

## BOARD OF COMMISSIONERS

### MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, June 18, 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, Jo Stonecipher as legal counsel and Gordean Ash as recorder.

Commissioner Brentano called the meeting to order.

### **PUBLIC COMMENT**

Jan Cotton introduced herself as vice-president of the Marion County Employees Association (MCEA). Ms. Cotton said she came to today's meeting to talk about this year's budget and the issue of compensation credits for county employees. She has worked for Marion County for 18 years and has lived in the county for 24 years. Since she started working for the county, compensation credits have been a part of the employee benefits package. She said she wanted to express her concerns about the MCEA's members and how they will be impacted by this year's compensation credit proposal. She passed out petitions signed by MCEA members regarding this issue. Ms. Cotton said the members do not want to lose the choice involved in having the compensation credits. In her case, she enjoys having the three weeks as time off, and this is a family-friendly feature for Marion County employees. Some employees use these credits as a cash reserve for unexpected bills.

Ms. Cotton said that by converting two of the three weeks of compensation credits the employees now receive, the county would be eliminating a safety net for the employees. These weeks of compensation offer necessary flexibility that allows employees to take time or use the money for emergencies. She said the lack of compensation credits could force employees into a leave without pay situation. Family members are concerned because employees could lose their jobs in these situations. Many employees have taken a pay cut to come to work for the county because of the flexibility and compensation credits. Unlike employees of the Sheriff's Department, most county employees do not have substitutes to cover for them when they take time off. When employees take time off instead of cash, it provides a cost savings to the county. Ms. Cotton asked the commissioners to take this into account today when making their budget decisions, and asked them to retain the three weeks of compensation credits for the MCEA-represented employees.

Elva Leon introduced herself as a 10-year employee of the Marion County Juvenile Department. She also wanted to speak about the compensation credits issue. She said the compensation credits are more important than just their economic value. She shared some excerpts from a set of testimonials by various employees who have used compensation credits to take time off for illnesses, deaths in the family, to provide care for disabled family members, and to be more involved with children and family activities. She said she hoped the

commissioners would take the time to read the full text of the testimonials she read to the group.

Leslie Polson said she has worked for Marion County for 23 years. She said that when she heard about the possible dismantling of comp credits, she became very concerned. She said that in 1997, she had a co-worker whose son crashed into a tree and had a severe brain injury. Without the comp credits, she would not have been able to take time to be with her son. Ms. Polson said the comp credits have provided a valuable option for employees who have ongoing health problems and have run out of other forms of leave. She said she understood that the county has some serious financial issues this year, but the impact on the work life of Marion County employees should be taken into account. She said this is a "hidden benefit" that allows many members of Marion County's staff to stay employed. She said she loves working for the county and loves her customers, but often the pay at the county is not comparable to other employers, so benefits become more important. She asked the commissioners to think carefully about the effect the comp credits have on employee morale.

David Cross, 3440 Crestview Drive South, Salem OR 97302, said he had two requests for the commissioners related to the death of Marion County Sheriff's Deputy Kelly James Fredinburg and Marion County resident Oscar Ascencio Amaya on June 16, 2007. Mr. Cross said that, as he understood it, Alfredo De Jesus Ascencio has been charged with homicide, and an arrest warrant has been issued for him related to these deaths. Family members of Deputy Fredinburg have asked for help in locating Alfredo De Jesus Ascencio. Mr. Cross said that he has heard that federal, state, county and local law enforcement agencies have been unable to locate Alfredo De Jesus Ascencio. Mr. Cross asked the commissioners to reach out and use any financial resources available to Marion County to offer a reward for information to help law enforcement agencies locate and apprehend Alfredo De Jesus Ascencio.

