

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, November 21, 2018
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97305

PRESENT: Commissioner Janet Carlson, Commissioner Kevin Cameron, and Commissioner Sam Brentano. Also present were Jane Vetto as county counsel and Brenda Koenig as recorder.

ABSENT: John Lattimer, chief administrative officer

Commissioner Carlson called the meeting to order at 9:00 a.m.

PUBLIC COMMENT

None.

CONSENT

(Video Time 00:01:31)

BOARD OF COMMISSIONERS

OLCC Applications – Recommended Approval

Tiki Lounge Bar and Grill – Salem, OR

Approve an order revising Administrative Policy 201, Placing Business before the Board of Commissioners and revised Policy 601, Public Official Ethics.

BUSINESS SERVICES

Approve a recommendation to uphold pay grade for classification #190, County Emergency Manager. Approve a recommendation to adjust upward pay grade for Classification #701, Property Specialist; #360 Benefits and Risk Manager; #655, Management Analyst 1; #656, Management Analyst 2; #665, Administrative Division Manager.

Approve an order reappointing Commissioner Sam Brentano and Mitch Teal to the Mid-Willamette Valley Area Commission on Transportation (MWACT) with terms ending December 31, 2020.

Approve an order adopting Policy 518, Drug and Alcohol Free Workplace.

COMMUNITY SERVICES

Approve an order appointing Paige Clarkson to the Marion County Children and Families Commission.

HEALTH AND HUMAN SERVICES

Approve Amendment #12 to the Intergovernmental Agreement for financing Public Health with Oregon Health Authority adding \$42,887 for a total of \$5,492,417.

Approve Amendment #13 to the Intergovernmental Agreement for Financing Public Health with Oregon Health Authority adding \$4,000 for a total of \$5,496,417.

PUBLIC WORKS

Approve an order reappointing Joe Fowler and Judy Skinner to the Solid Waste Management Advisory Council (SWMAC) with terms ending December 31, 2022.

Schedule final consideration to adopt an administrative ordinance granting Zone Change/Comprehensive Plan Amendment /Conditional Use (ZC/CP/CU) Case 18-001/McCallum Powder, LLC. on November 28, 2018.

Receive notice of hearings officer's decision approving Conditional Use (CU) Case 18-018/Fruitland Creek.

Approve an order authorizing the joint purchase of real property by Marion County and the City of Salem at 295 Church Street S.E., addressed as 575 Trade Street S.E., Units C-1 and C-2.

SHERIFF'S OFFICE

Approve Amendment #2 to the Contract for Services with Health Care Services, LLC for additional funding for a total of \$151,000 for temporary medical staff.

MOTION: Commissioner Cameron moved for approval of the consent agenda. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

ACTION

(Video Time 00:05:26)

BUSINESS SERVICES

1. Consider approval of the Public Improvement Agreement with T.S. Gray Construction, LLC. in the amount of \$6,205,000 for the Juvenile Services Building Project. – Colleen Coons-Chaffins, Kevin Burton and Troy Gregg

Summary of presentation:

- On August 31, 2018, Business Services published an invitation to bid on a new Juvenile Services Building, located on Center Street NE;
- Seven bids were submitted for review;
- T.S. Gray Construction came in with the lowest bid;

- A thorough review was done with the contractors board, and references were checked; and
- The final bid for the project is \$6,205,000.

Board discussion:

- Multiple services will be brought together into one new building:
 - Probation officers;
 - Educational advocates;
 - Family Support programs;
 - Services related to records; and
 - Services related to central supply for the department as a whole.
- It's more about the services being provided than just administration;
- The new building is just over 20,000 square feet;
- Carlson Veit provided the architectural drawings;
- T.S. Gray has plans to break ground on November 30, 2018, upon approval of a storm water permit;
- The team plans to meet every week to go through project updates:
 - Scope;
 - Schedule; and
 - Budget.
- Anticipating project completion date in the fall of 2019;
- The project is considered a design build;
- All parties associated with the build will be taking equal risks on the project;
- Marion County spent \$1.6 million for the courtroom; and
- The county is looking at an \$8 million investment in the property over the next 2-3 years.

