hillsboro, Oregon, identified himself as a property owner in the Bendemeer area. He was opposed to the proposal to change the designation from rural to urban. Mr. Shepherd believed this meets the current land use goals of separating urban and agricultural land. He said that he does not deny the original request to change 9.4 acres on Bendemeer to urban reserve but he does not understand why that 9.4 acre request became a 147 acre request without anyone in the area wanting that, aside from the original owner. Mr. Shepherd stated that the preponderance of the owners of property within the Bendemeer area want to keep it rural. He urged the Board to deny the application or to downgrade it to the original proposal and keep it the way it is.

Steve Bobosky, 21393 NW West Union Road, recalled that he and his attorney submitted testimony two weeks ago. He stated that his property is just north of West Union and is walking distance from the Intel property. Mr. Bobosky wanted his property to be designated urban reserve and said this would be sensible land use planning.

Donna Williams, 20956 NW Bendemeer Road, told the Board that mountain Sequoia, redwoods and three oak trees that are going extinct may be found on her property. She did not want to see this changed.

David Pratt, 20825 NW Old Pass Road, said that he lives in the West Union community, which is a subset of the Bendemeer development. He and his wife agree with the February 23rd decision to make this area part of the rural reserve. Mr. Pratt stated that a development of his area would result in flag lots and patchy development because it is now plotted into one and two acre plots. He did not think it likely that anyone would come in and buy large pieces. Mr. Pratt believed the Board was very wise to have West Union Road as the boundary. He stated that agricultural use of the one-acre parcels is genuine. Mr. Pratt looked to the Board for protection and asked for a reaffirmation of the February 23rd decision to leave this area in the rural reserve.

Beverly McClenathan, 20956 Bendemeer Road, said that she has owned property at this address for about 40 years. She had no desire to either sell this property or to see it taken out of the rural reserve and placed in urban reserve. Ms. McClenathan described this as a very settled neighborhood, where people value their property. She opposed the Bendemeer area going into the urban reserve.

Linda Schade, 20701 NW Old Pass Road, Hillsboro, Oregon, recalled an experience when she lived off Brookwood Avenue, as land was being developed there. She reviewed that some pieces were brought into the city and others were still in the county. Ms. Schade stated that a neighbor had horses on his property when the land next to him was developed. She said that visiting children fed his horses without the neighbor's knowledge or permission. Ms. Schade reported that the horses fought over the treats, which broke the fence and hurt the children. She stated that this man was sued and lost his horses. Ms. Schade, who is a horse breeder on her five acres, does not want to be in that situation. She does not want development around her.

Aliceson Brandt, 20921 NW Bendemeer Road, opposed the inclusion of the Bendemeer neighborhood in the urban reserves.

Tim O'Callaghan, 6955 NW 185th, referenced an *Oregonian* article on a new development in Washington County, where Intel, Solarworld, Genentech and Kaiser Permanente are expanding with \$3 billion of investment. He said that MSN has just come out with a rating of the fastest growing cities in the state, with the most amount of people moving in. Mr. O'Callaghan reported that Oregon took second place in that evaluation and had 58.9% inbound movement. He acknowledged that there is a big conversation among all three counties but said that because of the tech support in Washington County and because tech is one area in the stock market that is doing so well, the majority of the influx will probably come to Washington County. Mr. O'Callaghan wished to share this new information with the Board.

Michael Robinson, Attorney, Perkins Coie, 1120 NW Couch Street, Portland, Oregon, submitted a letter dated May 10, 2010, containing a summary of his client's (Tim O'Callaghan) position. (Letter may be found in the Meeting File.) He stated that Mr. O'Callaghan's property really merits urban reserves, as the County's professional staff decided several months ago. Mr. Robinson stated that the property is adjacent to NW 185th, which will be expanded under the North Bethany work and it has the Clean Water Services trunkline crossing it. He mentioned that there is another alternative they can use but it is clear that this is the preferred alignment. Mr. Robinson added that there is a hard urban edge—the wetlands on the west side of Mr. O'Callaghan's property and County road on the north side. He stated that the bottom line is that you do not do injustice to the process that Metro and the County have entered into by making a few changes at the end of the process after hearing from the public. Mr. Robinson commented that this is what the process is intended to provide for and that it is not going to fall apart. He said that the IGA calls for a good faith discussion. Mr. Robinson stated that the evidence warrants the

action of making Tim O'Callaghan's property urban reserves again and then seeing how it goes with Metro and the other CORE 4 participants. He believed that this is the right thing to do.

Greg Mecklem, 12995 NW Bishop Road, Hillsboro, submitted a letter, which may be found in the Meeting File. He wished to speak about Proposed Ordinance 733, which was referred to the Board by the Washington County Planning Commission. Mr. Mecklem recommended against approval of three requests which would modify the intergovernmental agreement adopted by Washington County and Metro in February by transferring them from rural reserve status to urban reserve designation. He identified these requests, as follows:

- Bobosky Request (147 acres in the Bendemeer area)
- Peterkort Request (130 acres in the area adjacent to PCC)
- O'Callaghan Request (57 acres on the west side of 185th Avenue)

Mr. Mecklem recalled that during the Metro reserves process, all three of these areas were recommended for rural reserve designation by the state agencies in October of 2009, by the CORE 4 in December of 2009 and by the Board of Commissioners in February of 2010. He said that they have a common denominator: they are not separated from large blocks of agricultural land approved for rural reserve protection by the Board by any reasonable buffer as described in OAR 660, Division 27, but only a property line. Mr. Mecklem reasoned that there is no reasonable separation between farm and non-farm uses. He said that designating them as urban reserves places large approved blocks of rural reserve agricultural land in jeopardy and effectively removes their protection from speculation and conflict with urban uses. Mr. Mecklem went on to say that it also seriously weakens the credibility and defensibility of Washington County and Metro's IGA and does not follow the intent or guidelines of Senate Bill 1011. He referenced an article in the *Capitol Press* last week which said that we lost 40 million acres of farms and forests in the United States to development between 1982 and 2007—422,000 of which were in Oregon. Mr. Mecklem said that Washington County should not be at war with agricultural land because it is the second largest industry—producing \$300 million per year in, largely, exportable income. He mentioned that he and his District 4 candidate opponent, Bob Terry, both produce exportable crops and this happens on agricultural land. Mr. Mecklem appealed to the Board to do as much as possible to protect agricultural land.

