

MINUTES

LANE COUNTY LOCAL GOVERNMENT BOUNDARY COMMISSION

Eugene City Hall
Council Chamber (777 Pearl Street)

December 7, 2006
7 p.m.

PRESENT: Clay Myers, chair; Eleanor Mulder, vice chair; Karen Seidel; Christine Larson

ABSENT: Van Heeter, secretary; Jim Spickerman; Ernie Olson

I. CALL TO ORDER – ROLL CALL

Clay Myers, chair, called the meeting of the Lane County Local Government Boundary Commission to order. Members of the boundary commission introduced themselves. Executive Officer Paula Taylor, boundary commission staff, called the roll.

II. APPROVAL OF EXPENSES – SEPTEMBER/OCTOBER 2006

- * Moved/seconded (Larson/Mulder) to approve the expenses for September (\$13,467.80) and October (\$13,961.13) 2006. The motion passed unanimously, 4:0 (commissioners Myers, Larson, Seidel, and Mulder voting yes).

III. APPROVAL OF MINUTES – OCTOBER 5, 2006, and OCTOBER 25, 2006

Ms. Seidel commended the minutes from the October 5 meeting.

- * Moved/seconded (Seidel/Larson) to approve the minutes of October 5, 2006. The motion passed 3:0:1 (commissioners Myers, Seidel, and Larson voting yes; commissioner Mulder abstaining as she was not at the meeting).
- * Moved/seconded (Mulder/Seidel) to approve the minutes of October 25, 2006. The motion passed 3:0:1 (commissioners Myers, Seidel, and Mulder voting yes; commissioner Larson abstaining as she was not at the meeting).

IV. NEW BUSINESS: PUBLIC HEARING

Annexation of Territory to the City of Florence (Curtola Properties LLC/Pivotal Trust)

- A. BC File C FL 06 – 70
Initiated by Resolution No. 27, Series 2006, by the City of Florence with consents from property owners/electors
Action under ORS 199.490(2)(a)(B) of the boundary commission law
Received November 7, 2006
Action to be taken by February 5, 2007

Description

The annexation area included three tax lots located along the southeasterly edge of the City of Florence, west of Munsel Lake Road and North Fork Siuslaw Road, south of Onadoone Court, and east of Willow Loop East and Regal Drive
Property owners: Curtola Properties LLC (780 Main St., Ste. 210, Pleasanton, CA) and Pivotal Trust (780 Main St., Ste. 210, Pleasanton, CA)
Tax lots: 400, 900, and 901, T18S R12W S23
Acres: ± 79.94
Estimate of existing population: 0
Existing land use: Vacant
Existing zoning in Lane County: PR/BD/U/SR, public reserve with beaches and dunes, interim urbanizing, and site review overlays
Applicable comprehensive plan: Comprehensive Plan for the City of Florence (acknowledged by LCDC in 1983 and has been subsequently amended)
Existing public services to the property: Police (Oregon State Police, Lane County Sheriff), schools (Siuslaw School District 97J), roads (City of Florence, Lane County), fire (Siuslaw Rural Fire Protection District #1), library (Siuslaw Public Library District), ambulance (Western Lane Ambulance District), port (Port of Siuslaw), electricity (Central Lincoln Peoples Utility District)

Reason for Annexation

The property owners requested annexation in order to have all of the property in their ownership within the city limits and in anticipation of future residential development. Annexation to the City of Florence was required prior to the provision of urban services.

