

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, October 5, 2022
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97301

PRESENT: Commissioner Danielle Bethell, Commissioner Colm Willis, and Commissioner Kevin Cameron. Also present were Jan Fritz, chief administrative officer, Jane Vetto as county counsel, and Brenda Koenig as recorder.

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

Commissioner Bethell arrived at 9:08 a.m.

(Video Time 00:00:34)

PUBLIC COMMENT

None.

(Video Time 00:00:39)

PRESENTATION

1. United Way 2022 Employee Contribution Campaign Kick-off. –Melissa Rounds and Melinda Freshour, Donor Stewardship and Special Initiatives – United Way of the Mid-Willamette Valley

Summary of presentation:

Melinda Freshour:

- Today’s United Way is all about innovative and adaptive philanthropy;
- The organization has the scope, expertise, and influence to bring human service agencies, governments, education partners, and volunteers together around a common goal of achieving long lasting results for a stronger and healthier Willamette Valley;
- The following are five ways that the United Way is working to see that communities thrive:
 - The Good360 Gifts in Kind program:
 - Over 300 community partners are served;
 - Approximately \$4,000 worth of goods went to approximately 300,000 people in the community;
 - The regional hub for Oregon, receives goods from large box stores:
 - The goods were returned or unsold and destined for the landfill.

- The Good360 program partnered with the Marine Toys for Tots Program for the Summer Unplug & Play campaign:
 - Toys were distributed at community parks, fairgrounds, and local festivals.
 - In the future, United Way of the Mid-Willamette Valley may be a staging location for emergency relief goods to assist with the following:
 - Floods;
 - Wildfires; and
 - Ice storms.
 - The Enrichment Academy:
 - The Enrichment Academy serves students and families whose lives are influenced by an array of social, emotional, and economic factors that hinder their academic success;
 - There are an average of 50 employees throughout the year;
 - The academy serves nine Title 1 schools throughout the district;
 - One-on-one support is provided to high school students needing guidance with their post-secondary plans;
 - Mentors are recruited and trained for the ASPIRE College and Career Program;
 - A variety of activities are provided to students both before and after school; and
 - It is anticipated that the Awesome 3000 running event will be held in the spring of 2023.
 - The SafeSleep United program:
 - SafeSleep United was established in 2019 as an overnight low barrier women's shelter;
 - There are no screening or background checks, and pets are welcome;
 - Women may be struggling with drugs, alcohol, or mental illness;
 - Services and support are offered to women staying at the shelter:
 - United Way is partnering with Cherriots Public Transit to facilitate ride-along, training, and support for the public transit system to assist with reducing worry and anxiety that women encounter while trying to get to medical appointments or job locations.
 - The shelter anticipates a remodel project that will expand occupancy and double bed capacity:
 - A bathroom and shower facility will be added.
 - The United Way's vision is that SafeSleep United will enable unsheltered women to have stability and hope:
 - They can heal from trauma;
 - Access wraparound supports; and
 - Move towards pursuing their goals and dreams.
 - The Cottages United program:

- Seniors are the fastest growing demographic facing homelessness;
- Seniors on a fixed income cannot afford today's housing market;
- Through a partnership with the City of Salem, four property lots have been obtained for the following:
 - The construction of 25 cottages; and
 - A parking lot:
 - The location will create an opportunity to build a special community between a local school and seniors.
- The Aguilas home is located in the center of the cottage properties:
 - The home was acquired through private donations;
 - The structure has been remodeled; and
 - A young family currently resides in the home.
- The Community Impact Grant Program:
 - The objective for funding is to find opportunities to support providers, projects, or programs that are impact driven, equitable, transparent, and regionally focused; and
 - The United Way partners with Willamette University Master of Business Administration (MBA) students within the grant funding program:
 - The students learn some of the following:
 - How to research grant applicants;
 - Present recommendations; and
 - Track the progress usage of the allocated grant funds.
- Marion County's United Way workplace campaign starts in October:
 - Every dollar raised here, stays here.
- Employees can invest with the United Way by becoming a monthly donor through a payroll deduction, and by volunteering;
- Marion County is one of the organization's top 20 workplace campaigns; and
- The organization is continually changing and evolving to meet community needs.

