

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, April 30, 2014
9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97301

PRESENT: Commissioner Sam Brentano and Commissioner Janet Carlson. Also present were John Lattimer as chief administrative officer, Gloria Roy as county counsel and Kim Hulett as recorder.

PUBLIC COMMENT

None.

CONSENT

BOARD OF COMMISSIONERS

OLCC Application – Recommend Approval

Lady Hill, LLC - St. Paul

HEALTH

Approve renewal of Independent Medical Professional Services Agreement with Robert Michael Wolf, MD to provide psychiatric care to Behavioral Health clients from May 1, 2014, through April 30, 2017.

PUBLIC WORKS – PLANNING

Receive Planning Commission’s decision approving subdivision, case #SUB 14-001, Fischer, Clerk’s File #5684.

Receive hearings officer’s decision denying administrative review, case #AR 14-002, Sonnen, Clerk’s File #5683.

SHERIFF

Approve amendment #2 to add \$1,310,000 and extend the contract term until June 30, 2015, with Consolidated Food Management to provide inmate food services.

Approve an intergovernmental agreement for \$103,328.16 with Salem-Keizer School District 24J to provide a resource officer during the 2014-15 school year.

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

ACTION

BOARD OF COMMISSIONERS

1. Consider adoption of an ordinance creating a moratorium on the operation of any new medical marijuana dispensary facilities not holding a valid Marion County medical marijuana dispensary facility ban exemption permit until May 1, 2015, by emergency procedure. – Scott Norris

Assistant Legal Counsel Scott Norris said that after the Marion County Board of Commissioners adopted Ordinance No. 1333, which places restrictions on the operation of medical marijuana dispensaries, the Oregon legislature adopted Senate Bill 1531 which allows local governments to enact moratoriums on the operation of medical marijuana dispensaries until May 1, 2015. Mr. Norris said that the purpose of this ordinance is to establish a moratorium on the operation of any new medical marijuana dispensary facilities consistent with Senate Bill 1531 and the corresponding Oregon Administrative Rules. He said the moratorium provision specifically reads as follows: “There is a moratorium on the operation of any new medical marijuana dispensary facility not holding a valid Marion County medical marijuana dispensary facility ban exemption permit in the unincorporated area of Marion County until May 1, 2015. As of May 1, 2015, a new medical marijuana dispensary facility must comply with the requirements of Marion County Code chapter 5.25 and obtain a medical marijuana dispensary facility ban exemption permit from Marion County before operating a medical marijuana dispensary facility in the unincorporated area of Marion County.”

Marion County Alcohol and Drug Planning Committee (LADPC) Chair Ray Wilson introduced LADPC Community Member John Sauer. Mr. Wilson said LADPC reviewed the resolutions and ordinances and weighed the pros and cons of the issue. He said after vigorous debate, LADPC determined a moratorium would allow the Board of Commissioners additional time to evaluate what other municipalities and communities are doing relative to marijuana regulations and then make adjustments to the county’s current rules and regulations if needed. Mr. Wilson said the LADPC’s recommendation is in support of the moratorium.

Commissioner Brentano said that he does not want Marion County to be a center for marijuana distribution or industry and that a moratorium would allow the county time to examine other jurisdictions such as Washington and Colorado.

Commissioner Carlson thanked Mr. Wilson and Mr. Sauer for bringing the recommendation forward. She explained that there were three different meetings where the board heard several public comments on the issue and where the board spoke at length about marijuana dispensaries having a negative influence on children as well as increasing a child’s access to marijuana. She added that medical marijuana is not regulated by the Federal Drug Administration which means there is a lot of research that needs to be done. Commissioner Carlson said that in February the board implemented a ban on medical marijuana dispensaries and then allowed an exemption permit. In the farm and forest areas of Marion County, whether there is a moratorium or not, there is not any ability for a medical marijuana dispensary. In the industrial, commercial, and mixed use zones, there is a potential for medical marijuana facilities, but an individual must apply through Marion County which has higher standards than the state. She said there is one

applicant that has been authorized by the Oregon Health Authority to have a dispensary and has received a ban exemption permit from Marion County. She said that facility will be grandfathered in and the moratorium will not apply to that one facility.

Commissioner Carlson said another concern is that every other jurisdiction in Marion County has imposed a moratorium so if Marion County had not imposed a moratorium, the county's industrial, commercial and mixed use zones would be the only place in Marion County where a person could apply to have a medical marijuana dispensary for the next year. She said she does not want Marion County to invite additional facilities during this transition period.

Commissioner Carlson said Marion County was ahead of the curve and legal counsel gave the board excellent advice in terms of how to structure an ordinance. She said she supports the adoption of the ordinance creating a moratorium.

MOTION: Commissioner Carlson moved that the chair read the ordinance by title only twice. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Commissioner Brentano read the ordinance by title only twice.

