

(Approved 12/14/11)

**BOARD OF COMMISSIONERS
REGULAR MEETING**

November 22, 2011

1:30 p.m.

Harris Hall

Commissioner Faye Stewart presided with Commissioners Jay Bozievich, Rob Handy, Sid Leiken and Pete Sorenson present. County Administrator Liane Richardson, County Counsel Dan Olsen and Recording Secretary Melissa Zimmer were also present.

12. **PUBLIC HEARING**

- a. **SECOND READING AND PUBLIC HEARING/ORDINANCE NO. PA 1289** In The Matter of Adopting a Revised Chapter 14: Urbanization, Annexation Policies, Policy 1 for The Florence Realization 2020 Comprehensive Plan As Applicable Within The Urban Growth Boundary Outside Florence City Limits (PM & NBA 11/2/11) (File No. PA 08-5363; Applicant, City of Florence)

Mark Rust, Land Management, recalled on December 10, 2010 the current policy of the Comp Plan was adopted by the Board. He added on March 3, 2011 there was a request to revisit the policy. He said the Board directed staff to move that through the process. He said on September 6, 2011 they held a Planning Commission hearing and the Planning Commission deliberated on October 4 and forwarded recommendations to the Board. He noted a letter that came in from the city of Florence on November 16 gives a history of the project dating back to 1994 when they started their periodic review. He gave a power point presentation on the plan (Copy in file).

Rust explained that with health issues, the County is involved regardless as the local health authority. He said ultimately the State of Oregon Health Authority is the one to make the determination. He added with the triple majority provisions, he said the portion of Policy 1 in the language today has been commonly referred to as the triple majority provisions. He said there are two different standards within the section of the statute and they are separate from the health hazard abatement provisions. He explained that the first set of provisions is what has been the subject of the discussion about the revised policy language and to provide for the three different standards that must be met. He noted the first policy is that more than half of the owners of the land in the territory must consent. He added the second set of provisions is if the majority of the electors of the land in the territory consent. He said if that is the case, then owners of more than half of the land in the territory only have to consent. He noted in statute it is one or the other, not both. He indicated in either one of the sets of provisions, a Public Hearing is required to be held by the city in order to annex under one of the provisions. He added that these two sets of provisions are two of many annexation provisions included in state law.

Rust stated that the Planning Commission has made a recommendation and staff supports that recommendation and recommends that the Board conduct the Public Hearing on the recommended language. He indicated that there is a letter from the city of Florence supporting the Planning Commission's recommendation. He added that DLCDC has submitted a letter indicating their language is that they generally concur with the Planning Commission recommendation.

Commissioner Stewart opened the Public Hearing.

Rust indicated that he spoke with Sandra from the city of Florence and she indicated that the city of Florence would not be participating. They thought the letter and all the information in the record represents their position.

Dan Stotter, Corvallis, distributed revised suggested language. (Copy in file). He indicated there is a way to reflect the city of Florence's interest and the residents who live in the County who don't want to have forced annexation. He recommended the County use the statutory process but to use increase informed decision making by having a Public Hearing. He recalled the last time the Board addressed this issue last year, three of the current Board heard members from the author of the North Dunal Aquifer Study and he presented evidence that was different than what the city of Florence had presented. Stotter indicated that there is no health hazard that has been documented. He added there is no evidence that the septic systems are causing any problem. He thought by having a Public Hearing, that experts with this will be coming and it will promote a good decision in that process. Stotter indicated that he used language so there is no island annexation. He suggested for the last sentence they use the principle of democracy of one person, one vote for consent. He added that consent should include a democratic component that has registered voters. He stated the concept of registered voters is important because residents feel disenfranchised because they are residents of the County and they don't have a vote in Florence and they may not own large parcels or property and they could be end up forced into annexation. He thought this language strikes a compromise. He stated that people don't want to be forced into annexation, it is not democratic and the Board has to make informed decision making.

Bob Hursh, Florence, recalled that last December the Board of Commissioners unanimously approved the Comp Plan as it stands today. He said to change the Comp Plan now is reasonable but to eliminate what the protecting wordage that was put in the Comp Plan last December is not the thing to do. He concurred with what Dan Stotter stated.

David Campbell, Florence, said his issue is concerning the maintenance of the flow system in Idlywood that relates to the health of the septic systems. He noted that Mr. Benedict has not complied with the requirement about taking over the

maintenance. He said if they have another flood in that section of Idlywood, they will have drainfield flooding and it will be a serious health risk concern.

Linda Lee Charles, Florence, indicated that she is new to the Florence area. She said she doesn't want to be annexed by the city of Florence and to slow things down and give the citizens time to make it happen.