Board discussion:

- Commissioner Cameron expressed the following:
 - He is a board member with the United Way of the Mid-Willamette Valley;
 - United Way helped with the rental assistance program during the COVID-19 pandemic;
 - SafeSleep United does not have all the funding required for the remodel:
 - Women in homeless camps are not safe.
 - United Way started a fire recovery fund after the 2020 wildfires:
 - An estimated \$250,000 was provided for the Community Center in the City of Detroit.
 - The United Way contributes to the Mosaic House, which is for women fleeing domestic violence.

- The commissioners want to encourage Marion County employees to donate to the United Way of the Mid-Willamette Valley:
 - The funds contributed change people’s lives every day.
- The City of Salem is helping with the Cottages United project;
- The funding gap for the Cottages United project is estimated to be \$1 million:
 - United Way of the Mid-Willamette Valley is working to fill the gap so that the cottages are affordable.
- Employees can make donations through their paycheck; and
- Melissa Rounds is coordinating the campaign for the county.

Melissa Rounds:

- The employee contribution campaign for 2022 is running through the month of October:
 - It is running from October 3, 2022, through October 31, 2022.
- Fundraising activities from different county departments include some of the following:
 - The Board of Commissioner Office and Legal Counsel are hosting a fry bread taco lunch;
 - Human Resources is hosting a Cutest Critters Photo Contest;
 - Public Works is holding a 50/50 raffle drawing;
 - Finance is hosting a Little Lois Cafe lunch on multiple days at different county campus locations;
 - Business Services is having a baked goods and treats silent auction:
 - Donations of baked goods are welcome.
 - Business Services is having a silent auction and raffle for various items including toys, books, home décor, art, and clothing:
 - They are seeking new or gently used donated items for the event.
- There is a United Way intranet page that employees can access to find out what events are planned, including the time and location:
 - A list of department representatives can be found on the county’s intranet page.
- Employees can submit payroll deduction forms through November 4, 2022; and
- Pledge forms can be submitted to an employee’s department representative, emailed to Ms. Rounds, or submitted to the Board of Commissioners Office.

(Video Time 00:22:50)

2. Community Development Block Grant (CDBG) and HOME Investment Partnerships programs. –Tim Glisson

Summary of presentation:

- The Community Development Block Grant (CDBG) and HOME Investment Partnerships programs are funded through the United States Department of Housing and Urban Development (HUD);
- The primary programs administered by HUD include some of the following:
 - Mortgage and loan insurance through the Federal Housing Administration;

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- Community Development Block Grants (CDBG);
- HOME Investment Partnership Act block grants to develop and support affordable housing for low-income residents;
- Rental assistance in the form of Section 8 certificates or vouchers for low-income households;
- Public or subsidized housing for low-income individuals and families;
- Homeless assistance provided through local communities, faith based, or other non-profit organizations; and
- Fair housing public education and enforcement.
- Marion County is a new entitlement for the programs as of July 1, 2021;
- The county receives an annual allocation of funds from HUD for the CDBG and HOME Investment Partnerships programs;
- The county is required to create a five-year Consolidated Plan where priority needs, and goals are identified:
 - The priority needs and goals are set by the Board of Commissioners with input from public service providers within the county.
- Every year the county is required to submit an Annual Action Plan to HUD, that identifies the projects or goals that the funding will be allocated to each year:
 - The county is required to report on the progress for the projects and goals from the previous year.
- CDBG program highlights include some of the following:
 - All funds must meet a national objective that benefit the following:
 - Low to Moderate category:
 - Benefit a low to moderate income area;
 - Benefit a low to moderate income limited clientele with specific populations that have been designated by HUD;
 - Housing; and
 - The creation or retaining of jobs.
 - Slum and Blight category:
 - Area basis;
 - Spot basis; or
 - Urban renewal.
 - Urgent Need category.
 - Seventy percent of the funds over a three-year period must benefit low to moderate income households;
 - Rehabilitation Program Design:
 - The maximum amount provided for general repairs is \$15,000:
 - General repairs may include roofing work, plumbing, electrical, and other items.
 - The maximum amount provided for septic or well work is \$35,000;
 - The finance mechanism for non-septic or well work includes the following:

