

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, May 27, 2009  
Marion County Courthouse Square

9:00 a.m. Board Session  
Senator Hearing Room

**PRESENT:** Commissioner Patti Milne and Commissioner Janet Carlson. Also present were John Lattimer as chief administrative officer, Jo Stonecipher as legal counsel and Kim Hulett as recorder.

**ABSENT:** Commissioner Sam Brentano

**PUBLIC COMMENT**

None.

**MOTION:** Commissioner Carlson moved to add the following item to the consent calendar: Approve order removing property located at 605 Ewald Avenue SE, Salem, Oregon, tax account no. R77411, from the list of real properties to be sold at public auction on May 29, 2009. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

**CONSENT**

BOARD OF COMMISSIONERS

OLCC APPLICATIONS – Recommend Approval

Boom’s Restaurant Corporation, Salem

Approve an order appointing Raymond Byrd, Jr. to the Marion County Public Safety Coordinating Council to a three-year term ending June 8, 2012.

BUSINESS SERVICES – RISK MANAGEMENT

Approve an order appointing Madilyn Zike to the Health Insurance Study Committee replacing Jan Fritz.

PUBLIC WORKS – PLANNING

Receive hearings officer’s recommendation granting zone change, case #ZC09-2, Brady, Clerk’s File #5615.

Receive hearings officer’s decision granting administrative review, case #AR08-44, Moore, Clerk’s File #5614.

## SHERIFF

Approve amendment #3 to contract with FSH Communications allowing inmates to make collect calls to Mexico.

**MOTION:** Commissioner Carlson moved approval of the consent calendar. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

## **ACTION**

### PUBLIC WORKS

1. Consider transferring jurisdiction of a portion of Ike Mooney Road, County Road No. 760, lying within the corporate boundary of the City of Silverton, to the City of Silverton. – Patricia Nordahl

Patricia Nordahl, public works, stated that Marion County Land Development required the City of Silverton to assume jurisdiction over a portion of Ike Mooney Road as a condition of approval for the development of Pioneer Village, Phase IV. The city has agreed to accept jurisdiction over the portion of the road that has been upgraded by the developer and once the transfer is completed, Marion County will no longer maintain this portion of the roadway. Ms. Nordahl said that she recommends approval of the transfer to the City of Silverton.

**MOTION:** Commissioner Carlson moved to grant the transfer of jurisdiction of a portion of Ike Mooney Road, County Road No. 760, lying within the corporate boundary of the City of Silverton, to the City of Silverton. Seconded by Commissioner Milne, motion carried. A voice vote was unanimous.

2. Consider approval of an annual grant of \$120,365 for the funding of an educator for the Salem-Keizer School District Recycling and Solid Waste Management Education Program for fiscal year 2009-10. – Jeff Bickford

Jeff Bickford, environmental services manager, introduced Kelly Cooley who is the recycling educator for Salem-Keizer School District. Mr. Bickford said that the Public Works Department has been funding this position since the mid 1990s. It was originally conceived and funded through a grant with those funds specifically coming from the revenue generated from accepting out-of-county medical waste. He said this is the annual renewal and recommends the board approve the grant.

Kelly Cooley stated her primary job is to work with students and teachers in all 66 Salem-Keizer Public Schools. She visits the classrooms on a regular basis and her lessons focus on reusing, recycling and composting all with the idea of reducing the overall waste that is created within the school district. Ms. Cooley said she takes the opportunity of working with the students and helps them see how they can put those ideas into practice in the school and also take them home to their families. As of April 10, 2009, she has worked with 5,277 students on a variety of items, such as classroom presentations, trips to the transfer station, awards ceremonies, special projects and environmental clubs. She said she has a lot of contact time with the students in the district. She added that she also provides training for the schools. At every school in the district she has a “green team” contact person and they all meet in the fall to insure everyone is on the same page

and has current information about waste reduction. She provides them with curriculum and any resources that they might need to carry out their plans for the school. She said a large part of her job at this point is her work with the Oregon Green Schools Association. She currently serves on the board of directors as the secretary for Oregon Green Schools and is an area coordinator for them. The Oregon Green Schools Program has a mission statewide to set up and maintain effective permanent waste reduction and resource efficiency programs that improve the school environment and improve the community. Oregon Green Schools also tries to recognize and award schools for their efforts. Currently Salem-Keizer School District has 32 Oregon Green Schools and is one of the more active areas of the state and this is because Marion County funds Ms. Cooley's position. She said she has seen a tremendous increase in recycling and waste reduction programs in the schools.