Linda Peters, 25440 NW Dairy Creek Road, North Plains, Oregon, told the Board that she tried to email each Commissioner this morning supplemental written testimony to what she submitted at the first hearing. She noted that her email did not go through and promised to get it to the Board as soon as possible. Ms. Peters said that her main point was that the reserves statutes and rules require that the rural reserves be protected, not only against an urban designation, but that they be protected so that within those rural reserves there can continue to be large-scale farming and forestry. She spoke to the map changes that have to do with roads, taking them from inclusion within the rural reserves

to making them either undesignated or urban. Ms. Peters said that the County has argued in many cases that roads make a good buffer or boundary between an urban and a rural reserve. She stated that if the County makes those same roads urban reserve themselves, you have effectively jumped the road. Ms. Peters concluded that the boundary or buffer, then, becomes the telephone poles, someone's front yard, the first row of crops. She did not think we can have it both ways. Ms. Peters stated that the statutes and rules require a level of protection that these designations would not provide and said they are materially different from what the County agreed to in the IGA. She spoke particularly of the ones numbered 3, 8, 12, 13, 16-17, 19, 21, 23, 31, 32, 43, 44, 45, 49, 51, 53, 54, 55, 56, 57, 59, 68, 122.

Greg Hathaway, Attorney, Davis Wright Tremaine, 1300 SW 5th Avenue, Portland, Oregon, said that he testified two weeks ago on behalf of Pumpkin Ridge Golf Club and will not repeat that testimony. He submitted two letters this morning and asked the Board to read the second one because the first copy contained an error. (Letters may be found in the Meeting File.) Mr. Hathaway stated that Pumpkin Ridge Golf Club's request is very important and he hoped the Board would give it serious consideration.

Cherry Amabisca, 13260 NW Bishop Road, Hillsboro, Oregon, urged the Board to vote to retain the Peterkort property as rural reserves. She said that a key principle in the CORE 4 discussions throughout the Fall of 2009 was the consensus that the Rock Creek floodplains serve as an effective natural buffer or edge for adjoining farmland, and that urbanization and development not extend north of the Rock Creek floodplains. Ms. Amabisca stated that for that reason, a number of groups endorse this area as rural reserves—state agencies, MPAC, CORE 4, the Ag and Natural Resource Coalition, the Washington County Farm Bureau, Metro and the Board of Commissioners. She said that the 77 acres that are developable on this property, when you exclude the floodplains, are on the far side of the North Bethany urban area (to the north and west of the Rock Creek floodplains). Ms. Amabisca stated that after you take into account taking 50% of a development that goes into roads and other infrastructure, we are left with 38 acres for homes. She said that isolating the 77 acres for urban development will create a tiny island north of the Rock Creek floodplains, surrounded by farmland. Ms. Amabisca did not regard this as good planning. She stated that it harms the ecological value of the wildlife habitat for the Roosevelt elk herds and the steelhead that are found here. Ms. Amabisca said that the sewer line easement and the road easements to support North Bethany can be done in the rural reserve context; this is what plan amendments are for. She stated that adding an isolated island of development north of the Rock Creek floodplains is bad for the environment, wildlife, and taxpayer. As an example, Ms. Amabisca said that the isolated island of homes will either have to be supported with schools or bus the children to Hillsboro schools because no schools are planned for that particular piece. She stated that North Bethany has been a nightmare and asked if we are prepared to continue that with a new problem called West Bethany. Ms. Amabisca urged the Board to vote for rural reserves for the Peterkort property.

Carol Chesarek, 13300 NW Germantown Road, Portland, Oregon, opposed changing the Peterkort and O'Callaghan properties from rural reserve to urban reserve. She said that the Board may touch off a hornet's nest if it takes that action. Ms. Chesarek recalled a hearing in February, where only about five citizens got to speak; she had wanted to speak against those parcels on that night. Ms. Chesarek stated that the decision to change these to urban reserves would be penny wise and pound foolish. She noted that the staff report speaks of saving \$2 million but she felt that it would cost a lot more than that in the long run. Ms. Chesarek reported that the City of Beaverton looked at this area and decided it did not want it; she felt the reason was due to the urbanization costs. Ms. Chesarek said that rural reserves are supposed to help define appropriate natural boundaries for urbanization, like the floodplain, and submitted maps with her written testimony that show how cut off this area is. (Submittal may be found in the Meeting File.) She stated that the floodplain is over 1,000 feet wide over most of it. Ms. Chesarek added that Rock Creek PCC is on the south side and farm land on the other two sides. She concluded that it is truly an urban island if the County chooses to develop it. Ms. Chesarek said that 77 developable acres gets 600 homes—using the same proportions as in North Bethany. She stated that the half of the bridge over Rock Creek that this area is assigned to pay for comes out to \$16,000 per home; this does not include the cost of the rest of Road A or any other primary roads. Ms. Chesarek thought the County would be better off leaving this area as a rural reserve and getting rid of Road A and the bridge over Rock Creek. She believed that, overall, costs of service are going to be higher than what will be generated. Ms. Chesarek has not seen analysis of what it will take to serve this area as a stand-alone island. She said there is already a goal exception for Road A and she did not think a rural reserve would block or delay any wetland mitigation, stormwater detention or sewer trunkline to serve North Bethany. Ms. Chesarek stated that these are all compatible with a rural reserve designation. She said that if another alternative is needed, the County should think about drawing the urban reserve edge through this property along Rock Creek; this was not preferable but was an option.

