

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, February 27, 2019
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97305

PRESENT: Commissioner Kevin Cameron, Commissioner Sam Brentano, and Commissioner Colm Willis. Also present were Jane Vetto as county counsel, John Lattimer as chief administrative officer, and Brenda Koenig as recorder.

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

PUBLIC COMMENT

None.

CONSENT

(Video Time 0:01:34)

BUSINESS SERVICES

Approve a recommendation to uphold pay grades for five classifications; #015, Paralegal; #085, Budget Analyst Senior; #086, Budget Analyst 1; #087, Budget Analyst 2; #438, Fleet Specialist.

PUBLIC WORKS

Approve Amendment #5 to the Purchase Order with Les Schwab Tire Center adding \$75,000 for a total of \$175,000 for tires and alignment services to Marion County fleet vehicles.

Approve an order to schedule a public hearing for Mass Gathering 19-001/Real Promotions for March 27, 2019.

Approve an order receiving the Road Officials Report and schedule a public hearing for March 27, 2019, to vacate the north end of Phipps Lane NE.

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

ACTION

(Video Time 0:02:48)

PUBLIC WORKS

1. Consider approving adoption of an administrative ordinance granting Zone Change (ZC) Case 18-005/J. Conser and Sons, LLC. – Joe Fennimore

Summary of presentation:

- The request is to change the zone from Urban Development (UD) to Multiple Family Residential (RM) on a 4.56-acre parcel, located on the southwest corner of Ward Drive and the Fisher Road intersection, Salem;
- The zone change would allow for the development of apartments on the property;
- Property located to the east, across Fisher Road, is currently a vacant lot inside the city limits:
 - Future plans are to develop this parcel into a park.
- Properties to the east are zoned UD;
- Properties to the west and south are zoned RM:
 - Land is developed with condominiums.
- Property across Ward Drive to the north contain the following:
 - A church on land zoned RM; and
 - A single family subdivision zoned Single Family Residential (RS).
- The hearings officer conducted a public hearing on January 23, 2019, and issued an initial decision granting the request subject to the following conditions:
 - Obtain building permits;
 - Meet the development standards of the Marion County Code;
 - Dedicated right-of-ways; and
 - Construct frontage improvements.
- The applicant has no objections to the conditions;
- The board received the hearings officer's initial decision and held the application for the mandatory appeal period:
 - No appeals were filed.
- Notice of adoption of the ordinance was made on February 20, 2019;
- Options for the board to consider:
 - Adopt the ordinance as written;
 - Direct staff to prepare a modified ordinance for consideration; or
 - Choose not to adopt the ordinance at this time.
- Staff recommends adopting the ordinance as written.

Board discussion:

- Urban Development is defined as:
 - An area that is in the sewer and water district;
 - Is not currently annexed to the city; and
 - Is largely available for development.
- There are two ways to develop the land:

- Change the zoning and develop it in the county; or
- Annex it to the city and develop it under the city code.
- People living in the area want to have access to the creek:
 - There will be less development in this area.

MOTION: Commissioner Brentano moved to approve adoption of an administrative ordinance granting Zone Change (ZC) Case 18-005/J. Conser and Sons, LLC and accept the recommendation as provided. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

(Video Time 0:08:21)

SHERIFF'S OFFICE

2. Consider approval of Amendment #2 to the Contract for Services with Mid-Willamette Valley Community Action Agency to add \$40,743 for a revised contract total of \$392,439 for services to support the Marion County Sheriff's Office. – Sheriff Jason Myers and Commander Jeff Wood

Summary of presentation:

- The additional funding to the existing contract will provide services at the Marion County Transition Center through the De Muniz Resource Center:
 - It is designed to be a one-stop center.
- Over the last year, the center has served more than 1,800 individuals exiting the criminal justice system;
- Individuals come to the Marion County Transition Center for the following reasons:
 - A past conviction;
 - A pre-trial diversion program;
 - Incarceration at the transition center; or
 - They are on probation or post-prison supervision.
- The resource center provides services designed to facilitate positive change in the following ways:
 - Employment support;
 - Housing referrals;
 - Basic needs;
 - Financial literacy;
 - Cognitive behavior classes;
 - Parenting classes; and
 - Referral and open enrollment with the Oregon Health Plan.
- The \$40,743 requested will come from the following sources:
 - \$30,743 will be transferred from the Community Services Department, via the Client Support Fund:
 - The Marion County Justice Reinvestment Council approved this in December 2018, and it has been incorporated in the county's supplemental budget.
 - \$10,000 will come from the Community Corrections Fund.

- The county hopes to complete the De Muniz project in Fiscal Year 2018-19; and
- The contract ends June 30, 2019.

Board discussion:

- The two-year contract commenced on July 1, 2017;
- The original amount of the contract was for \$200,000:
 - Amendment #1 added \$150,000 to the contract.
- Statewide budget for community corrections for two years shows baseline funding at \$273 million:
 - The governor’s recommended budget of \$259 million is less than what is being received this biennium.
- The county is statutorily required to perform a cost time study analysis showing actual costs to provide services to the offender population:
 - The county’s rate per day, per client, over a two-year period has risen from \$12 to \$14.50; and
 - The state’s daily rate per client is \$114.
- Funding for the county to provide services needs to rise, or state prison beds will fill up; and
- The programs can change people lives:
 - Reunite them back with their children and families; and
 - Assist them with becoming productive citizens.

MOTION: Commissioner Brentano moved for approval of Amendment #2 to the Contract for Services with Mid-Willamette Valley Community Action Agency to add \$40,743 for a revised contract total of \$392,439 for services to support the Marion County Sheriff’s Office. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

The commissioners recessed at 9:22 a.m.
 The commissioners reconvened at 9:30 a.m.