For the benefit of Marion County's law enforcement, Mr. Cross also asked the commissioners for funds to be set up to establish a Fallen Law Enforcement Officers Trust Fund and a reward to be offered in the apprehension of Alfredo De Jesus Ascencio and other individuals who have committed crimes against Marion County's law enforcement communities. He suggested naming the fund the Fredinburg Fund for Fallen Law Enforcement Officers. As a source of funding, he suggested that Marion County residents called to jury duty at Marion County Circuit Court could help establish the fund by being allowed to waive their jury duty checks and contribute them to the fund instead. Hundreds are called to jury duty every week, but only a few are asked to serve. At ten dollars a day for jury duty and twenty cents per mile for mileage compensation, the amounts involved are such that many people forget to cash their jury duty checks, according to what he has heard from the Marion County Circuit Court Jury Duty Coordinator. If only 100 residents in one week donated their checks to the fund, the amount raised for the families of fallen officers would be \$1,000. He asked the commissioners to work with all interested parties and use any available funds to start this fund and to apprehend Alfredo De Jesus Ascencio, the alleged killer of Marion County Sheriff's Deputy Kelly Fredinburg and Marion County resident Oscar Ascencio Amaya.

## **CONSENT**

### FINANCE

Approve the sale of tax-foreclosed property and enter into a contract of sale with the purchaser.

Approve renewal of a five-year lease with Meadowlawn Properties for \$207,910.44, for leased space at 575 and 577 Lancaster Drive SE, for the East Marion Justice Court.

Notification of bid award to Wright Asphalt Products for application of rubber modified asphalt at the rate of \$730/ton.

#### JUVENILE

Approve receipt of \$270,684 from the Oregon Youth Authority for gang intervention services.

#### PUBLIC WORKS

Approve renewal of a five-year agreement with Pacific Sanitation for \$135,000 for the hauling of bypass waste from the Marion County Waste to Energy Facility to Coffin Butte Landfill.

Approve renewal of two (2) three-year grazing leases for two portions of the closed Macleay Landfill site with the following individuals: Rodrick W. Mulkin Sr. and Helen Marco-Mulkin; and Cecil May Johnson.

#### PUBLIC WORKS - PLANNING

Receive hearings officer's recommendation approving VDR05-034, Sims, Clerk's File #5587.

Notice of adoption of administrative ordinance granting zone change, case #ZC 08-03, AB Valley Properties, LLC, Clerk's File #5586. Final adoption scheduled for June 25, 2008.

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

### **ACTION**

#### FINANCE

1. Consider approval of a resolution to adopt the fiscal year 2008-09 budget, make related appropriations, and impose and categorize property taxes. – **(TO BE ACTED ON FOLLOWING PUBLIC HEARING)** – John Lattimer, Jeff White, Richard Minaker, Jerry Woelke

#### PUBLIC WORKS – PLANNING

2. Consider conditional use application, case #CU 07-58, Curtright, Clerk's File #5572. – Sterling Anderson

Sterling Anderson, planning manager, said the matter before the board today is a conditional use application to place a personal use airport on a 213.2-acre parcel zoned SA (Special Agriculture) and located at 4107 Wintercreek Road in Jefferson. The application was later modified to include the Curtrights' adjacent 6.1-acre parcel located at 4145 Paradise Hill. The county hearings officer held a public hearing on this application on October 17, 2007. Subsequent to that hearing, the hearings officer issued a decision finding that the applicants failed to meet the burden of proof of compliance with the applicable criteria and therefore denied the application. The applicant appealed this decision to the board, the board granted the appeal, and a

Page -3-

hearing was held on May 14, 2008. At the conclusion of the hearing, the board left the written record open until May 21 for the opponents to respond and until May 28 for the applicants to respond again. The matter is now back before the board for consideration.

Commissioner Carlson said it might be helpful to review some of the issues in the case. She said Mr. Anderson had drafted a list of proposed conditions based on the discussion held at the public hearing. She said these conditions would be a good place for the board to start their discussion of the case.

Commissioner Milne asked to verify the applicants' compliance and any issues that had not been addressed, and suggested going through the list of items to review these issues.

Commissioner Carlson talked about the authority the county has under the land use regulations for this area and asked what kind of authority the county has over airspace as opposed to land use.

