

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, October 3, 2018  
9:00 a.m.

Senator Hearing Room  
555 Court Street NE  
Salem, OR 97305

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

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

**PUBLIC COMMENT**

*(Video Time 00:00:53)*

Jamie Namitz:

- Marion County employee for 16 years;
- States victim of sexual discrimination, discriminate treatment, and harassment at Marion County Public Works;
- On August 15<sup>th</sup>, Ms. Namitz applied for Operations Road Supervisor position within Marion County Public Works;
- During a job interview, she was asked questions that pertained to the job and her skill sets;
- Ms. Namitz asked her department manager at the end of her interview what he perceived as her strengths and weaknesses:
  - Ms. Namitz stated the department manager replied that her biggest weakness was that her crew would not respect her as a supervisor:
    - He did not want to have to tell her crew of two years why he would have given her this position.
  - He stated that her biggest strength was her sexuality.
- Ms. Namitz's job interview ended and she left the table shocked and appalled;
- No one made comment to the department manager's response to Ms. Namitz during the interview;
- Ms. Namitz stated over the next month the decision was made, against HR's recommendation, to keep the department manager in his position as her boss;
- Her work environment has become hostile;
- Ms. Namitz feels that future options of being promoted were gone;
- She stated findings showed that she was passed over twice for job promotions, possibly more.

Mersadee Lulay:

- Jamie Namitz's sister and supporter;

- Addresses the commissioners regarding the discrimination and harassment that her sister has endured;
- Ms. Lulay states that:
  - Human Resources interviewed more than 30 people in a three week period; and
  - Nine more employees came forward with allegations against the Department Manager.
- Ms. Lulay's question for the commissioners is:
  - If Marion County allows discrimination and allows its employees to be in a hostile work environment, then how does the county expect to fill and recruit for open job positions; and
  - What is the county going to do about the discrimination that is happening.
- She quotes the pledge, "I will not use my hands or my words for hurting myself or others"; and
- Ms. Lulay spoke about Marion County's strong policy on expectations for appropriate conduct in the work place.

Diana Downs:

- Employee and resident of Marion County;
- Officer and steward of MCEA SEIU;
- Inspired by Namitz's first person account of what is happening within Marion County;
- Ms. Downs states it is not a union issue or a female issue, but a safety issue for women;
- Ms. Downs states that women and men who work for Marion County are not safe from:
  - Harassment;
  - Discrimination;
  - Objectification; or
  - Humiliation.
- Challenges the commissioners to take control and make a difference.

***Board discussion:***

- Public Comment is a forum where anyone from the public can come and speak even if a topic is not on the agenda;
- The commissioners do not speak about personnel issues in a public forum:
  - There are privacy rights and parameters.
- In general terms, Marion County will not tolerate sexual harassment, discrimination, or violence in the workplace;
- There are processes that have to be followed;
- If someone reports, they need to have confidence that it's going to be followed up on:
  - The commissioners care and will not tolerate that behavior;
  - Will take every action necessary to make sure that the culture and situation changes; and
  - Will support employees in moving forward with a resolution with this specific issue.

## PRESENTATION

*(Video Time 00:19:50)*

Flu shot presentation – Diana Dickey

- Annual reminder that everyone six months and older should receive a flu shot every year;
- The flu is very contagious and cannot be treated with antibiotics;
- The public's best protection against the flu is to get a flu shot;
- There are a lot of places to get flu shots:
  - Healthcare provider;
  - Place of work;
  - Pharmacies;
  - Health and Human Services; and
  - Clinics in the communities.
- There is a flu mist available for ages 2-49;
- People cannot get the flu from the flu shot;
- It takes two weeks for the shot to take full effect; and
- There is a high dose flu shot available for persons 65 years of age and older.

## CONSENT

*(Video Time 00:27:20)*

### COMMUNITY SERVICES

Approve the Grant Agreement with Strategic Economic Development Corporation (SEDCOR) for \$800,000 to fund business recruitment, retention, and expansion of activities within the county through June 30, 2023.

Approve the Grant Agreement with Travel Salem for \$125,000 to fund business recruitment, retention, and expansion of activities with the county through June 30, 2019.

### JUVENILE

Approve Amendment #1 with Social Finance to add \$85,000 for the EQUIP Program and extend the contract through November 30, 2019.

### PUBLIC WORKS

Approve the Purchase Order Contract with Sonsray Machinery, LLC for \$199,532 to purchase a track excavator.

Receive notice of hearings officer's recommendation and schedule a public hearing for October 24, 2018 to consider Zone Change/Comprehensive Plan (ZC/CP) Case #18-001/PNP Properties, LLC and McCallum Powder, LLC, Clerk's file #5781.