MOTION: Commissioner Brentano moved for approval of the Public Improvement Agreement with T.S. Gray Construction, LLC in the amount of \$6,205,000 for the Juvenile Services Building Project. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

FINANCE

2. Consider approval of a resolution to adopt the first supplemental budget for fiscal year 2018-2019. **(TO BE ACTED ON FOLLOWING PUBLIC HEARING)** –Debbie Gregg

(Video Time 17:06)

HEALTH AND HUMAN SERVICES

3. Consider approval of the Purchase Order with Office Depot for \$459,434.62 to provide delivery and installation of various furniture pieces for phase 2 of Health and Human Services Silverton Road Location. – Ryan Matthews

Summary of presentation:

- Phase 1 involved relocating the Addiction Treatment Center into one building versus the two buildings it was previously located in;
- Phase 2 will house the remaining adult services into the Silverton Road location;

- The goal of the county is to house similar services in one location;
- This will allow for the following:
 - Better customer service; and
 - More efficiency in coordinating care.
- The project is scheduled for completion on January 15, 2019;
- The anticipated move in date is early February 2019;
- Approximately 118 employees will be relocating to the Silverton Road location from three different sites;
- The furniture will be used for:
 - Staff;
 - Records room;
 - Reception area;
 - Interview rooms; and
 - Conference rooms.

Board discussion:

- Services that will be relocating to Silverton Road are:
 - Adult Behavior Health from the Center Street location and one of the suites at the Beverly Street location; and
 - The prevention team currently located in Woodburn.
- Marion County currently has suites located on Beverly Street:
 - With the Silverton Road project, the county will be able to eliminate one of these suites.

MOTION: Commissioner Cameron moved for approval of the Purchase Order with Office Depot for \$459,434.62 to provide delivery and installation of various furniture pieces for phase 2 of Health and Human Services Silverton Road Location. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

(Video Time 00:21:46)

LEGAL COUNSEL

4. Consider approval of a Memorandum of Understanding (MOU) regarding Divestment by Marion County and Continued Operation of the Oregon Garden. – Jane Vetto. (See attachment A)

Summary of presentation:

- Asking the board to consider entering into a Memorandum of Understanding with:
 - The Oregon Garden Foundation;
 - The City of Silverton; and
 - Moonstone Garden Management, Inc.
- In 2002, Marion County issued revenue bonds in the amount of \$5 million to the Oregon Garden Foundation:
 - This loan was to promote economic development.
- The Oregon Garden Foundation defaulted on the loan and was put into receivership;

- With the terms of the receivership, it is estimated that it will take 37 years for the Oregon Garden Foundation to repay its creditors, which includes Marion County;
- In the Spring of 2018, the board directed legal counsel to draft an MOU;
- The MOU states that Marion County will forgive the \$5 million loan owed by the Oregon Garden Foundation in exchange of the terms that are set forth in the MOU Divestment, section D, paragraphs 4-10;
- The MOU outlines how the Oregon Garden Foundation will receive future revenues from the Transient Occupancy Tax revenues and rent;
- The Memorandum of Understanding will allow the garden to:
 - Pay off its remaining creditors;
 - Become debt free in ten years; and
 - Become self-sustaining.
- The MOU will remove Marion County from the following:
 - The Second Restated Management Agreement;
 - The Oregon Garden Foundation Board; and
 - Any oversight role.
- The MOU was drafted by Marion County, but the terms were fully negotiated by all parties involved;
- The MOU has already been signed by the following:
 - The City of Silverton;
 - The Oregon Garden Foundation; and
 - Moonstone Garden Management, Inc.

Board discussion:

- The MOU outlines the debt forgiveness process;
- The MOU will be signed by the chief administrative officer;
- Legal Counsel will draft an order within thirty days for the board to sign;
- Legal Counsel can amend the document presented and add a signature section for the board and the chief administrative officer to sign;
- This process is more about restructuring and turning the loan into a grant versus forgiving the loan;
- Oregon Garden's vision was primarily to showcase agriculture and Oregon's nursery industry;
- The garden has provided:
 - Economic development;
 - Jobs;
 - Tourism and promotion; and
 - Livability.
- The Oregon Garden provides the City of Silverton with wastewater treatment, irrigation water, and wetlands mitigation;
- This action item today will take the Oregon Garden out of receivership:
 - Allowing the garden to pay back old debtors and creditors;
 - Repairing the image of the Oregon Garden; and
 - Repairing the foundation's credit rating.

- There have been issues with the Oregon Garden's lot lines being incorrect and affecting the availability for the resort to grow:
 - The gardens to grow; and
 - Expansion into adjacent lands next to the garden.
- Marion County Finance Department received notification that the Oregon Garden was no longer able to pay on the bonds;
- Mr. Latimer was concerned about the county's bond;
- The bonds were sold by Marion County:
 - The county did not want to default on those bonds and ruin the county's credit rating.
- Marion County lottery dollars that are received from the State of Oregon for economic development are what has been invested in the Oregon Garden over the years;
- The commissioners are proud to have the garden in Marion County, but Oregon needs to understand that it's their garden too:
 - Oregon needs to be invested in the garden; and
 - The state needs to find a way to sustain the garden, because it's a great asset for the entire state, the City of Silverton, and Marion County.

