

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, August 9, 2023
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97301

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

ABSENT: Jan Fritz, chief administrative officer

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

(Video Time 00:00:39)

PUBLIC COMMENT

None.

(Video Time 00:00:42)

CONSENT

BOARD OF COMMISSIONERS

OLCC Application – Recommended Approval

1. Ratchet Brewery, LLC., dba, Ratchet Brewery – Salem, Oregon

PUBLIC WORKS

2. Approve Amendment #1 to the incoming funds Purchase Agreement with Alpenglow Forestry Consulting, LLC to add \$235,662.47 for a new contract total of \$437,616.67 for the purchase of salvaged timber in Minto, North Fork, and Packsaddle parks through December 31, 2023.

TAX OFFICE

3. Approve an order for the cancellation of six uncollectible personal property tax accounts for the total amount of \$11,617 for Tax ID's 126804, Shari L. Hogan; 127528, Timothy Walden; 128994, Robert and Jill Sites; 129474, Carl and Helen Hammons; 130134, Ki Chan and Young-Ok Lee; and 132396, Vincent Morris.

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

(Video Time 00:02:09)

ACTION

BOARD OF COMMISSIONERS

Board Committee Appointment – Intellectual and Developmental Disabilities Advisory Committee (IDDAC)

4. Consider approval of orders appointing Deborah Stoyer and Ross Ryan, and reappointing Michelle Silbernagel and Richard Falardeau to the Marion County Intellectual and Developmental Disabilities Advisory Committee (IDDAC) with terms ending June 30, 2027.
–Karin Perkins

Summary of presentation:

- This is a group of volunteers serving as an advisory group for the Intellectual and Developmental Disability (IDD) program:
 - Their purpose is to support effective development, planning, and operations of the program; and
 - They support the oversight of local resources and services.

Ross Ryan:

- Mr. Ryan is a new applicant requesting appointment and has been recommended by the Intellectual and Developmental Disabilities Advisory Committee (IDDAC);
- His previous experience includes:
 - Working for Oregon Self Advocacy Coalition (OSAC) group; and
 - Involved in advocating since moving to Oregon.
- Joining IDDAC would allow him to bring the knowledge he has of what works for individuals with IDD.

Michelle Silbernagel:

- Ms. Silbernagel currently serves on the committee and would like to continue to do so;
- Her previous experience includes:
 - Working with individuals who experience IDD for the past 28 years:
 - Running a small business in this field.
 - Her nephew receives these services as well.
- The experience and perspective she has will allow her to serve the board.

Deborah Stoyer:

- Ms. Stoyer is a new applicant requesting appointment and has been recommended by the IDDAC;

- She represents Bee Loved Care Homes, a 24-hour developmental disabilities agency supporting IDD:
 - She would like to learn how to better support these individuals; and
 - How she can better serve the IDD community as a whole.

Richard Falardeau

- Mr. Falardeau currently serves on the committee and would like to continue to do so;
- His previous experience includes:
 - Working for 15 years as an IDD case manager; and
 - He serves on multiple IDDAC in other counties.
- Marion County has a big priority when it comes to IDD and the IDDAC:
 - This makes Mr. Falardeau want to continue to work with the group.
- Ross Ryan is a very big playmaker when it involves self-advocacy in Oregon:
 - Mr. Ryan is a great addition, and it is exciting to have him.

Board discussion:

- Thank you for the value and service offered:
 - The diversity on the committee is broad and great.
- The information provided to the board through staff for policy decisions is important:
 - The board is open and available to hear from IDDAC directly.
- The government should not compete with private industry and the county is doing a good job balancing the two:
 - If there is better opportunity the IDDAC should inform the board:
 - This allows for robust and balanced group of providers available in Marion County to help in ways individuals need.
- This is a volunteer service and as such the board is thankful for the evening hours given by the IDDAC; and
- The IDDAC in Marion County is robust and this is clear given the caliber of people serving on the committee:
 - Great things involving innovation and advocacy are happening.

MOTION: Commissioner Cameron moved to approve orders appointing Deborah Stoyer and Ross Ryan, and reappointing Michelle Silbernagel and Richard Falardeau to the Marion County Intellectual and Developmental Disabilities Advisory Committee (IDDAC) with terms ending June 30, 2027. Seconded by Commissioner Bethell; motion carried. A voice vote was unanimous.

(Video Time 00:10:40)

HEALTH AND HUMAN SERVICES

5. Consider approval of the incoming funds Intergovernmental Agreement (IGA) with the Oregon Health Authority (OHA) in the amount of \$4,857,480.51 for the financing of public health services retroactive to July 1, 2023, through June 30, 2025.

