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The Board convened in the Councilors' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Councilors Temple Lentz, Julie Olson, John Blom, Gary Medvigy, and Eileen Quiring, Chair, present.

DISCUSSION RE: SEPARATE BUSINESS ITEM #3

COMMUNITY PLANNING

Request approval of an ordinance amending the Clark County 20-year Comprehensive Growth Management Plan map; zoning map; arterial atlas map; comprehensive plan text and zoning ordinances through the 2018 annual reviews and dockets.

QUIRING: Number 3, Item Number 3, Community Planning.

ORJIAKO: Good morning, Councilors. For the record Oliver Orjiako, Community Planning Director.

Councilors, as stated in our staff report, Item Number 3 is request approval of an ordinance amending the County 20-year comprehensive growth management plan map, the zoning map, arterial atlas map, the comprehensive plan text and zoning ordinances relating to the 2018 plan amendment and County initiated items.

There are ten items that the Council have, through your publicly advertised public hearing, have taken testimony and have had heard all these cases, so this is an ordinance to adopt them so that the

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property owners can proceed with their project that the Council have already approved. So I'm here to take questions, if you have any.

QUIRING: Okay. Are there any questions?

LENTZ: I do. I'm sorry, Madam Chair. I have a couple of questions about item -- under Section 2, Item Number 1 related to Yacolt Mountain, and this may be more of a question for enforcement than for planning, but we've heard a number of concerns and we know that there have been difficulties in multiple sites with the operator, and the question that I have is what is Clark County planning to do in terms of enforcement of rules that we do have in place and ensuring that we will encourage this operator to be a better neighbor and what is the plan that goes along with this if we expand this overlay?

ORJIAKO: If I may, I believe when the Council had this hearing, there was a recommendation to form a committee to begin that dialogue and conversation, and I believe that Mitch Nickolds, the Community Development Director, is taking the initiative on that.

LENTZ: So it has been formed? Perhaps, County Manager, can you speak?

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HENESSEE: The structure of the committee has been organized. It's the surface mining advisory committee, and so I've met with Mitch. We've started the process that to initiate. We have not had a meeting yet, but I'm anticipating we will fairly soon. This is primarily in regards to disseminating information, making sure that everyone's aware and it's a two-way information street so that residents can express some of their concerns, but we can also relay that information back and forth from other people.

Additionally, Community Development is responsible for the enforcement of a lot of these different aspects and so Mitch and I have also met to discuss to make sure that we're going forward with the enforcement process with that. It's something that I think that the Council has been very clear on and we're proceeding forward with.

LENTZ: Okay.

MEDVIGY: Madam chair, may I? I had a couple of specific questions.

So thanks to the public comment as well and we had read a number of those same comments by e-mail sent to us. There were some specific issues raised even today, and one of them is an appearance that not much has transpired. Just two issues that I heard come

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up that I thought we should have a little bit more fidelity since these issues have come up, trips.

So with Livingston temporarily ceasing at least operations on one side, has that increased trips on the Yacolt Quarry and are we actually measuring that in both locations?

The other is the tailings issue and potential landslide danger. Has that been evaluated at this point? So those two questions to whoever wants to answer it.

ORJIAKO: I believe, Councilor, that the trip question will be something that the County will be monitoring, particularly the Public Works staff, on the condition of the road and then on the trips. In regards to the landslide, what happened in Oso is not typical what you'd find in Clark County.

As the County Manager indicated, Community Development will continue to monitor, and if the applicant were to apply for storage of the overburden, they will have to make that application and County staff will review that and review where they're going to be storing that in terms of land stability, and all that is going to be reviewed when a formal application is made. We are not there yet.

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OLSON: Yeah, if I may.

QUIRING: Right. Yeah.

OLSON: I just wanted to just remind us what we did, and what we did was expand or what we're about to do is expand a section of the overlay so that the operator can move their overburden to that side and continue to mine the existing side that they're mining. They have to go through all the permit process to do that. None of that's happened yet, and in order to even move that overburden, we had to give them space with regard to an overlay.