- A declining, deferred lien for 99 years that is held in the form of a trust deed;
 - If the property is sold in years one through five, 100 percent is required to be paid back;
 - If the property is sold in years six through ten, the loan declines in equal intervals until there is \$5,000 remaining; and
 - After year ten through the rest of the lien's life, \$5,000 is owed.
 - The finance mechanism for septic or well work follows the same format except it declines down to \$10,000.
- The following are highlights of the HOME Investment Partnerships program:
 - The HOME program can fund some of the following:
 - Rehabilitation;
 - Rental housing;
 - Home buyer assistance which can include:
 - New construction;
 - Down payment;
 - Closing costs;
 - Gap financing;
 - Lease purchase; and
 - Individual Development Accounts (IDA).
 - Tenant based rental assistance.
 - Fifteen percent of the annual allocation must be designated to a Community Housing Development Organization (CHDO):
 - A CHDO is a private, nonprofit, community-based service organization that has obtained, or intends to obtain, staff with the capacity to develop affordable housing.
 - The following highlights the Down Payment Assistance Program Design:
 - The first year will be funded through the HOME program;
 - The maximum amount provided is \$25,000, and is dependent on the underwriting that the county must complete; and
 - The following is the finance mechanism:
 - A declining, deferred lien for 99 years that is held in the form of a trust deed;
 - If the property is sold in years one through five, 100 percent is required to be paid back;
 - If the property is sold in years six through ten, the loan declines in equal intervals until there is \$10,000 remaining; and
 - After year ten, \$10,000 is owed.
- All information on the CDBG and HOME Investment Partnerships programs can be found on the county's website under the Board of Commissioners, Community Development;

- The county is required to do an analysis of impediments to fair housing every five years;
- The locally adopted Citizen Participation Plan details many items including materials that have been translated into Spanish;
- The notice of funding availability and the application will be posted on the county's website:
 - The application will be due in December.
- The link and how to apply for the Down Payment Assistance Program is on the county's website:
 - Applicants must provide income verification.

Board discussion:

- Information on the programs will be on the county's social media page.

(Video Time 00:33:05)

CONSENT

BOARD OF COMMISSIONERS

3. Approve a resolution approving Substantial Amendment #2 to the 2021-2022 Annual Action Plan under the Community Development Block Grant (CDBG) and HOME Investments Partnership programs.

HUMAN RESOURCES

4. Approve the Contract for Services with Consolidated Administrative Services in the amount of \$63,982.80 for third party administrator over employee benefits effective January 1, 2023, through December 31, 2025.

5. Approve a recommendation to update the classification and adjust the pay grade upward for class codes #223, Alternative Program Worker 2, #224, Alternative Program Worker 3, #153, Juvenile Relief Worker Alternative Programs, #156, Juvenile Relief Worker Detention, #157, Juvenile Relief Worker GAP, #218, Juvenile Relief Worker Probation, #220, Group Worker 2, #485, Custodial Worker 1, #498, Custodial Supervisor, update the classification and uphold the pay grade for #486, Custodial Worker 2; retitle class code #519 from Culture and Engagement Coordinator to Workforce Development Coordinator, update the classification, and adjust the pay grade upward; and adopt and establish the classification and the pay grade for Human Resources Information System Analyst under class code #196.

PUBLIC WORKS

6. Schedule final consideration to adopt an administrative ordinance for October 12, 2022, granting Zone Change/Comprehensive Plan Amendment/Partition/ Adjustment (ZC/CP/P/ADJ) Case #21-009/Roberts and Stickler.

7. Schedule final consideration to adopt an order for October 12, 2022, granting Administrative Review (AR) Case #21-038/Joshua Fogarty.

Board discussion:

Commissioner Willis expressed the following regarding Item #6 on the Consent Agenda for Zone Change/Comprehensive Plan Amendment/Partition/Adjustment (ZC/CP/P/ADJ) Case #21-009/Roberts and Stickler:

- When owner occupied housing is eliminated and replaced with multi-family rental housing, that is not an unqualified good for our community;
- While there may be a need for multi-family housing in the City of Salem, it needs to be distributed evenly and not just all packed into east Salem; and
- He feels these are important considerations.