Comments from members of the Oregon Garden Foundation:

Allison Pennell, Development Director, Oregon Garden Foundation:

- Ms. Pennell thanks the Board of Commissioners for this opportunity.

Richard Meganak, Oregon Garden Foundation, board member and volunteer:

- Volunteers 100 hours every month primarily in the horticultural department;
- Several hundred volunteers work in the garden in all aspects:
 - Administration;
 - Horticulture; and
 - Special projects.

Gloria Roy, Oregon Garden Foundation, board member and volunteer:

- Marion County has had a long relationship with the Oregon Garden;
- The foundation has some of the original board members that were there when the Oregon Garden broke ground;
- Oregon Garden has had investments from:
 - Lottery dollars; and
 - Economic development dollars.
- There is a lot of work to be done, but this will free up the foundation to actually do the work:
 - Offers more opportunities to get grants and be more successful.

Mary McNatt, Oregon Garden Foundation, board member and current Chair;

- Ms. McNatt expressed her thanks to the board for their support for the Oregon Garden and their vision; and

- Forgiveness of the debt will allow the foundation to continue to promote the Oregon Garden.

Christine Diacetis, Regional Manager, Moonstone Hotels:

- Ms. Diacetis thanked Marion County and the board for their partnership;
- An agreement is being structured that will allow the Oregon Garden to thrive and move forward; and
- Marion County's investment will not be wasted.

Kyle Palmer, Mayor, City of Silverton:

- The City of Silverton has enjoyed the partnership with Marion County in preserving the Oregon Garden as a facility and tourist destination;
- The Oregon Garden is a vital part of the City of Silverton's waste water treatment process;
- Mayor Palmer thanked the board for its consideration of this action;
- Mayor Palmer stated that the Silverton City Council has discussed, voted, and wants to take on the role of being the major jurisdiction for the Oregon Garden;
- City councilors recognized the value of the garden for their community as a City of Silverton tourist destination and regional tourist destination; and
- The current city council is united in the role it will play in the Oregon Garden.

MOTION: Commissioner Brentano moved for approval of a Memorandum of Understanding regarding Divestment by Marion County and Continued Operation of the Oregon Garden. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

PUBLIC HEARINGS

9:30 A.M.

(Video Time 00:47:20)

FINANCE

A. Public hearing to consider adopting the first supplemental budget for fiscal year 2018-2019. -
Debbie Gregg

Summary of presentation:

- The supplemental budget has increased the budget by approximately \$14.7 million;
- The majority of the \$14.7 million is for the Net Working Capital adjustment, which recognizes the carry over Net Working Capital and adjusting it to actual;
- The supplemental budget was publicly noticed on November 15, 2018, in the Statesman Journal;
- It has been available for the public to review in the Board of Commissioners Office, and Marion County's website;
- The supplemental budget was discussed in detail at a Management Update Meeting:
 - One change was made after the meeting:
 - The Community Services Grant Fund was increased for revenues that were received during the Marion County Reentry Initiative breakfast; and

- Those revenues were allocated to direct client services.
- Funds with more significant changes were:
 - The General Fund increased almost \$1.3 million:
 - \$157,000 for personnel costs for the Juvenile Department for an additional full time programs supervisor; and
 - Cost associated with market reviews for positions.
 - \$1 million was allocated to Transfers Out for the Capital Improvement Project fund;
 - The Central Services fund for a new accounting position in Information Technology;
 - The Capital Improvement Project fund increased by almost \$2.5 million for Capital Outlay to re-appropriate some unfinished projects from last year that will be completed this year:
 - Some new and modified projects:
 - Assessor's pictometry;
 - Courthouse security camera matrix;
 - Improvements to Health and Human Services landscaping;
 - Improvements to Health and Human Services Beverly suites; and
 - The jail camera project.
 - The Environmental Services fund increased by \$2.6 million due to the adjustment of Net Working Capital for the following:
 - Materials and services;
 - Capital outlay; and
 - The majority is being placed in contingency.
 - The Facility Renovation fund decreased by approximately \$1.8 million due to the completion of the Sheriff's Office Public Safety building;
 - The Health and Human Services fund increased to \$2.4 million for costs associated with personnel services for various positions:
 - Youth rental assistance;
 - Transitional treatment and recovery; and
 - Developmental disabilities services.
 - Transfers Out has an increase of approximately \$314,000 to the Capital Improvement Project Fund (CIP) for the following:
 - Building improvements;
 - Landscaping:
 - The remaining funds are allocated to contingency; and
 - Unappropriated Ending Fund balance.
 - The Public Works fund had an increase of \$3.9 million:
 - Mostly in Net Working Capital allocated to the following:
 - Personnel services for the Management Analyst 1 position and other personnel costs;
 - Materials and services increases for:
 - Ferry boat parts; and
 - Public work radios.
 - Capital Outlay for \$1.2 million:

- Re-appropriating some existing projects;
- Some additional new and modified projects;
- The remaining amount is allocated to contingency; and
- Unappropriated Ending Fund balance.

