

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, October 11, 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 Jan Fritz, chief administrative officer, Jane Vetto as county counsel, and Brenda Koenig as recorder.

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

(Video Time 00:00:52)

Commissioner Cameron moved to add two items to the Consent Agenda:

- Under Legal Counsel: Approve an order for the resolution of a litigation matter; and
- Under Public Works: Approve the incoming funds Grant Agreement with the Oregon Department of Administrative Services in the amount of \$950,000 for the Marion County Radio Communications Project.

Seconded my Commissioner Bethell; motion carried. A voice vote was unanimous.

(Video Time 00:01:26)

PROCLAMATIONS

BOARD OF COMMISSIONERS – Action

1. Consider approval of a proclamation declaring October 15-21, 2023, as National Hands & Words Are Not For Hurting® Week in Marion County. –Ann Kelly, Hands & Words Are Not For Hurting Project, and Denyc Boles, Salem Health Hospitals and Clinics

Summary of presentation:

Denyc Boles:

- Salem Health Hospitals and Clinics is partnering with the Hands & Words Are Not for Hurting Project;
- Healthcare workers are four times more likely to experience violence than in other industries;
- Physical violence has been experienced by 44 percent of nurses;
- Verbal abuse was experienced by 68 percent of nurses during the COVID-19 pandemic;
- Workplace violence can have significant negative impacts on the entire healthcare system including:

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- Physical injury;
- Psychological injury; and
- Intimidation can decrease the quality of patient care.
- Salem Health Hospitals and Clinics is committed to the principles around harmful words and actions:
 - No patient, employee, or provider harm is acceptable; and
 - This principle aligns with the Hand & Words Are Not for Hurting Project.
- Salem Health Hospitals and Clinics will host the Purple Hands Pledge on October 17, 2023:
 - Various community members will be in attendance;
 - The pledge supports the organizations continued commitment to nonviolence; and
 - The pledge is a reminder to stop and think about our words and actions.

Ann Kelly:

- The Hands & Words Are Not for Hurting Project started in 1997 with participation from the Salem-Keizer Public School District;
- Signs, logos, and decals are in various schools, businesses, and organizations;
- Education helps spread awareness and change;
- The Purple Hands Pledge teaches the following:
 - Empathy;
 - Self-control;
 - Respect for ourselves and others; and
 - Accountability for our words and actions.
- There has been a dramatic rise in all types of abuse:
 - Domestic and family violence;
 - Child abuse;
 - Gun violence;
 - Bullying;
 - Self-harm; and
 - Suicide.
- There is a need to educate about abuse and violence starting at a young age;
- The purple hand with a red heart represents all people as one;
- Purple is the national color for recognizing victims and survivors of abuse and violence;
- The red heart in the palm of a purple hand represents when you hurt yourself or another person, or someone hurts you, with words or actions;
- Repetition and practice help with learning;
- The Purple Hands Pledge teaches that everyone is valuable and irreplaceable;
- Ms. Kelly played a video message from Loryn Studer, a student activist and former student at South Salem High School:
 - A person's words can be good, but also harmful;
 - It is never ok to use our words to harm others;
 - People can get help if they are not being treated appropriately;

- Stating the Purple Hands Pledge lets others know that we do not support abuse;
- All ages can recite the pledge; and
- The pledge reminds us of what we deserve and how we should be treating others.

Board discussion:

None.

MOTION: Commissioner Bethell moved to approve a proclamation declaring October 15-21, 2023, as National Hands & Words Are Not For Hurting® Week in Marion County. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

The commissioners read the proclamation; and
The Purple Hands Pledge was recited by the commissioners, staff, and audience members.

(Video Time 00:18:48)

DISTRICT ATTORNEY’S OFFICE – Action

2. Consider approval of a proclamation declaring the month of October 2023 as Domestic Violence Awareness Month in Marion County. –Paige Clarkson, Pami Guerra, and Jayne Downing, Executive Director, Center for Hope and Safety.

