

## BOARD OF COMMISSIONERS

### MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, January 16, 2008  
Marion County Courthouse Square

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

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

Commissioner Brentano called the meeting to order.

### **PUBLIC COMMENT**

None.

### **PRESENTATIONS**

#### 2007 Government Finance Officers Association Award. – John Lattimer

John Lattimer, chief administrative officer, said it was very important for government organizations such as Marion County to have strong financial systems and financial reporting. This allows the public to know precisely where the county is with their finances, how the dollars are spent, how it is categorized and that everything balances. The most important part is that the county knows, with precision, how the funds are spent. Mr. Lattimer said he was very proud to present the 2007 Government Finance Officers Association Award to members of the finance department and it is an award that the county has received for six years running.

Mr. Lattimer felt it was important to highlight the employees that make this possible because it is hard work. He wanted the citizens of Marion County to know that hard work resulted in this certificate of achievement. He said that not every government agency receives this award and he was very proud of the county's finance department. He asked Jeff White and Cynthia Granatir to come forward and accept the award. Mr. Lattimer said that Ms. Granatir is Marion County's chief accountant and primarily responsible for the Comprehensive Annual Financial Report, commonly referred to as a CAFR. This report is the document that tells the citizens of Marion County how we are doing financially. The certificate of achievement is for excellence in financial reporting and is for the county's CAFR for fiscal year ending June 30, 2006.

Jeff White, chief financial officer, introduced Cynthia Granatir, Erica Croeni, Wanda Wigington and Perry Grier as the general ledger team.

#### Development of north half of Liberty-High Street block. – Mark Shipman

Mark Shipman, Saalfeld Griggs, PC, gave a presentation on a project his firm has been involved with for the past several months. Mr. Shipman explained that their client, the

Bill Colson Family, had acquired all of the property abutting Chemeketa, High and Liberty Streets. Presently, the property on the east end is parking and the old location for City Hall. To the west of the property there are old buildings, one of which is a contributing historic building because the property is within the City of Salem historic district. The Colson family acquired this property several years ago and they wanted to come in with a project that would really make a difference for downtown. The concept was to come in with something that would be very vibrant and that would be a catalyst very similar to what the downtown mall and the new conference center have done.

The property contains the old bank building (Wells Fargo). There are unique features about the building, particularly the Littman relief sculptures that are on the sides of the building. These sculptures will be incorporated into the new building's street level facade. All buildings in this area will be demolished and the intent of the owners is to build this project all at one time, with no phasing or staging. They want to begin the project later this summer. The proposal for the building is to house retail, restaurants, offices, an urban grocery store, underground parking and condominiums.

Commissioner Milne commented she was very excited about the project. Mr. Shipman said they are in the process of making presentations to the various stakeholder groups in the downtown area. He said they were asking the commissioners for their support.

Commissioner Carlson agreed that this was very exciting. She asked about the housing and wanted to know what kind of clientele they are looking at. Mr. Shipman said the owners don't know at this point in time what kind of clientele they are looking for. The parking will be above the city of Salem's minimum number, but below the maximum. Mr. Shipman said they would be providing an additional 290 spaces.

Commissioner Brentano said he was very happy to see this kind of project. He has been on the Visions 2020 committee with the city, talking about ways to invigorate downtown Salem. Comments from people in attendance at the meetings were they are looking for restaurants, residential units and parking, so this project fits what people are asking for.

## **CONSENT**

### **BOARD OF COMMISSIONERS**

Recommend approval:  
OLCC Application: JP21, Salem, Oregon

Receive petition for withdrawal of certain property owned by the City of Millersburg, Linn County, from the Jefferson Rural Fire Protection District, and consider order setting public hearing for February 20, 2008.

### **PUBLIC WORKS**

Approve amendment #1 to the intergovernmental agreement between the Oregon Department of Transportation, the City of Turner and Marion County in the amount of \$272,000, for reimbursement of funds and the addition of new standard provisions updated by the Attorney General.

Approve an application to renew a lease (approx. \$250) with Bureau of Land Management for riverfront property that has been used as part of North Fork Park since 1962.

#### PUBLIC WORKS – PLANNING

Approve rescheduling of public hearing at applicants request from February 20, 2008, to March 12, 2008, regarding case #ZC/CP 07-4, Manning, Clerk's File #5567.

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

### **ACTION**

#### BUSINESS SERVICES

1. Consider approval of an order adopting the revised administrative policy for Non-Discrimination. – Theresa VanDusen

Theresa VanDusen, human resources manager, said the legislature was active in the employment and human resources related arenas during their last session. The non-discrimination policy is being amended under Senate Bill 2 and is referred to as the "Oregon Equality Act," which modifies Oregon discrimination law to give protection to a persons actual or perceived heterosexuality, homosexuality, bisexuality or gender identity. This law also expressly prohibits discrimination on the basis that a person's appearance, expression or behavior differs from that traditionally associated with the person's sex at birth. Ms. VanDusen said the county's policy already has sexual orientation referenced in it and this bill focuses on gender identity. After consulting with legal counsel, it was determined that the policy didn't really need to be modified with the exception of adding the statutory reference of ORS Chapter 659A.