MOTION: Commissioner Carlson moved that the board approve the ordinance by emergency that imposes a moratorium on the operation of any new medical marijuana facilities until May 1, 2015. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

2. Consider approval of an order listing tasks to prohibit the transfer, acceptance, and destruction of fetal tissue at the Waste-To-Energy Facility, Brooks, OR. – Gloria Roy

Commissioner Brentano explained that for a number of years, Marion County has had a medical waste program where medical waste from clinics, hospitals and other medical waste generators has been separated and burned at the Marion County Waste-To-Energy Facility (WTEF) at temperatures reaching 2000 degrees Fahrenheit. He added that it is a leadership position in Oregon to handle medical waste material correctly. Commissioner Brentano said that over the years Marion County expanded the program, through extra capacity, and has made its medical waste service available to neighboring counties, Southwest Washington and British Columbia. A week ago, the board was faced with the disturbing news that fetuses out of British Columbia may have been destroyed at the WTEF. He said that whether it happened or not, the board reviewed the county ordinance and found loopholes that did not exclude this type of material. This amendment will close those loopholes, prohibit this type of medical waste, and ensure that it does not happen again. He added that the medical waste program is a necessary service. Commissioner Brentano said that the county's partners in the solid waste industry have been cooperative throughout this process and Covanta, Inc., who owns and operates the WTEF, already prohibits this type of medical waste. Commissioner Brentano said the goal is to ensure fetuses are handled with respect and his hope is that this will be accomplished throughout the country.

County Counsel Gloria Roy explained that the order is a recital of the tasks or steps that the board has taken to prohibit the acceptance and destruction of human fetal tissue at the WTEF. Ms. Roy reviewed the tasks in the order (Attachment A). Mr. Bickford noted that all of county's haulers have complied with the voluntary certification process until the new contracts are in place and Public Works Director Alan Haley has signed the letter terminating the county's contract with Stericycle, Inc. - Canada.

Commissioner Carlson gave a chronology of the events beginning with an article written by an investigative journalist in British Columbia published on April 21, 2014, that was subsequently emailed to the Board of Commissioners by a constituent. Commissioner Carlson said that the board heard from many people from across the nation and locally about the action the board has taken. She said that no matter what a person's religious beliefs, anyone who believes in a civil society would say that this is not something that should be taking place out of respect to human life.

Commissioner Carlson said that the order formalizes the direction the board gave staff a week ago and explained that the order addresses the immediate issue of implementing an infectious waste hauler certification process so that collected medical waste waiting to be disposed of can be done within the required timeframe, addresses the 30-day transition time between when the county gave notice and when the contracts are changed, and addresses the long-term issue of making sure certifications are in place for every hauler. She added that the county also wants to implement an inspection process because if people certify without an inspection process, then it would be a form without substance. Commissioner Carlson also explained that task seven in the order reduces the minimum guaranteed tonnage of boxed medical waste so that Covanta, Inc. is unable to create their own parameters regarding how medical waste is taken and where it comes from. Commissioner Carlson said the order lays out the moral and ethical concerns about what has transpired and then clearly lays out the steps the county is taking to ensure that this is not happening and will not happen.

Commissioner Brentano asked that Legal Counsel consider a financial penalty for non-compliance. Ms. Roy said that she would examine the responsibilities of the medical waste haulers and medical waste generators in terms of consideration of consequences.

Commissioner Brentano said that for the record he agrees with Commissioner Carlson's chronology. He said when Commissioner Carlson showed him the email his response was, "Oh my! This cannot be true." He was pleased she was already making moves to stop the practice immediately. He said he is glad the board moved as quickly as it did.

MOTION: Commissioner Carlson moved approval of the order that prohibits the acceptance and destruction of human fetal tissue at the Brooks, Oregon Waste-to-Energy Facility. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

3. Consider adoption of an ordinance amending Chapter 8.05 of the Marion County Code, by emergency procedure. – Scott Norris, Jeff Bickford

Assistant Legal Counsel Scott Norris said that the ordinance would amend Chapter 8.05 of the Marion County Code, the solid waste management ordinance of Marion County, to prohibit the inclusion of human fetal tissue in medical waste. He said the proposed amendment would exempt human fetal tissue from the county definition of infectious waste, prohibit the inclusion of human fetal tissue in infectious waste being delivered for disposal in Marion County, require a certification that a shipment does not contain human fetal tissue, reserve the right to inspect shipments, and states that the failure to comply with the requirements of the ordinance is basis for rejection of that particular shipment and any future shipments. He said that specifically, the amendments are to revise the definition of “infectious waste” in Marion County Code section 8.05.050 to read as follows: “Infectious waste” means biological waste, including medical waste, as defined in ORS 459.386. “Infectious waste” does not include human fetal tissue. Mr. Norris said that the next amendment is to include a definition of “human fetal tissue” in Marion County Code section 8.05.050 which reads as follows: “Human fetal tissue” means tissue or cells from a dead human embryo or fetus after a spontaneous or induced abortion or after a stillbirth. “Human fetal tissue” does not include non-fetal products of conception, (i.e. placenta, membranes, umbilical cord, and amniotic fluid). Mr. Norris said lastly, Marion County Code section 8.050.080 would be amended to include a new section which reads as follows: “It shall be unlawful for any person to include human fetal tissue in infectious waste. Any person delivering infectious waste for disposal in Marion County shall certify in writing that the infectious waste does not contain human fetal tissue, and failure to so certify shall constitute a basis for rejection of the current and any further shipments of infectious waste from the person. Marion County reserves the right to inspect any shipment of infectious waste to ensure compliance with this section.”