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

(Video Time 00:36:41)

ACTION

BOARD OF COMMISSIONERS

8. Consider approval of the Subrecipient Agreement with the Marion County Housing Authority in the amount of \$3,300,000 to implement and manage the county's Emergency Rental Assistance Program under the ERA2 Grant Award from the United States Department of the Treasury through December 31, 2025. –Melissa Rounds and Camber Schlag

Summary of presentation:

- The contract is retroactive to October 1, 2022, when the Marion County Housing Authority (MCHA) launched the program;
- As part of the agreement the MCHA has prepared an online application portal for pre-screening, along with digital and paper applications:
 - Links to the portal are on the county's Emergency Rental Assistance (ERA) web page under the Board of Commissioners, and on the MCHA web page.
- As part of the agreement the MCHA will perform the following:
 - Provide individual case management for households applying for assistance; and
 - Perform all case auditing and collection of required documents according to United States Department of Treasury (USDT) guidelines:
 - This allows for the development of a personal relationship with households that are seeking assistance through the county's program.
- The MCHA is working in conjunction with the county's public information officer to promote and spread information about the program;
- The MCHA will provide quarterly financial and demographic reports to county staff:
 - The reports will be used to prepare the county's quarterly reports that are due to the USDT.

- The MCHA will provide the commissioners with a report at a regularly scheduled board meeting for the MCHA;
- Funds for ERA2 must be spent by September 30, 2025;
- The contract with MCHA runs through December 31, 2025, to allow for fulfilling final reporting requirements; and
- An estimated 45 applications have already come through the portal.

Board discussion:

- The county previously received funding for the Emergency Rental Assistance Program under the ERA1 Grant Award:
 - ERA1 was managed by a different contractor; and
 - Both the county and applicants encountered difficult challenges with the ERA1 Grant Award.
- The county wants to make the grant funding available to qualified applicants:
 - The federal government has eligibility requirements for the funding;
 - The commissioners want to ensure that the funds are serving the most vulnerable members of our community, so that they can be successful; and
 - There may be other funding options available to community members that the county is facilitating.
- The commissioners expressed their appreciation to MCHA and county staff for their time and efforts to ensure the grant funding programs were a success.

MOTION: Commissioner Willis moved to approve the Subrecipient Agreement with the Marion County Housing Authority in the amount of \$3,300,000 to implement and manage the county’s Emergency Rental Assistance Program under the ERA2 Grant Award from the United States Department of the Treasury through December 31, 2025. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:41:38)

HUMAN RESOURCES

9. Consider approval of the Health Insurance Study Committee (HISC) renewal recommendations to the Marion County Law Enforcement Association (MCLEA) and the Non-MCLEA Health Insurance Plan for plan year 2023. –Lori Klemsen

Summary of presentation:

- The Health Insurance Study Committee (HISC) recommendations are for benefit plan year 2023 for both medical and dental;
- The current plans for the Marion County Law Enforcement Association (MCLEA) entail the following:
 - Two medical plans are offered:
 - PacificSource Preferred Provider Organization (PPO) plan; and

- Kaiser Permanente Health Maintenance Organization (HMO) plan.
 - Two dental plans are offered through the following:
 - Kaiser Permanente; and
 - Delta Dental.
- The MCLEA HISC meets throughout the year to review some of the following:
 - Current plans;
 - Designs;
 - Carrier renewal rates; and
 - Determine if changes are necessary.
- MCLEA HISC recommends the following:
 - That the current plans remain in place for the 2023 plan year; and
 - The proposed carrier rates are accepted.
- The non-MCLEA group includes all non-represented employees, along with four other bargaining units;
- The current plans for the non-MCLEA health insurance plans entail the following:
 - Three medical plans are offered:
 - PacificSource PPO plan;
 - PacificSource High Deductible Health Plan:
 - This plan is coupled with a Health Savings Account (HSA) that the county contributes to.
 - Kaiser Permanente HMO plan.
 - Two dental plans are offered:
 - Kaiser Permanente; and
 - Delta Dental.
- The non-MCLEA HISC met and reviewed the following:
 - The plans;
 - The utilization; and
 - The proposed renewal rates from the carriers.
- The non-MCLEA HISC recommends the following:
 - That the current plans remain in place for the 2023 plan year; and
 - The proposed carrier rates are accepted.
- Staff's recommendation is to maintain the county's contribution to the HSA:
 - The county's HSA contribution helps employees offset the cost of the high deductible plan.