Commissioner Carlson asked how it was different to go into the grade schools versus the middle or high schools. She asked about the academic level and if it changed depending on the age of the child. Ms. Cooley said Commissioner Carlson was correct and that sometimes recycling is taught through an environmental science class, environmental club or through a leadership class. Ms. Cooley said it really depends on the individual school needs. She said she tries to tie her work in with the state science and social science standards to really help make that classroom connection for students.

Commissioner Carlson asked if she has ever received any feedback from the schools or the teachers on how the program is received and if it is having an impact. Ms. Cooley said that she does receive feedback via surveys she leaves with the teachers. Commissioner Carlson commented that this is one of the examples of our solid waste system and the revenues that the county is able to generate through having the integrated waste system that gives us the opportunity to educate the community. She said there is no better way than to start with the kids.

**MOTION:** Commissioner Carlson moved approval of the annual grant of \$120,365 for the funding of an educator for the Salem-Keizer School District Recycling and Solid Waste Management Education Program for fiscal year 2009-10. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

3. Consider approval of amendment #11 to the agreement with Covanta Marion, Inc., for the installation of energy saving equipment at the Marion County Waste-to-Energy Facility. – Jeff Bickford

Jeff Bickford, environmental services manager, said the county has been contracting with Covanta to operate our waste-to-energy facility since 1986. Through this contract, electricity is generated and that electricity is sold to Portland General Electric. Approximately 90 percent of the revenue generated from the sale of electricity comes back to Marion County. He said that Covanta has a proposal to do some equipment replacement on two variable fan drives. The fan drives regulate the airflow into the boiler units. The older equipment was very inefficient and could only operate at one speed. He said that replacing these two fan drives would save a tremendous amount of electricity. The other proposal was to change approximately 375 fluorescent light fixtures with a much more efficient, lower energy usage fixture. Mr. Bickford said the reason this is important to the county is that any energy that Covanta doesn't utilize is able to be sold out into the grid. The approximate county cost to do these two upgrades is \$220,000. The payback for the fan drives is approximately 1.6 years and for the change in

lighting is about 3.1 years. In a short period of time these upgrades will be generating additional revenue. Mr. Bickford asked the board for approval.

Commissioner Carlson asked how Covanta determined these two upgrades were necessary. Mr. Bickford said they hired a company to come through and do an analysis of how they could save energy. The old light fixtures were installed in 1985-86 and the technology is so much better now that it will enable Covanta to save energy. The fan drives have to be slowed down to a lower flow rate, but they are still utilizing the same amount of electricity. The analysis showed there is new equipment now available that will reduce the amount of electricity when the fan drives are slowed down. Commissioner Carlson confirmed the source of money was coming from the solid waste fund.

**MOTION:** Commissioner Carlson moved approval of amendment #11 to the agreement with Covanta Marion, Inc., for the installation of energy savings equipment at the Marion County Waste-to-Energy Facility. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

#### PUBLIC WORKS - PLANNING

4. Consider imposing an additional condition of approval in conditional use, case #CU07-58, Curtright, on remand from the Land Use Board of Appeals. – Sterling Anderson

Sterling Anderson, planning director, stated the issue is whether to adopt an order adding an additional condition of approval to conditional use case #CU07-58, Curtright, by imposing a limitation of the number of flights allowed from this personal use airport. On September 25, 2008, the board of commissioners granted the application to allow the personal use airport. Opponents appealed the approval to the Land Use Board of Appeals (LUBA). On March 3, 2009, LUBA remanded the application to the county finding that it is necessary for the county to either amend its findings to clarify that the number of flights per month is not a significant basis for finding compliance with the applicable approval criteria; or, impose a condition of approval limiting the number of flights per month.

