

## BOARD OF COMMISSIONERS

### MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, October 7, 2009  
Marion County Courthouse Square

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

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

### **PRESENTATION**

#### Health Department – Administering Flu Vaccine

Kelly Martin, immunization coordinator for the Health Department, said she appreciated the opportunity to talk about the importance of receiving the seasonal influenza vaccine. Ms. Martin said about 36,000 people in the U.S. die from the flu every year. The easiest preventative measure is to receive the flu vaccine. The injectable vaccine has been available for many years and is for persons 6 months and older. One injection is required for adults. The flu mist is a nasal spray recommended for those individuals who are 2 to 49 years of age and for those who are healthy without a chronic health condition (such as heart disease, asthma or diabetes) and are not pregnant. Ms. Martin said that this is a live attenuated vaccine. She said community members can receive the seasonal flu vaccine from their medical providers and that many pharmacies will also have it available. Ms. Martin stated the Health Department usually has the vaccine by now, but there has been a shipment delay and they expect to have it within the next three weeks.

A demonstration was then given of two actual vaccinations. Dan Estes received the flu mist and Barb Young received the injection. One dose of the vaccine for an adult is sufficient protection. If it is the first year for a child to receive the vaccine and they are eight years or under, they will require two doses 28 days apart.

Ms. Martin then discussed the H1N1 flu shots. Originally it was thought that two doses of the vaccine would be required. Studies have shown that the H1N1 vaccine is effective with one dose for those 10 and older in either the mist or injectable form. All children 9 years of age and under will require two doses. The H1N1 vaccine is made the same way as the seasonal flu vaccine. Ms. Martin said that the H1N1 is only available to high risk groups at this time. Those groups would include person six months through 24 years and 25 to 64 years with high risk health conditions such as heart disease, asthma, diabetes, pregnant women, health care workers and those who have contact with infants less than six months old. She added that it wouldn't be too long before they had enough shots for everyone.

## **PUBLIC COMMENT**

### AMENDMENT TO THE CITY OF HUBBARD URBAN GROWTH BOUNDARY

Jo Stonecipher, county legal counsel, stated the land-use matter before the board is legislative. Although the public hearing itself has been closed, the board is entitled to receive additional information (as opposed to a quasi-judicial hearing). Commissioner Milne expressed appreciation for the clarification. She stated the board was very much aware that Mr. and Mrs. Dummer had been present and spoke at the public hearing, but stated it was okay with the board if they wished to make additional comments.

Carl and Kathryn Dummer, 17762 Dunn Road NE, Hubbard, OR, came forward to speak. Mrs. Dummer said the reason they were in attendance was to comment about the process. She thanked the board for their willingness to put off voting on the matter until some issues were taken care of. She said it somewhat restores their faith in government, because they feel they have been railroaded up to this point. Ms. Dummer said they also wanted to thank Brandon Reich for going above and beyond in trying to find a solution and in obtaining information. Mr. Dummer agreed with his wife and also thanked Mr. Reich and the board for their deferral. He believed the county would designate their area UT-1 or 1.5 acre. He understood that under Measure 49, it is two acres or whatever is required for the well and a septic system. He said if the requirement is 1.5 acre, it would be harder for them to do a decent parcel layout.

Jo Stonecipher explained that the properties would be zoned with a 1.5 acre minimum, which does not mean 2 acres would be precluded it just cannot be less than 1.5. Commissioner Milne stated that Mr. Reich would offer further explanation in his presentation.

## **CONSENT**

### DISTRICT ATTORNEY

Approve receipt of \$219,400 from the Department of Justice for the District Attorney's Office to maintain involvement in juvenile dependency proceedings.

### PUBLIC WORKS

Approve renewal of two intergovernmental agreements with the Department of Transportation for the issuance of continuous operation variance permits and non-continuous operation variance permits.

### PUBLIC WORKS – PLANNING

Receive hearings officer's recommendation to grant zone change, case #09-010, Willamette Estates II, LLC, Clerk's File #5628.

### TAX COLLECTOR

Approve an order authorizing the county to advance taxes levied by small taxing districts and authorizing the tax collector to revise the tax distribution schedule so that all taxes advanced by the county will be allocated to the county.

### TREASURER

Approve an order distributing revenues from ORS Chapter 530 timberlands.

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

## **ACTION**

### **BOARD OF COMMISSIONERS**

1. Consider approval of a proclamation designating October 8, 2009, as Day of Culture in Marion County. – Chris D'Arcy

Chris D'Arcy, executive director of the Oregon Arts Commission (OAC) and the Oregon Cultural Trust (OCT), stated she wanted to thank the county commissioners for their support of culture. She said that back in 1992 and 1993 the board named an initial group of citizens from Marion County who began and ultimately adopted a cultural plan for support of, enjoyment and participation in Marion County's arts, heritage, and humanities. She said the cultural trust is a state initiative to encourage increased public and private investment in culture. The State of Oregon offers a very generous tax credit to encourage Oregonians to give to cultural assets in their own community. In one tax year people may make a matching gift to the Oregon Cultural Trust and receive a very generous tax credit.

