

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, January 12, 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 Bethell called the meeting to order at 9:00 a.m.

**PUBLIC COMMENT**

None.

**PRESENTATION**

*(Video Time 00:01:00)*

1. Wildfire recovery update. –Chris Eppley

***Summary of presentation:***

- Mr. Eppley presented a Santiam Canyon Disaster Recovery Report that details the wildfire recovery efforts in the Santiam Canyon as of January 12, 2022:
  - It has been 16 months since the fires;
  - An estimated 44 percent of homes needing repair or replacement have been issued building permits;
  - An estimated 58 percent of homes needing repair or replacement have been issued septic permits:
    - Residents who are rebuilding generally file for a septic permit before they file for a building permit.
  - The Oregon Department of Transportation (ODOT) has completed the cleanup of all wildfire debris on residential property;
  - ODOT has removed an estimated 75 percent of the hazardous trees in the wildfire affected areas;
  - The following are updates on the Marion County led recovery projects:
    - Housing:
      - Part of the recovery process for communities includes having housing available for survivors to return to;
      - Sixteen residential units are being built in the City of Gates; and



- A radio station based in the City of Stayton has received a grant that will allow them to upgrade their broadcasting license to 500 watts:
  - The upgrade will allow the station to project their broadcasts as far as the cities of Detroit and Idanha; and
  - The radio station is working with the City of Detroit to install a repeater on the new water tower once it has been built:
    - This will allow the station to provide emergency broadcast information, including the following, to surrounding areas:
      - Early warning of disasters; and
      - News associated with conditions.
- Two new case managers were hired in December 2021:
  - An estimated 225 households have been assigned to case managers;
  - An estimated 85 households are currently on a waiting list;
  - With the addition of the two new case managers, the wait list may decrease to an estimated 25 households;
  - Currently SIT and the LTRG are working with numerous people to assist with meeting individual needs; and
  - The assistance will be on-going for an increased length of time.
- The LTRG is also working on the following projects:
  - Developing a greater presence on all social media platforms; and
  - Developing a podcast that can be utilized as an additional tool to get information out to wildfire survivors.
- The LTRG has contracted with Project LTD to support the following:
  - Ongoing communication efforts;
  - Webpage maintenance; and
  - Newsletter production.

***Board discussion:***

- Mr. Eppley will work on gathering information for the commissioners that details the number of households being case managed by the Department of Human Services (DHS);
- Information related to the following questions was requested for future tracking reference:
  - When does a house officially go back on the tax rolls;
  - How many permits have been pulled; and
  - How many structures have completed the building process.
- Building permit applications exceed the number of homes that have been built:
  - There is a large period of time allowed between receiving the building permit and the starting the building process.
- An estimated \$50 million was allocated by the legislature for the following:
  - An estimated \$40 million will be utilized for sewer systems in the cities of Gates and Mill City; and

- An estimated \$10 million will be utilized for further engineering and design of the main street sewer system.

*(Video Time 00:12:12)*

## CONSENT

None.

*(Video Time 00:12:18)*

## ACTION

### BUSINESS SERVICES

2. Consider approval of the Purchase Order with TK Elevator Corporation in the amount of \$251,731 for the Marion County Courthouse Elevator Upgrade project through December 31, 2022. –Terry Stoner and Geoffrey Bonney

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

- The elevator project is located at the Marion County Courthouse and not at Courthouse Square as stated on the agenda;
- The project will upgrade the Adult In Custody (AIC) elevator that was built in 1954;
- The elevator is used to take AIC's to and from their court proceedings;
- The elevator is well past its time frame for replacement;
- The Capital Improvement Project (CIP) has been approved;
- Due to the elevator's age replacement parts are no longer available;
- The project will upgrade the elevator to modern standards with equipment that can be maintained quickly and easily; and
- Staff is requesting approval of the contract for the elevator upgrade.

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

- None.