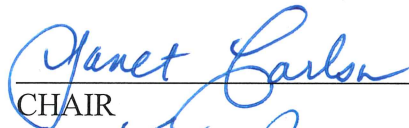
Board discussion:

- The Justice Reinvestment alignment is more a fund adjustment:
 - There was no modification to the grant agreement; and
 - It is more a budget realignment for the remaining grant funding that is expected this year.


MOTION: Commissioner Cameron moved to close the public hearing and approve a resolution adopting the first supplemental budget for fiscal year 2018-19. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Commissioner Carlson read the calendar.

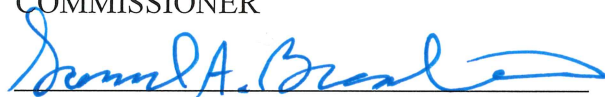
Commissioner Carlson adjourned the meeting at 10:11 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

Board Sessions can be viewed on-line at <http://www.youtube.com/watch?v=VYF8Y6U7178>.

Memorandum of Understanding
Divestment by Marion County and
Continued Operation of Oregon Garden

A. Parties to the Memorandum of Understanding (MOU):

- Moonstone Garden Management, Inc. ("MGM");
- The Oregon Garden Foundation ("The OGF")
- Marion County ("County"); and
- City of Silverton ("City").

B. Purpose:

This MOU formalizes the relationship, expectations, and responsibilities of the Parties as they work to continue economic success and development of the Oregon Garden, and setting out the obligations for the Oregon Garden that will continue to exist between the remaining three parties: City, The OGF, and MGM.

C. The Parties acknowledge and agree to the Recitals set out as follows:

1. In 1995, the City leased 140 acres to The OGF for a term of 99 years for the purpose of establishing Oregon Garden (the Master Lease). The Master Lease also sets out standards for the City's effluent reuse. Oregon Garden is a botanical garden open to the public while also providing for the City's wastewater treatment, irrigation water, and wetlands mitigation. The City is the fee title owner of the property where the Oregon Garden is located.
2. In 2002, at the request of The OGF and the City, in exchange for a secured interest in part of the property (61 acres), the County issued revenue bonds in the amount of \$5,000,000 ("Revenue Bonds") to be used for economic development in connection with Oregon Garden.
3. The OGF defaulted on its payment obligations, and, in 2005, the County filed in Circuit Court for Receivership against The OGF, the City, and other creditors of The OGF. A Receiver was appointed by the court to take control of The OGF and its assets. A final Receivership Order was entered on February 14, 2008, including a Distribution Plan that covers all revenue received by The OGF, with a prioritization of payment to creditors.
4. Pursuant to the Receivership Order, daily management of Oregon Garden was assigned to MGM under a long term Management Services Agreement. In 2013, the Parties revised the Agreement and entered into the Second Restated Management Services Agreement.

CW
MEM DW

5. Pursuant to the Receivership Order and Second Restated Management Services Agreement, without further action by the County, it will take The OGF an estimated 37 years to repay the non-interest bearing Revenue Bonds to the County. The OGF is also indebted to the County and City for receivership costs, as well as to unsecured creditors and to the City for the Special Public Works Fund (SPWF) loan.
6. The Oregon Garden is a tourism attraction for the City and does bring economic benefits to the City and the region. The City is the fee owner of the property where the Oregon Garden is located, and the past and present economic development dollars invested by the County in Oregon Garden, also benefit Silverton, in addition to the County.
7. The City's agreement to pay six-tenths of the total net Transient Occupancy Tax (TOT) revenues collected each year from the Garden Resort, LLC (Resort), as a grant to The OGF, expires in September 2018. Loss of this revenue will further impair the ability of The OGF to repay any debt.
8. Current legal descriptions in the Second Restated Management Agreement and the Master Lease, do not match stated intent or the area/property that is being used, open to the public, or maintained as Oregon Garden, thus creating ambiguities and liabilities.
9. All Parties share the goals of allowing for continued economic success and development of Oregon Garden.

