

**BOARD OF COMMISSIONERS**

**MINUTES OF THE BOARD SESSION – Regular Session**

Wednesday, July 30, 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 Jo Stonecipher as legal counsel and Kim Hulett as recorder.

Commissioner Brentano called the meeting to order.

**PUBLIC COMMENT**

None.

**PRESENTATION**

SEDCOR 4<sup>th</sup> Quarter Report – Ray Burstedt, Nick Harville

Ray Burstedt and Nick Harville were in attendance to present the 4<sup>th</sup> Quarter Report for SEDCOR (Attachment A). Mr. Burstedt reported they just completed their budgeting process for FY 2008/09. Their budget has been slightly reduced primarily in marketing efforts. SEDCOR’s annual report for FY 2007/08 has been completed and income totaled 107 percent of budgeted projections. Expenses totaled 105 percent of budgeted accounts. Additional income in the annual report was attributed to the yearly gala, which produced a profit of \$10,000.

**CONSENT**

CHILDREN AND FAMILIES

Approve an order appointing Sheriff Russ Isham to the Marion County Children and Families Commission for a term ending June 30, 2012.

HEALTH

Approve amendment #42 to receive \$755,352 from the Department of Human Services for the financing of community mental health, developmental disability and addiction services.

PUBLIC WORKS – PLANNING

Receive hearings officer’s decision granting property line adjustment and denying conditional use, case #PLA/CU 08-08, Ridgetop Ranch, LLC.

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

## **ACTION**

### HEALTH

1. Consider approval of a contract with Pelton Project for \$106,185 for the Chinook House Residential Treatment Home. – Sandy Stewart

Sandy Stewart introduced Leslie Stainbrook, who is the residential housing specialist at the Health Department. Ms. Stewart explained that the Pelton Project is an award of funding from the Department of Human Services in the amount of \$106,000. It supplies startup costs for a five-person home for individuals with co-occurring disorders or dually diagnosed with addictions and psychiatric disabilities.

The commissioners commented that \$106,000 isn't very much money and asked what the total cost would be, as well as where it would come from. Ms. Stewart further explained that this amount does not include the purchase of the home, only staff recruiting, vehicle and program startup costs. Ms. Stainbrook added that there is more than one funding source that has been applied for and approved for the purchase of the home. This program originated from Enhanced Community Living Options (ECLO), which came out of the addictions and mental health division of the state. She added that the entire package is approved, but comes to the county in pieces. Ms. Stainbrook said she would get the commissioners the total cost of the project.

The commissioners asked if this was a house that the Marion County Health Department would be operating over the long term. Ms. Stewart clarified that the Health Department would not be operating the home, but would be providing the mental health services at the site. The people that operate the Pelton Project will be the group operating the home. The commissioners suggested that a future update could be presented at a management update meeting.

**MOTION:** Commissioner Carlson moved approval of a contract with Pelton Project for \$106,185 for the Chinook House Residential Treatment Home. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

### PUBLIC WORKS – PLANNING

2. Consider approval of a resolution initiating process to amend the Marion County Comprehensive Plan by adopting amendments to the City of Donald Comprehensive Plan and schedule a public hearing for September 10, 2008. – Les Sasaki

Les Sasaki, planning division, explained that the City of Donald is proposing a 42.5-acre urban growth boundary (UGB) expansion to meet identified needs for industrial and commercial employment lands. The expansion involves four separate areas around the community and is based on an economic opportunities analysis that the community conducted. The city has gone through their local review process and has approved the UGB amendment. The UGB amendment proposal has been submitted to Marion County for its concurrence and approval. Mr. Sasaki requested that the board approve the resolution initiating the county review process and setting a public hearing date of September 10, 2008.