Commissioner Brentano said the amendment identifies exactly what it is that the county will not allow in its waste stream, which is human fetuses or portions thereof, and closes the loophole that had existed.

Commissioner Carlson asked where the language came from in defining fetal tissue. Ms. Roy said that the definition of “human fetal tissue” comes from the United States Code and relates to research with “human fetal tissue”. She said the exclusions come from another act on human tissue that clearly distinguishes usual non-fetal byproducts from conception and birth.

Commissioner Carlson said that “human fetal tissue” is clearly defined and is distinguished from the non-fetal products. She said that non-fetal products would be accepted by the WTEF and “human fetal tissue” would be dealt with in a proper and respectful way.

MOTION: Commissioner Carlson moved that the chair read the ordinance by title only twice. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Commissioner Brentano read the ordinance by title only twice.

MOTION: Commissioner Carlson moved to approve the ordinance amending Chapter 8.05 of the Marion County Code, and declaring an emergency. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Rebecca Roth said she mistakenly went to 1115 Commercial Street where board meetings had been located and asked if she could provide public comment. Commissioner Brentano granted Ms. Roth a moment to speak.

Rebecca Roth said that in her opinion fetal tissue is a baby and expressed outrage that the remains were taken to the Marion County WTEF. She expressed concern about Planned Parenthood having a presence in local schools and concern about abortionist doctors.

SHERIFF

4. Consider approval of proclamations designating May 4-10, 2014, as National Corrections Professionals Recognition Week and May 11-17, 2014, as National Police Week in Marion County. – Commander Sheila Lorance, Undersheriff Troy Clausen

Undersheriff Troy Clausen introduced Commander Sheila Lorance who oversees the Marion County Jail and Work Center. Commander Lorance explained that National Corrections Professionals Recognition Week recognizes the work of the men and women of the Marion County Jail and Work Center and noted that May 7 is the Jail's 25th Anniversary. She said that last year the Marion County Jail processed over 13,000 inmates, maintained the Work Center at 144 inmates, and helped relocate the DeMuniz Resource Center to the Work Center. She said the community garden will be starting this spring and the produce will be donated to the Marion-Polk Food Share this fall. She added that the Jail will continue to expand its recycling program and see cost savings from that program.

Undersheriff Clausen said that the proclamation designating May 11-17, 2014, as National Police Week in Marion County was created to honor law enforcement personnel who have given their lives during the course of their duties. He said that according to the Officer Down Memorial Page (odmp.org), there have been 33 line of duty deaths in 2014, and 107 line of duty deaths in 2013. He noted the pressures of the job and said the figures do not take into consideration the 200 to 250 officers that lose their lives to suicide each year. Undersheriff Clausen said the week is also designed to recognize the outstanding service that these men and women dedicate to their communities. He said that under the leadership of Sheriff Jason Myers and with the Board of Commissioners help, the Sheriff's Office has been provided every tool needed to continue to promote safety and security in our communities and it is greatly appreciated. Undersheriff Clausen said that the Enforcement Division has seen a number of retirements, including seven long-term deputies equating to 175 years of service. He said that through the help of the Health Department, Psychiatric Crisis Center, and with the support of the Board of Commissioners, the Crisis Outreach Response Team (CORT) has been able to reach out to approximately 300 individuals in the community and provide them services that they might not otherwise have received. He said that the Jail, Parole and Probation, Operations Division, and the Sheriff Office's staff do a tremendous job every day and he is proud of them.

Commissioner Carlson said that it is amazing to think about what law enforcement officers go through day in and day out and how they need to prepare themselves for that work. She said the

CORT Team recently received a grant to expand some of the county's services for people who are mentally ill and explained that the intelligence and compassion of the CORT Team officers that worked with an individual she knows was exemplary.

Chief Administrative Officer John Lattimer said that these individuals represent the high quality law enforcement personnel that provide safety for the citizens of Marion County and he is proud of them.

MOTION: Commissioner Carlson moved to approve May 4-10, 2014, as National Corrections Professional Recognition Week and May 11-17, 2014, as National Police Week in Marion County. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

PUBLIC HEARINGS
9:30 A.M.

None.

Commissioner Brentano read the calendar.

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

Attachments: (A) Order No. 14-41

CHAIR

COMMISSIONER