Summary of presentation:

Paige Clarkson:

- The Victim Assistance program serves victims and survivors of all types of crime:
 - Employees have dedicated their careers, lives, and free time.
- The District Attorney’s (DA’s) office has filed over 1,700 cases of domestic violence:
 - The count only represents individuals that are willing to report; and
 - For every filed case there are many victims who are afraid to report:
 - They believe they have no options;
 - They believe the terrible words of their abuser;
 - They have been isolated by their abuser;
 - They feel they have no one that they can rely on;
 - They believe they cannot be independent; and
 - They feel they have no self-worth.
- The proclamation represents victims who are afraid to report violence:
 - There are people and communities who support them;
 - There are options for victims; and
 - There are services available for victims.
- Victims can live a life free of violence; and
- Domestic violence victims need to know that they can get help from both government agencies and private sector organizations.

Pami Guerra:

- Outreach educates and informs community members and current victims about the resources that are available; and
- 2023 outreach events include:
 - The Barbra Roberts High School Domestic Violence Symposium;
 - The Marion County Fair;
 - National Night Out;
 - Fiesta Mexicana in the City of Woodburn;
 - The Pride in the Park event in the City of Salem;
 - The Oregon State Fair; and
 - Viva Salem.

Jayne Downing:

- In 2022, the Center for Hope and Safety received over 36,000 contacts for services:
 - Over 8,000 individuals walked through the door;
 - There were calls to the bilingual crisis line;
 - Emails were received; and
 - There was outreach through social media.
- Outreach information is provided in multiple languages including:
 - English;
 - Spanish;
 - Russian;
 - Vietnamese;
 - Chinese;
 - Large print;
 - Audio;
 - Braille; and
 - Pictorials.
- Various businesses and organizations have displayed information for services that are provided by the Center for Hope and Safety;
- The Center for Hope and Safety was awarded a motel through Project Turnkey:
 - The motel opened in December 2021; and
 - The motel has provided 18,000 nights of shelter for victims.
- Hope Plaza, which provides low-income, permanent housing for victims of violence, will be completed in April 2024;
- 2023 statistics for the Center for Hope and Safety continuum of care housing entail the following:
 - Approximately 164 individuals have been served including:
 - Fifty-eight adults; and
 - One hundred and six children.
 - Approximately 82 individuals have exited the rapid rehousing program for permanent housing:

- Twenty-eight adults; and
 - Fifty-four children:
 - Currently 82 individuals are enrolled in the rapid rehousing program:
 - Thirty adults; and
 - Fifty-two children.
- Maxwell, a trained assistance dog, joined the team during the COVID-19 pandemic:
 - His role is to provide love and comfort to victims and staff;
 - Every day he meets with survivors; and
 - He travels to shelters.

Board discussion:

- Commissioner Bethell thanked everyone working together to help the community including Marion County staff and non-profit organizations:
 - Services provided by the Center for Hope and Safety are what the county and communities want to invest in.
- Commissioner Cameron expressed many of the incoming calls are for domestic violence:
 - People may not be aware that the high statistic rates exist;
 - Violence is a real issue; and
 - Prevention starts with education.
- Commissioner Willis expressed that home should be a place of peace:
 - It should not be a place for violence;
 - Many individuals cannot imagine the level of violence that is occurring;
 - The work that is being done by both the DA’s office and the Center for Hope and Safety is an expression of the county’s values;
 - There are places that victims of violence can go for help; and
 - There are people that victims can trust, that can offer a level of peace.

MOTION: Commissioner Cameron moved to approve a proclamation declaring the month of October 2023 as Domestic Violence Awareness Month in Marion County. Seconded by Commissioner Bethell; motion carried. A voice vote was unanimous.

The commissioners read the proclamation.

