

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, August 23, 2017
9:00 a.m.

Courthouse Square
555 Court Street NE
Salem, OR 97305

PRESENT: Commissioner Sam Brentano, Commissioner Janet Carlson, and Commissioner Kevin Cameron. Also present were John Lattimer as chief administrative officer, Noah Olson as county counsel, and Kristy Witherell as recorder.

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

PUBLIC COMMENT

(Video Time 00:00:52)

Kenneth Hetzel:

- Attending the Veterans Stand Down Event at First Baptist Church;
- Legislature discontinued the Gate Keeper Program:
 - Trains people that visit shut-ins to identify unusual circumstances.
- Looking for support from the community to help with homebound individuals.

CONSENT

(Video Time 00:06:08)

BUSINESS SERVICES

Approve a recommendation to adjust pay grade upward for classifications #277, Employment Integration Specialist; #310 County Surveyor, and #375 Building and Planning Division Director.

Approve an order adopting the Health Insurance Study Committee Charter.

HEALTH

Approve the Contract for Services with Public Partnerships, LLC for \$600,000 to provide fiscal intermediary services to several rental subsidy programs.

Approve Amendment #2 to the Contract for Services with West-Ward Pharmaceutical Corp. to add \$50,000 for purchase of Buprenorphine HCI and Methadone for participants in the A&D program.

TAX OFFICE

Approve a property tax refund in the amount of \$15,232.80 to Bryan Court, LLC.

Approve a property tax refund in the amount of \$48,424.69 to S-L Snacks OR, LLC for account #R82455.

Approve a property tax refund in the amount of \$17,355.22 to S-L Snacks OR, LLC for account #R325506.

TREASURER'S OFFICE

Approve an order distributing Oregon State Forestry timber revenue as per ORS Chapter 530.

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

ACTION

(Video Time 00:09:11)

BUSINESS SERVICES

1. Consider approval of Amendment #1 to the Construction Manager General Contractor Contract to approve the Guaranteed Maximum Price of \$9,195,617 to construct the new Sheriff's Office Public Safety Building. – Colleen Coons-Chaffins

Summary of presentation:

- Emerick Construction Company has been chosen as the general contractor for the new public safety building on Aumsville Highway;
- Received all subcontracts;
- 30,000 square foot building for the central district office, as well as the Parole and Probation Programs;
- Will be done by mid July 2018;
- Broke ground last week; and
- All permits are close to being ready.

Board discussion:

- The money is mostly borrowed;
- The general fund will pay the 15-year loan;
- State code requires more stringent set of codes for public safety buildings:
 - Increases the cost of public safety buildings; and
 - Needs to meet seismic standards.
- Because of the way the building is constructed, it needs special Wi-Fi capability.

MOTION: Commissioner Carlson moved for approval of Amendment #1 to the Construction Manager General Contractor Contract to approve the Guaranteed Maximum Price of \$9,195,617 to construct the new Sheriff's Office Public Safety Building. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

PUBLIC HEARINGS

9:30 A.M.

(Video Time 00:15:48)

PUBLIC WORKS

A. Consider appeal of hearings officer's decision denying Conditional Use (CU) 17-012/Greenwood, Clerk's file #5729. – Joe Fennimore

Summary of presentation:

- Application for a conditional use to change the occupancy of a temporary hardship dwelling on a 55 acre parcel in an Exclusive Farm Use (EFU) zone located on Santiam Loop SE, Aumsville;
- In 2006, the applicants were approved to place a temporary mobile home on the property to house a caregiver for Mr. Greenwood;
- In 2010, they were granted approval to convert the hardship mobile home into a secondary farm dwelling to house an employee of the farm and convert an accessory structure into an apartment to house the caregiver;
- The hardship was renewed on a yearly basis for Mr. Greenwood until September 2016;
- In December 2016, the applicant filed conditional use case 16-033, to change the medical hardship from Mr. Greenwood to Mrs. Greenwood:
 - The decision was denied by the planning director and due to some unusual circumstances it was not appealed;
 - On April 5, 2017, the planning director allowed the applicant to refile the request and sent the matter directly to the hearings officer;
 - The hearings officer conducted a public hearing and on June 27, 2018, issued a decision denying the request:
 - The decision was appealed to the board on July 12, 2018.
- In the denial, the hearings officer found that applicant did not satisfy several of the criteria:
 - The applicant failed to provide the requisite medical hardship certificate;
 - Did not demonstrate that the care needed by Ms. Greenwood could not be provided by a family member;
 - Did not identify the specific extent and nature of the care needed and that the proposed caregiver had the ability to provide that care;
 - The mobile home on the property approved as a secondary farm dwelling is not being occupied by an employee of the farm as required and, therefore, is a violation of the Marion County Code (MCC):
 - Under a provision in MCC 17.110.680, a land use permit cannot be issued if a property is in violation of the Marion County Code, unless the permit would correct the violation:
 - Since this request would not correct that violation, this request cannot be granted.
- In the appeal, the applicant disagrees with the conclusions of the hearings officer:
 - She argues that the certificates provided were adequate to meet the criteria;
 - Family members are not able to adequately care for her;
 - The proposed caregiver is qualified; and