Commissioner Milne asked about the role of the Federal Aviation Administration and their requirements in a case such as this one. She wanted to know if this application met their standards and whether the county had any authority to go beyond this. She also wondered about the issue of guest use of the private airport in this case. She asked what regulatory authority, if any, the county would have over this case.

Mr. Anderson said that for this case, a substantial number of issues from the hearings officer's decision were compatibility issues. There was a need to show how the land use would be compatible with other uses in the area, both residential and farm/forest uses. Another area of concern was a lack of evidence regarding slope stability on the property, storm water management, erosion control, driveway access and other issues related to development standards. Most of the issues fell into those two basic categories.

Mr. Anderson said that the applicant provided significant additional information at the hearing that had not been available to the hearings officer regarding these areas. There was also significant testimony from the public, including residents of the area, regarding the compatibility question and safety issues. There were questions about the safety of the runway relative to the aircraft that would be using it. A report prepared for the applicant by an aeronautical engineer pointed out that two of the aircraft planned for the location would be considered safe, but three of the other aircraft would need to be used carefully in order to have safe landings and takeoffs on the planned runways. The noise factor fell under the compatibility area, and the applicants provided information from an acoustical engineer regarding noise impacts. He said that most of the issues raised by the hearings officer in her denial had been addressed.

Mr. Anderson said the county has very little authority, if any, over airspace, which is almost entirely under the control of the Federal Aviation Administration. He checked with the Oregon Department of Aviation to find out what their authority would be and what the county's authority would be regarding the compatibility of a personal use airport with surrounding land uses. Their response was that this issue was wide open for the county's decision in terms of regulating compatibility aspects through the land use program. This particular personal use runway would not fall into a category that the ODA would regulate because it is not of statewide importance. Therefore, the county has authority to regulate this case in terms of safety issues and particularly compatibility issues.

Commissioner Carlson asked Mr. Anderson to provide some information about the statute and ordinances allowing personal use airstrips. She said her understanding was that personal use airstrips are allowed as long as they meet the conditions the board has been discussing today.

Mr. Anderson said that a personal use airport is defined as an airport for airplanes or helipads including associated hangars, maintenance facilities and services for personal use of the property owner. It could also be used on an infrequent or occasional basis by guests, and in some cases could be used for certain commercial aviation activities in conjunction with agricultural operations. This relates to personal use airports the county has approved in the past, some of which were used for commercial agricultural spray application and similar uses. He said the majority of the personal use airports with agricultural uses were put into the higher category that is regulated by the state, because they were generally more commercial than personal in nature. A personal use airport can be used occasionally by invited guests or for other uses in an emergency, but it is intended primarily for personal use and is intended to have a relatively low impact in terms of the frequency of use. It should not be a commercial airport or have a great deal of activity.

Commissioner Carlson said there were some photographs submitted to the board since the hearing. She said helipads were mentioned as part of the definition of personal use airports, and one of the concerned parties mentioned a helipad associated with the adjacent property. She said it was advertised in writing, and asked if a helipad would require any special permission. Mr. Anderson said he had noticed this as well, and he believed the helipad was on what has been referred to as the mansion property. He said he has not researched this, but if there were a helipad that had not received approval, it would be in violation of the county's rules. He said he has not followed up on this, but it was advertised as such and was shown in the photographs with a paved walkway going to the helipad. Mr. Anderson said he would look into this question further.

Commissioner Milne asked if a personal use airport such as this one would fall under FAA regulations. Mr. Anderson said that to his knowledge, FAA and the Oregon Department of Aviation have to review the personal use airport to make sure certain safety regulations are met. Most of these have to do with the air traffic aspects of the location, including flight lines and approach paths that would relate to the Salem Airport in this case. The location for this airport is on top of a ridge, so there are some specific issues related to air traffic safety. Commissioner Milne asked if FAA approval had been received in this case, and Mr. Anderson said this approval has been received.