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

## ACTION

(Video Time 00:29:25)

### PUBLIC WORKS

1. Receive and consider appeal of hearings officer's decision denying Conditional Use (CU) 18-030/Lee, Clerk's file #5780. – Joe Fennimore

#### **Summary of presentation:**

- Request for a conditional use permit to establish a bed and breakfast on 3705 Ballyntyne Road S., Salem;
- The bed and breakfast would be a home occupation;
- The location is in a Special Agriculture Zone;
- On May 14, 2018, the planning director issued a decision approving the request subject to conditions;
- On May 23, 2018, the decision was appealed by property owners in the area opposing the approval;
- On June 21, 2018, the hearings officer conducted a public hearing on the appeal;
- The record was left open until July 5, 2018;
- On September 7, 2018, the hearings officer issued a decision denying the request;
- On September 24, 2018, the hearings officer's decision was appealed to the board;
- The hearings officer found that two criteria were not satisfied:
  - First criteria requires an applicant to demonstrate that the proposed use will not unreasonably interfere with other uses permitted in the property zone:
    - The hearings officer concluded that it is not clear that the proposal will not interfere with farm and forests practices and other uses permitted in the zone.
  - Second criteria requires a finding that the use will not force a significant change in or significantly increase the costs of accepted farm or forest practices on surrounding lands devoted to farm or forest use:
    - The hearings officer found that applicant had not provided enough information on the day-to-day running of the business and did not analyze whether farm practices in the area would be impacted.
- The hearings officer concluded the burden of proof regarding this criterion was not met;
- In the appeal, the applicant stated the following:
  - The hearings officer did not base the denial on the impacts that the proposed bed and breakfast would have on adjacent properties;
    - It was based on the adjacent properties theoretical impacts from the bed and breakfast.
  - Argued that the findings in the proposal fails to meet the criteria are speculative and unsupported by facts;
  - Concluded that there is no evidence that the bed and breakfast will negatively affect adjacent farm and forest practices;
  - Argues that detailing the day-to-day operations and specific farm practices in the area is not required by code; and
  - If the appeal is accepted, the applicant will present such evidence at a public hearing.
- The applicant's attorney agrees to extend the 150-day decision making deadline if the appeal is accepted;

- The board has the following options:
  - Accept the appeal and remand the matter back to the hearings officer;
  - Accept the appeal and schedule a public hearing with a suggested hearing date of October 17, 2018; or
  - Deny the appeal and uphold the hearing officer's decision denying the request.
- Staff recommends the board accept the appeal and schedule a public hearing for October 17, 2018.

***Board discussion:***

- The public hearing is going to the board instead of being remanded back to the hearings officer due to the large amount of opposition:
  - If it is remanded back to the hearings officer and it is approved, it will more than likely be appealed to the board again.
- In order to meet the Marion County Code requirements, there needs to be an analysis of what the adjacent land parcels are doing in terms of farming:
  - If approved, how will this use affect surrounding property owners.
- The hearings officer needs the following:
  - A better description of what activities will be taking place; and
  - Impact to agricultural and forestry uses on adjacent properties.
- Opponents at the hearing raised concerns of traffic impacts to the neighborhood; and
- The board is concerned about so much opposition without having the hearings officer going through the evidence.

**MOTION:** Commissioner Brentano moved to accept the recommendation to accept the appeal and schedule a public hearing with a suggested date of October 17, 2018. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

*(Video Time 00:39:58)*

2. Consider approval of the annual recertification of Marion County's participation in the Community Rating System of FEMA. – Brandon Reich

***Summary of presentation:***

- Annual recertification for Marion County's participation in the Community Rating System (CRS) of the Federal Emergency Management Administration (FEMA);
- Marion County participates in the CRS, which is a FEMA Program;
- It is part of the National Flood Insurance Program;
- Residents in Marion County can save money on their insurance premiums by the county's participation in the CRS;
- About 10 percent of the jurisdictions participate in the CRS across the nation;
- Marion Counties rating of six is one of the highest in the CRS;
- Less than 10 percent of the communities achieve a class six or higher rating;
- Marion County is in the top one percent of jurisdictions nationwide for insurance savings;
- Class six means that residents receive a 20 percent reduction in their flood insurance premiums;
- Residents outside the flood plains can receive a 10 percent discount;