Notice

As required by ORS 199.463(1), notice of a public hearing must be published in a newspaper of general circulation not more than 25 days nor less than 15 days before the hearing. *In this case, notice of the public hearing was advertised in the Siuslaw News on November 15, 2006.* A second notice may be published in a newspaper of general circulation or notice of the hearing may be mailed to each owner of land in the affected territory not more than 15 days before the hearing. "Affected territory" as defined by ORS 199.415(3) means the territory described in the petition. The "petition" includes a resolution, order, or any other form of initiatory action for a boundary change [ORS 199.415(14)]. The petition or resolution, as required by ORS 199.490(4) also includes a legal description, which must meet the requirements of ORS 308.225 [OAR 191-006-0000(3)]. *In this case, notice of the hearing was sent to the affected property owners (Curtola Properties LLC and Pivotal Trust, owners of the properties proposed for annexation) on November 22, 2006.* The final notice required by the boundary commission law is the posting of a notice of the public hearing in the affected city, district, or territory at least 15 days before the hearing. *In this case, notice of the public hearing was posted in the area of the annexation and at the Florence city hall on November 15, 2006, and at the Lane County courthouse on November 22, 2006.*

Clay Myers, chair, introduced the first item on the docket and called for *ex parte* contacts or conflicts of interest. None were declared.

Paula Taylor, Executive Officer, reviewed the notice provided for the hearing. There was no objection to the adequacy of the notice provided. The staff notes were entered into the record in accordance with the boundary commission's administrative rules.

Ms. Taylor said the annexation by the City of Florence was initiated by the Florence city council with the permission of the property owners. She said because of the nature of the initiation the annexation would be effective immediately should it be approved. She noted that the staff report indicated that four tax lots were affected, but there were only three tax lots involved.

Ms. Taylor stated that the property had been brought into the urban growth boundary (UGB) for Florence through the plan amendment process and had been within the UGB for "a couple of years." She explained that the area had been designated and zoned during the plan amendment process; the zonings and designations were included in the staff report. She related that the City of Florence had held two public hearings, one before the planning commission and one before the city council and the findings that were prepared and adopted were included in the staff report. Additionally, boundary commission staff sent referrals to the Lane County Board of Commissioners, Lane County Environmental Health Division, Lane County Land Management Division, and Siuslaw fire district, and had received no responses. She stated that the staff report included an analysis of the annexation; each of the standards the boundary commission considered were addressed. She noted that the annexation would allow the City of Florence to extend water and wastewater services and to create loop systems. Staff concluded that the annexation was consistent with the boundary commission standards and recommended approval.

Mr. Myers opened the public hearing.

Proponent's Opening Statement

Emily Jerome, city attorney for Florence, provided copies of the resolution passed by the Florence city council regarding the annexation. She relayed the city's agreement with the staff report. She said if the commission wished for additional background information the property owners were available to answer questions.

Public Officials in Support – None

Others in Support

Randy Curtola, 15 Waterford Downs, Florence, property owner, made himself available to answer questions.

Public Officials in Opposition – None

Those in Opposition – None

Those Neither in Support nor Opposition – None

Rebuttal by Proponents – None

Mr. Myers closed the public hearing.

- * Moved/seconded (Seidel/Mulder) to approve BC File C FL 06 – 70, annexing territory to the City of Florence based on the finding and reasons in the December 7, 2006, staff report. The motion passed, 4:0 (commissioners Myers, Larson, Seidel and Mulder voting yes).

Annexation of Territory to the City of Eugene (Spinner)

- B. BC File C EU 06 – 66
Initiated by property owner petition
Action under ORS 199.490(1)(c) of the boundary commission law
Received October 30, 2006
Action to be taken by January 29, 2007

Description

The annexation area included one tax lot located in the Santa Clara region of north Eugene, north of Beltline Road, west of River Road, north of Tivoli Street, west of Crocker Road, south of Blackfoot Avenue, and east and adjacent to Stark Street

Property owners: Ayren and Summer Spinner (1060 West 17th Avenue, Eugene)

Tax lot: 301, T17S R04W S11 Map 22

Acres: ± 0.62

Estimate of existing population: 2 (one residential unit)

Existing land uses: Residential

Existing zonings in Lane County: R-1/UL, low-density residential with urbanizable lands overlay

Applicable comprehensive plan: Eugene-Springfield Metropolitan Area General Plan (acknowledged in August 1982 and has been subsequently amended)

Existing public services to the property: Police (Oregon State Police, Lane County Sheriff), schools (Eugene School District 4J), roads (Lane County), fire (Santa Clara Rural Fire Protection District, water (Santa Clara Water District), electric (EWEB), wastewater (City of Eugene)

Reason for Annexation

The property owners requested annexation in order to divide the private property for additional low-density residential development. The Eugene-Springfield Metropolitan Area General Plan requires properties to annex in order to receive urban services.