Ms. D'Arcy said she was proud that they have raised over \$17 million for culture since 2003 and have awarded over \$7 million in grants during that time and almost 14,000 Oregonians have played a part in this. October 8, 2009, is the anniversary of the effective date of the tax credit and is proposed to officially be proclaimed as Oregon's Day of Culture.

Commissioner Carlson thanked Ms. D'Arcy for coming on somewhat short notice to accept the proclamation. Marion County Cultural Development Corporation helped launch the Cultural Trust and helped in developing the plan. She said the goals and plan included protecting and stabilizing Marion County cultural resources and creating a solid foundation for the future. It also expands the public awareness, quality of and access to the use of culture in Marion County. This insures that Marion County cultural resources are strong and dynamic contributors to Marion County's communities and quality of life. She stated that 2009 grant awards for Marion County were just over \$30,000. Some of the recipients were AC Gilbert Discovery Village, Jefferson Public Library, Marion County Historical Society, Keizer Parks Foundation, Mission Mill Museum, Salem Art Association, Santiam Hearts to Arts, Silverton Country Historical Society, Stayton Friends of the Library, and Stayton Public Library Foundation.

**MOTION:** Commissioner Carlson moved approval of a proclamation designating October 8, 2009, as a Day of Culture in Marion County. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

The commissioners then read the proclamation.

**CONTRACT REVIEW BOARD** Action item #2 was moved to follow public hearing.

## DISTRICT ATTORNEY

3. Consider approval of a proclamation designating October 2009 as Domestic Violence Awareness Month in Marion County. – Walt Beglau, Jayne Downing

Walt Beglau, Marion County District Attorney, and Jane Downing, executive director of Mid-Valley Women's Crisis Service (MVWCS) were in attendance to talk about the Domestic Violence Awareness Month in Marion County. Mr. Beglau thanked the board for the opportunity to highlight for the community their efforts against domestic violence and protecting victims of domestic violence year-round. Mr. Beglau said he appreciated that this board had been so tremendously supportive and knowledgeable of the work they are doing. He said he really wanted to thank Jayne Downing and the Mid-Valley Women's Crisis Service and said they are an award-winning organization.

Mr. Beglau stated that domestic violence continues to play a predominant role in criminal behavior in Marion County, across the state, and across the nation. He said there were over 1,000 cases of domestic violence in the county last year containing a wide range of conduct. Close to 20 percent were repeat offenses (185 cases). Included in that 20 percent is when a child witnesses the offense. He stated it was very important the community understands that this is an ongoing experience for these families. They are seeing sexual violence within these relationships and the domestic violence definition is far broader than just hitting. They are seeing escalating behaviors in certain areas like isolation, physical and emotional. They see a lot of choking and so much so that advocates for victims of domestic violence came forward with a new crime through the legislature called *strangulation*. Mr. Beglau stated the community needs to be able to see what is going on and acknowledge it.

Mr. Beglau stated that the Domestic Violence Council represents foot soldiers and are an amazing group. He said yesterday's meeting was a very diverse, very active, ever-ready, always willing to express their perspective, group. They have worked very hard to develop protocols around batterer treatment and have spent countless hours making sure there is a framework around accountability, promoting victim safety and building transparency in the community.

Jayne Downing greeted the board and began her remarks by stating she appreciated the opportunity to speak before the board. She mentioned MVWCS has a 24-hour crisis line, safe shelter, support groups, community education, and transitional housing. She said it has been an incredibly busy year and they have run over capacity. Ms. Downing said that they have opened the shelter to victims even when their beds are full. In the last two and a half months the shelter has been over capacity several times, which is a huge drain on their program. She said there have been 14 individuals murdered in Marion County due to domestic violence over the last nine and a half years and staff could not live with themselves if they started turning people away because their beds were full.

Ms. Downing stated MVWCS received over 11,000 calls last year on their crisis line. They are there 24 hours a day trying to help people and victims of domestic violence who are reaching out to them in record numbers. In the last one and a half years they have been training all around Oregon. The governor has signed a requirement that all managers, supervisors, and human resource employees have mandatory training on domestic violence, sexual assault, and stalking. She said MVWCS is performing all of those trainings. To date they have trained over 4,000

managers around the state, which is a huge undertaking for the program. She said she absolutely believes that the state of Oregon is going to change because they are doing those trainings.