- Marion County has more than \$70,000,000 of insured structures and contents;
- Savings every year is more than \$53,000 for county residents off of their insurance premiums;
- Average savings per household is \$160 per flood plain policy;
- Ways the savings are unique in Marion County:
  - Oregon state has a minimum elevation when a new home is built of one foot above the base of that elevation;
  - With Oregon's standards, a resident could pay \$600 a year for a flood insurance premium;
  - Marion County requires two foot minimum above the base of the elevation to better assure that people are outside the flood plains to minimize further damage;
  - With Marion County's standard, residents have approximately a \$200 savings;
  - The CRS discount for Marion County's participation is another 20 percent;
  - Premiums in Marion County can be almost half of what they would be in another jurisdiction in Oregon due to:
    - The additional elevation that homes receive; and
    - The CRS participation by Marion County.
- Standard homeowners policies do not cover flood damage;
- Federal grants and loans are not available after every flood event;
- Residents are dependent on their flood insurance to recover assets when federal grants and loans are not available;
- Even a few inches of water can damage a home in a very expensive way:
  - Water can go up the walls and cause damage to the contents.
- Flood insurance is required if the homeowner has a federally backed home loan;
- CRS awards points to the county for good practices they feel will impact future insurance costs:
  - Keep drainage ways open;
  - Having emergency operations planned;
  - Has hazard plans;
  - Building code levels;
  - Enforce flood plain ordinance;
  - Keeping items out of streams;
  - Not dumping pesticides and chemicals into streams;
  - Controlling erosion sedimentation; and
  - All other outreach activities that the county does.
- Every year, the CRS requires that the county verify those activities that allow the county to participate in the program;
- Before the board is the Annual Recertification Package;
- Staff has worked with county departments to verify the information being submitted is correct; and
- Staff recommends the board sign the verification package as provided.

***Board discussion:***

- Marion County's current discount:
  - 20 percent in flood plains; and
  - 10 percent outside of mapped flood plains.

- Insurance companies know that the county offers this discount:
  - The discount is automatic and tied into the community number;
  - When a quote is submitted:
    - A community number has to be provided;
    - A map and panel also have to be provided; and
    - The discount is automatically there.
- Marion County has been in the program since 1999;
- The premiums are nationwide; and
- Flood insurance premiums have gone up so the discount has gotten more valuable over time.

**MOTION:** Commissioner Cameron moved to approve an Annual Recertification of Marion Counties participation in the Community Rating System of FEMA; Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

## PUBLIC HEARINGS

9:30 A.M.

*(Video Time 00:49:47)*

### PUBLIC WORKS

A. Public hearing to consider City of Sublimity Urban Growth Boundary (UGB) Amendment. – Brandon Reich and Lisa Brosnan

- On May 14, 2018 the City of Sublimity held the first reading on an ordinance;
- The final ordinance will approve amending the city’s growth boundary to add the following:
  - 10.34 acres of land:
    - 9.59 acres for public use for a city park and maintenance yard; and
    - 0.75 acres for residential use for an existing resident;
- The City of Sublimity has requested the county concur in the UGB amendment;
- On August 29, 2018, the board approved the resolution initiating amendments to the county comprehensive plan to consider concurring in the City of Sublimity amendments;
- A hearing was scheduled for today;
- In 2017, the city prepared and adopted a parks plan:
  - It was based on a 20-year population projection;
  - The projection was provided by Portland State University, Population Research Center;
  - The city identified a deficit in parkland for 30 acres;
  - The City of Sublimity went through the process and statute in Goal 14;
  - The city worked with property owners bordering on city limits to identify additional land that could be brought into the city to meet its parkland need;
  - 10 acres of land were identified to the northeast of existing city limits:
    - 6.5 acres of the land would meet a portion of the parkland needs;
    - Approximately three acres would be used for a Public Works maintenance area;
    - Less than an acre for the existing home site; and

- The City of Sublimity determined that the 10 acres of land would sufficiently accommodate the needed park.
- The proposed expansion would allow for the orderly and economic provision of public facilities and services;
- The proposed site would:
  - Have a more favorable possible impact on environmental energy, economic consequences, and social consequences;
  - Has an anticipated positive social consequence; and
  - Not negatively impact nearby agricultural uses.
- Upon approval of the UGB, the City of Sublimity will annex the land into city limits and zone the land with the City Urban Zone Designation of Public Low Density Residential;
- The county will not have to apply an interim zoning designation to the property;
- Mr. Reich recommends that the board concur in the City of Sublimity Comprehensive Urban Growth Boundary Amendment;
- In November 2016, the City of Sublimity held a public meeting and open forum for citizens:
  - There was a large turnout of citizens for the meeting;
  - Representatives spoke about the future direction of the city;
  - The city heard any concerns the citizens may have; and
  - The citizens overwhelmingly requested more parkland.
- The Mid-Willamette Valley Council of Governments started a study:
  - Developed a master plan for parks;
  - Based on population projections through the year 2037, there was a deficit of 30 acres;
- The City of Sublimity has 2.2 acres of parkland that they own;
- Other park areas are leased by the city;
- The city has had problems justifying investments in the leased parks when they do not own the property;
- Steps were taken to determine the best area to have a park;
- A location was found in a northeast section, just outside city limits;
- In February 2018, the city voted to approve the Annexation and Urban Growth Boundary Amendment;
- The first reading of the ordinance was held in May 2018;
- Findings were made based on:
  - Oregon statewide planning goals and guidelines;
  - Particularly Goals:
    - Goal 8 for recreation needs;
    - Goal 11 for public facilities; and
    - Goal 14 for urbanization.