Notice

As required by ORS 199.463(1), notice of a public hearing must be published in a newspaper of general circulation not more than 25 days nor less than 15 days before the hearing. *In this case, notice of the public hearing was advertised in The Register-Guard on November 16, 2006.* A second notice may be published in a newspaper of general circulation or notice of the hearing may be mailed to each owner of land in the affected territory not more than 15 days before the hearing. "Affected territory" as defined by ORS 199.415(3) means the territory described in the petition. The "petition" includes a resolution, order, or any other form of initiatory action for a boundary change [ORS 199.415(14)]. The petition or resolution, as required by ORS 199.490(4) also includes a legal description, which must meet the requirements of ORS 308.225 [OAR 191-006-0000(3)]. *In this case, notice of the hearing was sent to the affected property owners (Ayren and Summer Spinner, owners of the private property proposed for annexation and initiators of this annexation request) on November*

22, 2006. The final notice required by the boundary commission law is the posting of a notice of the public hearing in the affected city, district, or territory at least 15 days before the hearing. In this case, notice of the public hearing was posted in the area of the annexation, at the Eugene city hall, and at the Lane County courthouse on November 21, 2006.

Clay Myers, chair, introduced the item and called for *ex parte* contacts or conflicts of interest. None were declared.

Paula Taylor, Executive Officer, reviewed the notice provided for the hearing. There was no objection to the adequacy of the notice provided. The staff notes were entered into the record in accordance with the boundary commission's administrative rules.

Ms. Taylor reported that the annexation to the City of Eugene was initiated by property owner petition. She explained that it was located in the Santa Clara region of north Eugene and was currently developed with one residential unit. She stated that the staff report was incorporated into the boundary commission's record. She said the boundary commission must take action on this proposal by January 29 and was subject, if approved, to a 45-day remonstrance period. She related that the property was within the urban growth boundary (UGB) and, though it was adjacent to Stark Street, the street was not included in the annexation petition. Referrals had been sent to the Lane County departments, Lane County Board of Commissioners, Santa Clara fire district, and Santa Clara Water District. She noted that both Santa Clara districts had responded to the referrals and their objections to the annexation had been incorporated into the record included in the staff report.

Ms. Taylor stated that the standards the boundary commission applied were also reviewed with this application and staff had concluded that the application was consistent with the standards. Annexation to the City of Eugene was consistent with the comprehensive plan, but the annexation area was not contiguous to the main body of the city. She said the required services to the property could be provided. Staff supported approval of the annexation as submitted.

Mr. Myers opened the public hearing.

Proponent's Opening Statement

Robert Stephens, 380 Q Street, Suite 220, Springfield, represented the property owners in regard to the annexation. He conveyed their agreement with the findings and reasons that were laid out in the staff report.

Public Officials in Support

Ann Siegenthaler, Associate Planner for the City of Eugene, conveyed the city's support for the applicant's request to annex. She affirmed that the property was within the UGB of the City of Eugene. She said city staff concurred that urban services were available and the proposal met the city's criteria for annexation. She added that annexation was required before the property could be developed and it was the applicant's intent to partition the property.

Others in Support – None

Public Officials in Opposition – None

Those in Opposition – None

Those Neither in Support nor Opposition – None

Rebuttal by Proponents – None

Mr. Myers closed the public hearing.

Boundary Commission Discussion and Decision

- * Moved/seconded (Larson/Seidel) to approve BC File C EU 06 – 66, annexing territory to the City of Eugene based on the findings and reasons in the December 7, 2006, staff report. The motion passed unanimously, 4:0 (commissioners Myers, Mulder, Larson, and Seidel voting in favor).