On April 13, 2009, the applicant's representative requested the county take action on the remand. This means there is a 90-day timeline to make a decision from the date of the request to move forward. The options for the board are to instruct staff to prepare an order to adopt the additional condition of approval (limiting the number of flights per month) or to amend the findings, which would be a much longer process. Mr. Anderson said that staff recommends that the board adopt the condition of approval. The recommended condition would state that the applicant shall be limited to 20 flights per calendar month with one landing and one takeoff constituting a single flight. He added there was some additional testimony submitted by the opponent, Mr. Ron Johnson. In the comments he submitted it appears that items number 3, 4, 5 and 6 actually relate to the wording or language in this condition. Mr. Johnson is suggesting some modifications to those items for further clarification. The first item number is 3 and Mr. Johnson proposes that the condition should be amended to limit the airport's use, not just the applicant's use of the airport. His issue is that the way it is currently proposed it could be interpreted that the applicant is limited to 20 flights, but guests are not within that limit. Mr. Anderson said it was staff's intent during the hearing not to just limit the applicant, but to limit the number of flights to 20 per month. He said he thought it would be appropriate to use Mr. Johnson's language that states, "the use shall be limited to 20 flights per month."

Item number 4 states that the condition should be amended to provide a daily limit on airport use in addition to the monthly limit. Mr. Johnson is suggesting no more than two flights per day. Mr. Anderson said he didn't believe this was ever discussed as a daily limit during the hearing process and didn't feel it was an appropriate amendment to the condition.

Mr. Johnson proposes item number 5 be amended to clarify the number of flights allowed as not cumulative, meaning if you don't use all 20 flights in a month, they are added to the next month. Mr. Anderson said this was never the intent of the condition. He said staff would interpret the condition as 20 per month and they do not rollover. He said if the board feels this condition needs to be clarified they could add Mr. Johnson's recommended language, which is "used flights from one month cannot be carried forward or used in any subsequent months."

Mr. Johnson proposes item number 6 be amended to require the applicant to document compliance with the condition of 20 flights per month. Mr. Andersons said staff doesn't feel this is particularly necessary because in this instance the flights have to be logged and staff can obtain access to the logbooks if there is any question of the number of flights.

Mr. Anderson said item number 7 gets into sound impact and an issue that is not currently before the board. Ms. Stonecipher added that item number 7 had been deleted from the materials the board had received because it is not relevant to the question before the board. The record was not reopened to receive information on noise. She added that also submitted and not provided to the board was a report that was generated to analyze and criticize some of the evidence that the board received during the hearing process when the airport was approved the first time. Item number 2 is not properly before the board. Ms. Stonecipher said that what the board needs to do at this time is to specifically reject the evidence that doesn't pertain to the issue. The county record will show that these items are not before the board and they have not considered it in making their decision today, which is only related to the question of flights and limiting flights.

Commissioner Milne said she agreed with imposing the condition as staff had recommended. She would be comfortable with this and she didn't feel there was a need to change anything else.

Commissioner Carlson asked what the remedy would be if there were more than 20 flights per month. Mr. Anderson said if someone thought there were more than 20 flights in a month they would have to come to the county and provide their own evidence. Staff would then research and determine the number of flights. If the number of flights exceeded 20, the county could impose a \$1,000 fee or they could revoke the conditional use. Commissioner Milne voiced her concern about this being the county's responsibility. She said since the information is already required by the Federal Aviation Administration, it didn't seem like the county should have to be responsible.

Commissioner Carlson said that during the hearing there was discussion imposing a condition on numbers of flights and she asked if the applicant was in agreement. Mr. Anderson said at the time of the hearing the applicant was agreeable to 20 flights per month and is still agreeable at this time.

**MOTION:** Commissioner Carlson moved to accept the testimony of Ron Johnson, with the exception of item number 7 and the acoustical engineering report that are not relevant to the issue be considered. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

**MOTION:** Commissioner Carlson moved the adoption of the additional condition of approval in conditional use, case #CU07-58, Curtright, on remand from the Land Use Board of Appeals and the conditional use would state, “uses shall be limited to 20 flights per calendar month with one landing and one take off constituting a single flight.” Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

## SHERIFF

5. Consider adoption and first reading of the Alarm System Control Ordinance; final adoption scheduled for June 10, 2009. – Undersheriff Jason Myers and Bruce Armstrong

Jason Myers, undersheriff, stated this ordinance was written in May 1992 and amended in September 1992. Since that time there have been no changes. At the time this ordinance was written and amended, there was a requirement for a permit to be purchased. This was basically a lifetime permit and there was no renewal process. Undersheriff Myers said that currently in the database there are over 5,000 permits listed and he believes that approximately 500 are accurate. This is due to not having an annual or biannual renewal process where information is updated and therefore, impossible to track if people move or sell their homes.