–Ryan Matthews and Wendy Zieker

Summary of presentation:

- The approval being sought is for the 2023-2025 biennium contract with the Oregon Health Authority (OHA) for Public Health services in Marion County;
- The includes bridge funding as few services are funded for one quarter:
 - At the end of legislative session funding needed to go out so a large gap would not happen for July 1, 2023, services;
 - A few allocations were unknown when the contract went into effect:
 - Legislation approved an increase in funding for modernization and three months of prior level funding was given;
 - A funding formula was provided showing the increase; and
 - An amendment will be coming reflecting the significant increase for October to June funding.
 - Some funding will be carried from the current contract, including:
 - Covid Epidemiology and Laboratory Capacity (ELC) funding;
 - American Rescue Plan Act (ARPA) funds; and
 - Final expenditure reports need to be submitted to know the exact amount carried over.
- This request is a place holder, so the public health authority receive appropriate funding:
 - The next two to three months will have amendments that bring funding and allocations adjustments.
- All funding allocations are in-line with what was budgeted and expected;
- Programs in the contract include the following:
 - The Environmental Health Drinking Water Program:
 - Provides services to public health groundwater systems;
 - Helps with compliance and reducing the risk of exposure to waterborne diseases and substances in drinking water;
 - Investigates waterborne illness and drinking water contamination events;
 - Gives technical and regulatory advice to water system operators; and
 - Reports data to OHA for program management.
 - Public health clinic's contract with OHA delivering HIV and early intervention service and outreach program:
 - Helps with outreach events to link individuals with care, resources, and treatment;
 - Educate the community in preventing the spread of diseases;
 - Collaborate with community partners for testing sites;

- There have been 44 outreach events in 2023 so far.
 - The Women, Infants and Children (WIC):
 - This is a supplemental nutrition program that provides:
 - Health nutrition education, breastfeeding support, health and diet screening, growth monitoring, referrals, and resources.
 - The program serves families from diverse cultural backgrounds; and
 - The goal is to promote lifelong health outcomes through health and nutrition.
- Program Element (PE) 5105 is new and is for infrastructure funding:
 - This is a federal grant that OHA received from the Centers for Disease and Control (CDC);
 - It spans through November 30, 2027:
 - It was available last fiscal year, but it was unneeded, so it was pushed ahead.
 - This is funding is awarded each year with unspent funding being pushed forward; and
 - This will be spent on infrastructure needs as they are identified but there are other funding sources to use so there is not an immediate need to use this funding.

Board discussion:

- CARE Assist is a software system for reporting to the federal government of individuals who are in care and receiving services:
 - Information is tracked with the HIV Alliance:
 - Services are shared with HIV Alliance and this tool is used to see what is available.
- Individual data entry is needed for each Program Element as everyone has its own program system.

Motion: Commissioner Bethell move to approve the incoming funds Intergovernmental Agreement (IGA) with the Oregon Health Authority (OHA) in the amount of \$4,857,480.51 for the financing of public health services retroactive to July 1, 2023, through June 30, 2025. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:20:09)

The commissioners recessed at 9:20 a.m.

The commissioners reconvened at 9:30 a.m.

(Video Time 00:20:27)

PUBLIC HEARINGS

9:30 A.M.

PUBLIC WORKS

A. Public hearing to consider an Oregon Land Use Board of Appeals (LUBA) remand to permit an event business as a home occupation for Legislative Amendment (LA) Case #22-003.

–Lindsey King and Cody Walterman

Summary of presentation:

- The testimony is limited to discussion on a specific set of issues:
 - The 750-person limit; and
 - The five employe limit issue that was identified by the Land Use Board of Appeals (LUBA) remand.
- The following is brief background of what has happened so far:
 - On August 31, 2022, the board signed into ordinance the code amendment, Ordinance 1447:
 - This allows planning to permit an event business as home occupation on rural properties in exclusive farm use zones, farm timber zones, and special agriculture zones as a conditional use permit.
 - On September 20, 2022, the amendment appealed to LUBA, this appeal was them remanded back to the board on February 16, 2023:
 - LUBA called out the 750-person and five employee limits for the board to consider.
- On July 11, 2023, staff met with the board for direction on how to proceed with the remand where the following was directed:
 - Amend the code related to addressed items and hold a public hearing;
 - The 750-person limit was removed and now requires the maximum number of individuals be dictated by the Marion County Building Officials and the local Fire District:
 - Gatherings of 750 persons or more still require a mass gathering permit.
- The maximum number is based on the safe occupancy of the building to be used:
 - This is because the event must be 80 percent indoors.
- The code has been amended:
 - Staff recommends closing the hearing and record, approving the code to permit the event business as home occupation and signing the ordinance.

Board discussion:

- The maximum amount of employees allowed is five per the home occupation code:
 - This is five individuals, at any time, at the property for the business including:
 - Employees;
 - Volunteers;
 - Homeowners; and

G:\BOARD SESSIONS\BOARD SESSION MINUTES\2023\8-9-2023

- Contract employees.
 - This is state regulation and needs to be followed.
- It is up to the applicants to show how five employees can handle the occupancy limit;
- The previous ordinance placed a mass gathering standard which was challenged; and
- The new ordinance says State law will not be restated and all laws will apply:
 - The 750-person threshold applies to any gathering.