***Board discussion:***

- The city is bringing the entire parcel, including the home, into the city limits;
- No one in attendance is opposing the park;
- Most people were supportive of the park throughout the process; and
- Citizens requested city council appoint a Parks Committee to determine the best way to develop the land.



**MOTION:** Commissioner Brentano moved to close the public hearing and concur in the City of Sublimity's Urban Growth Boundary Amendment directing staff to return with an ordinance consistent with the board's decision. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

Recessed as Board of Commissioners  
Reconvened as Contract Review Board

*(Video Time 00:58:07)*

### CONTRACT REVIEW BOARD

B. Public hearing to consider allowing Business Services the use of a competitive design-build solicitation as an alternative complete process for a public improvement contract for the Courthouse Square Fire Alarm System Upgrade. – Colleen Coons-Chaffins, Camber Schlag, Kevin Burton, and Larry Tilford

#### ***Summary of presentation:***

- Seeking approval to use an exemption for an alternative contracting method for a public improvement contract;
- Looking at issuing a Design-Build Request for Proposals (RFP);
- Courthouse Square does not have the following to warn people of a fire or emergency:
  - Alarms;
  - Flashing lights; or
  - Strobe lights.
- A paging system and personal contact are currently in place for emergencies:
  - A person has to do an actual physical page to get people out of the building in the event of an emergency.
- Preference is to have an immediate alarm system:
  - Everyone on every floor would know immediately to evacuate; and
  - No one is left behind trying to warn people to get out.
- Decision was made to go with the design-build process:
  - It cuts down on design time;
  - Is a specialized field design-build:
    - As an example, the Public Safety building fire safety system was a design-build.
  - Most big projects have this type of fire safety system;
  - Better to have this design-build now verses paying an engineer to design the system, then having contractor to build;
  - Benefits to this design build fire safety system:
    - It's a savings for the county;
    - Can get through the process quicker;
    - Can start before the design is complete; and
    - In a design-build situation, construction can start early.

#### ***Board discussion:***


- No one signed up for the public hearing;
- The total project budget is anticipated to be approximately \$230,000;


- Indicates why the design-build would be successful;
- It's not going to limit competition;
- More efficient process for the county; and
- Saves the county money.
- Notification of the county's timeline will be given because Courthouse Square is a functioning building:
  - No plans to move people out or shuffle people around; and
  - It will be "business as usual" for employees and the public.
- It will be a 30-60 day process once the RFP goes through;
- The goal is to have the project completed this fiscal year;
- The county did receive a phone call inquiring what this public hearing was about:
  - It was not a protest, but more of a question of the scope of the project.
- Risk Management will be involved with the contractor and the design and build side of the project:
  - It is a fire life safety issue; and
  - If something goes amiss then Risk Management is accountable.
- Legal has already reviewed the requested proposal:
  - It's ready to go out if the board approves it.
- Both the county and Cherriots Transit will participate in the project; and
- The Courthouse Square Condominium Board has approved going ahead with the project.

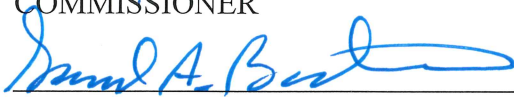
**MOTION:** Commissioner Cameron moved to close the public hearing and approve the proposed exemption to Marion County Public Contracting Rules for consideration of an alternative solicitation process for Courthouse Square fire alarm system upgrade project. Seconded by Commissioner Brentano; motion carried. A voice vote was unanimous.

Recessed as Contract Review Board  
Reconvened as Board of Commissioners

Commissioner Carlson read the calendar.  
Commissioner Carlson adjourned the meeting at 10:17 a.m.

  
\_\_\_\_\_  
CHAIR

  
\_\_\_\_\_  
COMMISSIONER

  
\_\_\_\_\_  
COMMISSIONER

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