Vice Chair Strader was disappointed at Ms. Chesarek's testimony. For the sake of the television audience, Vice Chair Strader stated that Beaverton did look at this and clarified that it was the Legislature that prevented the city from annexing North Bethany. She emphasized that it was not that the City of Beaverton looked at this and said that the city could not afford it. Vice Chair Strader recognized that Ms. Chesarek attended the North Bethany Stakeholder's Work Group, where all of this was outlined. She was disappointed at the context in which Ms. Chesarek used this information in the matter of urban and rural reserves. Vice Chair Strader commented that that process has not been fleshed out and the stakeholders have not worked through these issues.

Ms. Chesarek retorted that she was not talking about the North Bethany annexation.

Tom Black, 870 NW Garibaldi Street, Hillsboro, Oregon, said he attended the April 21st Planning Commission meeting and spoke about a significant parcel (2,700 acres) north of the Hillsboro Airport. He stated that the parcel, which is on either side of Jackson School Road running from Evergreen to Highway 26, is pastoral and historically significant. Mr.

Black reported that Joe Meek, founder of Oregon territory, had a homestead in the midst of the land and added that the land is significant Class 1 soil type. He said that to pave over that area goes contrary to what we stand for in Washington County. Mr. Black favored growing smartly—to grow while still valuing the assets and resources we have as a community. The concept he supported was that everything south of Waibel Creek would remain in urban reserve and about half of the other 2,700 acres north of that would be reserved for the historic significance of Goal 5 as well as agricultural land reserve.

STAFF COMMENTS

Brent Curtis recommended that the Board make tentative decisions about changes to the IGA today—specifically, the IGA map. He wished the Board to identify those changes on a tentative basis so that staff can then work through the IGA provisions to inform the other two counties and Metro of the Board's interest in making adjustments. Mr. Curtis intended to work with the other two counties in good faith to address their concerns as best as possible. He stated that staff will then, according to the IGA, work with Metro to determine if the amendments proposed by the Board are acceptable. Mr. Curtis recommended continuing today's hearing to May 18, 2010, at which time staff will return with the results of the IGA process. On May 18, 2010, he planned to ask the Board to engross the ordinance to make any adjustments that go through the Metro IGA process. Mr. Curtis said that if the Board engrosses the ordinance on May 18th, staff will re-file the ordinance at the end of that week and notify all of those who are due to receive notice. He specified that there would be two subsequent public hearings: June 1 (morning meeting) and June 8 (evening meeting). Mr. Curtis explained that an agenda item on May 18th will declare June 8th as a Board Meeting date as opposed to a Worksession date and also will establish June 8th as an evening meeting. He said that the County's Charter requires for engrossment of an ordinance that notice is provided and that two subsequent public hearings are held, one of which is in the evening. Mr. Curtis stated that if this process goes through successfully, the Board will be in a position to adopt urban and rural reserves on June 8th. He indicated that that is the last day that is provided for by local governments (the three counties and Metro itself) to adopt urban and rural reserves. Mr. Curtis said that after that, staff will make one package of decisions and findings for the reserves for the metro area and send that to LCDC. He stated that it will be reviewed in the manner of periodic review and that will ultimately lead to a review by LCDC itself on October 20 and 21, 2010 in Grants Pass. Mr. Curtis said that presuming that they find favor with all of the reserve recommendations from the region, the region would then have available to it urban reserves to draw upon if Metro determines there is a need to adjust the urban growth boundary.

Commissioner Schouten asked staff to identify the status of Road A and speak to the issues presented if it is rural reserve. He was specifically speaking of the Peterkort property.

Brent Curtis responded that the ordinance last year that adopted the concept plan for North Bethany included adoption of an exception that sanctions Road A outside of the

urban growth boundary on the Peterkort property. He explained that that action taken by the Board last year secured that. Mr. Curtis said that the exception provides that it is now lawful for the County to build a road there—a road that was contemplated by the concept plan and all of the attendant planning analysis that described the need and location for that road. He summarized that this is an adopted thing and is no longer an issue in regard to the roadway.

Commissioner Schouten said that there may be some issues about compensation or the degree that the sewer line will get financed.

Brent Curtis replied that staff has prepared an issue paper that talks about the Peterkort property. He said that a big component of that issue paper is about the sewer and the mitigation. Mr. Curtis stated that part of the North Bethany planning process has always looked at the Title XI directive from Metro to, when we examine North Bethany, look at surrounding properties and to the extent that the planning analysis and conclusions that are drawn about North Bethany provide, make recommendations about other properties that may be associated with North Bethany development. He said that staff first got into the sewer issues and the issues associated with Road A and the like outside of North Bethany following that process. Mr. Curtis reviewed that North Bethany is planned for a very dense community that has to be supported by all of the natural urban services that are required (roads, sewer, water). He said that associated with the planning analysis for North Bethany was a careful analysis of the sewer options for North Bethany. Mr. Curtis stated that, as a general matter, the northern two-thirds of North Bethany need to be served in some kind of way with new services. He reviewed that Clean Water Services did the analysis that looked at the sewer options. Mr. Curtis reported that it came down to two types of options, with some variances in each one of them:

1. Gravity sewer line, *or*
2. Pump stations

Mr. Curtis said that Clean Water Services, taking note of staff's analysis about the importance of sewer provision and cognizance of ability to make recommendations about lands that are outside of North Bethany that may be crucial to North Bethany service provision or urbanization opportunities as required by Metro Title XI, came to the conclusion that the best service provision was for the gravity sewer as opposed to the pump stations. He reported that Clean Water Services accelerated that process to go through successive levels of design engineering; they are now at the 90% level of design, are moving through their capital improvement programming responsibilities, and are on the cusp of filing the request for a land use permit, finishing the design work and going to construction in the next couple of years. Mr. Curtis said that if that option for sewer is not provided, then we may need to stop the North Bethany planning work and drop back to re-design the sewer system and look at it in entirely different ways that may affect our ability to finish this year. He stated that associated with that is the issue of mitigating for environmental impacts. Mr. Curtis remarked that there are some wetlands in North

Bethany that staff from the County, with the assistance of Clean Water Services and consultants, have looked at. He reported that there are high quality wetlands and some more marginal wetlands. Mr. Curtis said that associated with providing the urban services in North Bethany, some mitigation will have to be done offsite because there are not a lot of opportunities onsite. He stated that the best opportunities for that were on the Peterkort property within the floodplain. Mr. Curtis went on to say that that connects with a Metro property that is downstream. He said that there are upstream opportunities that Metro has prioritized for greenspaces investment. Mr. Curtis stated that there are environmental impacts that are associated with and can be enhanced for that corridor. He said that it is not just a sewer corridor; it is an environmental mitigation for North Bethany as well. Mr. Curtis concluded that to stop and change courses would have an impact and staff would have to advise the Board that North Bethany could not be finished this year.