- The occupant of the mobile home does perform work on the property to offset some of the rent cost.
- Regarding the physician's certification, staff discovered that there are actually two certifications in the record, one dated August 10, 2016 on the form provided by the planning office, and second document that was supplied from the doctor dated March 31, 2017:
 - Based on this information, staff believes the criterion requiring a doctor to certify that hardship exists is satisfied in this case.
- The board has the following options:
 - Continue the hearing to a later date or remanding the matter back to the hearings officer, each of which would require the applicant to agree to extend the 150-day decision making deadline;
 - Close the public hearing and leave open; or
 - Close the public hearing and approve or deny the request.

Board discussion:

- The certification is included in the record;
- Mr. Fennimore provided to the board a copy of the statutes that governs the issues regarding this public hearing:
 - Copy of the Administrative Rules that go along with the statutes; and
 - A copy of the Marion County Code.
- The legislature creates the statutes:
 - The Administrative Rules are created by the Oregon Department of Land Conservation and Development (DLCD):
 - They have authority from the legislature to provide more detail within the parameters of the statute.
- Marion County code is created by the board and is reviewed by the Oregon Department of Land Conservation and Development (DLCD) prior to being established for approval:
 - There are provisions in the Marion County Code that are not discussed in statute or Administrative Rules.
- The board has the ability to interpret what is in the code;
- The farm dwelling will be inhabited by the farm worker;
- Once the accessory farm dwelling is not lived in by farm worker, the dwelling needs to be removed, demolished, or converted into non-residential use.
- The hardship provision statute is very general:
 - Can have a dwelling as a temporary use for the term of a hardship suffered by the existing resident or relative of the resident;
 - Within three months of the hardship, the building needs to be removed; and
 - The Administrative Rule doesn't expand on that statute.
- Marion County requires a doctor of medicine or licensed psychologist to sign a particular statement:
 - If there is no family member able to provide care, the caretaker may be someone else provided the property is located in a particular zone; and
 - Those providing the care will be available and have the skills to provide the primary care required by the doctor or psychologist.

- The applicant will need to show why they need a non-relative caretaker, instead of the relatives that live on the property:
 - The person providing the care has the skills to do so; and
 - The person living in the farm dwelling is an employee of the farm.
- Public Works conducts an annual review for hardship programs.

Testimony:

Support:

Tesha Greenwood:

- Applicant in the case;
- The hearings officer stated that since she had children living in the home, they should provide the care needed:
 - Ms. Greenwood explained that her son works two jobs and goes to school; and
 - Her daughter works two jobs and suffers from anxiety.
- Was diagnosed with Lupus in 2016;
- Farmhand, Ms. Greenwood, and her caregiver split 74.5 hours a week caring for the horses;
- The farmhand takes care of the ground maintenance;
- The farmhand works 21 hours a week;
- Has proof of an employee agreement and rental agreement;
- Has doctor appointments one to six times a month;
- Has a condition where she passes out;
- Takes certain medications that impairs her ability to drive;
- Has memory loss;
- Caregiver is needed daily throughout the day; and
- The farmhand is always monitoring the property.

Board discussion:

- The commissioners regret that Ms. Greenwood had to divulge her medical information on the record:
 - The commissioners want to make a change to the procedures so this doesn't happen in the future.
- Ms. Greenwood has established that she has a medical condition.

Testimony:

Support:

Zach Razey:

- Ms. Greenwood's caregiver;
- Previously worked at Marian Estates;
- Has basic training in choking;
- Does not have other employment;
- Primarily on the property at all times; and

- Transports Ms. Greenwood to her appointments.

Wyatt Greenwood:

- Tesha Greenwood's son;
- Attends school fulltime;
- Works at martial arts studio in Stayton and saw shop in Salem; and
- Not able to provide medical assistance or care for his mother.

William Hampton, D.C.:

- Is a farmhand for Ms. Greenwood;
- Has resided on the property since August 1, 2015;
- Currently working Monday through Friday on the property:
 - Teaches classes on the weekend all over the Western United States.
- The property he maintains is approximately a mile long:
 - Backs up to Thatcher Airstrip and the Santiam River.
- Works on an average of 21 hours a week; and
- Receives a discount on rent and use of a barn in trade for work.

Board discussion:

- Based on testimony from applicant, the tenant is working on the farm and the medical hardship has been proven;
- If the commissioners approve the request, conditions will be included that the hardship will be renewed yearly:
 - The dwelling will be removed if the hardship is no longer needed.

MOTION: Commissioner Cameron moved to close the public hearing and approve Conditional Use (CU) 17-012/Greenwood, Clerk's file #5729. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

Commissioner Brentano read the calendar.

Commissioner Brentano adjourned the meeting at 10:28 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

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