Testimony:

Kristina McNitt:

- Land Use Board of Appeals (LUBA) questioned how five employees can handle events that are at a 750-person capacity:
 - LUBA asked to provide findings to show this.
- The direction taken has aspects that are agreed and disagreed with:
 - There is agreement in removing the 750-person limit as:
 - There was concern with this; and
 - It is unlikely that an event this large will happen.
 - There is disagreement in removing “At Any One Time” in reference to the five-employee limit:
 - Applicants respond on the permit how five employees will service the number allowed in the building;
 - It is more restrictive to have five employees in total than five employees at any one time; and
 - LUBA stated there is error in the interpretation of the statute regarding the employee limit:
 - In Green vs. Douglas County, the statute allowed the applicant to count those on site at any given time rather than the total number employed;
 - More than five are allowed if it is no more than five on site;
 - LUBA revisited and affirmed this in 1,000 Friends of Oregon vs. Clackamas County;
 - There was an appeal, and the court of appeals upheld the decision; and
 - LUBA stated even if persuaded to reconsider they have no authority to disregard the court of appeals.
 - Recommends disregarding the changes and go back to the previous language in that it was written.

Board discussion:

- The language seems more restrictive, but the statute calls out the explanation to allow the more than five;

- The new language directly mimics state statute, ORS 215.4481B which has been interpreted by LUBA and the court of appeals to allow more than five employees but only five at a time onsite:
 - The change directly reflects the language of ORS 215.4481B but it is not called out.
- The concern is since Marion County codes are separate laws from the state it can be seen that the county chose to adopt a restrictive law;
- The statute needs to be stated so applicants do not come to the board every time there is disagreement with staff regarding conditional use permits; and
- Staff will come back with a modified document and an ordinance.

Motion: Commissioner Cameron moved to close the public hearing and modify the proposed amendments as stated to reflect the state's statute on the number of employees that can be employed, reflecting only five at a time on the property. Seconded by Commissioner Bethell; motion carried. A voice vote was unanimous.

(Video Time 00:45:05)

B. Public hearing to receive testimony on the proposed alternative process to solicit construction management and general contractor services for the Brooks-Hopmere Drinking Water and Wastewater Improvement Project. –Chris Einmo and Jeff White

Summary of presentation:

- This is a request for exemption on certain public contract rules to authorize the use of a Construction Manager/General Contractor (CMGC) as specified in Marion County Public Contracting Rules (MCPCR) for the project;
- Alternative contracting procedures require noticing public hearings for public comment:
 - The hearing was approved July 19, 2023, by the board; and
 - The notice was published in the Daily Journal of Commerce and Oregon Buys on July 21, 2023:
 - This informed the public of a hearing on August 9, 2023.
- Contracting rules allow the board to exempt low-bid procurement requirements and authorize the use of alternative procedures if:
 - It does not likely encourage favoritism;
 - It does not substantially diminish competition; and
 - It will likely result in substantial cost savings or other benefits.
- The estimated cost is \$14,848,000 and it will be paid for by federal funds:
 - There will be no matching funds required from Marion County.
- The technical complexity of the project and ARPA deadlines make the project a good fit for alternative procurement.

Board discussion:

- This process is supported, for this project, because of ARPA funding timelines, the significance of the project and costs that there no access to;
- In general, the traditional procurement process is favored; and
- The process has been explained very thoroughly.

Commissioner Willis closed the public hearing with no motion made.

(Video Time 00:50:14)

***Recess as Board of Commissioners.
Convene as Contract Review Board.***

**CONTRACT REVIEW BOARD
ACTION**

PUBLIC WORKS

1. Consider approval of an order granting an exemption to allow for the use of an alternative solicitation process pursuant to the Marion County Public Contracting Rules for public improvement. –Chris Einmo and Jeff White

Summary of presentation:

- NONE.

Board discussion:

- NONE.

MOTION: Commissioner Bethell moved to approve an order granting an exemption to allow for the use of an alternative solicitation process pursuant to the Marion County Public Contracting Rules for public improvement. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

***Adjourn as Contract Review Board.
Reconvene as Board of Commissioners.***

Board discussion:

- KeizerFEST, which is an annual celebration, is starting tomorrow:
 - There will be many activities; and
 - Commissioner Bethell and Sheriff Hunter will be greeters on Friday.
- Next weekend there will be the Corn Fest in Aumsville:
 - There is an event on Friday with Commissioner Bethell attending; and
 - There are many other activities planned.
- It needs to be assessed if the excavation project in Detroit will extend the boating season; and


G:\BOARD SESSIONS\BOARD SESSION MINUTES\2023\8-9-2023

- Willamette National Forest stated no open fire and there is a fire ban:
 - A press release can be done pointing to the source, so the public is aware.

Commissioner Willis adjourned the meeting at 9:57 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

Board Sessions can be viewed on-line at

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