With regard to the trips, it's my understanding that those are set. I mean, they're not whether we have Livingston Mountain open or closed. The trips off of Yacolt are a set number of trips. They do need to be enforced, but that's already in play. So the full process for any change or any future action on Yacolt has to go through permitting and all of that, and that's not what this action that we took or we're about to take.

QUIRING: Correct. This is a map action.

ORJIAKO: That's correct.

QUIRING: Okay. Any further discussion? Hearing and seeing

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none, do we have a motion?

BLOM: Move to approve Item 3 on Separate Business.

QUIRING: That would be ordinance 2019-02-02. Is there a second?

OLSON: Second.

QUIRING: It's been moved and seconded for Ordinance Item Number 3 under Separate Business, Ordinance 2019-2-02 and we'll have a roll call.

LENTZ: AYE

OLSON: AYE

BLOM: AYE

MEDVIGY: I just want to say, I know there's been ten public hearings and I'm coming up late on this, but I have satisfied myself with the recent meetings we've had as well as the detail that we've gotten from staff and in the ordinance itself, so YEA

QUIRING: AYE

QUIRING: Thank you.

ORJIAKO: Thank you, Councilors.

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QUIRING: Thank you, Oliver. It's been moved and seconded all in favor and the motion passes. Thank you.

(End of first public hearing)

PUBLIC HEARING: INTERIM EMERGENCY ORDINANCE 2018-12-64  
The Council will take testimony on Ordinance 2018-12-64 which was adopted by the Board of County Council on December 18, 2018. The ordinance suspended provisions in the Clark County Plan, Plan Map and Code made by section 4 of Ordinance 2016-04-03 and section 1 of Ordinance 2016-05-03, and adopting a limited moratorium on applications to develop lands within the Rural Industrial Land Bank Overlay.

QUIRING: So we'll move to the public hearing for the Interim Emergency Ordinance and we'll hear from Oliver.

ORJIAKO: Again, good morning, Councilors. For the record, Oliver Orjiako, Community Planning. The Council will recall that on December 18th, 2018, Clark County Council adopted Interim Ordinance Number 2018-12-64 that placed a limited moratorium on applications to develop land within the rural industrial land bank overlay.

The State statute authorizes Council to adopt interim emergency ordinance, but since that law provides that the Council take public testimony following your initial adoption, so that's what is before you this morning, Councilors, to take public testimony on that

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interim ordinance.

If I may, by way of background, when I talk about the rural industrial land bank, the Council is aware that the rural industrial land bank was adopted in 2016 and the updates to the County land use plan was also adopted in 2016.

Following those adoptions, Friends of Clark County and FutureWise as well as CCCU appealed the County plan, and the Growth Board ruled on March 23rd, 2017, when they issued their final order and their final decision and order finding and concluding that some portions of the 2016 plan amendment violated GMA and they included the rural industrial land bank. The Council asked us to appeal that, so that is now before the Court of Appeals.

So this ordinance is an attempt to address certain issues that the Growth Management Hearings Board have raised. We've provided Council with three options and that is in the staff report dated February 12th, 2019.

The three options really are, one, you can take no action which would then end on February 24th, that is 60 days after your passage of the interim ordinance.

The second option is to extend the moratorium by six months while

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staff prepares for the Hearings Board compliance or our hearing that is coming up May 31st of this year and then we may come back to the Council for re-adoption for the six-month extension which may come to you sometime in August of 2019.

The third option is just to end the moratorium by repealing the ordinance.

The reason we're asking that the Council extend the moratorium by six months is to enable us to see how the Growth Board relates to or responds to this interim emergency ordinance.

The other reason is that, and Chris Cook who is our Senior Prosecuting Attorney can speak to this, we don't know when the Court of Appeals will hear the case, so we're really asking you for an extension of the emergency ordinance and that really summarizes my comment this morning, Councilors.