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

(Video Time 0:22:10)

PUBLIC WORKS

A. Public hearing to consider appeal of hearings officer’s decision denying Partition (P) Case 18-011/O’Brien. – Joe Fennimore

Summary of presentation:

- The applicant is requesting to divide a 9.7-acre parcel in a Special Agriculture (SA) zone into three parcels, on property located on O’Brien Avenue South, Salem;
- The property is on the west side of O’Brien Avenue, approximately 300 feet north of its intersection with Jory Hill Road;

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- Located on the property are the following:
 - An existing dwelling;
 - Accessory buildings; and
 - Well and septic systems.
- The property was the subject of a Measure 49 claim:
 - It was approved for the creation of two additional lots, and two additional dwellings.
- The property is also located within a Sensitive Groundwater Overlay zone;
- Surrounding properties to the north and east are zoned SA and consist of various sized farming operations;
- Properties to the south and west are in an Acreage Residential (AR) zone in a rural residential development;
- On May 9, 2018, the planning director issued a decision approving the request subject to conditions;
- The applicant appealed that decision to the hearings officer who conducted a public hearing on June 21, 2018;
- On August 29, 2018, the hearings officer issued a decision denying the request;
- On September 13, 2018, the hearings officer's decision was appealed to the board;
- The appeal of the planning director's decision to the hearings officer was based upon two conditions of approval relating to road improvements that the applicant objected to;
- The hearings officer concluded that health and safety provisions are not exempt from Measure 49 waivers:
 - Current safety standards on O'Brien Avenue are not met nor waived under the Measure 49 waiver;
 - Cannot make sufficient findings to justify the challenged conditions; and
 - The application cannot be approved if public safety standards cannot be met.
- In the appeal to the board, the applicant argues the following:
 - The hearings officer's conclusion that public safety requirements are not met is unfounded, and the decision should be reversed;
 - The hearings officer made engineering and design findings without the benefit of a detailed design analysis:
 - The hearings officer relied on inaccurate information based on requirements of previous developments having the same impacts on the streets.
 - In 2004, sight distance and road improvements were not required on a previous partition across the street;
 - There are no new, or changed circumstances to warrant the conditions in this case; and
 - The impacts of the two additional proposed dwellings do not support the exaction of the conditions.
- The applicant is willing to widen the paving on O'Brien Avenue from Jory Hill Road to the point of property access, as long as the right-of-way exists:

- Will widen the gravel portion of the west side of O'Brien Avenue along their property line.
- After the board accepted the appeal, the applicant hired an engineer and submitted an engineering report identifying the mitigation measures that can be accomplished to improve safety on O'Brien Avenue at its intersection with Jory Hill Road;
- The applicants met with Public Works staff to discuss the proposed mitigation measures;
- Based on that meeting, Public Works Engineering has revised its conditions; and
- The board has the following options:
 - Continue the public hearing;
 - Close the hearing and leave the record open;
 - Close the hearing and approve, modify, or deny the request; or
 - Remand the matter back to the hearings officer.

Testimony:

Support:

Mark Hoyt, Attorney for the applicant:

- An appeal was filed to get clarity on the requirements, and to determine what could be done;
- The applicant hired an engineer, who did an extensive analysis of the intersection, and filed a report that suggested the following improvements:
 - Shaving the bank back along the northern edge; and
 - Placing a limited sight distance sign in the right-of-way:
 - Applicant has approved paying for these expenses.
- There are currently six homes on O'Brien Avenue with a seventh home under construction;
- The property directly across the street was divided in 2004, and no improvements were required to the intersection at that time;
- After that division was completed, one of the parcels was sold:
 - A new home was under construction;
 - Building permits were issued for the home; and
 - No improvements were required for the intersection at issue.
- There are three commercial enterprises currently functioning in the area that can generate a substantial amount of traffic through the intersection:
 - An event center that holds events for up to 250 people;
 - A Christmas tree farm located at the end of the road; and
 - A commercial bus operation.
- Crash data for the state of Oregon reveals there has not been an accident in the area in the last ten years, even with the estimated 350,000 traffic movements through the intersection; and
- The applicant recognizes that safety improvements will be a benefit to everyone and is willing to make the improvements that were agreed upon and discussed with Public Works.


Board discussion:


- O'Brien Avenue has no conditions that will impact or limit sight distance;

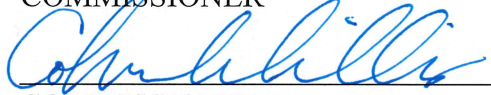
- The applicant's property will access O'Brien Avenue far north of the actual intersection of O'Brien and Jory Hill;
- Public Works and the applicant have agreed on the following proposed conditions:
 - Shaving the bank back along the northern edge:
 - Sight distance will increase by 16 percent.
 - Placing a limited sight distance sign in the right-of-way:
 - Public Works will maintain the sign after the applicant's initial expense.
 - Widening O'Brien Avenue; and
 - Adding gravel up to twenty feet along the paved section.
- Ms. Vetto stated that the hearings officer must consider the whole application, and has authority over the planning director's findings, conclusions, and conditions; and
- Public Works believes that these conditions will make it safer for everyone and recommends approval.

MOTION: Commissioner Willis moved to close the public hearing and approve Partition (P) Case 18-011/O'Brien, subject to the revised conditions presented. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous

Commissioner Willis read the calendar;
 Commissioner Cameron adjourned the meeting at 10:01 a.m.



 CHAIR


 COMMISSIONER


 COMMISSIONER

Board Sessions can be viewed on-line at
<https://www.youtube.com/playlist?list=PLSUQ1gg6M78UsBE3q6w4rdf59Z5rXkEi5>