**MOTION:** Commissioner Carlson moved to approve the order adopting the revised administrative policy for Non-Discrimination. Seconded by Commissioner Milne, motion carried. A voice vote was unanimous.

2. Consider approval of an order adopting the revised administrative policy for the Family Medical Leave Act. – Theresa VanDusen

Theresa VanDusen, human resources manager, reported that House Bill 2635 passed the legislature and it amends the county's current family medical leave policy to add the ability to take leave from work to care for a grandparent or grandchild with a serious health condition. Currently, there are two laws in place that the county works with. One is the federal law under the Family Medical Leave Act and the other is the Oregon Family Leave Act. Both laws provide medical leave to care for a parent, spouse or child with a serious health condition. The Oregon law is broader than the federal law in that it also covers parents-in-laws, same sex domestic partners and the children or parents of same sex domestic partners. She explained this is only being applied to Oregon law. She said that in our society today, grandparents are raising more children. Grandparents need to take time off to care for their grandchildren when they have a serious health condition, as well as grandchildren need to have time available to care for a grandparent should they have a serious health condition.

Commissioner Milne asked how a serious health condition was defined. Ms. VanDusen said there is a fairly significant amount of information that is needed. A serious health

condition has to be certified by a health care professional. Examples would include cancer, a flu that goes beyond the standard, a terminal disease, and intermittent care. Gloria Roy, legal counsel, said the only exception is the sick child leave, which would allow a day or two to take care of a child that might just have a cold and does not require doctor's treatment.

John Lattimer asked if a grandparent could take time off to care for a grandchild. Ms. VanDusen said the child would have to fit the criteria of a serious health condition before a grandparent could use this leave. A grandchild is not the same as a child.

Theresa VanDusen said that one of the criteria is a grandparent would have to be needed to care for the child. The federal law and the Oregon law differ in terms of also caring for your adult child as well. She asked Ms. Roy to explain the law further. Ms. Roy said that each request for leave under either the federal law or the Oregon law is handled by human resources and the specifics are looked at. She said if neither parent was available to care for the grandchild who has a serious health condition, the law may apply and that was one of the purposes of the legislature including grandparents and grandchildren under Oregon law is to fill the gap of having someone like a grandparent available to care for a grandchild. The flip side is that a grandchild would have to take care of a grandparent.

Theresa VanDusen said she reviews each case that comes in, and often times, she will consult with Ms. Roy as to how the law applies or doesn't apply. She added that every case seems to be a little bit different. There is the issue of a person being in Iraq and the law is being reviewed at the federal level.

**MOTION:** Commissioner Milne moved approval of an order adopting the revised administrative policy for the Family Medical Leave Act. Commissioner Carlson seconded; motion carried. A voice vote was unanimous.

### SHERIFF

3. Consider approval of an ordinance adopting an amended intergovernmental agreement for the Regional Automated Information Network (RAIN), by emergency procedure. – Commander Jason Myers, Bruce Armstrong

Bruce Armstrong, assistant legal counsel, said Marion County had been a part of RAIN since 1987 when it was first created. RAIN was created as a consolidated agency, but over the years the membership determined that the way they operated was burdensome. Previously, to have a quorum they had to have all the members seated at the table. Basically, what this new agreement did was create a board of directors of nine focused on the technical issues of RAIN. The role of the board of directors is to determine services, enter into contracts and prepare the budget. The general membership votes on the budget and a percentage share of each agency, and elects the directors. Mr. Armstrong said there are about 18 member agencies, cities and counties that join together to share information for criminal law purposes.

Mr. Armstrong stated that RAIN already existed and now there is an updated agreement that specifies that RAIN is an independent intergovernmental entity. He said that current state law requires that if an intergovernmental entity is created, the adoption of that intergovernmental agreement must be done through an ordinance.

Commander Myers said the Sheriff's Office has been a member of RAIN since he has been with the Sheriff's Office. He said it is a computer system to share information.

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Information can then be queried by and shared by other agencies. Several years ago RAIN began to dissolve and at that time the Sheriff's Office and IT looked at developing a system very similar to RAIN, which ultimately ended up being OASIS. RAIN has since come back together and has developed new software, which is fairly powerful and has better search capabilities than OASIS has. There is also more information in RAIN than what OASIS has. Commander Myers said that the crime investigators like both of the databases. In some respects OASIS does a better job searching for information and in other respects RAIN does a better job. He said it is a combination of both systems that are utilized by investigators doing their job. Commander Myers said the Sheriff's Office has been involved with RAIN for some time and they want to continue to use RAIN because it is a useful tool.

Commissioner Milne said it looked like most of the major cities in Marion County are members of RAIN. In addition Polk and Yamhill counties also use RAIN. She asked what those cities do if they don't use RAIN. Commander Myers said if they are not members of RAIN they could be members of another database or not have a database at all.