Jenny Velinty, Florence, said the people in the city are concerned that annexation is going to lead to an enlargement of the current facilities and infrastructure to serve the annexed urban growth boundary. She said the difficulty is that the current system is not large enough so people living in Florence will have to pay the cost of getting larger. She thought it would be better if everyone had a hearing and a vote so the people in the city who are faced with increased costs help the people who don't want to be annexed in the County so everyone has a fair vote, and understands all of the issues. She recommended that this is delayed until everyone is on the same page and has the same information and voting rights.

Jerry Copeland, Florence, said he is familiar with the problem. He said he doesn't know of a serious health problem in the area they are considering annexation. He didn't know why they can't have the people who live there vote, as they know what they want. He said they don't like being told what they are going to have to have if they don't want it. He said the democratic way of doing this is to put it up for a vote.

Peter Boyer, Florence, wanted to promote the democratic process. He didn't think his self determination should be undermined because a few individuals have large parcels. He thought everyone should be able to participate in what happens to their community.

Michele Jean, Florence, said she doesn't want to have the city force annexation on anyone that doesn't want it unless it is absolutely needed. She believed it is not needed. She stated that she doesn't want to pay for extra services for people who don't want them. She didn't think property owners should have an equal vote with the people who live there. She wanted that to be considered.

Leah Patton, requested to leave the hearing open, to have a Public Hearing after the first of the year. She said it would give many people who are out of town time to get back into town and make their views known. She stated there is no evidence of failing septic in the north UGB area. She asked not to take her right to vote away.

Richard Kohler, said he is part of Dunes City. He said he is concerned about a requirement where no evidence is being presented regarding the affects of septic systems on the aquifer. He thought that all people should be involved in the process. He recommended they allow this to be presented in public so that all

evidence is presented and that some parts of the discussion could be opened up to citizens who would be affected.

There being no one else signed up to speak, Commissioner Stewart closed the Public Hearing.

Rust noted there is a site in the proposed language by Stotter that has been in previous versions. He said for the third paragraph, he was citing ORS 199.490. He believed the language is only applicable to areas that have a boundary commission. He noted with the triple majority provisions as they are in place in statute, there are three lots and under the triple majority, they are the most number of additional lots that could be forced to annexation.

Bozievich said they are establishing what annexation policies will be available to the city of Florence in the future. He said he has been working on the Idlywood stormwater issue with Public Works and Land Management and Benedict will not gain approval of his next addition to the subdivision unless he deals with the stormwater on his prior phases at this time. Bozievich indicated that he never made any statements relative to one person holding this up. He said his concern in addressing this annexation policy has been about the fact that someone who owns a vacant parcel with no electors did not have a pathway to voluntarily annex their property under the current language as adopted last December 10. He added that is not something legally defensible for the County and could have cost the County legal fees to defend a policy that didn't leave a voluntary path for annexation to undeveloped properties.

Noting concerns of the residents about the proximity of the hearing to the holidays and the need to review the new language proposed by Mr. Stotter, Bozievich proposed an additional hearing after the holidays in January

MOTION: to approve a Second Reading and Setting a Third Reading and Public Hearing for January 31, 2012 at 7:00 p.m. at the Florence City Hall or to a larger venue for Ordinance No. PA 1289.

Bozievich MOVED, Handy SECONDED.

VOTE: 5-0.

13. COMMISSIONERS' ANNOUNCEMENTS

Stewart reported that he attended the celebration to congratulate Dr. Spilde in her achieving the National Community College Executive of the Year award. He recognized Mike Jackson, Surveyor, as he received Surveyor of the Year from the Oasis Organization. He announced the Wildcat Silver Coins are available at Public Works on sale for \$47 per piece. He recalled that the Board in the past has made a contribution to St. Vincent de Paul to help with a turkey dinner offering. He announced that Food for

Lane County and St. Vincent de Paul are struggling for contributions. He and Bozievich were in Douglas County yesterday and met with co-speaker Hanna and Rep. Freeman and Sen. Kruse. He said they gave an update on the committee that met in regard to Secure Rural School payments and how counties are going to move forward. He said they were concerned that they don't know at this point if the SRS payments will be successfully renewed and how the state and counties are going to work together.

Bozievich reported that he attended an open house in Triangle Lake by the Oregon Health Administration where they were giving information on the Highway 36 exposure investigation with regard to possible chemical trespass.

Leiken congratulated the Thurston High School Football team. He also congratulated the University of Oregon Women's Volleyball as they are ranked 13th in the country.

14. **EXECUTIVE SESSION as per ORS 192.660**
(Commissioners' Conference Room)

Per ORS 192.660(2)(h) for pending litigation.

15. **OTHER BUSINESS**

None.

There being no further business, Commissioner Stewart recessed meeting into Executive Session at 4:30 p.m.

Melissa Zimmer
Recording Secretary