Board discussion:

- It can be challenging for parties to agree on a plan.

MOTION: Commissioner Cameron moved to approve the Health Insurance Study Committee (HISC) renewal recommendations to the Marion County Law Enforcement Association (MCLEA) and the Non-MCLEA Health Insurance Plan for plan year 2023. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

(Video Time 00:45:36)

PUBLIC WORKS

10. Consider approval of an order adopting the updated stormwater quality treatment engineering standards effective February 15, 2023. –Lani Radtke, Matt Knudsen, and Max Hepburn

Summary of presentation:

- Some of the details of the new standards come from the Oregon Department of Environment Quality (DEQ) requirements;
- There are benefits to the new standards for both developers and the public:
 - The standards bring clarity to required processes; and
 - It can assist with reducing stress and expenses.
- It is the county’s responsibility to protect the infrastructure for some of the following:
 - Roads; and
 - Stormwater facilities.
- The DEQ and the Environmental Protection Agency (EPA) require the county to maintain a National Pollutant Discharge Elimination System (NPDES) municipal stormwater permit:
 - Most of what is contained in the engineering standards is a minimum threshold interpretation of DEQ’s requirements.
- An outreach process was performed during the development of the engineering standards to determine a process that works best for Marion County:
 - Staff met internally with some of the following:
 - Stakeholders;
 - Code enforcement;
 - Legal counsel; and
 - Advisory committees including the following:
 - Home builder’s associations;
 - Watershed councils;
 - Developers; and
 - Agricultural interests.
- Staff met with the Marion County Board of Commissioners to discuss what the standards actually mean;
- The standards were sent out to the engineering community for review;
- The standards impact areas that the DEQ has identified including:
 - East Salem; and
 - Certain areas within the Urban Growth Boundary (UGB).

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- The stormwater quality treatment systems will include the following:
 - Roadside planters to treat stormwater through plants and a soil matrix;
 - Rain gardens; and
 - Underground infrastructure that contains filters:
 - The county is required to maintain some of the systems.
- The county has a five-year NPDES permit;
- The first engineering stormwater standards for treatment came into effect in 2012:
 - This is an update to those standards.
- Rainwater can hit an impervious surface with residue from the impervious surface running off into storm drains and then into a stream:
 - The runoff will now go through a treatment before going into a stream.
- Throughout the process the draft order and standards were prepared by a consultant:
 - The consultant received input from county staff and other stakeholders.
- The following are some of the changes and procedures included with the proposed standards:
 - The current 2012 standards use the threshold that was in the county's previous MS4 permit of one acre of ground disturbance:
 - The treatment is changing to one quarter of an acre of new or replaced impervious area, not just ground disturbance.
 - The two-year warranty period for plantings is not well defined in the existing standards:
 - The new standards make it easier to ensure that plantings do not die.
 - The standards comply with the MS4 requirements:
 - It prioritizes retention first, which is holding and infiltrating the water; and
 - Detention is a second option which entails holding and releasing to the system with treatment.
 - The standards refine the county's public and private operation and maintenance standards:
 - Treatment facilities are cared for and properly maintained; and
 - The facilities are designed for consistent operation and maintenance.
 - The two-year maintenance warranty period applies to all controls;
 - There is a guided application and submittal process outlined in the new standards that includes:
 - A site assessment checklist; and
 - A drainage submittal package outline.
 - For projects creating or replacing one or more acres of impervious area a downstream analysis is required;
 - Inspections are required by private developers and county staff to ensure things are going properly and that permitted plans are being complied with;
 - A two-year maintenance warranty period is built into the permit structure; and

- After the warranty period there will be a permit closeout and then a transition to the county maintaining the treatment facility if it fits into the county's framework for adoption.
- Information from this board session meeting will provide early notification related to the changes for developers, engineers, and community members;
- It is anticipated that the new standards will be implemented on February 15, 2023;
- The document provides clarity for engineers designing the systems;
- The updates are required by both the federal and state governments;
- The county does not receive any funding from either the DEQ or the EPA to manage the program:
 - The program is supported by stormwater fees and county funds.