Ms. Downing stated that they have opened their childcare center. They have a unique combination where they have a certified childcare center that provides childcare to the staff of the service. Staff that has young children may continue to work for the service and have quality childcare. It is also emergency childcare for the women in the shelter. She said that about one-half to two-thirds of the shelter residents are children. The childcare service frees the parent to obtain restraining orders, look for jobs, or make connections with housing. She stated the service received grant funds from Spirit Mountain Community Foundation to begin that childcare program. As the Children and Families Commission has mentioned, lack of suitable childcare is one of the huge barriers for individuals in our community. Ms. Downing invited the commissioners to visit the childcare program site.

Ms. Downing stated MVWCS has been named to the list of top 100 nonprofits to work for in Oregon. They ranked number eight for small nonprofits and number 11 overall for every size of nonprofits. She stated that Mr. Beglau and she traveled to city councils all around Marion County and is pleased to report that the partnership is strong between their office, the district attorney's office, and the victim assistance office and that is rare in the state of Oregon. She wanted to express her appreciation for the leadership that is being taken on these issues.

Commissioner Milne thanked Ms. Downing and District Attorney Beglau for their hard work and acknowledged the importance of the good work MVWCS is doing. She asked why out of the 1000 filed cases of domestic abuse in Marion County, 20 percent are repeat offenders. He stated that often a first offense is considered a misdemeanor, which means probation and supervision. He stated Marion County Community Corrections has a designated unit to focus on domestic violence, because it is known to be a higher-risk behavior. The second offense perpetrated by an offender is usually considered a felony with greater potential penalties, including prison sentences for particular offenders. This would include a repeated offense on the same victim and where a child is present. Mr. Beglau said that this is a tremendously under reported crime and repeat offense is common.

Commissioner Brentano commented he was upset that the numbers were not getting better, but he realizes it takes perseverance to see improvement. Commissioner Carlson thanked them all for coming. She asked Ms. Downing how people would find her organization. Ms. Downing said they were in the phonebook listed under Women's Services and listed under Crisis Service. The hotline number is (503) 399-7722 or toll free 1-(866) 399-7722. They have a website that gets about 20,000 contacts a month and it is [www.mvwcs.com](http://www.mvwcs.com) or [www.nomoreabuse.com](http://www.nomoreabuse.com). There are posters throughout the community in English, Spanish, and Russian. The office is located at 795 Winter Street NE.

**MOTION:** Commissioner Brentano moved approval of a proclamation designating October 2009 as Domestic Violence Awareness Month in Marion County. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

The commissioners then read the proclamation.

## PUBLIC WORKS

4. Consider approval of an intergovernmental agreement with the Department of Transportation for \$3,224,608, for the Buena Vista Ferry replacement project through the American Recovery and Reinvestment Act of 2009. – Bill Worcester, Rod Bray, Tami Amala

Public Works Director, Bill Worcester, said the grant money will be used to replace the Buena Vista Ferry located approximately nine miles southwest of Salem. It crosses the Willamette River near the small town of Buena Vista. He asked Tami Amala, Marion County Planning Commission staff liaison, to speak as she had prepared some interesting historical information from the archives.

Ms. Amala stated that with the recent focus on Oregon's 150<sup>th</sup> birthday, and the fact that Marion County has actually played a pretty significant role in Oregon's historical ferries, they thought it would be entertaining and enlightening to spend a few moments going over the history of Marion County's ferries. Ms. Amala illustrated original records and pictures in a PowerPoint presentation.

Ms. Amala said that the first recorded ferry in Oregon was built in 1843 to 1844 and operated in Marion County on the Willamette in the general vicinity of the current Wheatland Ferry. She said that in North Marion County, near Champoeg, the Boones Ferry started in 1847 and was operated by Daniel Boone's grandson. It ceased operation in 1954. Today, two of the three remaining continuously operating ferries in Oregon are in Marion County. The town of Buena Vista was established in 1847 by Reason B. Hall. It had a fairly large population at one point due in part to a pottery factory that was started by Freeman Smith, who was attracted to the area by the red clay on the banks of the Willamette. It is an important hops growing area. There were saloons, hotels, schools, a church, and a store. It was considered at one time as a potential site for the Oregon Capitol. Reason B. Hall started the Buena Vista Ferry in 1862, but received his first official license by Marion County on July 5, 1865. The oldest picture of the Buena Vista Ferry is from 1906.

Ms. Amala said that moving ahead 103 years, on April 15 of this year, the Federal Ferry Boat Discretionary Program through the American Recovery and Reinvestment Act of 2009, opened up \$60 million for construction of ferry boats and ferry terminal facilities. Public Works received board approval and submitted an application to replace the Buena Vista Ferry and make improvements. On July 14 of this year they received official notice that their application was approved for just over \$3.2 million.

Mr. Worcester pointed out the current ferry and said that the hull was built in 1955 and has been in continuous service ever since then. The Ferry had a fairly extensive remodel and upgrade with new gates, new engine and a new generator in 1995. Every year that they haul passengers, they need a Coast Guard inspection. Within the last two to three years the Coast Guard has put them on notice that each year's inspection could be the last one it will pass, because the hull has been repaired numerous times. The ferry is getting to the point where it is at the end of its economic life. It has been approved to run this year finishing on October 31.