QUIRING: Okay. Thank you. We'll have public hearing on this. And Carol Levanen is signed up.

LEVANEN: Carol Levanen for Clark County Citizens United.

In 1993, a moratorium was placed on land divisions in Clark County that prevented landowners from segregating their property, which

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was a legal process to divide land at the time, had been for many years. That moratorium has never been lifted, so now landowners are paying 2 to \$300,000 in order to divide land in Clark County. So this moratorium, when the industrial land bank was approved, that was a legal process under the Growth Management Act that is legally in place.

If businesses want to give applications or submit applications for the process of utilizing that industrial land bank, I think the County needs to let them go ahead and do that because it is in the Court of Appeals right now, that's true. Our activity in the Court of Appeals has nothing to do with the industrial land bank. It's all FutureWise who's thrown that into the Court of Appeals and bypassing the Superior Court. But that being said, it was a legal process and this moratorium has been ongoing and who knows when it will ever be lifted.

So I think if businesses are interested in turning in applications, let them do that because the Court of Appeals knows that this process was a legal process under the Growth Management Act. We've just been reviewing all of the industrial land bank documents in the Growth Management Act and clearly it's a legal process. So we don't believe these moratoriums are necessary in these cases, and what that's going to do is delay jobs and economic development in this county and that's exactly what this industrial land bank

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was proposed to do and its purpose.

We need those jobs. We need that process. We have to stop sending 70,000 people into Oregon. There's lots of financial loss to those people if we don't act with the industrial land bank.

So I urge the Council to not place these moratoriums on this. Let the process go through. The courts will decide, and it's a legal process and we believe the courts will rule in favor of the industrial land bank. Thank you.

QUIRING: Thank you. Jerry Winters.

WINTERS: Good morning, Councilors.

QUIRING: Good morning.

WINTERS: And welcome to the new members. This is good to see your faces on the Board and know that you're ready for business.

I read a few things in the paper and that give me notice that this meeting was coming, and I hope I didn't misunderstand the whole meaning of this ordinance that's going through right now that's being discussed. Excuse me. I just got off to a bad start. My name is Jerry Winters and my home address is 5420 Idaho Street,

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Vancouver, 98661.

Plus I have high interest of 132nd Avenue off of 119th Street or I wouldn't be here speaking. It just happens I live up in the city here. I'm a neighbor to the farmer Lagler's fence line and I know how a yo-yo feels. I'm 70 years old and a disabled veteran and I've owned the 20 acres of pasture since 1972. That's 47 years ago. It's been in and out, up and down, in and out, up and down three times.

I bought the 20 acres as an investment. I've seen slow economic growth. It sat in AG-20 most of the time. The last eight years it was in light industrial overlay. Last year it mysteriously changed back to AG-20, no overlay. I've worked through four sets of Commissioners, Councilors. I say it's time for jobs. The sprawl is the overloading, moldy housing inside the urban growth boundary. Now those people need jobs.

I want back in the light industrial, like my neighbors on three sides, and open up the rural industrial land bank or the railroad-dependent uses that will all bring jobs out to that area. I've included my parcel number, my phone number, my legal description and the letters I passed out. I made a little ad in them this morning, and on the back of mine, I've got: Why let Clark County lose out?

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There is road frontage on 132nd Avenue, future 137th Street with three lanes. Why make the buffer make three jogs around 20 acres of long ago pastureland clear and level? Thank you. Jerry Winters and Michele Winters. That's what I got about the growth and sprawl and it's getting surrounded out there and I think it's -- I don't see leaving a postage stamp out there of 20 acres labeled ag in the middle of it. Thank you.

QUIRING: Thank you. Okay. That concludes the list that I have for testimony on this particular item. Does the Council have any questions prior to a motion?