Board discussion:

- Development costs will likely increase;
- The county does not have a choice in the matter:
 - The standards must be followed.
- Certain jurisdictions are also required to comply with the standards:
 - The City of Salem is required to comply with the standards; and
 - Oregon counties and large urban cities are required to comply.
- This process was started several years earlier:
 - County staff has worked to have several areas removed from the requirements.
- The two-year warranty period for plantings requires the plants to be replaced if they die:
 - After the two-year period the county is responsible for maintaining:
 - The cost is covered by fees collected for stormwater management.
 - This is for private development.
- The requirements may double or triple the county's permit load for construction erosion and post-construction erosion permits:
 - Additional staff may be needed for land development, engineering, and permits.
- Public members may see an increase in the purchase price of homes and in monthly water bills;
- It is important to protect the following:
 - The water that communities are drinking;
 - The environment; and
 - Agricultural communities.
- The lack of funding provided by both federal and state government agencies is frustrating;
- Staff performed public outreach requesting comment on the standards:
 - Emails were sent out to engineers, developers, and contractors that requested input related to the standards.
- The next step entails notification of the February 15, 2023, implementation date for the new standards:

- Anything applied for after February 15, 2023, will be required to comply with the new standards.
- The county is required to follow the standards;
- The current stormwater fees went into effect in 2017;
- The new standards may impact stormwater fees in the future:
 - Costs may increase for land development permits, and for operation and maintenance.
- Commissioner Willis expressed the following:
 - The benefit of the standards is minimal;
 - The burden to taxpayers and home buyers is going to be big;
 - The burden to the county is going to be big for this program;
 - Situations like this are why people get upset with the DEQ and the EPA;
 - Failure to adopt the standard will have a negative consequence for communities; and
 - He wants to make it clear that he would not approve this if he did not have to.
- Marion County is required to implement the standards:
 - The county is working to implement the standards in a way that is best for communities with as few negative impacts as possible; and
 - Only specific areas within the county will be impacted.

MOTION: Commissioner Cameron moved to approve an order adopting the updated stormwater quality treatment engineering standards effective February 15, 2023. Seconded by Commissioner Willis; motion carried motion. A voice vote was unanimous.

(Video Time 01:11:46)

11. Consider approval of the Purchase Order with Withnell Dodge in the amount of \$627,261 for the one-time purchase of 14 light-duty fleet vehicles as part of the county's annual scheduled light duty replacement plan. –Dennis Mansfield

Summary of presentation:

- The request is to purchase 14 light-duty fleet vehicles from Withnell Dodge;
- Thirteen of the vehicles are part of the county's annual light duty fleet replacement schedule to replace Marion County Sheriff's Office (MCSO) vehicles:
 - One vehicle is being added to the MCSO fleet that will provide services to the City of Jefferson:
 - The MCSO is providing an additional deputy who will require a vehicle.
- The vehicle marketplace continues to be volatile and very uncertain:
 - Shortages in computer microchips are creating issues worldwide.
- Record inflation is also a concern:
 - This purchase order represents a 21 percent year-over-year increase in cost per vehicle;

- Five years ago, the county was spending \$31,000 for a pursuit rated vehicle; and
- Today the county is spending over \$42,000 for the same type of vehicle.
- Delivery of vehicles is also currently uncertain:
 - The county is just starting to receive vehicles that were ordered the prior year from Dodge; and
 - All the ordered vehicles have not been received.
- Staff has had a difficult time obtaining information for when ordering time frames will be open:
 - Ordering windows are open for a very short amount of time;
 - Staff has not been notified of when the ordering windows will be open and
 - This has been an ongoing issue for the prior two years.
- Staff has good communications with Withnell Dodge and has been receiving quick responses from the organization;
- It is unknown how long the county will face vehicle purchasing challenges; and
- Staff is recommending approval of the purchase order for 14 vehicles.