**MOTION:** Commissioner Willis moved to approve the Purchase Order with TK Elevator Corporation in the amount of \$251,731 for the Marion County Courthouse Elevator Upgrade project through December 31, 2022. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

*(Video Time 00:15:13)*

3. Consider approval of the Purchase Order with TK Elevator Corporation in the amount of \$107,512.89 for the Marion County Jail Elevator Upgrade project through December 31, 2022. –Terry Stoner and Geoffrey Bonney

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

- The current elevator was built in 1987;

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- The elevator is due for safety and equipment upgrades; and
- Staff is asking for approval to move forward with the contract for the jail elevator upgrade.

***Board discussion:***

- None.

**MOTION:** Commissioner Cameron moved to approve the Purchase Order with TK Elevator Corporation in the amount of \$107,512.89 for the Marion County Jail Elevator Upgrade project through December 31, 2022. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

*(Video Time 00:16:54)*

HUMAN RESOURCES

4. Consider approval of the Contract for Services with Brown and Brown of Oregon, LLC, dba, Brown and Brown Northwest in the amount of \$101,489.94 to provide insurance broker and consulting services for Marion County's employee benefits through December 31, 2022. –Kathie Carter and Justin Ford

***Summary of presentation:***

- Brown and Brown Northwest (BBNW) is the insurance broker for Marion County's health and welfare plans;
- The contract includes insurance broker and consulting services for the following employee benefit opportunities:
  - Health;
  - Dental;
  - Life;
  - Disability;
  - Flexible spending accounts;
  - Employee assistance programs; and
  - Consolidated Omnibus Budget Reconciliation Act (COBRA) and retiree health plan administrators.
- BBNW conducts an annual comprehensive review and evaluation of the county's programs which entails the following:
  - Plan design;
  - Cost analysis; and
  - Actuarial services.
- BBNW attends the county's annual meetings with the Health Insurance Study Committee (HISC):
  - The contractor provides guidance on the direction the county should take with plan designs.
- BBNW's negotiating skills with insurance companies has saved the county an estimated \$237,000 this year;

- The current contract was approved in December 2019;
- The request reflects an annual increase of three percent in the cost of services;
- Staff is happy with the services provided by BBNW:
  - The dedicated team provides a depth of experience and knowledge.
- BBNW has experience working with public entities;
- There is an exemption from the Marion County public procurement rules 50-0150, Employee Benefits;
- A Request For proposal (RFP) was submitted 2019;
- BBNW was awarded the contract:
  - The contract was awarded for a multi-year contract; and
  - The contract term is for five years.

***Board discussion:***

- RFP's have increased and exemptions have decreased:
  - Staff wants to ensure more vendors are aware of the county's opportunities versus just relying on existing vendors.

**MOTION:** Commissioner Willis moved to approve the Contract for Services with Brown and Brown of Oregon, LLC, dba, Brown and Brown Northwest in the amount of \$101,489.94 to provide insurance broker and consulting services for Marion County's employee benefits through December 31, 2022. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

*(Video Time 00:22:14)*

**PUBLIC WORKS**

5. Consider approval of the incoming funds Purchase Agreement with Morrell Logging, LLC. in the amount of \$285,503.38 for the sale of recovered timber at Niagara Park. –Tom Kissinger

***Summary of presentation:***

- In September 2020 wildfires swept through Niagara Park;
- The initial estimates showed about a 90 percent tree loss within the park;
- Immediately after the fires the Oregon Department of Transportation (ODOT) began removing hazardous trees that were affecting the right-of-way;
- Marion County entered into an Intergovernmental Agreement (IGA) with ODOT to continue removing hazardous trees located within the park;
- ODOT has removed most of the hazardous trees in the area;
- There are some trees remaining that need to have a second assessment done to determine if they need to be removed;
- The fallen logs have been exposed to rain for about approximately 16 months:
  - Staff would like to mill the logs to maintain their value.
- A timber sale was posted for the fallen logs in October 2021:
  - Five bids were received on November 19, 2021; and

- Morrell Logging was the highest responsive bidder with a bid of \$285,503.38.
- The agreement will allow Morrell Logging to remove the timber and take it to a mill.

