

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, August 6, 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

PRESENTATION

Marion County Problem Gambling Prevention and Treatment Programs. – Yvonne Kays

Yvonne Kays serves as the prevention health educator with the Marion County Health Department. Ms. Kays stated that Marion County was the first county in the State of Oregon to incorporate and integrate problem gambling prevention into our substance abuse prevention work. She said that nationwide American’s are in love with gambling. There are only two states currently that do not have legal gambling that is state supported and they are Hawaii and Utah. Ms. Kays then showed an Oregon Youth Video that was created to teach teenagers about problem gambling and addictive behaviors. A PowerPoint presentation followed (Attachment A).

The commissioners thanked Ms. Kay for an excellent presentation and offered their congratulations for the Health Department receiving the Outstanding Problem Gambling Prevention Program Award.

MOTION: Commissioner Carlson moved to add an OLCC application for Tequila Regional to the consent agenda for the purpose of approval. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

CONSENT

BOARD OF COMMISSIONERS

OLCC Application: Recommend Approval

Tequila Regional, Salem

BUSINESS SERVICES – HUMAN RESOURCES

Approve recommendation to uphold the pay range for the district road operations supervisor, Public Works.

Approve recommendation to uphold the pay range for civil engineer, Public Works.

Approve recommendation to uphold the classification and pay range of administrative services manager, Juvenile Department.

HEALTH

Approve amendment #49 reducing funding by \$135,658 from the Department of Human Services intergovernmental agreement for the financing of community mental health, developmental disability and addiction services.

PUBLIC WORKS

Approve renewal of an annual grant of \$115,953 to the Salem/Keizer School District 24J for funding of an educator and program costs for district's recycling and solid waste management education program for FY 2008-09.

Schedule public hearing for September 10, 2008, to consider amending the transfer station operation franchise of Capitol Recycling & Disposal.

PUBLIC WORKS – PLANNING

Receive hearings officer's recommendation approving vested rights determination, case #VRD 05-80, MacInnes, Clerk's File #5080.

Receive hearings officer's recommendation approving vested rights determination, case #VRD 06-26, Endresen, Clerk's File #5191.

SHERIFF

Approve agreement to receive up to \$350,000 from the Department of State Parks and Recreation to provide inmate work crew services through June 30, 2010.

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

ACTION

BUSINESS SERVICES – RISK MANAGEMENT

1. Consider approval of an order adopting revised Risk Management Program rules effective August 2008. – Mina Hanssen

Mina Hanssen, risk manager, stated the last revision to the Risk Management program rules was completed in 2002. She said the county is self insured for liability, workers compensation and auto insurance. The Risk Management program rules were refined to deal with some changes that had occurred administratively, specifically, benefits had been moved from risk services to human resources.

Ms. Hanssen said there was no previous information in the program rules outlining how the county would handle subrogation, which is when someone else causes damage to county property. This item is now addressed in the updated rules. Reserving practices has also been developed whereby dollars will be set aside to cover claims that arise. Finally, some settlement practices have been revised, particularly those in relation to the settlement of property claims. She added that they were seeing the values of automobiles and construction repairs rising and felt it appropriate to make adjustments to those areas.

MOTION: Commissioner Milne moved approval of an order adopting the revised Risk Management Program rules effective August 2008. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

PUBLIC WORKS

2. Consider approval of an intergovernmental agreement with the Oregon Department of Transportation changing the jurisdiction of three portions of a road in the City of Silverton. – Cindy Schmidt