Commissioner Carlson asked if there were any discussions around merging RAIN and OASIS together. Commander Myers said conversations have taken place regarding merging the two databases. He explained that the Sheriff's Office has been meeting monthly with IT to discuss projects and OASIS has been a topic that has been discussed. He said there is this significant cost to IT and the Sheriff's Office to maintain OASIS. Discussion has been regarding whether they want to keep OASIS going or merge it with RAIN.

Commissioner Carlson commented that she would not want to compromise the ability to get information based on cost, but realizes how time consuming it is to maintain databases.

Commander Myers said one of the big differences between the two databases is that RAIN has COPLINK, which is basically the name for the interface. COPLINK is very detailed at pulling information out, but it doesn't have booking photos. OASIS has booking photos, which in the field can be very helpful because they can be pulled up in the vehicles or on PDAs. He said trying to bring those two together would be getting the best of both worlds.

Commissioner Brentano asked if there was a way to access information on Portland's database. Commander Myers said he did not believe Portland's database is connected to COPLINK, but there are circumstances when they need information from Portland they can request them to run it through their database.

**MOTION:** Commissioner Carlson moved to have the chair read the ordinance by title only twice. Commissioner Milne seconded; motion carried. A voice vote was unanimous.

Commissioner Brentano read the ordinance by title twice.

**MOTION:** Commissioner Carlson moved approval of an ordinance adopting an amended intergovernmental agreement for the Regional Automated Information Network (RAIN), by emergency procedure. Commissioner Milne seconded; motion carried. A voice vote was unanimous.

## **MEASURE 49 VESTED RIGHTS CONSENT CALENDAR**

Approve case #M06-41, Bartholomew, to partition, Clerk's File #5169.

Sterling Anderson, planning manager, explained this case was a Measure 37 originating case and the applicants had applied for a vested rights determination. It was initially placed on the board's consent calendar because the Planning Director concluded that this case was straightforward and was a vested rights determination. Mr. Anderson said there were two letters submitted, one via an email and one handwritten requesting that this case go to a hearings officer. Due to the Measure 49 vested rights processing ordinance, this case now needs to be forwarded to a hearings officer for recommendation to the board.

Commissioner Milne commented that when this ordinance was put together, she wanted to reserve the right and ability to review and make changes to it. She said this is very disturbing to her that someone can request a Measure 49 hearing with no basis. She said she would like to have a conversation regarding this ordinance and her position would be if someone has requested a hearing they need to provide a legitimate reason. She felt this was nothing more than a stall tactic and was unacceptable.

Commissioner Carlson asked how many more Measure 49 consent items are left. Mr. Anderson said that there is one for next week and may or may not have a request for a hearing. He said there are several that the Planning Director has sent directly to the hearings officer. He said that the board has probably seen the bulk of these cases. He added that the next few could potentially be more problematic because they are not quite as clear and the majority will probably go directly to the hearings officer, as opposed to coming to the board. Mr. Anderson said he did not anticipate a significant number of the Measure 49 cases coming before the board on the consent calendar.

Commissioner Carlson asked how backed up the hearings officer was. Gloria Roy, legal counsel, said she does have a report from the hearings officer of casings pending. She said she would be glad to provide the board with that information.

Commissioner Brentano said he very much agreed with Commissioner Milne's statements. He would like to amend the ordinance so it is not abused and streamline the process.

Commissioner Brentano asked how far along the applicants were in their work. Mr. Anderson said they had not done any on site work other than some road construction for access. He said this is an acreage residential (AR) zone piece of property and the applicants have filed the necessary plat. It has been the Planning Director's position that when you are in the AR zone, the waiver was related to creating parcels less than the two-acre minimum. The waiver granted the authority to proceed to create parcels less than the minimum. He said the applicants have done this by filing the plat. They have accomplished everything they needed to do to create the lots. The actual placement of a dwelling on those lots, which is the next phase the applicants wanted to start. From the Planning Director's perspective the placement of a dwelling isn't part of the Measure 37 claim because dwellings are permitted outright in the zone. Mr. Anderson said if a person has a legal lot and can get septic and well on that lot, none of that counts in the vesting issue. The vesting occurred when they recorded the plat and that was 100 percent vesting because that is what the applicant got the waiver to do and they accomplished it. He

added that any parcel that is a legal parcel could get a dwelling in the AR zone. The dwelling restrictions were not waived because there were none. Mr. Anderson said that is why they felt it was a straightforward case.

Mr. Anderson said that one of the people who requested a hearing felt that a determination needs to be made possibly in the courts as to whether or not in the AR zone the dwelling has to be in construction and the cost of that has to be included in the vesting determination.

Commissioner Carlson asked if the people requesting the hearing were looking at this case in such a way that it is a test case. Mr. Anderson said he believed that was the case.

Gloria Roy advised the board that this item did not need to be removed from the agenda because there will be no action taken on this case.

**PUBLIC HEARINGS  
9:30 A.M.**

None.

Commissioner Brentano read the weekly calendar.  
Commissioner Brentano adjourned the meeting at 10:10 a.m.

**Attachments:** Agenda

ABOVE MINUTES APPROVED

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CHAIR

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COMMISSIONER

\_\_\_\_\_  
COMMISSIONER

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