***Board discussion:***

- The work will start as soon as possible after the contract is signed by both parties;
- A pre-construction meeting is anticipated in the near future; and
- There are parks in the county that were set up as holding sites for county and private property timber:
  - Some private property owners are collecting and removing their timber from the holding sites.

**MOTION:** Commissioner Cameron moved to approve the incoming funds Purchase Agreement with Morrell Logging, LLC. in the amount of \$285,503.38 for the sale of recovered timber at Niagara Park. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

*(Video Time 00:25:05)*

6. Consider approval of the Public Improvement Agreement with Northstar Electrical Contractors, Inc. in the amount of \$2,597,309 of which an estimated \$947,981 will be paid with federal funds, an estimated \$1,808,819 will be paid by Marion County, and an estimated \$43,200 will be paid by the City of Salem for the construction of the Traffic Signal Interconnects project.  
–Ryan Crowther and Steve Pressler

***Summary of presentation:***

- The county received federal funds to construct traffic signal interconnects at locations on:
  - Lancaster Drive;
  - Silverton Road;
  - Cordon Road;
  - Center Street;
  - Court Street; and
  - 12th Street.
- County facilities that will be connected include:
  - Public Works;
  - The Sherriff’s Office facility located on Aumsville Highway;
  - The campus for Health and Human Services (HHS) and the Juvenile Department; and
  - Courthouse Square.
- The county buildings will be connected to the city’s fiber allowing the county to connect to the internet through that fiber;
- The signals interconnected along the corridors will operate more efficiently;
- The City of Salem maintains the county’s signals:
  - The city runs a signal operation center where they can time all the signals together; and

- Connecting to the city's signal operation center will allow all the signals in the area to run more efficiently.
- The project scope includes the following:
  - Fiber optic interconnect of signals along each corridor:
  - Direct fiber optic connection between the Public Works Data Center and the Sheriff's Office Aumsville Highway campus; and
  - Fiber optic connections to the following county facilities:
    - Courthouse Square;
    - HHS and Juvenile Department Center Street campus; and
    - HHS Silverton Road facility.
- The total cost of the project is \$2,597,309 with funding coming from the following sources:
  - An estimated \$947,981 in federal funding for interconnecting the signals:
    - The federal funding does not cover all of the cost of interconnecting the signals.
  - County funding from the following sources:
    - An estimated \$1,153,328 in county road funds for interconnecting the signals;
    - An estimated \$339,900 in general funds to connect county facilities; and
    - An estimated \$112,900 in HHS funds for connecting the Silverton Road facility.
  - The City of Salem will fund an estimated \$43,200.
- The City of Salem's portion of the project goes from Macleay Road to the Mill Creek Road signal;
- The low bid of \$2,597,309 was submitted by Northstar Electrical Contractors; and
- Staff recommends approval of the contract.

***Board discussion:***

- The City of Salem may also maintain the City of Keizer's signals;
- There will be a dedicated fiber optic connection between the Public Works Data Center and the Sheriff's Office Aumsville Highway campus;
- The project interconnects all of the county's network, with the City of Salem's network:
  - This allows for a backup option in the event that there is a failure with one of the following:
    - Traffic lights; and
    - The Information Technology (IT) network.
- Having access to fiber optic increases opportunities for buildings in the area; and
- The time frame written in the contract is February 2022 through December 2022:
  - Supply chain issues could impact the time frame.



**MOTION:** Commissioner Willis moved to approve the Public Improvement Agreement with Northstar Electrical Contractors, Inc. in the amount of \$2,597,309 of which an estimated \$947,981 will be paid with federal funds, an estimated \$1,808,819 will be paid by Marion County, and an estimated \$43,200 will be paid by the City of Salem for the construction of the Traffic Signal Interconnects project. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

*(Video Time 00:34:10)*

## **PUBLIC HEARINGS**

**9:30 A.M.**

### **PUBLIC WORKS**

A. Public hearing to consider Zone Change/Comprehensive Plan Amendment (ZC/CP) Case #21-005/Enchanted Ridge Property Owners Association.