Mr. Curtis said that staff talked a little bit in the issue paper about the cost differential for the sewer. He stated that one thing noted in the issue paper is that the Peterkort family has worked with Clean Water Services and is prepared to provide gratis easements for the sewer trunk line and easements for the mitigation area, as well as willing participation in the land use process. Mr. Curtis said that if those two things do not occur, if it is not urban reserve, then we cannot count on getting the gratis donation for the easement for the sewer line or the mitigation area; we cannot count on the cooperation and the likelihood of moving ahead with that would require a condemnation action (which would be challenging, more expensive and problematic in regard to the permitting process for land use).

Commissioner Schouten asked if a gravity flow sewer line could run through that Road A corridor. He wanted to know if the right to put that road in would include the ability to have the easements for sewer line. Commissioner Schouten was interested in the legal engineering questions about whether or not we can do gravity flow along Road A and if there is anything that precludes us from doing mitigation work with respect to wetlands in the area that becomes designated rural reserves.

Bob Cruz said that the simple answer to the question in regard to gravity sewer for Road A is “no”. He stated that the depths and just to get there is not feasible in terms of constructing sewers.

Commissioner Schouten asked if there is anything about rural reserves that would preclude us from doing wetland mitigation on the Peterkort property if that area is designated rural reserves.

Bob Cruz stated that the difficulty in proposing to construct urban services or due to urban mitigation in a rural area is a land use issue. In his experience in making those kinds of proposals without property owner confirmation, it has been nearly impossible, very difficult to get approvals for those kinds of improvements outside the urban areas.

Commissioner Schouten presumed that those approvals must be gotten from, among others, Army Corps of Engineers and LCDC.

Mr. Cruz responded that this is not necessarily so. He said that the permitting is difficult and did not wish to minimize that. Mr. Cruz stated that through the land use process, without property owner cooperation, it can be very difficult to get those approvals.

BOARD DELIBERATION

Issue Paper No. 1 Safe Harbor Provision for Rural Reserves

The Board elected to take no action and noted that we went beyond what was required; rather than just claiming Safe Harbor, we in fact did do the research and evaluation of these rural reserves rather than just saying they are within three miles and so we do not need to explain them.

Commissioner Schouten wanted the public to be aware that we do have that prerogative as a Board. He said that the law makes very clear that for certain lands within three miles of the urban growth boundary, we can make them rural reserves and do not need to legally justify or explain ourselves.

Issue Paper No. 2 Staff-Recommended Map Changes

These were the kinds of amendments anticipated by the IGA process in the CORE 4. CORE 4 recognized that, without doubt, there would be the need for more detailed adjustments and corrections.

Brent Curtis recommended that the Board approve these technical amendments that are identified. He reviewed that the work of the region was to look at the five mile area around the entirety of the region; the work of Washington County was to look at the approximate five mile boundary around the UGB to study for urban and rural reserves. Mr. Curtis stated that that was done through many iterations and many levels of analysis, that ultimately got down—at the CORE 4 level—to very specific areas. He said that one area that CORE 4, correctly, did not descend to was where exactly on the landscape the line was drawn. Mr. Curtis reported that staff found that that ultimately was a decision that was made by people who were dealing with GIS at Metro. He recommended, for the reasons articulated in the issue paper, technical changes that are described in there. Mr. Curtis said that staff believes that these have very minimal impacts and are appropriate. He suggested that the Board tentatively identify those for adjustments to the IGA and go into the IGA process to evaluate those.

It was moved to incorporate the map amendments in Issue Paper No. 2 into Proposed Ordinance No. 733.

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

Commissioner Duyck observed that this concerns less than 20 acres. He wished to note that most, if not all, of the 20 acres are already road right-of-way so that it is not as if the County is taking farm land out of production.

Commissioner Schouten shared a point that he wrestled with for awhile. He said that he has great wariness that we not get to a place down the road to build urban roads in rural areas. Commissioner Schouten also recognized that this is a long time not to have the flexibility to be able to do some road work. In the balance, he was sort of okay with this particular piece.

Chairman Brian said that we have to keep in mind that all of our other rules, laws and policies are still in place that would affect any future decisions on these. He stated that if, in fact, a future Board decided to make a rural road an urban road, there would have to be quite a process to do that—in addition to likely exceptions through LCDC.

Issue Paper No. 3
Map Amendments Serving a Public Purpose

This addressed four different proposals that have been presented regarding map amendments.

Commissioner Roy requested the Board to take these separately.

Peterkort Properties

Commissioner Rogers wrestled with this one because he was not too inclined to put a whole lot back in. After listening to what it is going to cost to try to procure these easements in the event that we do not procure them now, in addition to wetlands issues, he was motivated to incorporate this.

It was moved to incorporate the Peterkort property in urban reserves as described in the staff report as a map amendment in Proposed Ordinance No. 733.

Motion – Rogers
2nd – Duyck
Vote – 4-1
Nay – Schouten

Commissioner Duyck, too, recognized the need to take a hard look at this. He said that the Board's job is as much to do good planning as to preserve farm land. Commissioner Duyck believed that without including this particular piece of property, the Board cannot do that good planning. He did not know if the argument that we are creating an island on the other side of the stream is true or not. Commissioner Duyck did know that this is not what the Board is doing here today; the Board is including this as an urban reserve but is not including it within the Urban Growth Boundary—that is for a future discussion. He felt that it is highly appropriate to include this property for the planning purposes that it entails.