Mr. Worcester said the typical running season for the ferry is from mid-April through October. Ridership is up this year with the bulk of traffic, about 83 percent, being cars and light trucks.

About one percent of the traffic is large trucks and farm vehicles such as combines. Ridership was 7,570 vehicles for 2008 and will rise to about 9,000 based on that trend by 2012. Mr. Worcester stated they were hoping to increase ridership with the new boat, which will have higher capacity and will hopefully run for a longer season. He then spoke about the construction of a new boat and said the project is underway. He said the benefits from the ferry outweigh the statistics of ridership and that it is a mode of transport especially for the large farm vehicles. It also shortens the trip significantly for some routes citing 17 miles rather than 50 miles from Albany.

Mr. Worcester stated they went through this process before when they rebuilt the Wheatland Ferry in 2000-2001. They are working with the Oregon Department of Transportation (ODOT)) because federal funds require they do. ODOT is working with them on a request for proposal (RFP) to hire a consultant to do the preliminary design work and project scoping. Mr. Worcester stated the construction manager/general contractor concept is attractive because of the ambitious schedule for the new boat. They intend to do the on-site construction and get the boat built in 2010, see delivery about November 2010 and in the water by February 2011. A streamlined process will be instrumental in getting the schedule accomplished. Service will begin in the spring of 2011 if all goes well.

Mr. Worcester stated the goal was to keep net operating costs approximately at current levels. It is costing about \$140,000 year after receipt of all fares to operate the current boat. This amount is split with ODOT so out of pocket expense for Marion County is about \$70,000 a year. He said they would like to maintain that level of expense with the new boat. Ridership should increase with a longer running season and the new boat will be larger and able to handle the high currents longer into the fall season. Maintenance costs will be reduced and overhead electrical power will be supplied rather than diesel power used at present. Mr. Worcester stated they wanted to return to the board fairly early next year to talk about the fare schedule and potential increases. Another ferry operator may need to be hired. He said Alan Haley, administration division manager, has been working with a stakeholders group in Buena Vista for several years and they are excited about the project.

Mr. Worcester stated that Public Works' recommendation was that the board approve the agreement with ODOT, which will allow them to continue working on the project and obligate the funds.

Commissioner Milne said promoting usage of the new ferry is important to the residents. As far as ridership numbers, she reminded all that the ferry is only operating half a year, five days a week, and that should be added to the perspective. Mr. Worcester added that they are working with ODOT on improved directional signage for state highways, 99E and I-5. Commissioner Carlson stated that Marion County tourism organizations, such as Travel Salem, might like some of the historical information for their booklets. She mentioned the conversation a couple years ago was what they would do when they no longer had a ferry.

Commissioner Brentano agreed that the new ferry will help transportation problems, especially farm vehicle traffic. Commissioner Brentano asked about removal and demolition of the old ferry. Mr. Worcester answered the old Wheatland Ferry was sold through surplus and a contractor purchased it for a work barge. He said they may surplus the Buena Vista out or make it the property of the contractor, which is typically what they do with a bridge. This could lower

the cost of the contract if the contractor gets the old boat. Public Works recently purchased a portable barge system. However, it could be possible they could find a use for the hull themselves to use as a barge for dredging or something similar. Mr. Worcester described potential methods of delivery of the new boat. One possibility is the new boat will be built in two or three sections that could arrive by truck and then be bolted together on the site. Design consultants will have to assist in solving that particular aspect.

**MOTION:** Commissioner Carlson moved approval of an intergovernmental agreement with the Oregon Department of Transportation for \$3,224,608, for the Buena Vista Ferry replacement project through the American Recovery and Reinvestment Act of 2009. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

5. Consider approval of an intergovernmental agreement with the Oregon Department of Transportation for \$5,000 to perform right of way acquisition services for the Buena Vista Ferry replacement project. – Bill Worcester, Rod Bray, Tami Amala

Mr. Worcester introduced Rod Bray who is the capital projects manager at Public Works. Mr. Bray said the next item of business is to consider the approval of the intergovernmental agreement (IGA) for right of way acquisition services. He said the project purpose is to upgrade the Buena Vista Ferry including approaches and additional right of way may be required. The Oregon Department of Transportation (ODOT) requires an intergovernmental agreement between the county and their right of way services branch and a board resolution. The IGA has already been executed for the overall project and this IGA allows the board to approve a potential expenditure of up to \$5,000 to compensate ODOT for their part of the right of way and the right of way certification process. The fiscal impact to the county would be \$5,000 and the impact to county staff is nonexistent.