D. NOW, THEREFORE, the Parties agree as follows:

1. Within 30 days of the date this MOU is signed by all the parties, the Marion County Board of Commissioners will adopt an Order to waive the debt owed by The OGF to the County (Order Adoption Date).
2. Subject to review and approval by all parties and within fifteen (15) days of the Order Adoption Date, The County will file with the Marion County Circuit Court (Court), a satisfaction of the debt and amendment to modify the Court Order and Distribution Plan.
3. Within forty-five (45) days of the Court Order and Distribution Plan being approved by the Court, the County will record the Court Order in the deed records where the original Court Order is recorded. The Leasehold Deeds of Trust and Fee Deeds of Trust held by the County and recorded in the deed records, will also be released and recorded in the deed records.

CW
MLH DW

4. The City agrees to freeze the accrued interest due for the receivership costs at \$131,535 (Receivership Interest). The City agrees to defer the remaining principal balance of the receivership costs owed to the City, without further interest, in the sum of \$118,500 (Principal Balance). Repayment by OGF will be in the following order: (1) Receivership Interest owed to the City; (2) debts owed to Unsecured Creditors of OGF totaling \$1,492,967.42 of which some debts may remain unpaid in the event the debt has been forgiven by the Unsecured Creditor; (3) City SPWF loan in the amount \$452,712 owed to the City; and (4) Principal Balance owed to the City.
5. The Head Lease and the Sub Lease between the County and The OGF terminate upon extinguishment of the County debt. The OGF will still hold the Master Lease with the City.
6. The Second Restated Management Services Agreement will be amended to remove the County as a party with a waiver of the debt and termination of the Head Lease and Sub Lease. The remaining Parties will still be bound by its terms, unless otherwise amended.
7. Subject to approval by all the parties, the County will direct county staff to update the legal description of Oregon Garden's lot lines.
8. The City agrees to extend its current agreement for payment of the TOT as set forth in C7 above to The OGF through 2026, or upon full debt repayment of the debts owed by The OGF listed in the Receivership Order, whichever occurs first.
9. Beginning the calendar year after the Receivership Interest has been repaid to the City by the OGF, the OGF agrees to pay the City \$7,500 each calendar year pursuant to the Master Lease to rent the Oregon Garden until all the remaining debts listed in D4 above are satisfied. For example, if OGF makes its last Receivership Interest payment to the City on July 1, 2019, OGF shall pay \$7,500 to the City on January 1, 2020 to rent the Oregon Garden for the calendar year 2020. The rent shall be payable the first business day following January 1 of each year, to cover the rent for the following calendar year. The OGF and the City agree to review the rent amount when the MOU is reviewed as specified below.
10. MGM agrees that it will collect 10% of paid admissions for public events that are not hosted or run by MGM that are held at the Oregon Garden, including but not limited to Christmas in the Garden, which amount is to be remitted to MGM as a form of Garden Royalty Fees as set out under the Second Restated Management Agreement.

OW
MGM O.G.

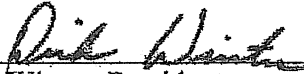
11. Within five (5) years of the Effective Date, MGM, City, and the OGF agree to review the terms of the Second Restated Management Agreement.

E. General terms:

1. This MOU shall be effective upon the date of execution by all Parties (Effective Date).
2. This MOU may be amended only by prior written mutual agreement of the City, MGM and the OGF.

IN WITNESS WHEREOF, each of the Parties has caused this Memorandum of Understanding to be executed on its behalf by its duly authorized agent.

Moonstone Garden Management, Inc.

By:  11/7/18
Dirk Winter, President (Date)

The Oregon Garden Foundation

By: 
Mary McNatt, Chair (Date)

Marion County


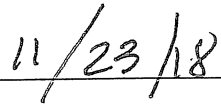
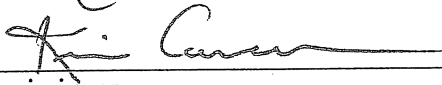
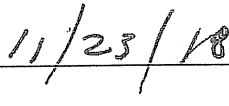
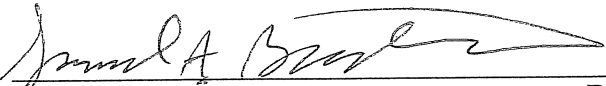
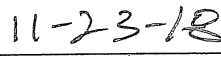
By:  11/29/2018
John Latimer, Chief Administrative Officer (Date)

City of Silverton

By:  11/12/2018
Christy Wurster, City Manager (Date)

MARION COUNTY SIGNATURE

BOARD OF COMMISSIONERS:

 Chair	 Date
 Commissioner	 Date
 Commissioner	 Date