Chairman Brian mentioned that this is a little unique among all of the requests in that this particular parcel received quite a bit of discussion prior to February 25th (the adoption of the IGA by Metro). He said that it had been proposed that a sewer trunk line would traverse this Peterkort property. Chairman Brian went on to say that there was also interest by Clean Water Services, the County and Metro as to the mitigation and stormwater collection processes. He reiterated that it came on the radar but said that the problem was that there were then only about six weeks to go in a very difficult, contentious process. Chairman Brian reflected that it was just too late to add much of anything at that point. He recalled that the consensus was to discuss this in the Spring but not get involved in it now. Chairman Brian clarified that Peterkort is not an idea that has come up since February 25th or by just the owner. He said that although it creates land to the north of the natural resource feature, it does not go across 185th. Chairman Brian stated that this was one of the key issues discussed and Metro agrees that 185th is a very important boundary to them. He related that in discussions with the Peterkort representatives and family, this would—if successful—bring the property in the urban reserves but no promises were made as to any urban growth boundary or the timing of it. Chairman Brian said that this is another issue that the property owner, Metro, the County and others will take up at some future point in time. He supported the Peterkort property being included in the urban reserves.

For the benefit of those in the audience who did not have the history of North Bethany, Vice Chair Strader stated that North Bethany has been in development for many, many years. She observed that this was the case prior to her joining the Board. Vice Chair Strader recalled that when she moved to the area right on the UGB on Springville in 1995, that area was all farm land in and around PCC Rock Creek. She pointed out that today, it is not. Vice Chair Strader stated that after Metro brought North Bethany into the UGB, this area was given to Washington County to plan. She recalled that there were many years of legal arguments and lawsuits. Vice Chair Strader said that if you drive out to Springville (and what will now be considered North Bethany), PCC Rock Creek has expanded exponentially, THPRD has an incredible recreation center, you do not see much farm land. She noted that 35% of North Bethany is already developed. Vice Chair Strader said that there are people sitting on the Stakeholder Work Group who live in that new area called North Bethany. She stated that this will be the opposite of other states and regions that have decided to stop right in the middle of development, namely, a complete community. Vice Chair Strader believed that after three years of debate of the

Peterkort property and the sewage line, it is imperative to be done in order to have a complete community. She said that sometimes for the greater good, we all have to make a little sacrifice. Vice Chair Strader did believe that this is a sacrifice but one that is in the best interests of the public, a complete community and the overall Bethany community.

Commissioner Schouten did not support putting this piece of property into urban reserves. He said that the road is already something that we know that we can build. Commissioner Schouten viewed the sewer issues and the cooperation or lack of cooperation as somewhat speculative. He weighed the importance of having the floodplains as a logical boundary as opposed to the road and the issues of a significant piece of it in terms of this area that would be an almost-island of urban development in a different direction than expressed by fellow Commissioners. Commissioner Schouten weighed the negative issues a little more strongly and the positive issues a little less so.

O'Callaghan Property

Brent Curtis recommended that the Board retain the existing designation as rural reserves for the reasons identified in the issue paper.

No action was needed because the Board concurred with this recommendation.

Chairman Brian observed that this process is guaranteed to make everybody unhappy—one side or the other along the way. In his view, the Peterkort one was a close call but the public purposes won the day. Chairman Brian said that there are very few alternatives to the routes for the things we need to do across the Peterkort property. He pointed out that this is not true of the O'Callaghan property. Chairman Brian shared that Mr. O'Callaghan has been gracious to offer similar types of easement and so forth. However, he stated that it is not as necessary and it is across 185th, which does start to break open some new ground there. Chairman Brian came down on the side of leaving this as designated under rural reserves.

City of Cornelius

These requests from the City of Cornelius have been broken into two parts:

1. Minor Revisions

Brent Curtis characterized these as minor revisions. He recommended that the Board either 1) approve the changes as requested, or 2) leave the properties undesignated, for the reasons described in the issue paper.

Chairman Brian asked if all these small parcels north of the highway are undesignated now.

Mr. Curtis stated that a majority of the properties are north of the highway; there are some properties south of the highway as well. He explained the color coding on the map: red = rural reserves to urban reserves; orange = undesignated to urban reserves. Mr. Curtis said that this is the nature of the requests on the map.

Chairman Brian stated that the ones depicted in red (numbers three through seven) are currently rural reserves and the request is to make them urban reserves. His understanding was that this is a total of 34 acres. Chairman Brian said that all of that acreage is undevelopable and in the floodplain. He reviewed that when we were doing the IGA, we said we would bring rural reserves in tight against the urban reserves as a boundary. Chairman Brian noted that the request here is to primarily change from rural to urban land which is undevelopable but bringing it basically to lot lines instead of the more fuzzy floodplain lines.

Brent Curtis said that this is how he understands the fundamentals of this request. Additionally, he stated that there are some areas in the city that are developed that are noted in the floodplain that they want to have recognized as urban. However, Mr. Curtis remarked that the fundamental premise is that the CORE 4 used the floodplain as a boundary and the boundary splits lots; they want that cleaned up because the floodplain can change through time.

Commissioner Rogers noted that these are floodplains and wondered what difference it would make what the designation is other than for ease of lot line recording and disposition of property.

Mr. Curtis called the Board's attention to the City of Cornelius' written testimony. He felt that their reasons are best stated in their own testimony. Mr. Curtis summarized that the City of Cornelius wants the lot as opposed to the floodplain to be the boundary line.

Commissioner Rogers said that 7, 6, 5, 4, 3 and 16 are okay with him; however, he did not agree with 14 because they are trying here to go from undesignated to urban reserve.

Commissioner Duyck stated that the issue there is just to clean it up. He explained that it is already urbanized.

Commissioner Rogers asked if 14 is all part of a subdivision.