OLSON: Madam Chair, if I might, could I ask Chris Cook just to give a -- just a slight additional background as to what got us to this point and the current status of the rural industrial land bank with regard to permitting and land division and --

COOK: Sure, Councilor. Christine Cook, Senior Deputy Prosecuting Attorney.

I think Oliver summarized the process quite well. The land was brought into the rural industrial land bank in 2016, that action and the industrial land bank was created then, that action was appealed. The appeal was sustained. The rural industrial land

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bank was held to be noncompliant and invalid, and that's a key word here, because under the invalidity imposition by the Growth Board, the County can't accept applications for the rural industrial land bank.

So having a moratorium on them doesn't change the practical effect a whole lot, but in the last decision from the Growth Board following the second noncompliance hearing, the Growth Board suggested it seemed that a moratorium could be a positive action that the County would take as kind of statement of good faith and in an attempt to comply with the GMA, and that is why Planning brought that as an option to the Council in December, and my understanding is that that is why Council agreed with it.

There's little practical change, but it does show that the County is serious about complying with GMA while we vigorously defend our action at the Court of Appeals. And, again, we have no -- we have no idea when the Court of Appeals is even going to schedule argument on it, so it could be a while.

HENESSEE: And I think that's an important point is that the County still, you know, believes that we will prevail at the Court of Appeals and we continue to pursue that. This, as the Prosecutor indicated, is a step, but we can't actually process the applications currently under the invalidity order.

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QUIRING: And I would say, furthermore, we haven't received any applications and I think that's an important point as well and I believe that's because of uncertainty. I don't think that many developers are going to jump forward to make an application if they know this is still hanging in the balance as we wait for the court to make a decision.

ORJIAKO: You're correct, Councilor Chair.

OLSON: And so its potential and it may be likely we could be back here in the next six months to do this again, if the court hasn't heard the case.

COOK: That's correct.

HENESSEE: It depends on when the case is actually heard and the decision comes down. We're anticipating it will be later this year, so right now, a six-month extension would be August. It just depends upon when the decision comes down from the court.

QUIRING: So we've been given three options to select here. It's on the last page. It's Page 2 of 2 after our materials on this particular item. Do I hear a motion?

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OLSON: Yeah. Madam chair, I move that we extend the moratorium by six months while staff prepares for the Hearings Board compliance hearing on May 31st, 2019.

QUIRING: Okay. That's the Option 2.

BLOM: Second.

QUIRING: Okay. It's been moved and seconded to extend the moratorium six months to allow the staff to prepare. Is there a discussion?

MEDVIGY: I have one question about the six-month time period. It would seem to me to make more sense to just have it tied to an actual decision by the Court of Appeals.

COOK: That's statutory. By statute, it automatically dissolves. First of all, it would have dissolved if Council hadn't held a public hearing and taken public testimony on it within 60 days, and then the time by which it can be extended is six months.

MEDVIGY: Thank you.

COOK: You're welcome.

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QUIRING: Any further questions? Hearing and seeing none, do we need a voice vote on this? No? Do we need a voice vote?

ORJIAKO: Yes. Yes.

LENTZ: AYE

OLSON: AYE

BLOM: AYE

MEDVIGY: AYE

QUIRING: AYE

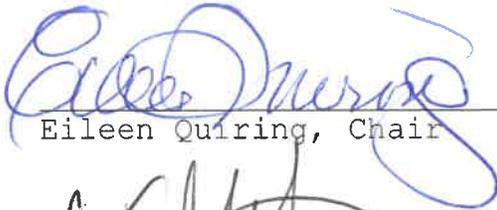
QUIRING: Been moved, seconded and the motion passes.

ORJIAKO: And thank you, Councilors.

QUIRING: Thank you.

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CLARK COUNTY COUNCIL



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Temple Lentz, Councilor



Julie Olson, Councilor



John Blom, Councilor



Gary Medvigy, Councilor



ATTEST:



Rebecca Messinger, Clerk to the Council

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