Annexation of Territory to the City of Eugene (Coughran)

- C. BC File C EU 06 – 69
Initiated by property owner petition
Action under ORS 199.490(1)(c) of the boundary commission law
Received November 6, 2006
Action to be taken by January 12, 2007

Description

As submitted, the annexation area included one tax lot located in the Santa Clara region of north Eugene, north of Beltline Road, east of River Road, south of River Loop No. 1, and east of Peregrine Street

Property owners: Brian and Ellen Coughran (3763 Julia Loop, Eugene)

Tax lot: 104, T17S R04W S12 Map 20

Acres: ± 0.96

Estimate of existing population: 0 (two single family residences)

Existing land use: Residential

Existing zoning in Lane County: R-1/UL, low-density residential with urbanizable lands overlay

Applicable comprehensive plan: Eugene-Springfield Metropolitan Area General Plan (acknowledged in August 1982 and has been subsequently amended) and the River Road/Santa Clara Urban Facilities Plan

Existing public services to the property: Police (Oregon State Police, Lane County Sheriff), school (Eugene School District 4J), roads (Lane County), water (part in the Santa Clara Water District), fire (Santa Clara Rural Fire Protection District), wastewater (City of Eugene), electric (EWEB)

Reason for Annexation

The property owners requested annexation in order to prepare the properties for future subdivision and future residential development. The Eugene-Springfield Metropolitan Area General Plan requires properties to annex in order to receive urban services.

Notice

As required by ORS 199.463(1), notice of a public hearing must be published in a newspaper of general circulation not more than 25 days nor less than 15 days before the hearing. *In this case, notice of the public hearing was advertised in The Register-Guard on November 16, 2006.* A second notice may be published in a newspaper of

general circulation or notice of the hearing may be mailed to each owner of land in the affected territory not more than 15 days before the hearing. "Affected territory" as defined by ORS 199.415(3) means the territory described in the petition. The "petition" includes a resolution, order, or any other form of initiatory action for a boundary change [ORS 199.415(14)]. The petition or resolution, as required by ORS 199.490(4) also includes a legal description, which must meet the requirements of ORS 308.225 [OAR 191-006-0000(3)]. *In this case, notice of the hearing was sent to the affected property owners (Brian and Ellen Coughran, owners of the private property included in the annexation and initiators of this annexation request) on November 22, 2006.* The final notice required by the boundary commission law is the posting of a notice of the public hearing in the affected city, district, or territory at least 15 days before the hearing. *In this case, notice of the public hearing was posted in the area of the annexation, at the Eugene city hall, and at the Lane County courthouse on November 22, 2006.*

Clay Myers, chair, stated that the commission had received a request to postpone the third item.

Paula Taylor, Executive Officer, related that the annexation had been initiated by the property owners. She said since it had been filed some concerns had been raised and the property owners had requested the hearing be postponed and rescheduled for the February meeting. She noted that a copy of the property owners' email and a copy of an email from Ann Siegenthaler that conveyed the city's concurrence with the request had been distributed to each commissioner. She stated that over the past several weeks some issues regarding access had been identified, as well as some issues of ownership. She noted that the 90th day fell on February 5, 2007. She recommended that the boundary commission not hold a public hearing at this time.

Ms. Seidel observed that the request was for postponement and not for a continuation. Ms. Taylor responded that the two words were intertwined in the governing statute.

- * Moved/seconded (Seidel/Larson) to postpone the public hearing and any action on BC File C EU 06 – 69, annexing territory to the City of Eugene, until the meeting of the boundary commission scheduled for February 1, 2007. The motion carried unanimously, 4:0 (commissioners Myers, Mulder, Larson, and Seidel voting in favor).

Mr. Myers asked what the protocol was for a hearing for which numerous people wished to provide testimony that was deferred to a later date. Ms. Taylor replied that it was up to the boundary commission's discretion. She said one option would be to have a hearing, but given that three commissioners were absent she felt it would be better to postpone. She noted that the commission had done it both ways.