**MOTION:** Commissioner Milne moved approval of a resolution initiating the process to amend the Marion County Comprehensive Plan by adopting amendments to the City of Donald Comprehensive Plan and schedule a public hearing for September 10, 2008. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

3. Consider hearings officer's recommendation approving vested rights determination, case #VRD 05-50, Snyder Trust, Clerk's File #5046. – Sterling Anderson

Sterling Anderson, planning director, stated the item before the board involves a vested rights determination. It is a request under the common law vested right provisions to complete continual use that was granted under state and county waivers, ORS 197.352 (Measure 37). The applicant also applied for and obtained approval for a partitioning, case #P06-34, to partition a 2.55 acre parcel in the acreage residential zone (AR) and the timber conversation zone (TC). This was located at 10053 and 10063 North Fork Lane SE, outside of Lyons.

The hearings officer held a public hearing on this case on February 27, 2008. On July 17, 2008, the hearings officer issued a recommendation to approve the vested rights request. There has been no request for a hearing submitted and is time for the board to consider the recommendation.

**MOTION:** Commissioner Carlson moved approval of the hearings officer's recommendation approving the vested rights determination, case #VRD 05-50, Snyder Trust, Clerk's File #5046. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

4. Consider appeal of hearing officer's decision in conditional use CU07-76, Levy, Clerk's File #5587 (continued). – Sterling Anderson

Sterling Anderson, planning director, reported this was an application to amend the conditions of approval and expand a home occupation that was approved under a previous conditional use case #CU 05-06 on a seven-acre parcel zoned EFU. The location of the property is 5822 66<sup>th</sup> Avenue NE, Salem. The hearings officer held a public hearing on February 13, 2008. The hearings officer granted the conditional use subject to certain conditions. The applicant appealed those conditions.

Mr. Anderson reminded the commissioners that the board considered the appeal on Wednesday, July 23, 2008. In this case, the issue of a late appeal of the planning director's decision was raised. This created some significant procedural and legal questions regarding the appeal. There was discussion with the board, planning staff and the applicant's representative regarding the situation. The applicant's representative requested a week's delay in this consideration to allow him time to contact the applicants and determine if it would be appropriate to withdraw the application under the circumstances. There was discussion about expediting this case back into the system and in front of the commissioners because the appeal period was missed. It was suggested that if the applicants withdrew their application and it was forwarded directly to the board of commissioners, time could be saved and therefore the appeal fee could be reduced. The other issue was whether or not the board would, as part of the decision in this case, allow the applicant to reapply within the one-year waiting period required by ordinance. Typically, if an applicant is denied a conditional use or variance there is a one-year waiting period to

reapply. The board does have the authority to waive that timeframe. Mr. Anderson said the applicants have submitted a statement indicating they agree to withdraw the application if the board agrees to waive the one-year so they may reapply, and reduce the fee. Mr. Anderson said the fee for a conditional use, home occupation application is \$640. Therefore, using a conceptual approach of a two-thirds reduction in the fee, the amount would be \$214. Mr. Anderson said he discussed this with the applicant's representative and they agreed.

The next steps would be that the applicants reapply and staff would prepare and submit a report to the board for a public hearing to be scheduled.

Commissioner Milne said she was comfortable accepting the applicant's withdrawal, waiving the mandatory one-year period and reducing the application fee.

Jo Stonecipher said the board's first action is to dismiss the case since the application has been withdrawn. She suggested that no further action be taken until the case is actually before the board at a later date.

**MOTION:** Commissioner Milne moved approval to dismiss case #CU07-76, Levy, Clerk's File #5587, due to a request to withdraw the application and the board will take action on a new application when it is received. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

## **PUBLIC HEARINGS**

**9:30 A.M.**

### PUBLIC WORKS

A. Public hearing to consider the vacation of B Street, unnamed street and two alleys in Marion, Clerk's File #2099R. – Patricia Nordahl

Patricia Nordahl, Public Works, reported that on May 14, 2008, a petition was filed with Marion County to vacate a portion of B Street, No Name Street, and two alleys in the town of Marion. Marion is located in the southwest section of Marion County about five miles northeast of Jefferson and six miles south of Turner. The plat of Marion established the right of way in 1870. A search of the surveyor's office records reveals no evidence of any previous vacation or abandonment of these portions of right of way. Upon review the planning, land development, permits and traffic engineering sections have no objections to this vacation if approved.