Commissioner Milne asked about the types of aircraft permitted for this airport, and who would have authority over this issue. Mr. Anderson said FAA or ODA would probably have the authority. For example, if an aircraft did not have sufficient power to use the length of the runway at this airport, that could be considered a hazard. This was covered in one of the reports, which examined five different aircraft and determined whether they could take off and land safely at this airport. Two appeared to be quite adequate, while the other three would require prudent pilot decisions and should be used only under certain conditions.

Commissioner Carlson asked if the proposed conditions have been explained to the applicants, and Mr. Anderson said they had not. Commissioner Carlson thought it would be important to know what the applicants' objections might be, and Commissioner Milne agreed with this

Mr. Anderson said that he came up with suggested conditions for the board to consider. Depending on the board's views about the compatibility and safety issues, some of these conditions could be modified as needed.

Commissioner Carlson thought it would be necessary to review the conditions one-by-one.

Commissioner Brentano said that he was of two minds about whether it would be necessary for the board to negotiate these items with the applicants, and he thought the board should follow its own judgment. Commissioner Carlson said it might be useful to get the point of view of the applicants.

Jo Stonecipher, legal counsel, pointed out that the hearing has officially been closed, so they would not be able to receive further input from the applicants at this time.

Commissioner Carlson asked how the conditional use would be affected if there were a new owner and new planes. She wanted to know if a new owner would have to start over from scratch. Mr. Anderson said there would be a condition for changes in aircraft. New aircraft would require approval for safety concerns.

Commissioner Milne saw some pros and cons in this. She did not want to see the value of the owner's property affected excessively by the airport and its compliance issues if the owner decided to sell the property at some point.

Commissioner Carlson asked the other commissioners how they felt about adding a prohibition on fly-ins to the item prohibiting the use of the property as a conference center. Commissioner Brentano said that allowing guests to fly in meant more use of the airport and unknown compatibility issues with the airport. He said it was important to be clear that the airport was to be for the use of the applicants only.

Commissioner Milne asked if they could make it a requirement that guest planes must meet the same safety standards required for the applicant's aircraft in order to use the airport. Mr. Anderson said this could be done.

Commissioner Brentano brought up the issue of the number of takeoffs and landings. Commissioner Carlson said she did not think this was a concern. Commissioner Milne thought it would be a good idea to add the language "no fly-ins" along with "no conferences at the site."

Commissioner Carlson said they could require new owners to apply for a new or amended conditional use, and as an amended agreement, they could review the areas that need to be renegotiated.

Commissioner Brentano asked about the issue of storage at the airport. The board agreed that the existing language on this issue were acceptable to them. Any additional aircraft would require approval by the Planning Director.

Commissioner Carlson said she would like to resolve the issues today and asked if the board could take a short break.

Commissioner Brentano recessed the meeting at 9:40 a.m. for the commissioners to take a short break to discuss the issues and the list of proposed conditions.

The meeting resumed at 10:00 a.m.

Commissioner Carlson said she would prefer for this to be a situation where all three commissioners could be in agreement for the final decision. She said she felt it would be overreaching to require that there could not be any guest planes using the airport.

Commissioner Brentano said that he wanted it to be clear because of some issues from the documents where a small number of guests could possibly become a fly-in with larger numbers of guests and planes. He wanted to make it clear that this was to be an airstrip for the applicants' personal use and enjoyment only. He said his priority would have to be focused on safety and compatibility with the community. He said that the applicant wanted to have the personal use airport authorized, and the prohibition of flights by guests would be the trade-off for the airport being authorized. He said it was important to minimize the use of the airport and to focus on safety and compatibility with the surrounding area and land uses.

Commissioner Milne said the issue here was not a question of who would be flying in, but the need to be sure the flights were occasional and infrequent. She questioned whether it really mattered if it was the applicant or a friend flying in and out of the airport. In her view, the important issue was the overall amount of use and the requirement that the use not be commercial. She said the message was clear that there would not be fly-ins or major events allowed, since these could have a major effect on safety issues.