(Video Time 00:43:49)

PRESENTATION

3. United Way 2023 Employee Contribution Campaign Kick-off. –Gary White and Melinda Freshour, Donor Stewardship and Special Initiatives - United Way of the Mid-Willamette Valley

Summary of presentation:

- The county’s contribution campaign will start on October 11, 2023, and run through November 10, 2023;

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- United Way is changing and growing every day:
 - Partnerships are expanding.
- This is an opportunity for Marion County employees to help fund the work that the United Way of the Mid-Willamette Valley does;
- United Way works with over 300 non-profit organizations;
- The organization fills the gaps that other organizations are not able to provide;
- Fundraising can be targeted to specific needs and problems:
 - The Affordable Housing Project for Seniors;
 - The Good360 Gifts in Kind program:
 - United Way partners with stores to receive items that normally would have been discarded; and
 - The items are then redistributed to local agencies to improve the lives of their clients.
 - A grant program partnership with Willamette University:
 - Students target organizations that are helping youth in the community.
 - The Safe Sleep United program provides a low-barrier shelter for women;
 - The Awesome 3000 program:
 - The program has been in communities since 1983;
 - The program is for youth ages preschool to 18; and
 - The program allows youth the opportunity to be:
 - Active;
 - Healthy; and
 - Set goals.
- United Way of the Mid-Willamette Valley has partnered with the following:
 - The City of Jefferson School District:
 - A health and resource center that is located on the school grounds.
 - Northwest Hub:
 - Funded a program for rural bike packages; and
 - A Cherriots bus has been converted into a mobile bike shop.
 - The Safe Sleep Shelter:
 - An upcoming expansion will provide shelter for women and children.
 - Wildfire recovery efforts in the Santiam Canyon are ongoing.
- Last year, Marion County employees, raised \$8,400;
- There will be a variety of fundraisers offered with each department developing and managing their own events:
 - Employees can access fundraising events information on the county's intranet site; and
 - Employees are also able to contribute through payroll deductions.

Board discussion:

- Commissioner Cameron has served as a United Way of the Mid-Willamette Valley board member for eight years:

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- The organization adapts to meet public needs; and
- Ongoing contributions are very important to sustain the organization.

(Video Time 00:54:27)

Commissioner Willis requested and received unanimous agreement to move the Consent items up on the agenda and to hold public comment after the Consent Agenda is read.

(Video Time 00:54:38)

CONSENT

COMMUNITY SERVICES

4. Approve the Contract for Services with Economic Consultants Oregon, LTD., dba, ECONorthwest in the amount of \$127,690 to establish a community-based grant implementation strategy for the Opal Creek Promise Implementation Plan retroactive to October 4, 2023, through June 30, 2024.

HEALTH AND HUMAN SERVICES

5. Approve the incoming funds Grant Agreements with the Oregon Criminal Justice Commission (CJC) for services performed in support of the following Specialty Court Programs retroactive to July 1, 2023, through March 31, 2026:

- The Marion County Adult Drug Court in the amount of \$345,632;
- The Marion County Family Treatment Court in the amount of \$159,732;
- The Marion County Juvenile Treatment Court – Supervised Treatment And Recovery (STAR) in the amount of \$160,440;
- The Marion County Mental Health Court in the amount of \$271,068; and
- The Marion County Veteran Treatment Court in the amount of \$144,008.

LEGAL COUNSEL

Approve an order for the settlement of litigation case number 6:23-cv-00158-MK.
(Motion made and approved to add this item to the Consent Agenda).

PUBLIC WORKS

Approve the incoming funds Grant Agreement with the Oregon Department of Administrative Services in the amount of \$950,000 in American Rescue Plan Act (ARPA) funding for the Marion County Radio Communications Project through January 1, 2025.
(Motion made and approved to add this item to the Consent Agenda).

PUBLIC WORKS

6. Approve the Purchase Order with Dick Hannah Chevrolet in the amount of \$281,106.96 for the purchase of 12 Malibu sedans for Marion County Health and Human Services to replace 12 used vehicles purchased from the Oregon Department of Administrative Services that are at end of life.

SHERIFF'S OFFICE

7. Approve the incoming funds Intergovernmental Agreement with the United States Department of the Interior, Bureau of Land Management (BLM) in the amount of \$101,000 to provide patrol services on BLM land effective January 1, 2024, through December 31, 2024.