Commissioner Duyck believed that it is currently in the city limits but outside the Urban Growth Boundary, which was an oversight. He argued in favor of this being cleaned up.

Commissioner Strader was not as supportive of taking this from rural to urban. She asked what it would take to go from rural to undesignated and let the process

take place such that at the time they change it over, there will be a very vetted process to do so.

Brent Curtis responded that undesignated lands can be revisited if there is some kind of revisiting that occurs in the future. He said that the IGA says that, at minimum, the CORE 4 jurisdictions will at least revisit within 20 years. Mr. Curtis went on to say that rural reserves are rural reserves for 50 years. He stated that the IGA also provides for a minor revisions process to be developed. Mr. Curtis indicated that “minor revisions process” has not yet been defined but the idea is that “minor” will be minor.

Commissioner Strader asked for further definition.

Mr. Curtis’ opinion was that once you are rural, you are not going to change that for 50 years. He said that primarily undesignated land will get the benefit of that and urban land can be adjusted into undesignated land. Mr. Curtis imagined that rural land could be adjusted into undesignated land but said that the preponderance of the philosophy that CORE 4 implied was to make urban and rural butt up against one another; there is very little undesignated land.

Chairman Brian acknowledged that the Cornelius area decisions were extremely contentious, difficult and controversial. He said that he felt that the result was good for their community and reasonable but he was aware that a lot of people disagreed with that. Chairman Brian stated that even though these requests are small/minor (taken one by one) and the properties are undevelopable, there are so many people who have argued over this that he is very sensitive to the idea of going back and changing rural to urban even if it has merit and makes sense on the surface. He preferred that this be left to another day, i.e., decade.

Commissioner Duyck agreed with Chairman Brian’s remarks. He clarified that he was not leaning toward making it urban; rather, he was leaning more toward undesignated. Commissioner Duyck’s main reason was that he was very leery of where the LCDC rules will come into play and affect any property that is designated rural. He felt this would have a negative consequence. Commissioner Duyck agreed that it was a very contentious process and said that it is not worth this becoming a lightning rod. He proposed that we leave this alone at this point.

The Board took no action on Cornelius Package No. 1.

Commissioner Schouten expressed willingness to take a look down the road at parcels #14, some of which have existing urban development. He thought #14 could qualify for the minor tweaking that needs to be done. Commissioner Schouten said that one piece of 14 has been totally subdivided and developed, and a part of the more easterly area has been subdivided. He agreed with the rest of the Board to move on at this point.

Chairman Brian said that it is not as if these do not have merit and noted the City of Cornelius is making an effort to clean this up while we are at it. However, he observed that it is not so clean in some people's minds.

2. *Land Exchange*

Chairman Brian specified that this pertains to two larger parcels south of the highway.

Brent Curtis recommended that the Board not adjust this recommendation but rather simply retain the decisions that were made before. He stated that one of these properties was a property that the City of Cornelius was interested in, potentially in the longer term, for a city park. Mr. Curtis said that the Administrative Rule process that recently concluded led to the ability for counties and cities to make plan amendments for properties that would include parks through master planning. He did not think that the City's desires for this to be park land are thwarted; that opportunity still exists.

Chairman Brian recalled that this was pretty thoroughly discussed as we approached the IGA. He reported that, ultimately, Metro Councilors and CORE 4 agreed to not take it off and place it in its current status. Chairman Brian agreed with staff recommendation to take no action on this part of the request.

The Board agreed to take no action on this request.

Issue Paper No. 4
Core 4-Reviewed Map Amendments

Bobosky/Bendemeer Requests

Brent Curtis said that for all of Issue Paper No. 4, staff recommends making no adjustments and retaining the designations that are in the IGA map. He indicated that this would include the Bobosky property and the Bendemeer property.

The Board took no action on this request.

Tom Black Request

Chairman Brian explained that this request would modify the map by reducing about 2,700 acres between Highway 26 and Waibel Creek.

Commissioner Schouten supported this map change but believed that he is in the minority on this.

Chairman Brian spoke with due respect to all the people who have made requests, who are within their rights to do. He noted, though, that all of these have been so thoroughly vetted and no compelling new information has come forward to warrant a change.

Commissioner Schouten saw this as an opportunity for people to express their views, even if they are in the minority.

It was moved to remove the properties as requested by Tom Black.

Motion – Schouten

The motion died for lack of a second.

The Board took no action on this request.

Cooper Mountain Area

Chairman Brian clarified that this is a request by Tualatin Riverkeepers to remove it from urban in its entirety and change it to rural. He recognized that staff recommends no map change.

It was moved to modify the Cooper Mountain parcels from urban to rural reserve.

Motion – Schouten

The motion died for lack of a second.

Commissioner Schouten's motion was made based not on the usual series of factors for designation of land as rural reserves under the more classical Farm and Forestry Practices but rather under the concept of paragraph 3, 017-0060, in terms of protecting important natural landscape features.

Chairman Brian recognized that this was a difficult area for all of us. He reviewed that CORE 4 reduced the acreage involved very substantially. However, Chairman Brian observed that the remainder has a lot of natural features and sensitive areas. He said that the CORE 4 looked at including rural reserve areas inside of that; however, it is ribboned and ends up being a very difficult-to-deal-with property. Chairman Brian explained that CORE 4 ended up having it urban reserve but inserting a narrative comment in the IGA expressing the sensitivity to the natural resources there and the need to do a comprehensive plan for the whole area to maximize the protection of the natural features. He said that if and when that is brought into the UGB, it would be subject to sensitive handling of those features.

Commissioner Strader asked about taking this from urban to undesignated, to deal with at a later date under the minor caveat.

Brent Curtis reiterated that rural land is for 50 years; should the region decide to revisit the question about reserves again, undesignated would be available. He said that the IGA commits all four jurisdictions in the region to at least revisit by the 20 year mark. Mr. Curtis stated that this request is way outside the acreage consideration for minor adjustments; it is a large piece of property. He said that the only way minor adjustments would be available are through a whole series of tiny adjustments, where tiny and minor are still to be defined.