Undersheriff Myers summarized the proposed changes. He said their goal is to completely update the overall ordinance to establish responsibility for alarm users, businesses, dispatch and the Sheriff’s Office. He said the Sheriff’s Office wants to add an a bi-annual renewal process, to implement a new alarm software program to help track the users and alarm permits, and to improve the Sheriff’s Office response and non-response processes. He said their desired goals are to reduce the number of false alarms, to maintain current alarm permit user information, and reduce the time that deputies spend on false alarms. He said they also want to streamline the application process, filing, and tracking of false alarms.

Bruce Armstrong, assistant legal counsel, said the overriding goal is to reduce the number of false alarms where deputies are going out checking on situations that don’t merit deputy time. He added that they want to keep the information updated in the database and they are enlisting the help of the alarm businesses and alarm users to insure that the number of false alarms is limited. He said one way to do this is to implement a renewal every two years and this will insure the information is kept updated. Mr. Armstrong stated if a permit is not renewed after the two year period it will terminate and the sheriff would not necessarily need to respond to alarm signals coming from an expired permit. If someone has an alarm system and does not get an alarm permit they are committing a violation and could be subject to a citation.

Mr. Armstrong said that the Sheriff’s Office is not going to go out seeking opportunities to cite, but they want people to comply with the ordinance and be a part of the system. It is also a violation and potentially subject to citation if there’s a false alarm and the person doesn’t have a permit. Mr. Armstrong said that in the proposed ordinance he has set up a process for excessive false alarms. If there were a third false alarm in a permit year a fine would be imposed and it would be required to be paid within 30 days. If the fine is not paid in 60 days, the permit could be subject to revocation. If there is a fifth false alarm in a permit year, the Sheriff’s Office has the authority and may revoke. If a permit is revoked it leads to the “no response” list.

If someone does have a permit, there is no guarantee that the Sheriff's Office would respond to every alarm. The Sheriff's Office has to deal with the resources and priorities of other emergency situations. In summary, if a property is put on the "no response" list the Sheriff's Office may chose not to respond. This would generally happen if there were ongoing false alarms. The difference between the proposed and existing ordinance is that there is imposed responsibilities on alarm businesses. The existing ordinance only requires the alarm business to provide instructions to the user. The proposed ordinance requires that instructions be provided and that the user be notified that they need to get a permit from the county. The alarm businesses are required to provide monthly updates of their customer lists to the Sheriff's Office so they will know who has an alarm system and then can inform them of the need to get a permit. Mr. Armstrong said this ordinance doesn't create a duty or obligation to the Sheriff's Office to respond just because someone has an alarm permit and a signal goes off. The Sheriff's Office will strive to respond to these calls or these alarm signals, but it depends on the resources and circumstances that the Sheriff's Office is dealing with at the time.

Commissioner Milne stated it is important that this is an accurate ordinance and that we get everything right. Commissioner Carlson said it gives the Sheriff's Office the tools that they need to enforce, and yet the discretion that they need to handle unique circumstances. She asked if this proposed ordinance applies to the unincorporated areas of Marion County, not the cities. Mr. Armstrong said that was correct. Jo Stonecipher said that state law prohibits the enforcement of county ordinances within the boundaries of incorporated cities, unless the city specifically agrees to that.

Commissioner Carlson asked how they were going to communicate the permit process. Undersheriff Myers said they would develop a pamphlet regarding the ordinance and the pamphlet will be given to the alarm companies to disburse. Information will be put on the Marion County website and also provided when the Sheriff's Office responds to an alarm.

**MOTION:** Commissioner Carlson moved that the Chair read the ordinance by title only once. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous. A voice vote was unanimous.

Commissioner Milne then read the ordinance by title only once.

## **PUBLIC HEARING**

### **9:30 a.m.**

None.

Commissioner Milne read the weekly calendar.

Commissioner Milne adjourned the meeting at 10:00 a.m.

**Attachments:** Agenda

ABOVE MINUTES APPROVED

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CHAIR

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COMMISSIONER

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COMMISSIONER

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