Scrivener's error: Ms. Vetto clarified for the record that the case number for the litigation item is 6:23-cv-00158-MK.

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

(Video Time 00:57:12)

PUBLIC COMMENT

Matthew Maceira:

- Mr. Maceira expressed the following:
 - He is the Executive Director for Be Bold Street Ministries;
 - Oregon Ballot Measure 110 produced the opposite effect of what was promised which included:
 - A reduction in crime;
 - An increase in public safety; and
 - Lives being saved.
 - He has personal experience of the consequences of using drugs;
 - Measure 110 has removed the recourse for street level drug dealing and street level drug usage;
 - Individuals can be seen openly using drugs on a daily basis;
 - There is an increase in violent crimes where individuals committing the crime are under the influence of a chemical substance;
 - He can see daily the direct negative impacts of Measure 110;
 - He works with multiple law enforcement agencies where Measure 110 has hindered an officer's ability to perform their job;
 - He opposes Oregon Ballot Measure 110;
 - Crime has increased instead of decreased;
 - Crime and acts of violence go hand-in-hand with the drug world; and
 - There is no acceptable amount in the drug world.

Julie Hoy:

- Ms. Hoy expressed the following:
 - She is a City of Salem Council Member;
 - She is here to speak as a resident and business owner;
 - Measure 110 has brought a decline in humanity;
 - Decriminalizing life altering drugs has created an entire population of individuals that no organization was prepared to handle:
 - There are now too many people needing help;
 - There are not enough individuals to provide help; and
 - Law enforcement has been rendered useless and is unable to help.
 - She deals daily with individuals experiencing addiction or psychosis at her business location;
 - She is frequently assaulted with expletives, name calling, and threats from individuals who may be mentally ill or under the influence of a chemical substance;
 - She does not feel safe; and
 - Repealing Measure 110 is the right place to start solving the issue.

Eric Rasor:

- Mr. Rasor expressed the following:
 - He is the Executive Director for Soaring Heights Recovery Homes;
 - Soaring Heights Recovery Homes provides a structured environment for individuals that want to leave addiction and substance abuse behind;
 - Individuals residing in the recovery home are required to be substance free;
 - He struggled with addiction for 30 years;
 - Sending individuals to prison with no treatment options is not a solution;
 - Removing the consequences of drug addiction and criminal behavior is not a solution;
 - Something needs to be in place to get people into treatment;
 - An individual's personal circumstance can lead them to seek residency in a recovery home:
 - Referrals from parole and probation;
 - A drug court ruling;
 - The Student Opportunity for Achieving Results (SOAR) program; and
 - Oregon Department of Human Services.
 - Individuals requesting residency in the recovery home were given a consequence and as a result they are seeking sobriety and treatment;
 - Individuals that continue to use drugs may have a consequence imposed if treatment is not completed;
 - An imposed consequence is helpful because it requires an individual to seek treatment;

- The negative impacts of decriminalization for drugs include:
 - Fewer individuals are seeking treatment; and
 - There is an increase in crime.
- Measure 110 needs to be fixed; and
- There need to be consequences.

Jenn Benavidez:

- Ms. Benavidez expressed the following:
 - She is a representative of SERVPRO servicing the following counties:
 - Linn;
 - Benton;
 - Polk; and
 - Marion.
 - She is a resident of the City of Salem;
 - She wants to speak on behalf of the business owners that she works with regarding the following:
 - Homelessness;
 - Drug usage; and
 - The biohazard impacts from individuals residing on the streets.
 - Millions of dollars are being spent by business owners to try to fix recurring issues resulting from homelessness and individuals under the influence of a chemical substance;
 - SERVPRO is providing a daily cleanup service to some businesses:
 - Her team must move homeless individuals so that they can power wash and clean areas surrounding businesses; and
 - Homeless individuals and individuals abusing drugs are creating the unhealthy environment outside of the businesses.
 - The City of Salem Police Department (PD) is unable to take any action;
 - Some of the organizations clean-up projects include:
 - The St. Joseph Catholic Church fire that was started by an individual that was abusing drugs;
 - Wallace Marine Park; and
 - A lighthouse building.
 - Business owners need help and support; and
 - Children being harmed in the community is a major concern as well.