The Board took no action on this request.

Pumpkin Ridge Golf Course

Chairman Brian noted that this is a little different than the others because of its location outside of the Metro boundary.

Brent Curtis stated that there are two Administrative Rules about urban reserves: the 027 section is about Metro and the three counties in Metro. He said that the 027 rules, which we are predominantly using in this exercise, apply to Metro and the cities within the Metro UGB. Mr. Curtis remarked that there are three cities in Washington County that are not in Metro:

- North Plains
- Banks
- Gaston

Mr. Curtis stated that the 660-021 urban reserve rule applies to those cities. With regard to Banks and North Plains, both of those cities participated in the entirety of the reserves process and represented the cities' interests. Mr. Curtis related that they fully realized that they are not part of the 027 urban reserve Metro process but they have also said that they recognize that urban reserves is an opportunity for them to examine under the 021 Administrative Rule. He reported that there is an intention by both cities to continue to have that opportunity and to perhaps exercise it over the next several years. Mr. Curtis said that the reserves process in that area was to aim to leave a supply of undesignated lands for those processes in the future. He recalled that CORE 4 looked closely at this issue and made some adjustments to the original recommendation, which still leaves a large supply of land to be studied and potentially identified as urban reserves. Mr. Curtis said that if not all the land is identified as urban reserves, then some land would eligible to be undesignated and some would be eligible to be rural reserves. He stated that undesignated is there to allow the alternative original Chapter 21 urban reserve rules that apply to non-Metro cities. Mr. Curtis explained that this is the rationale for the original recommendation and the rationale for adjustments that were made by the CORE 4. His opinion was that these were well considered by the CORE 4 and he did not recommend any adjustments.

Chairman Brian added that the cities agreed to the scope of those remaining undesignated areas, which essentially makes the study area if they choose to proceed with an urban rural reserves process.

Mr. Curtis' understanding was that the CORE 4 representatives had communication with all of the cities in Washington County and that they have not participated in or sought adjustments in the IGA process.

Chairman Brian stated that a fairly late iteration of the map had much more undesignated area out there. He said that through our staff's work with the cities, it was reduced and CORE 4 reduced it even further—resulting in these substantially smaller blocks of undesignated. Chairman Brian commented that it is good to not pre-empt their process. He stated that if they choose to do so, those cities will go through an urban reserve process under separate statute. Chairman Brian said that whatever they come up with for their recommendations, it comes through the county and then to LCDC. He observed that the 357 acres of the Pumpkin Ridge request was part of what was considered and then the boundaries shrunk down. At the time, Chairman Brian did not recall hearing much contest about that.

The Board took no action on this request.

Property north of Highway 26, south of West Union

Chairman Brian reviewed that this involved a relatively small amount of acreage that was urban, a larger acreage that was undesignated, and a larger area that was rural. He said that this request is to substantially change the map to rural in that area.

It was moved to support this request.

Motion – Schouten

The motion died for lack of a second.

The Board took no action on this request.

Variety of properties (including ones just mentioned north of Highway 26) to include properties south of 26 considered under the Black Waibel Creek request

Chairman Brian reported that this is a request to change from rural to urban. He said that folded under that request was not to approve the administrative technical amendments, which have already been acted upon. Chairman Brian stated that both north and south of the highway have been addressed under the Black Waibel request and the Amabisca Helvetia request.

It was moved to use Council Creek rather than Purdin Road as the boundary with respect to urban rural reserves (page 27 of Issue Paper No. 4).

Motion – Schouten

The motion died for lack of a second.

The Board took no action on this request.

This concluded the list of map amendments.

Chairman Brian summarized that the map amendments that were actually approved to be incorporated into Proposed Ordinance No. 733 on a tentative basis are:

- Those included in Issue Paper No. 2 (administrative, technical, 127 minor requests)
- Peterkort property

He recognized that no other modifications to the map were recommended by the Board today.

Dan Olsen noted that the Board has provided guidance to staff. He recommended continuing the ordinance to May 18, 2010, at which point the Board would consider engrossment.

It was moved to continue the public hearing to May 18, 2010.

Motion – Duyck

2nd – Strader

Vote – 4-1

(Nay – Schouten)

OFF DOCKET – LAND USE AND TRANSPORTATION

MO 146

Reconsider an Annexation Request from the City of Beaverton

Joanne Rice reviewed that last week, the Board took action to reconsider this request by the City of Beaverton to allow a parcel that is located outside of Map A to be annexed into the City of Beaverton. She reported that the property is owned by the Tualatin Hills Park and Recreation District and is adjacent to a new multi-family development that is constructing a boardwalk along Cedar Creek Falls. Ms. Rice said that the boardwalk would end onto the THPRD property. She recalled that the Board did approve that request. Ms. Rice stated that subsequent to that action, the Board received another

request from the City of Beaverton asking for reconsideration of that action because they also want to include adjacent road right-of-way along Cornell Road to be part of that annexation. She recommended that the Board allow the City of Beaverton to annex the actual property owned by THPRD and the road right-of-way that is adjacent to that property.

It was moved to approve the requests from the City of Beaverton authorizing annexation of the THPRD site and its adjacent NW Cornell Road right-of-way.

Motion – Rogers

2nd – Strader

Vote – 5-0

At this time, Commissioner Andy Duyck had to leave in order to honor another commitment.