Commissioner Milne stated that after approving the acceptance of the money to purchase a new boat this is necessary. She remembered a comment that there may be some right of way acquisition necessary. Mr. Bray said that with the environmental permits coming soon there could be requirements for water quality treatment, for drainage of the area and to supply overhead power requiring a couple of towers with guide wire and anchors supporting the tension of the lines across the river. An anchor easement may be required. They are not expecting any contentious opposition for the right of way acquisition.

**MOTION:** Commissioner Brentano moved approval of an intergovernmental agreement with the Oregon Department of Transportation for \$5,000 to perform right-of-way acquisition services for the Buena Vista Ferry replacement project. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

6. Consider approval of a resolution authorizing the possible acquisition and condemnation of real property for the Buena Vista Ferry replacement project. – Bill Worcester, Rod Bray, Tami Amala

Mr. Bray reported this is the resolution mentioned in the right-of-way services agreement. He said this resolution is necessary for local agencies in the event of condemnation or other services

that are required. He said the resolution was similar to the resolution signed last week for the Ward Drive project. He said their practice is to try to minimize impacts as much as possible through the design process. They negotiate in good faith with the property owners and only as a last result do they go through the condemnation process.

**MOTION:** Commissioner Carlson moved approval of a resolution authorizing the possible acquisition and condemnation of real property for the Buena Vista Ferry replacement project. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

7. Consider the acceptance of the Transportation Enhancement award in the amount of \$1,552,000 to proceed with the Auburn Road/Baldwin Avenue/Lancaster Drive urban upgrade project. – Bill Worcester

Mr. Worcester explained that this is another grant that they have been pursuing for some time and are very excited to receive. He spoke of the densely populated area and the turnpike section of the road with no sidewalks or no curbs, just ditches. It is definitely not pedestrian friendly. Funding would be \$1,552,000 if the grant is approved and \$500,000 dollars in total in a combination of cash and their time and services will also be used for right of way acquisition, environmental and other tasks. Mr. Worcester talked about the traffic and pedestrian problems in the subject area such as the ditches next to the pavement and congestion around schools. A little over \$2 million is the current estimate for total cost of the project. If the grant is approved design will begin in early 2010 and will continue into 2011. The right of way acquisition will happen in 2011 and construction in 2012. Public works is requesting acceptance of the grant. The next step will be to receive an IGA from ODOT and that will be brought before the board for their approval.

Commissioner Carlson remarked that Auburn Road was at the south end of the part of her house district off of Lancaster, so she has walked all along that road. The bottom line in the picture is the railroad tracks, which are not too far from there. She said there is a great need for this improvement and she is pleased to be able to do something to help out that area.

Mr. Worcester said they will have 6-to-8 foot-wide sidewalks, 6-foot-wide bike lanes and 11-foot travel lanes, so that will be a substantial improvement over the present situation.

Commissioner Brentano confessed he may have held up the project for a year and felt bad about that for some time. It came up in the Salem/Keizer Area Transportation Study (SKATS) as a prioritization and he tried to combine it with some work in Keizer. By splitting the effort, it did not get the priority it should have. Commissioner Brentano said he was glad it was moving forward.

**MOTION:** Commissioner Brentano moved to approve the acceptance of the Transportation Enhancement award in the amount of \$1,552,000 to proceed with the Auburn Road/Baldwin Avenue/Lancaster Drive urban upgrade project. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

8. Consider approval of a release of a 30-foot wide permanent drainage easement in exchange for a new 20-foot wide permanent drainage easement, by quitclaim deed. – Patricia Nordahl

Patricia Nordahl, Public Works, said the drainage easement was across the Calvary Chapel Church, which is abutting Hoffman Road. Church members requested the release of the entire easement when they discovered that their new classrooms and their electrical vault were constructed within the existing easement, which is the East Salem Service District Drainage. Staff researched Marion County's need for that ditch system and they cannot eliminate the ditch. She said they can reduce that easement to a 20-foot width. Because of the location of the electrical vault it would remain in the new easement area with a removal agreement in place. She then indicated the new easement, a 20-foot-wide area, would take the classroom space out of the easement. The remaining portion of the easement will remain as it is today. The Public Works Department is recommending that the board release the existing 30-foot-wide easement and instruct Public Works to go ahead and record the new easement as 20-feet wide off of Hoffman Road.

Commissioner Milne asked if twenty feet is adequate for drainage. Ms. Nordahl confirmed that it was.

Commissioner Carlson asked for a description of the release agreement for the electrical vault that still remains and wanted to know if it stays. Ms. Nordahl confirmed that was correct. She said that with the existing easement the classroom space, as well as the electrical vault are under a release agreement whereas if East Salem Service District needs to go in and do any kind of work within that easement area, the vault or the classrooms may have to be moved out of the way for work that needs to be done. Public Works is proposing to pull that easement area back so the classroom space will never be in jeopardy of having to be removed. Because of where the vault is currently placed, it may in the future need to be removed. Commissioner Carlson said the title report did not figure out that there was an easement there and that is why the situation exists presently. Ms. Nordahl said it is the property owner's responsibility to know what easements are located across their property and apparently their title report did not show the existing easement. The classrooms were approved and built. Because of the title report, the county did not know this either.