(Video Time 01:12:58)

ACTION

BOARD OF COMMISSIONERS

8. Consider approval of a resolution proclaiming Marion County's call for the repeal of the provisions enacted pursuant to Oregon Ballot Measure 110 (2020).

–Commissioner Danielle Bethell

Summary of presentation:

Commissioner Danielle Bethell:

- Measure 110 and its issues have been discussed since its passing;
- There have been robust discussions with other government agencies to try to find a solution;
- Measure 110 was passed by 54 percent of the population in 2020:
 - Many individuals thought this would help with rehabilitation and recovery; and
 - Individuals may not have been aware of what they voted for.
- Oregon legislature has not taken any action or the appropriate action to protect all the citizens;
- Marion County is joining 11 counties to compel the legislature to repeal Measure 110 in its entirety;
- Money still needs to be invested into Oregon's treatment system;
- Government on the state level may be unaware citizen's needs;
- Policy should not be a one size fits all approach; and
- What works in one county may not work in another county.

District Attorney Paige Clarkson:

- District Attorney Clarkson stated for the record that she supports the board's decision to approve a resolution requesting the repeal of Measure 110;
- Measure 110 was passed because Oregon citizens wanted to help solve the issue;
- Addiction is both a public health problem and a public safety issue;
- There are ways to deliver on the promise of Measure 110 in a safe and responsible manner;
- The impacts from Measure 110 are destroying communities and public safety;
- Without law enforcement an environment of the following thrives:
 - Drugs;
 - Violence;
 - Addiction; and
 - Behavioral health problems.
- Before the passing of Oregon Measure 110, treatment was always a priority:
 - Law enforcement intervention was utilized as a bridge, not a barrier, to treatment and services.
- Marion County already had numerous treatment programs including:

- Law Enforcement Assisted Diversion (LEAD); and
- Treatment Courts that divert individuals from the criminal justice system and into treatment.
- Measure 110 has removed a public safety tool for intervention;
- Law enforcement and public safety is not the only tool to solve the issue;
- Complex problems can have complex solutions;
- Death resulting from drug usage is occurring in our communities every day; and
- This resolution is an important stand against what is happening in our communities.

Marion County Sheriff Nicholas Hunter:

- Sheriff Hunter supports the resolution brought forth by the commissioners;
- There are many individuals and organization, with different backgrounds, expressing that Measure 110 is not working;
- Treatment has always been the answer to address substance abuse issues;
- The county has several programs that provide treatment options;
- Measure 110 has disincentivized treatment options;
- Law enforcements' ability to intervene has been taken away;
- Behavioral change is needed and happens when there is a rapport with an individual that needs help:
 - Substance abuse habits continue when there is no rapport;
 - Rapport allows individuals to want to engage in treatment; and
 - LEAD is a program that helps foster relationships.
- The Marion County Sheriff's Office agrees and understands that placing individuals in jail is not the right answer:
 - Treatment in the right setting is needed; and
 - There needs to be a gateway to treatment options.
- Measure 110 has resulting in more the following:
 - Violent crime;
 - Theft; and
 - Addiction habits.
- Law enforcement cannot intervene;
- The community thrives on providing treatment:
 - Tools need to be available to provide the treatment options.
- Parole and probation officers no longer have access to individuals to work through treatment cycles; and
- Livability in communities is being negatively impacted.