–Lindsey King

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

- The application requests the following:
  - To change to the Comprehensive Plan designation from Primary Agriculture to Rural Residential with an exception to Goal 3, Agricultural Land; and
  - Change the zone from Exclusive Farm Use (EFU) to Acreage Residential (AR).
- The property is approximately 7.29-acres of an 85.6-acre parcel:
  - It is located in the 2700 block of Enchanted View Lane in Southeast Salem;
  - The property is outside of City of Salem city limits;
  - It is not within the City of Salem Urban Growth Boundary (UBG); and
  - It is located on the east side of Interstate 5, approximately 640 feet east of the intersection of Enchanted View Lane and Enchanted Way SE;
- Properties surrounding the large parcel are primarily Acreage Residential (AR);
- A parcel to the east of the property is designated EFU and it connects to a large area of EFU land;
- The subject property is undeveloped farmland;
- The hearings officer conducted a public hearing on July 29, 2021;
- On October 29, 2021, the hearings officer issued a recommendation that the board approve the request;
- The hearings officer found that the applicant satisfied all of the relevant approval criteria for the following:
  - An exception to Goal 3;
  - A Comprehensive Plan (CP) amendment; and
  - A Zone Change (ZC).
- The applicant is seeking a CP amendment and a ZC:
  - The ZC is dependent upon obtaining the CP amendment.
- The property is currently designated as Primary Agriculture;

- In order to change the plan and zone designation to allow for residential use, the applicant must obtain an exception to statewide planning Goal 3, Agricultural Land;
- State law provides the following three types of goal exceptions that may be taken:
  - The land is physically developed;
  - The land is irrevocably committed; and
  - There is a reasons exception.
- The applicant is seeking a reasons exception:
  - In order to approve a reasons exception it must be established that there is a need for rural housing on the property:
    - The need for housing must be based on commercial or industrial uses in the immediate area that rely on rural housing that the urban areas cannot provide.
- In the recommendation the hearings officer discussed the Goal 3 exception and concluded that in this instance the criteria have been satisfied;
- The hearings officer reviewed all the applicable CP policies and ZC criteria, and concluded that the policies and criteria have been met;
- The hearings officer recommended approval of the request subject to conditions;
- Following the hearings officer's recommendation, the Department of Land Conservation and Development (DLCD) submitted comments and identified additional information that should be included in the record prior to the county arriving at a decision:
  - The record should include evidence, facts, and findings that provide the following:
    - Quantifies how the rural, industrial, and commercial activity in the area has created a need for large-lot residential housing; and
    - Demonstrates why the proposed type and density of housing requires the proposed location on resource land.
- Public Works staff agrees with DLCD that this information is important and that it should be included in the record before the county's arrives at a decision;
- Staff recommends the following:
  - That the public hearing be kept open; and
  - The application be remanded back to the hearings officer for additional evidence and findings related to the contents of DLCD's letter.
- Staff can work with the hearings officer to expedite the hearing process;
- Planning staff received an email from the applicant on the morning of January 12, 2022:
  - The email indicated that the applicant may request that the board arrive at a decision today, instead of remanding the matter back to the hearings officer.
- The board has the following options:
  - Continue the public hearing;
  - Close the hearing and leave the record open;
  - Close the hearing and approve, modify, or deny the request; or
  - Remand the matter back to the hearings officer.

***Board Discussion:***

- The hearings officer's decision discusses an irrevocably committed exception:
  - The irrevocably committed exception was changed to a reasons exception.