**MOTION:** Commissioner Carlson moved the board approve and sign the quitclaim deed releasing the current 30-foot-wide permanent drainage easement and direct staff to simultaneously record the new 20-foot-wide permanent drainage easement. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

#### PUBLIC WORKS – PLANNING

9. Consider concurring in Hubbard's Residential Urban Growth Boundary Expansion. – Brandon Reich

Brandon Reich, planning, said the City of Hubbard is proposing an expansion of the urban growth boundary (UGB) of 112 acres for residential and public land. He said two weeks ago the board held a hearing on the proposed expansion. At that hearing concerns were raised regarding the effect Measures 37 and 49 would have on claims in the Whiskey Hill Road area, which is zoned acreage residential. Mr. Reich said that one property has already received authorization

under Measure 49 to divide the property into two pieces of approximately 1.5 acres each. Another property in the area has received a waiver under Measure 37 to divide their property into three pieces of approximately 1.5 acres each. He said if these properties were included in the UGB the question would be if that would impact their claim status. Staff contacted the Department of Land and Conservation Development (DLCD) and has not received an answer as yet. Staff also contacted the two property owners affected and the city to discuss the possibility of zoning these properties urban transition (UT) 1.5, applying a 1.5-acre density standard. This would enable the property owners to continue moving forward with their claim under Measures 37 and 49. Both property owners have expressed support for the 1.5 acre zoning. Mr. Reich explained that this is a density standard. A 3-acre piece may be divided into two pieces, one piece may be 1 acre, and one piece may be 2 acres and one house for every 1.5 acres, two houses on a 3-acre parcel. It could be 1.25 acres plus 1.75 acres. The smallest has to be as close as possible to 1 acre. The 1.5 acre zoning appears to be best process the county can offer to preserve the village and partition the properties, even once they are inside the UGB. The property owners would be able to apply for a partition in the UT zone now or in the future or they could also not partition their property and keep it for future urban development once it is inside the city limits of Hubbard.

Mr. Reich stated there was another concern whether the city provided the required notice as part of their consideration of the amendments. Mr. Reich contacted the City of Hubbard staff and verified that the proper notice at the city level was given. He said there was a concern that surface water from the area in the city west of Dunn Road is draining onto a neighboring property. Mr. Reich contacted the property owner to provide information so she could work with the city and Marion County Public Works to explore options to resolve the drainage issue.

Staff recommends that the board concur in the proposed City of Hubbard Comprehensive Plan amendments, redesignating land:

- From rural residential to a City of Hubbard urban comprehensive plan designation of residential;
- From acreage residential to urban transition 5 acre;
- From urban transition 1.5 acres in the Whiskey Hill area and land from primary from exclusive farm use to urban transition farm in the Broadacres area.

He said that he recommends the board direct staff to prepare an ordinance consistent with the board's decision. Mr. Reich said because the city is waiting for county concurrence before it can take final action on the amendments, the ordinance is proposed to be adopted by emergency procedure.

Commissioner Milne thanked Mr. Reich for checking the meeting notice and the drainage question. She commented that they did receive some additional feedback from seven individuals and understands these have all been incorporated into the public testimony. Mr. Reich confirmed they were part of the record. She stated that these citizens still have concerns that their property will remain rural and how the area will be kept for future generations.

Commissioner Milne asked Mr. Reich what could happen if the board did not approve the City of Hubbard's proposed expansion of their UGB. Mr. Reich answered that the City of Hubbard went through a careful, extensive two-to-three year process looking at different areas of inclusion

while applying state mandated land priority usage. If the proposal was only partially approved, the city would not satisfy the amount of land required for future growth and would have to go through the process again. Commissioner Milne agreed that the City of Hubbard had been very thorough. If the city were forced to go through the process again they would come up with the same solutions as they have very little flexibility. Mr. Reich explained that the UT zone is a holding zone, transitioning between rural and the urban, so farm use is still allowed. Aside from properties that have received the Measure 37 and 49 approvals, you will not see an additional amount of denser development occurring in that area. He added the City of Hubbard has had a very large growth rate and in five-to-ten years from now the city may be looking again to find additional land to supply for the residential population.

Commissioner Carlson added that she appreciated the discussion because they all received a number of concerns from citizens affected and she did not want these people to feel their concerns were being ignored by the board. She said it feels to her like they need to move forward. She asked Mr. Reich about page 8 of the September 23 memo, which has the recommendations (A and B), but the update was to hold off until November 17. She requested that Mr. Reich cover the prior memo more slowly.