Commissioner Carlson read off the list of conditions with the modifications decided on by the board. Any changes made by the board to the original list of conditions are indicated in parentheses after the text of that item.

1. The approval is issued only for William and Dama Curtright. Should the property be transferred to another person or persons, this approval will become void and the new owners, or persons with an ownership interest in the property, will have to apply for a new or amended conditional use to continue using the airport. (Change: added "or amended" to conditional use in last sentence).
2. Failure to comply with and maintain continuous compliance with any of the conditions of this approval may lead to citation or revocation of this approval by the Planning Director. Any revocation will be in writing and may be appealed to the Marion County Hearings Officer.
3. Except for aircraft emergencies, the use of the airport is limited to use solely by William and Dama Curtright and, on an infrequent and occasional basis, by invited guests. (Changes: The board removed two sentences specifying the numbers of take-offs and landings that would be allowed for the airport. Also, a sentence would be added requiring any guest aircraft to be certified with the same FAA safety standards as the applicants' aircraft.)
4. No aircraft may be based on this personal use airport other than those owned or controlled by William and Dama Curtright. (Change: " a personal use airport" changed to "this personal use airport.")

5. The daily noise level of sound issuing from the airport shall be kept to 55 dba or below on a continual basis.
6. The airport may not be used for commercial aviation in connection with agricultural operations or any other commercial aviation purposes.
7. This approval does not include approval for use of the property as a conference center, retreat center, lodge, bed and breakfast, ranch, or any other commercial use. (Change: language will also be added to specifically prohibit “fly-ins.”)
8. The applicant shall submit a site plan showing compliance with Marion County standards of development. The plan shall identify the location of the paved runway and its width and length, as well as other structures associated with the airport.
9. No additional length or width of runway is approved. Any future increase to width, length, or weight bearing capacity will require approval for a new or amended conditional use. (Change: “or amended” added to text).
10. William and Dama Curtright are approved to store at the property and use the airport for three aircraft. The only aircraft authorized to be based at the airport are the DeHavilland Turbo Beaver, Super Cub and Darter Commander. Only three aircraft can be based at the airport at any time. The applicant shall designate which aircraft will be based at the airport and any change to one of the other authorized aircraft shall be reported to the Planning Director prior to any change. These aircraft shall be certified to meet the noise standards of this approval by a letter from an acoustical engineer and shall be certified to be able to safely use the runway by the Oregon Department of Aviation or Federal Aviation Administration. Once the three aircraft are certified, any new aircraft intended to replace the three original aircraft shall also be certified as required above prior to being based on the subject property. (Change: changed from “two” to “three” aircraft, specifies the aircraft authorized to be based at the airport, adds FAA as authorizing agency.)
11. William and Dama Curtright shall maintain continuous compliance with state and federal laws, including obtaining all necessary permits from the Oregon Department of Aviation, Oregon Department of Environmental Quality and the Federal Aviation Administration.
12. The airport should be approached from the south for take-offs and landings as much as possible consistent with safe flying conditions.
13. William and Dama Curtright shall obtain all necessary permits from the Oregon Department of Environmental Quality for locating a fuel tank on the property.
14. Use of the airport shall be limited to the hours of 7:00 a.m. to 9:00 p.m. (Change: changed hour from 8:00 p.m. to 9:00 p.m., removed language limiting number of takeoffs or landings per month).
15. Within 60 days of this decision becoming final, William and Dama Curtright shall address any Marion County Public Works requirements. The requirements shall be met to the department’s satisfaction.

16. Within 30 days of this decision becoming final, William and Dama Curtright shall provide evidence satisfactory to the Planning Director of meeting provisions of the "Fire Code Applications Guide."

Mr. Anderson clarified that there may be some additional conditions that are standard or advisory conditions that were previously recommended by the hearings officer and included in the original staff decision granting the approval for this conditional use. These would include such things as an expiration date and other Public Works requirements.