Ms. Nordahl showed photos of where No Name Street would be located if it were developed (Attachment B). It was taken at the south end of Marion Hill Road looking north. There is no evidence of past road construction. Access to the property abutting this right of way is from Marion Hill Road. Pacific Power requests an easement to protect existing lines if the right of way is vacated. Ms. Nordahl showed another photo that was taken from Duck Flat Road looking west at B Street. There is also no evidence of past road construction. Access to the property abutting this right of way is from Duck Flat Road. The Public Works Department has determined that the vacation of these portions of right of way would be in the public interest as they were never developed and served no practical purpose to the public. Public Works recommends granting the vacation vesting to the adjoining property owners with

the condition of providing an easement to Pacific Power.

#### TESTIMONY:

Support:

Patricia Cook, 239 Cherry Street, Silverton, declined to speak (is the owner of the property).

Channon and Josie Hard, 39733 Lacombe Drive, Lebanon, said they have a parcel across the river off of A Street. A Street is an access, but a bridge would have to be made across the river. Mr. Hard said his access to his parcel from A Street would be difficult. He would prefer to access from Marion Hill and go straight across. Mr. Hard said he should have spoken up sooner when there was talk about vacating these roads. Commissioner Brentano asked Mr. Hard to explain how this road vacation affected his access. Mr. Hard explained that the access that is left after the vacation has a well, out building and log trucks sitting there. Additionally, a bridge would have to be built over the creek.

Commissioner Milne asked if A Street was useable. Mr. Hard said that a portion is not developed and it is not vacated. Mr. Nordahl said A Street is still platted, but was never developed. Commissioner Milne confirmed that this vacation really does not lock out access for Mr. Hard. Commissioner Carlson stated that if A Street becomes developed, Mr. Hard would have to deal with the log trucks, etc. Commissioner Milne asked the Hards if they had used the piece to be vacated for access. Ms. Hard said this piece was purchased as an investment in 1991 for future development. Mr. Hard said they had not used the piece being discussed for access. He said the access he used previously has been gated off. He requested that the county come check it out and they also were unable to gain access. Commissioner Milne said A Street is a right-of-way and really the access. The issue is getting the person storing his trucks there to remove them. She said it is not developed, but it is a county right of way and people should be able to use it.

Don Bauer, 39113 NW Maki, Marion, said that initially when he applied for this vacation, he had included A Street and the alley in block three. When he talked with Mr. Hard he did not oppose the vacation of A Street at that time. The neighbor in block three that has the alley way and the well on A Street withdrew his support because he wanted to be paid. He said the neighbor used a form of extortion so Mr. Bauer withdrew A Street for that reason, as well as to insure that Mr. Hard had access to his parcel.

Commissioner Milne said she is disturbed because there appears to be a situation on A Street that could be affecting this vacation. She wants to insure that if the vacation is approved that the Hards still have access. Mr. Worcester, Public Works director, agreed that A Street is not something the county would be interested in vacating. He explained that a number of years ago a new railroad crossing was built and that was with the intent of eventually developing A Street as a thru street. He said if there are obstructions in the right of way that are interfering with access to the Hards' property then Public Works needs to work with the individual causing the problem. Mr. Worcester recommended that the county not retain the alley because it is very narrow and doesn't serve a network function. He said that A Street has more potential for development.

Commissioner Milne confirmed that it was the position of the county that A Street at some point could be a thru street and the new railroad crossing was located where it now with the thought that A Street

may be improved at some point in time. Mr. Worcester said that was correct.

**MOTION:** Commissioner Carlson moved to close the public hearing and approve the vacation of B Street, the unnamed street and two alleys in Marion to the abutting property owners with the condition of an easement granted to Pacific Power, Clerk’s File #2099R. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

Commissioner Brentano read the calendar.  
Commissioner Brentano adjourned the meeting at 10:12 a.m.

**Attachments:** Agenda

ABOVE MINUTES APPROVED

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CHAIR

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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)**