4. ORAL COMMUNICATION (5 MINUTE OPPORTUNITY)

Tom Black, 870 NW Garibaldi Street, Hillsboro, Oregon, told the Board he represents the Fair Boosters, who are passionate about what happens at the fairgrounds. He acknowledged that we are now operating under a new MOU, which has transferred the exclusive managing rights of the Fair Board to the County Commissioners through County Administration. Mr. Black was concerned that approximately \$250,000 of public money has been spent and he has not seen documentation. He said that he has made both verbal and written requests to the County, to the Fair Board, to County Counsel, and the public records keeper of the Fair Complex, namely, current Fair management. Mr. Black stated that Oregon Statute 565, which oversees fair complexes, contains a requirement that Fair Boards have the fiscal oversight and responsibility of the Fair Complex. He said that now that the MOU is in place, that responsibility lies solely in the hands of the County Administrator. Mr. Black's presumption was that that was actually overseen before the MOU was in place because the Fair Board had been instructed that it was just a policy setting board. He disagreed because he has seen previous examples where money was being accounted for specifically by the Fair Board; he did not expect any less of County Administration. Mr. Black stated that fair boards and fair management are required to comply with public contracting and purchasing laws under ORS 279, unless there is a conflict. He said that fair boards and fair management are required to follow Washington County purchasing procedures and rules of procurement—both dated March of 2005. Mr. Black told the Board that he made a verbal request at the March 3rd meeting when the MOU was being voted on by the Fair Board itself and received no response. He recalled that he spoke at the public comment period at the end and got no response from anyone present. Mr. Black added that Matt Pihl himself asked for specific information at subsequent meetings regarding the building projects. He said that written requests were made on March 31, May 5 and May 7 but he is still waiting for documentation. Mr. Black said what led to this concern was that he found out from the City of Hillsboro that there are a number of open permits on a building that started in November of 2009 and

supposedly was finished in March of 2010. He stated that minutes say that the project was going to be complete in January. Mr. Black could not find documentation of contracts, invitations to bids, listings of public advertisement, change orders, or purchase orders and he wanted to see all of these. He did not care what this would cost and said he would pay for it. Mr. Black said that he wants to see more open government. He stated that he has asked for documentation, that he wants to see it, and that he wants it procured as quickly as possible in any format. Mr. Black asked for a more open process and that the gates be opened for soliciting and vetting for new fair management—someone who has the skill set to guide us to the future masterplan. He did not think that skill set is there now. Mr. Black recommended that the Board clean up what is not being followed or adhered to so that it is not “in a pickle” with what is going on. He said that \$200,000 was put into the revised budget for this year and asked what this will be spent on. Mr. Black stated that we built a remodel of a project that is not even in the footprint of the masterplan. He was concerned by that because he said there are other buildings that desperately need repair per the Scott Edwards plan. Mr. Black wanted to see the money in the current budget to go toward the right buildings and not just toward one building.

5. BOARD ANNOUNCEMENTS

Vice Chair Strader announced that she has been working with Senior Assistant County Counsel Chris Gilmore over the past six months. She wished to work with her colleagues, with their permission and support, on two ordinances. Vice Chair Strader referenced a growing problem off Beaverton Hillsdale Highway and Canyon Road with adult entertainment facilities, which are located near a school and a children’s martial arts studio. She reported several problems from public exposure to the girls taking to the streets naked with their signs during business hours. Vice Chair Strader added that State Senators and Representatives have been witness to this behavior. She stated that she has also been working with the Sheriff’s Office but related that due to Oregon’s extensive First Amendment Constitution, our hands are really tied. Vice Chair Strader indicated that she has met with the owners on several occasions to explain the problems that they are causing. She mentioned that most of these are run under the jurisdiction and guidelines of the Oregon Liquor Commission but she said that two are not even licensed as small businesses. Vice Chair Strader explained that because they do not serve alcohol, they do not fall under the guise of the Oregon Liquor Commission. She stated that one in particular is an ordinance because we have had a lot of public exposure as well as public urination in front of the childrens’ martial arts studio. Vice Chair Strader that this will be a no public urination ordinance. She announced that the second ordinance has become of greater concern, with the growing numbers of unlicensed taxi cab services, as well as unlicensed adult entertainment gambling facilities, and adult assisted living. Vice Chair Strader said that she recently had the pleasure of having Donna Maddux—a Tualatin City Councilor and an employee of the Department of Justice—job shadow her last week. Vice Chair Strader shared that Ms. Maddux prosecutes medicare crimes. The Vice Chair was aware that we have a growing number of those facilities that are not really legitimate but that are popping up all over unincorporated Washington County. She presumed that they are taking money without providing the services because we do not have a business

license ordinance. Vice Chair Strader stated that Dan Olsen also brought to her attention that there was talk during the sign ordinance discussion that because they do not license a lot of businesses, we do not have any jurisdiction over signage of their business and that it falls under land use. With the Board's permission, she intended to continue the work of looking into some type of business licensing ordinance with Counsel.

Chairman Brian said that there is a lot of information to gather and he considered it worthwhile to gather and examine it.

Vice Chair Strader announced that she will join the Governor tomorrow morning at 10:00 a.m. at Five Oaks Middle School to celebrate with the West Side Oregon Food Bank for Hunger Awareness Week in the state and in Washington County.

Vice Chair Strader noted that there is a primary election next Tuesday and urged everyone to vote. She said that according to the Secretary of State's office, they are expecting less than 34% voter turnout. Vice Chair Strader reminded everybody that this is an important election.

Chairman Brian appreciated the Vice Chair's remarks about voting. Earlier this morning, he heard from the Secretary of State's office that only 10% of registered voters have voted up until yesterday. Chairman Brian also heard that they are expecting a high of 38%. He stated that 38% would tie what occurred in 2006, which was the Presidential. Chairman Brian was amazed that with mail-in ballots, we still can only get 38%.

Vice Chair Strader said that if you turn in your ballot now, they will stop sending you mailers.

Chairman Brian remarked that this is why he turned his in the day after he received it.

Commissioner Schouten said that the Board is delighted to have the Chairman back today. He was aware that the Chair is making good, painful progress after his knee surgery.

Chairman Brian thanked the Board and staff for the kind comments during his absence. He said that he may not make every meeting because his recovery is still in the day by day stage. Chairman Brian stated that he can take care of some business by phone and email.

6. ADJOURNMENT: 12:33 p.m.

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

MINUTES APPROVED THIS ____ DAY _____ 2010

RECORDING SECRETARY

CHAIRMAN