Commissioner Brentano said he was happy with the 1.5 acre designation and the way it takes care of some of the problems discussed last week. If it is designed right and lots are done correctly, there would be opportunity for the higher density that cities imply. He would hope a house not be put right in the middle of their lot, but that is their option.

**MOTION:** Commissioner Brentano moved approval of the recommendations listed on page 8 as described, adding under B, (adding a portion of UT-1.5), concurring in Hubbard's Residential Urban Growth Boundary Expansion. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

10. Consider adoption of an ordinance amending the Marion County Comprehensive Plan by adopting new population forecasts for Marion County and its cities; by emergency procedure. – Brandon Reich

Brandon Reich, planning, said that the county has developed a population forecast for the year 2030 for the urban areas of the county and the unincorporated portion of the county. These amendments are to the Marion County Comprehensive Plan Background Inventory Report, Population History and Projections chapter. He stated these amendments adopt a 20-year population forecast as well as updates and corrects other information in the chapter. He said on September 30, 2009, the board held a hearing on the matter and approved the amendments. Before the board today is an ordinance reflecting the board's decision. Staff recommends that the board approve the ordinance as proposed by emergency procedure.

Commissioner Carlson said she just wanted to confirm what was discussed at the public hearing. She thanked Mr. Reich and staff for a very thorough job of doing the population forecast revision. She said it was very important to work with the local jurisdictions. They need these forecasts to move forward and the county has a statutory obligation to help coordinate, but also has an obligation to be respectful of what the goals and desires of the local communities are. She said she felt they worked smarter this time and that this helps develop an understanding between

jurisdictions and gives them adequate time to respond and negotiate. She thought the county was wise to contract with Portland State University for the technical work. Commissioner Carlson is still troubled by the fact that DLCD did not interpret the statute to allow a range in the forecast, but required a single number. The ranges are included as scenarios in the report, but she still voiced concern by the idea that the DLCD is finding the good work the county did does not meet their view of how population numbers ought to be figured out.

Commissioner Brentano stated his views were similar and he wanted to know if Woodburn's growth boundary expansion and their expressed need for additional residential land would be verified by the projection and if it was significantly different than their earlier one.

Mr. Reich said the number is not an incredibly larger number than what the 2020 projection was, but it is a larger number. Woodburn would have to make the choice to go back into the process and use that number to evaluate what lands they could use.

**MOTION:** Commissioner Carlson moved that the chair read the ordinance by title only twice. Commissioner Brentano seconded. A voice vote was unanimous.

Commissioner Milne proceeded to read the ordinance by title only twice.

**MOTION:** Commissioner Carlson moved adoption of an ordinance amending the Marion County Comprehensive Plan, including the text of the Population History and Projections chapter, by adopting new population forecasts for Marion County and its cities, by emergency procedure. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Commissioner Milne commented it was one of those areas when local control is so important for the betterment of a community and yet the state drives those decisions. She said it was disappointing that we have to plan our future in this manner.

## **PUBLIC HEARING**

**9:30 a.m.**

### CONTRACT REVIEW BOARD (previously action agenda item #2)

A. Public hearing to consider granting an exemption to the Marion County Public Contracting Rules to allow the use of a request for proposals as an alternative competitive process for the design and construction of the environmental services/operations pre-engineered steel storage building project. – Peggy Mitchell, Jeff Bickford

Peggy Mitchell, contract compliance analyst, said she and Mr. Bickford were in attendance to bring testimony and department findings to the board in considering this exemption to the Marion County Public Contracting Rules. She stated the project proposed by Public Works falls into the public improvement contract, which has specific requirements if they move away from the standard design or the bid build rules that are laid out in the contract rules. She explained that a request for proposal is an allowed alternative process, but requires that the board authorize the use of a request for proposal (RFP), especially when talking about a public improvement.

Jeff Bickford, environmental services division manager, said the initial goal was to work jointly with the operations division for this particular structure. The building would be divided into two halves. The first side is to provide enclosed storage place for inductor trucks that need to be kept in a heated space, as there is water in these vehicles. The other half is for storage capacity for environmental services. He said that currently there is a need for space so that bins, records, display materials, mowers, miscellaneous things they have that are presently scattered around numerous locations would be in the same location. Since the early to mid 1990's they have paid for storage space at Capitol Disposal on Broadway. This location is not very convenient to get to and it is not heated. The idea is to consolidate materials into one location that would be on the site where the staff is also located. He said they were looking at an alternate procurement method. They would like to have a prefabricated steel structure done with a steel frame with sheet metal siding that is insulated and heated to provide what they need. They feel it is the least cost construction method versus a concrete type building. The reason for prefabrication is they are less expensive than built onsite. They have a general idea of the shape and size and can provide a general footprint and design standard criteria that they need. Each manufacturer's prefab building models are slightly different. If what they want does not meet their criteria, then they will have to custom build, which will be costing more than if they can provide it as a standard size. Mr. Bickford said they are looking to go with a design/build RFP and feel that it would be a lesser cost option to go this route. Public Works felt this would foster competition. A consultant will be provided with proposed layouts and they will work with those to come up with the most cost effective design.