Board discussion:

- The microchip shortage affects multiple different products:
 - The situation is not expected to improve for at least a couple of years.
- It is good to see a local dealership get the contract.

MOTION: Commissioner Willis moved to approve the Purchase Order with Withnell Dodge in the amount of \$627,261 for the one-time purchase of 14 light-duty fleet vehicles as part of the county's annual scheduled light duty replacement plan. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 01:16:50)

12. Consider approval of the Purchase Order with Peterson Machinery in the amount of \$123,015.11 for the one-time purchase of one 2022 Caterpillar 906 Loader. –Andrew Johnson

Summary of presentation:

- The loader is being added to the Brown's Island compost facility;
- The loader provides more flexibility for the following:
 - Loading smaller loads:
 - The current tool is unsafe to use for smaller loads.
 - Moving other commodities within the facility that have been problematic in the past.
- Staff recommends approval of the purchase order.

Board discussion:

None.

MOTION: Commissioner Cameron moved to approve the Purchase Order with Peterson Machinery in the amount of \$123,015.11 for the one-time purchase of one 2022 Caterpillar 906 Loader. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

(Video Time 01:18:09)

13. Consider approval of the Purchase Order with Peterson Machinery in the amount of \$384,312.90 for the one-time purchase of one 2022 Caterpillar 950M-BR Wheel Loader.

–Andrew Johnson

Summary of presentation:

- The loader is replacing an existing 11-year-old main tool at the Brown’s Island Demolition Landfill compost facility;
- The loader is utilized for the following:
 - Turning compost piles;
 - Loading out large bulk sales of compost; and
 - Moving material at the site.
- Staff recommends approval of the purchase order.

Board discussion:

None.

MOTION: Commissioner Willis moved to approve the Purchase Order with Peterson Machinery in the amount of \$384,312.90 for the one-time purchase of one 2022 Caterpillar 950M-BR Wheel Loader. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 01:19:26)

14. Consider approval of the annual recertification of Marion County’s participation in the Community Rating System (CRS) of the Federal Emergency Management Agency (FEMA).

–Brandon Reich

Summary of presentation:

- Marion County has participated in the Federal Emergency Management Agency (FEMA) Community Rating System (CRS) since 1999;
- The CRS is a program designed to alleviate the cost burden of flood insurance through higher standards and floodplain management;
- The CRS looks at the type of work that the county engages in and assigns the county a rating:

- The rating translates to flood insurance savings for property owners; and
- Marion County is a class six community:
 - Class six is a high rating; and
 - The rating translates into a 20 percent discount to property owners within the county:
 - This may save property owners residing in floodplains approximately \$50,000 per year.
- A standard homeowner's insurance policy does not cover flood damage:
 - A few inches of water in a home can cause significant damage.
- Marion County code requires builders to elevate dwellings two feet above the base flood elevation:
 - Homeowners receive additional savings on flood insurance premiums by elevating their homes.
- There is a lot of uncertainty in flood maps, and flooding can often be higher than what a flood map shows;
- The following are the types of activities that the county receives credit for under the CRS program:
 - Drainageway maintenance;
 - An emergency operations plan;
 - A natural hazards plan;
 - High building code levels;
 - Stream regulations;
 - Erosion and sedimentation controls;
 - Outreach activities; and
 - Method for providing flood insurance.
- Staff continues to assist property owners whose homes were damaged in the 2020 wildfires:
 - Approximately 25 to 30 of the homes were in the floodplain:
 - Some property owners are able to show that they are rebuilding outside of the floodplain.
- The Endangered Species Act standards may impact the county's floodplain program in the future.

Board discussion:

- Approximately 25 to 30 homes damaged in the wildfires were in a floodplain:
 - Some homeowners did not know they were in the floodplain until they started rebuilding; and
 - The City of Detroit has determined base flood elevations for property owners to assist with flood maps.
- County staff provides property owners with options; and
- Floodplain maps can be uncertain:
 - Some of the data is from the 1960s;

- It is very expensive to update the maps; and
- Updated maps will provide better information for homeowners.