***Testimony:***

***Support:***

Mark Shipman, attorney for the applicant:

- The applicant is the Enchanted Ridge Property Owners Association;
- The property is owned by a trust;
- The Homeowner's Association (HOA) is under contract with the trust to buy the property if the application under review today is approved;
- The applicant's goal is to obtain the following:
  - A Comprehensive Plan change;
  - A Zone Change; and
  - An exception to statewide planning goals.
- The applicant feels the hearings officer came to the right conclusion in recommending approval of the request;
- The applicant would like to provide the following clarifications to the hearings officer's findings:
  - The hearings officer assumed that the applicant was only asking for a reasons exception, when in actuality they were asking for a reasons exception and an irrevocably committed exception:
    - Mr. Shipman expressed that the irrevocably committed exception is the stronger of the two exceptions being requested; and
    - The following actions support an irrevocably committed exception:
      - Approval was granted in 1973 to establish 40 lots on the property; and
      - In 1980, the county reaffirmed the irrevocably committed exception to the statewide planning goals with respect to the Enchanted Ridge subdivision.
  - There are gap properties located east of Valley Way and off of Enchanted Ridge Court that are small and not practical for farming; and
  - The applicant is not expressing that the primary portion of the property cannot be farmed;
- Approval of the application would allow the owners to control who farms the property and how the property is farmed;
- Mr. Shipman expressed he does not agree with the DLCD's findings on this matter;
- The applicant has provided substantial evidence in the record to support approval of the request;
- The hearings officer agreed with the applicant that all criteria were satisfied for the following:

- The CP change;
- The ZC; and
- The goal exception.
- Mr. Shipman recommended that the board approve the hearings officer's decision; and
- If the board finds that they don't have enough evidence to support the goal exception, then the applicant would support the matter being remanded back to the hearings officer.

***Board Discussion:***

- There will be a total of three homesites on the property;
- The applicant originally filed for four homesites, but changed it to three in response to opposition from a neighboring property owner;
- The location and topography of the three homesites makes the land difficult to farm;
- Currently the trust finds tenant farmers to farm the property, with the HOA having no say in who is chosen:
  - There have been problems with past tenant farmers not treating the land properly.
- Approval of the application will allow the HOA to do the following:
  - Buy the property and sell off the gap portions to a residential developer; and
  - Lease out the farmland to a tenant farmer of their choosing.

***Testimony:***

***Support:***

Chris Staats:

- Mr. Staats and his wife live in the area of the property, and they support the application.

Bev Carrick:

- Ms. Carrick and her husband have lived in the area of the property since 2000;
- They love the farmlands in the area;
- The housing development does not feel complete with the gap lots located on Valley Way and Enchanted Ridge Court;
- The neighborhood association was formed in 2019;
- The neighborhood association voted and are unanimously in favor of the ZC; and
- When the property was left to the trust the neighborhood association decided to try and purchase the land:
  - The neighborhood association will have control over what is planted on the property; and
  - This helps to protect their properties and the property values.

Michael Carrick:

- Currently the gap lots are not being farmed;
- Mr. Carrick is concerned about future plantings if the HOA does not have control of the property;

- The property does not currently require irrigation; and
- The water table in the housing development may decrease if a crop is planted that requires irrigation.

Jerry Cehrs:

- Mr. Cehrs supports the application.

Don Lulay:

- Mr. Lulay and his wife reside in the vicinity of the property;
- They purchased in the neighborhood specifically because of the surrounding area;
- Mr. Lulay is president of the HOA;
- The trust approached the HOA in regard to purchasing the property;
- Selling the gap lots will help the HOA fund the property;
- Farmers do not want to farm the gap lots because they are small lots with limited access;
- The lack of control of the farmable land is difficult for the homeowners:
  - If the HOA were to own the farmable land, then they could control the crops that are planted on the land.
- The lack of control of the gap lots is also difficult for the homeowners:
  - Farmers who have tried to farm the gap lots in the past have damaged roads within the housing development.
- The HOA will not make a profit from owning the farmland.

Chuck Woodard:

- Mr. Woodard supports the application; and
- He has young children and wants to be able to control what pesticides are used on the farm.