Commissioner Carlson said since this was an alternative from what is normally done, design/bid will be combined together, which will save money. Ms. Mitchell added it would also streamline the process and the project is a public improvement, which statutes require that they do a public hearing. Public Works did open up testimony to outside vendors to let them know that they were considering this alternative. The deadline for comments was 5:00 p.m. on Monday night. She said she did not receive any comments or feedback from the construction industry. She said they are not diminishing competition at all.

Commissioner Milne stated there was no one signed up to comment on the request by Public Works.

**MOTION:** Commissioner Brentano moved to close the public hearing and accept the recommendation as presented granting an exemption to the Marion County Public Contracting Rules to allow the use of a request for proposals as an alternative competitive process for the design and construction of the environmental services/operations pre-engineered steel storage building project. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

## PUBLIC WORKS

B. Public hearing to consider approval of a gate on no name road off of Lakeside Drive, Clerk's File #2106-R. – Patricia Nordahl

Patricia Nordahl, right of way agent for Public Works, reported that this is to consider the gating of a non-county road, which is located off of Lakeside Drive just north of Salem. The roadway

was dedicated as a 30-foot-wide public road in 1971. A portion of the roadway is gravel with the remainder from the gate to the west dead end is asphalt. The petition to gate was filed with Marion County in June after staff discovered that the gate was already in place and that it had no permit. All the abutting property owners were contacted and none have objected to the gate remaining in place. All the signs were posted and she has had no public input whatsoever on placement of this gate. She said should the gate request be granted, county staff, PGE, the Sheriff's Office and the fire department would all be required to have unobstructed access at all times. Public Works is recommending that the gate request be granted subject to satisfying the requirement set forth in the engineers report, which stated that there needed to be some signage added such as "road closed" and then the red and white reflective striping. Public Works requests a timeline of 120 days to have this completed.

#### TESTIMONY:

##### Support:

Thomas Johnson, 7185 Lakeside Dr., Salem, said there are two properties behind the gate. They moved to the furthest back property in 1998. The other property was a rental property with a lot of activity going on and the police were often there conducting investigations. He said he always intended to purchase the property if and when it came on the market, which would end the problem. This came to pass and he now owns both properties. Mr. Johnson stated they have a shade plant nursery that is open most of the summer. His business partner lives in the other house. The gate has a keypad entry and the code has always been posted because drivers cannot see where the public road ends and people would turn it into a party site and would dump things like tires. The police were called on at least two occasions on record. One incident included an indecent act near the house. Since he has a business on the site it is very difficult to keep people out of their property at times when they are not doing business. People only understand when they see the gate is closed. If the gate was not visible from Lakeside, potential customers would have to travel down the road and then turn around. Five years ago, Mr. Johnson called Marion County and asked to own the road. He does not know who it was that he spoke with, but they referred him to the county surveyors who said they could not determine who owned the road. He asked the neighbors on either side if they cared about a gate and they said they did not care. Since that time they have actually paved half the road and maintain the road very well.

Commissioner Milne thanked Mr. Johnson for the background information. No feedback has been received by the board.

Commissioner Carlson asked Mr. Johnson if he had any concerns about the stipulation of putting up additional signage within 120 days. Mr. Johnson said he had none whatsoever. He said there are reflectors are on the gate currently and additional signage would not be a problem.

Commissioner Milne observed there was no other party present to talk about the matter before the board.

**MOTION:** Commissioner Carlson moved to close the public hearing and approve the placement of a gate on no name road off of Lakeside Drive subject to satisfying the requirement set forth in the engineers report that signage be placed

within 120 days from the date the order is signed. Commissioner Brentano seconded the motion; motion carried. A voice vote was unanimous.

Commissioner Milne read the board calendar.

Commissioner Milne adjourned the meeting at 11:20 a.m.

**Attachments:** None.

ABOVE MINUTES APPROVED

\_\_\_\_\_  
CHAIR

\_\_\_\_\_  
COMMISSIONER

\_\_\_\_\_  
COMMISSIONER

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If you require interpreter assistance, an assistive listening device, large print material or other accommodations, call 503-588-5212 at least 48 hours in advance of the meeting. TTY 503-588-5168.

Si necesita servicios de interprete, equipo auditivo, material copiado en letra grande, o culaquier otra acomodacion, por favor llame al 503-588-5212 por lo menos 48 horas con anticipacion a la reunion. TTY 503-588-5168 Marion County is on the Internet at: [www.co.marion.or.us](http://www.co.marion.or.us)