Cindy Schmidt, Public Works, stated the issue before the board is to consider a proposed jurisdictional transfer. She said it is a three-way transfer between the Oregon Department of Transportation (ODOT), Marion County Public Works and the City of Silverton. The City of Silverton is funding and undertaking an approximate \$1.1 million project to do some improvements to the north end of their downtown core area. She showed a diagram of the existing jurisdictions in the City of Silverton and the jurisdictions that fall under Marion County. The city has developed a project to install traffic signals at two locations and to do some improvements to the road between the two signals. This will create a smoother and continuous traffic flow through town. As part of this project it became apparent that there needed to be some switching of jurisdictions in order to have a continuous state highway run through town. The proposal is for the City of Silverton and ODOT to exchange some pieces of road on Water and Front Street. The county is impacted because the state highway would now come over the last little block of C Street, between Water Street and Front Street. This proposal would actually remove that piece completely from county maintenance and responsibility. With a signal going in at the Water and C Street intersection, the county would not have a role in that signal. The city and the state will be taking over all maintenance and electric billings for that signal. Ms. Schmidt said this is actually an advantage for the county because it removes things from county responsibility and really cleans up the flow through town.

Ms. Schmidt stated if the board approves the resolution today the conveyance document to the city would be executed. Another intergovernmental agreement is being prepared by ODOT and will be brought to the board at a later date, which addresses the maintenance and cost sharing responsibilities.

Ms. Schmidt said it is her recommendation that the board approve the transfer of the jurisdictions.

Commissioner Milne asked what the cost responsibilities mean to the county. Ms. Schmidt said the terms that have been tentatively agreed to be that the county would only continue to do the maintenance of the roadway approach and no cost responsibilities for the piece the county used to have. In addition, the county would have no participation in the power or maintenance of traffic signals. She said it would be a slight reduction in the county's annual cost.

MOTION: Commissioner Carlson moved to approve the intergovernmental agreement

with the Oregon Department of Transportation, changing the jurisdiction of three portions of road in the City of Silverton. Seconded by Commissioner Milne; motion carried. A voice vote was unanimous.

PUBLIC WORKS - PLANNING

3. Consider adoption of an ordinance amending Marion County ordinance No. 1255 relating to the vesting of development rights under ORS 197.352, by emergency procedure. – Sterling Anderson, Jo Stonecipher

Sterling Anderson, planning manager, stated the proposal before the board would amend ordinance No. 1255, which was adopted to deal with Measure 49 and vested rights claims. The issue is whether or not subsequent owners of vested rights properties can continue the developments that were granted under the Measure 37 waiver and the subsequent Measure 49 vested rights determination. As an example, he said the question is whether subsequent owners can obtain building permits. Mr. Anderson said that the transferability question is currently unresolved. He said there are a lot of opinions both ways, but the general opinion of people in the field is that subsequent owners should be able to continue. He added there is not yet a clear direction from the courts on that particular question. As a result, the proposal before the board would amend the Measure 49 vested rights ordinance to clearly identify and define what a subsequent owner is. This would also allow the planning and building division to sign off on building permits to a subsequent or new owner, after they have signed a disclaimer that basically states they recognize there is a risk and that the courts have not resolved this particular issue of transferability.

Jo Stonecipher said she was at a conference last week and this was a topic of conversation. She said the state had not a formal position as yet, but they are leaning towards the idea that once one had a vested right developed, that right was transferable and could go forward. She added that what the board is doing today is consistent with the current position that the state has taken. Ms. Stonecipher recommended that the board leave an acknowledgement in the provision that there are unresolved issues. She added this is for the protection of the county.

Commissioner Carlson commented that one of the reasons there is confusion is that there were rulings from the Attorney General's office under Measure 37 that those claims were not transferable. When Measure 49 was voted in and allowed vested rights under Measure 37, vested rights, as a common law principle was not defined in Measure 49. She said the county's ordinance is based on trying to follow the pattern that was set in court cases beforehand.

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

Commissioner Brentano read the ordinance by title twice.

MOTION: Commissioner Milne moved to adopt the ordinance amending Marion County ordinance No. 1255 relating to the vesting of development rights under ORS 197.352, by emergency procedure. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

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

None.

Commissioner Brentano read the calendar.
Commissioner Brentano adjourned the meeting at 9:55 a.m.

Attachments: Agenda
Attachment A - Marion County Problem Gambling Prevention Presentation

ABOVE MINUTES APPROVED

CHAIR

COMMISSIONER

COMMISSIONER

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