V. OTHER BUSINESS

A. Progress Report: Annexation of Roadways

John Dotson, 2447 Canterbury Street, Eugene, requested the opportunity to read a letter into the record, copies of which were provided to the commissioners. The letter signed by himself and James Seaberry expressed concern that the City of Eugene was modifying annexations to include streets and rights-of-way without applicants' full knowledge.

Ms. Taylor asked how the commission wanted her to respond to the questions and issues raised in the letter referred to by Mr. Dotson. She asked if she should define what an elector was, what rights an elector had and how this could be different from a resident or a renter. She said there were definitions within the law. She noted that the commission had been sent all of the staff responses to these issues over the last several years as they had been raised.

Ms. Seidel suggested that a written response could be helpful. She felt it had helped the public hearing process when the format outline had been added to the agenda. She thought having written definitions from the statutes would be useful, so that the question would not continue to be raised.

Mr. Myers asked what the scope of Ms. Taylor's workload was. Ms. Taylor replied that a major boundary change request would soon be filed that would place a demand on her time, adding that there were many other work tasks, including other boundary change applications.

Ms. Larson did not think this issue needed to be addressed in a public meeting. She believed that many citizens knew what an elector was and what a property owner was. She thought if a person did not understand the terms, which were in common usage, that person should consider hiring an attorney to aid him or her in gaining that understanding. She did not feel it was the boundary commission's responsibility to teach what it was to be a citizen and a participant or to teach the intricacies of the law. She did not wish to spend any more time discussing these items when the members of the community had access to the resources to gain a better understanding of these elements of boundaries and annexation law.

Ms. Mulder commented that it became a budget issue. She said unless Ms. Taylor could accomplish this with "great ease and little expenditure of time" she should not undertake more work on this issue.

Ms. Larson said she was willing to incorporate a list of terms in boundary commission staff reports. Ms. Taylor responded that most of the terms were already in the staff report. She suggested that she could footnote the terms called into question by Messrs. Seaberry and Dotson.

Mr. Myers ascertained from the commissioners that there was support for inclusion of footnotes that defined the terms.

Ms. Taylor referred to the questions that had been raised in the letter and asked the commission whether any of them needed to be specifically addressed in a future staff report. She noted that she did not think the suggestions were representative of how rights-of-way were annexed. She did not wish to respond at the present meeting, though she believed some of the comments were worth trying to address in order to clarify whether there was any fiscal responsibility in the case of a property owner that annexes his or her property and the annexation includes road rights-of-way. She said a public road would not become a private property owner's financial responsibility.

Ms. Larson found the questions as written in the letter implied things that did not relate to how the annexation process actually worked.

Ms. Taylor said there would be other opportunities to discuss the roads and road rights-of-way. She reiterated that a public entity could not be an elector.

Ms. Mulder asked if it was not true that the city did not ask for inclusion of public roads unless there was clear title to the road right-of-way. Ms. Taylor replied that in part it depended on whether a public road had been properly dedicated with a recorded document. She said a public entity did not need to own the land underneath the road in order to have jurisdictional responsibility. She noted that some roads were dedicated to the public through a subdivision process, a partition process, or a development application. She did not know whether the underlying interest would also be required to be transferred. She commented that property owners consented for taxable area and they were not taxed for a public road right-of-way.

Continuing, Ms. Taylor reported that she had received three responses to her query to all of the cities in Lane County regarding annexation of roadways. She noted that she also sent the letter to engineers and businesses that helped people through the annexation process. She related that two small cities responded that they did not do annexations. She had sent a follow-up email asking for responses and had received three responses that said that responses were yet to come. She thought the commission's continued discussions on roadway annexations would be more meaningful if she could get more responses. She believed that gaining information from cities that did engage in annexation and in the annexation of roads would be beneficial.

Ms. Taylor stated that the Eugene city council had scheduled a work session on the River Road/Santa Clara area for mid-January. She thought there might be outcomes from that discussion that would be helpful to the boundary commission. She noted that the city council had adopted its legislative policy document, but the council had requested further discussion regarding its historical support of the boundary commission.