**MOTION:** Commissioner Carlson moved to approve conditional use application #CU07-58, Curtright, Clerk's File #5572, with the revised list of conditions as described, along with standard conditions recommended in the hearings officer's report to the board. Seconded by Commissioner Milne; motion passed. A voice vote was unanimous.

## **PUBLIC HEARINGS**

### **9:30 A.M.**

#### FINANCE

- A. Public hearing to consider adopting the 2008-09 fiscal year budget, make related appropriations, and impose and categorize property taxes. – John Lattimer, Jeff White, Rich Minaker, Jerry Woelke

John Lattimer, chief administrative officer, thanked the board and the viewing audience for listening today. He said the Board of Commissioners and three other public members recently held six meetings of the Budget Committee in the month of May to review and adopt the Marion County budget. They also held two public hearings as a part of this process. In addition, the budget has been published in the newspaper and is available at Marion County's website. The total budget for Marion County for FY 2008-09 is \$331,131,540. Of that total, the General Fund is \$77,472,816. The imposed taxes are provided for in the adopted budget at a rate of 3.0252 per \$1,000 of assessed value for operations for FY 2008-09.

Commissioner Carlson said the Budget Committee spent many hours hearing from each department, learning about their programs and issues, and finding out about the constraints anticipated in the years to come. She thanked Mr. Lattimer and the Finance staff, including Deputy County Administrator Jan Fritz, and the staff members from the various departments who presented their individual budgets. She said this is a very good budget that will get the county through the next year. She said the actual paperwork being presented today has very little to do with what was approved in the discussion, since they are required by statute to budget by fund, but in Marion County much of their work is budgeted by program.

Commissioner Carlson said that in the interest of transparency, the listing of the budget by fund may not be very helpful for understanding the budget, although this is the form that the budget appears in on the website and in the newspapers. They have tried wherever possible to try to translate these numbers into other formats. These include pie charts and other graphs that provide this information to the public in a clearer manner. She said Mr. Lattimer has been an advocate of revisiting the way state government requires county government to construct budgets, and she said she agrees with him on the need for change in this area.

Mr. Lattimer said that at the last county administrators meeting, they had a long discussion of this issue of how budget information is presented, and nearly all of the county administrators agreed with him that the municipal budget law, which currently applies to counties, was really established for cities, which tend to do their budgets very differently than counties do. He said they will work with the legislature next year to try to start a process to change the law so it could allow some different budgeting options for counties and increase transparency in budgeting.

Commissioner Milne thanked Mr. Lattimer and Ms. Fritz for their work on this year's budget. She said it is sometimes very difficult to try to meet all the different community needs and demands, but the Budget Officer and the Budget Committee have managed to do it again this year. She said there would never be enough money for all the needs, but they have done a good job with what they have, and they are improving the budget each year in terms of transparency and truth in budgeting. She said they are working to make the paperwork user-friendly so the public could look through the budget and understand what the county is doing.

Mr. Lattimer said the budget that is on the county's website is a much better reflection of the budget by program than what was published in the newspaper. He suggested to those watching the meeting today that they look at the website to review the budget. He said Richard Minaker, senior budget analyst, was the architect of the budget document shown on the website. He thanked Mr. Minaker, Chief Financial Officer Jeff White, and Management Analyst Jerry Woelke, who spent many weekends working on the budget documents. Mr. Lattimer also thanked Ms. Fritz and said he could not have completed the budget without her.

Commissioner Brentano thanked all the budget office employees just mentioned for their excellent service to the county. He said they are finished with this year's budget process, but will be starting work immediately on next year's budget.

**MOTION:** Commissioner Milne moved to close the public hearing and adopt the Fiscal Year 2008/09 budget, make the related appropriations, and impose and categorize property taxes. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

Commissioner Brentano read the calendar.  
Commissioner Brentano adjourned the meeting at 10:43a.m.

**Attachments:** Agenda

ABOVE MINUTES APPROVED

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CHAIR

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COMMISSIONER

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COMMISSIONER

Page -10-

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