MOTION: Commissioner Cameron moved to approve the annual recertification of Marion County’s participation in the Community Rating System (CRS) of the Federal Emergency Management Agency (FEMA). Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

(Video Time 01:25:32)

15. Consider a Land Use Board of Appeals (LUBA) remand of the application for Conditional Use (CU) Case #20-044/Seasons at Red Oaks Farm, LLC. –Brandon Reich

Summary of presentation:

- The agenda item is to consider the remand and determine how to proceed with a Conditional Use (CU) to operate a commercial activity in conjunction with farm use on a parcel in an Exclusive Farm Use (EFU) zone:
 - The parcel is located on Arbor Grove Road in the City of Saint Paul.
- The commercial business being proposed is a farm experience program for youth and family;
- The board held a hearing on the case on July 28, 2021;
- The hearing was continued on August 11, 2021, and a decision of approval was issued;
- The case was then appealed to Land Use Board of Appeals (LUBA) who issued a remand on the decision on April 21, 2022:
 - LUBA found that the criteria for the county approving commercial activity in conjunction with farm use was not met because of three items:
 - The applicants have not established any farm use on the property with which the commercial activities are in conjunction;
 - The applicants have not established that the commercial activities that are proposed are in conjunction with farming; and
 - The applicants have not established that the commercial activities would satisfy the farm impacts test.
- On September 22, 2022, the applicants submitted a reconsideration request to the board to consider the LUBA remand;
- The board must now make a decision on the remand;
- The board has the following options:
 - Hold a public hearing on the matter;
 - Remand the case back to the hearings officer for a decision; or
 - Remand the case back to the hearings officer for a recommendation and subsequent board hearing.
- The LUBA remand includes an analysis of the law under statute rule and past land use cases;

- Staff recommends that the board remand the matter back to the hearings officer for a recommendation;
- Following the hearings officer's recommendation, the board may decide to hold a public hearing:
 - The board can consider the hearings officer's recommendation; and
 - It may be valuable to have the hearings officer review LUBA's information.
- The board can hold its own public hearing on the matter instead of the hearings officer:
 - The applicant prefers that the board have their own hearing, and that the matter is not remanded back to the hearings officer.

Board discussion:

- Commissioner Cameron expressed he disagrees with one of the LUBA findings, as he feels that education is connected to farm use;
- The farm impacts test is when there is a Conditional Use (CU), the surrounding uses in the area are examined:
 - Farming types in the area are considered;
 - An analysis is done that reviews the impacts that a Conditional Use (CU) may have on farming in the area; and
 - The impacts can be mitigated.
- The applicant would have an opportunity to present information to the hearings officer:
 - The hearings officer can review the information and provide a recommendation to the board.
- The county has a limited time frame of 120 days to make a decision;
- Staff does not recommend that the board send the matter to the hearings officer for a decision as time constraints may be a concern:
 - There is not time for the board to have a hearing on an appeal; and
 - If the hearings officer makes a recommendation, the board will have a hearing.
- Commissioner Bethell expressed that she feels that evidence was produced to support the following:
 - The applicants have established farm use on the property:
 - Staff has extensive documentation to support this.
 - The commercial activities proposed are in conjunction with farm use.
- Staff is recommending that the matter be remanded back to the hearings officer for a recommendation to the board, and then the board can have a public hearing:
 - The board will be able to review everything that the applicants have provided.
- Commissioner Bethell wants to ensure that the applicants are being set up for success;
- Commissioner Willis expressed the following regarding the legislative concept:
 - A lot of this is because the court did not like the findings of fact that the board made:
 - This is not how appeals work in any other system that he has seen, where the board makes a finding of fact, and then the court disagrees with the findings of fact.

- There are legal analyses where LUBA has interpreted the law a certain way, and it would be helpful to have the hearings officer apply LUBA's interpretation of the law to the facts; and
- He is unsympathetic to LUBA not liking the board's finding of fact.

MOTION: Commissioner Willis moved that the case be remanded to the hearings officer for a recommendation and subsequent board hearing. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

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

None.

Commissioner Bethell adjourned the meeting at 10:34 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

Board Sessions can be viewed on-line at

<https://www.youtube.com/playlist?list=PLSUQ1gg6M78UsBE3q6w4rdf59Z5rXkEi5>