Ms. Taylor asked for direction from the commission on whether the road annexations should continue to be brought to a public hearing through February or if only annexations in the Santa Clara and River Road areas that included roadways should reach the public hearing level.

Ms. Mulder said to consistently have public hearings did not necessarily make sense, given that the annexations that caused issues were largely in the River Road/Santa Clara areas.

In response to a question from Mr. Myers, Ms. Taylor explained that the reason the City of Florence annexation was processed through a public hearing was that the property owners did not want any unnecessary delay.

Ms. Seidel stated that given the level of controversy that arose when annexations came before the boundary commission from the River Road area, those road annexations should continue to come up for a public hearing. She did not believe that road annexations from other cities should merit a public hearing.

Ms. Taylor noted that the commission had the right to request a public hearing on any item processed using the expedited processing.

B. Updated FY 2006-07 Budget

Ms. Taylor said the commission had requested updated budget estimates for the fiscal year. She stated that the budget document showed the "actuals" for 2006 and the adopted budget for 2007, including "actuals" through November, 2006. She pointed out that the *Personal Services* line item was significantly different from the same line item in the adopted budget. She explained that she had taken the actual personnel expenditures through the first six months of the fiscal year and estimated them for the remainder of the fiscal year, including some time for Megan Banks, a Lane Council of Governments (LCOG) planner who had expressed interest in learning about the boundary commission and who would be transitioning into the executive officer position over time. She underscored that they did not have a transition plan at this point, but she wanted to continue discussions internally for providing Megan time to learn about the boundary commission. She added that effective July 1, 2006, her hours had been increased by 8 hours per month and another planner from LCOG had helped to write staff reports. Regarding the latter, she explained that she took the average of the cost of the planner and spread it over the six months and projected it into the next year. She stressed that the workload had increased. She reported that given the estimated change in expenses, it appeared that the boundary commission did not have enough money to finish the fiscal year in the face of the estimates. The budget would continue to be monitored and adjusted as additional information is developed.

Ms. Taylor recommended having the joint meeting with the advisory committee to the boundary commission earlier in the year in order to proceed with finalizing the budget.

Ms. Seidel remarked that this had come up at the last advisory committee meeting because there had been a large cash carryover. She thought the figures they had worked with to gain approval of the filing fees and assessment had not been good. She wanted the commission to work with more accurate figures and to have a more serious discussion regarding how it worked with the assessments and filing fees.

Mr. Myers asked if Ms. Banks was replacing the planner. Ms. Taylor replied that, at this point, Ms. Banks would be in addition to the planner.

In response to a follow-up question from Mr. Myers, Ms. Taylor agreed that it would be prudent to discuss transition expense as she envisioned a reduction in her time. She said when the transition plan was written she would share it with the boundary commission. She underscored that the commission appointed the next executive officer.

Ms. Larson supported inclusion of a transition plan in the budget.

Ms. Taylor suggested that she invite Ms. Banks to attend the next meeting of the boundary commission.

C. Possible Major Boundary Change Application

Ms. Taylor recommended that the major boundary change that she anticipated would be filed in the next several weeks be placed on the February agenda. She said the timelines were very tight. She predicted that the Lane County Board of Commissioners would pass a board order to initiate the formation of a water district in the Row River Valley within

the next week. She noted that the application had not been made, but it was being moved “rapidly” in that direction.

Regarding the budget, Ms. Larson requested that the commission be provided an update on the finances that included the additional expenses that the transition was projected to cost. She wondered if it would be possible to hold a luncheon meeting in January to discuss only the budget. Mr. Myers suggested that Ms. Banks be invited to that meeting.

In response to a question from Ms. Seidel, Ms. Taylor said most applicants did not balk at the level of the fees given that a development project was large and varied in scope.

Mr. Myers adjourned the meeting at 8:19 p.m.

Clay Myers, Chair
Lane County Local Government Boundary Commission

(Recorded by Ruth Atcherson)

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