***Testimony:***

***Opposition:***

Ken Koebel:

- Mr. Koebel has lived in the area of the property for 30 years;
- He is concerned with the available water if the lots are developed with homes;
- The lots have previously been farmed with grass seed which requires no irrigation;
- The chemicals being used on the property are no different than what homeowners use on their own landscaping; and
- Mr. Koebel is worried that if the three homes are approved there may be more development to follow.

**Board Discussion:**

Brandon Reich:

- The following items are reviewed when considering changes to comprehensive plan designations and zoning on rural properties:
  - Can the land be farmed; and
  - If the land cannot be farmed what is the best use of the property.
- There is a route to get to the rural residential use designation being requested;
- The state defines the following three exception routes that are very specific and very complex:
  - The property is committed to a non-rural use in the future;
  - The property is already developed with a non-rural use; or
  - There is a reason to change the designation.
- The hearings officer did a full review based on a reasons exception;
- The applicant states that there is evidence to show that there is a committed exception;
- The board does not have the evidence required to make a decision based on a committed exception;
- The board may work with the applicant and staff to determine which facts meet a committed exception, and which findings may work against a committed exception; and
- There is a benefit to having the hearings officer do the analysis before the board arrives at a decision.

Commissioner Willis:

- If the board decides to remand the matter back to the hearings officer, then the Planning Department will work to ensure that a decision is made quickly:
  - A hearings officer hearing could be held the second or third week of February.
- The irrevocably committed exception was raised at the hearing and is on the record, but no evidence was submitted to support the exception;
- The evidence and facts to support an irrevocably committed exception are required before the board can arrive at a decision; and
- Mr. Reich feels that the applicant has a greater chance of being successful with the application if an irrevocably committed exception is used.

Commissioner Cameron:

- Commissioner Cameron expressed the following:
  - He expressed concerns that the board's decision may be appealed;
  - He disclosed that he has been to the property;
  - The property is part of a gated community;
  - He wants to ensure that the board makes the right decision; and
  - He would like to hear from Mr. Shipman again before the board takes any action.

Brandon Reich:

- Mr. Reich expressed that having the following may be helpful to the board prior to arriving at a decision:
  - The hearings officer's analysis;
  - The case findings;
  - Any identified evidence;
  - Any additional evidence; and
  - Discussion at a public hearing:
    - Following these steps will put the county in the strongest position to defend the board's decision if there is an appeal; and
    - The county can then provide the basis for the decision and what contributed to the decision.

Commissioner Bethell:

- Commissioner Bethell expressed the following:
  - She disclosed that she has been to the property;
  - She feels that the county may be able to control the timeline by expediting parts of the process;
  - She would like to hear from Mr. Shipman again before arriving at a decision;
  - She is concerned that if the decision is appealed the matter may not be resolved in a timely manner; and
  - Protecting the county's farmland is important.

Commissioner Willis:

- Commissioner Willis expressed the following:
  - Protecting the county's farmland is very important;
  - He feels that this application protects farmland, as the bulk of the property is being kept as farmland;
  - Approval of the application may curtail the conflict between the HOA and the neighboring farms; and
  - He wants to ensure that the rules are serving the community.

Brandon Reich:

- The application being reviewed today is specific to the three lots on seven acres; and
- The application does not allow the HOA to develop the remaining farmland without submitting a completely new application for a zone change.

***Testimony:***

***Support:***

Mark Shipman, attorney for the applicant:

- The applicant agrees with staff that a strategic remand back to the hearings officer is appropriate; and

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- The applicant will provide additional evidence that will help support a positive decision.

**MOTION:** Commissioner Cameron moved to continue the public hearing, leave the record open, and remand the matter back to the hearings officer for further consideration. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

*(Video Time 01:17:52)*

Commissioner Bethell read the calendar;  
Commissioner Bethell adjourned the meeting at 10:29 a.m.

  
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CHAIR

  
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COMMISSIONER

  
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COMMISSIONER

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