Board discussion:

- Commissioner Wills expressed the following:
 - Citizens may have misunderstood the measure as asking if an addict needs to go to prison or receive treatment:

- Public drug use without consequences was not asked; and
 - This is what is happening.
 - Criminal law decisions are made on the state level:
 - Government at local levels have no say in state laws; and
 - Measure 110 needs to be repealed at the state level.
 - Repealing Measure 110 will allow law enforcement officers to intervene so that individuals can get treatment;
 - Individuals are encouraged to attend the Marion County Reentry Initiative (MCRI) breakfast where community success stories will be shared;
 - There is no antagonism between law enforcement officers and individuals in recovery:
 - The county relies heavily on community members who are in recovery or have overcome addiction to share their stories; and
 - Individuals that have lived through addiction are now helping others in their treatment journey.
 - Repealing Measure 110 will provide the opportunity for more individuals to receive treatment.
- Commissioner Bethell expressed the following:
 - The board believes that investments made today will make positive impacts for generations to come;
 - State government is creating negative generational impacts:
 - Decisions made today will harm youth in the present and well into the future.
 - Commissioner Bethell shared some data that was provided by District Attorney Clarkson:
 - Ballot Measure 110 treats youth with addiction issues the same way that it treats adults;
 - Early intervention for youth with addiction issues has been mostly eliminated;
 - From February 2021 through September 2023, only 0.6 percent of the violations filed statewide involve juveniles:
 - The percentage recorded is 35 youth filings out of the 6,178 that were filed.
 - Measure 110 allows youth to possess, carry, and use illicit drugs.
 - Multnomah County recently had eight youth almost die due to a fentanyl overdose:
 - Narcan was used by first responders on all eight of the youth.
 - Some youths are following the negative example set by their parents and abusing chemical substances;
 - Legislation has assembled a reform committee for the 2024 legislative session:

- Voters are encouraged to pay attention to what is occurring in the legislature and use their voice to ensure local government and law enforcement have the tools needed to protect community citizens.
- Commissioner Cameron expressed the following:
 - The District Attorney (DA) is a state position;
 - The DA is elected by Marion County citizens and works for Marion County citizens;
 - Marion County citizens pay for the bulk of the work performed by the DA's office;
 - The state does not supply the county with any general funds for the DA's office;
 - Accountability is needed;
 - The Marion County Reentry Initiative (MCRI) breakfast is an example of second chances;
 - Everyone has received a second chance in some degree of their life; and
 - The funding for addiction treatment needs to continue even if Measure 110 is repealed.
- Funding for addiction treatment did exist before Measure 110 went into effect:
 - Funding came from an existing marijuana tax; and
 - The funding needs to be reallocated appropriately.

MOTION: Commissioner Cameron moved to approve a resolution proclaiming Marion County's call for the repeal of the provisions enacted pursuant to Oregon Ballot Measure 110 (2020). Seconded by Commissioner Bethell; motion carried. A voice vote was unanimous.

The commissioners read the resolution.

(Video Time 01:36:23)

HUMAN RESOURCES

9. Consider approval of the Health Insurance Study Committee (HISC) renewal recommendations for the Marion County Law Enforcement Association (MCLEA) and the Marion County (MC) Health Insurance Plans for plan year 2024. –Lori Klemsen

Summary of presentation:

- Ms. Klemsen is presenting the Health Insurance Study Committee (HISC) benefit recommendations for plan year 2024;
- Marion County has two HISC:
 - Marion County Law Enforcement Association (MCLEA) is for law enforcement personnel; and
 - Marion County (MC) is for all remaining county employees.
- The HISC meets quarterly to discuss the following:
 - Current benefit plan offerings;

- Review renewals; and
- Review rates.
- MCLEA HISC recommendations include the following:
 - There are two medical plans available:
 - PacificSource's Preferred Provider Organization (PPO); and
 - Kaiser's Health Maintenance Organization (HMO).
 - There are two dental plan options:
 - Delta Dental; and
 - Kaiser.
- MCLEA would like to recommend keeping the plans intact for plan year 2024;
- MC HISC recommendations include the following:
 - There are three medical plans available:
 - A PacificSource PPO;
 - A PacificSource High Deductible Plan with a Health Savings Arrangement (HSA); and
 - A Kaiser HMO.
 - There are two dental plan options:
 - Delta Dental; and
 - Kaiser.
- A Work Session was held for collaboration with the board; and
- MC would like to recommend keeping the current plans intact for plan year 2024.

Board discussion:

- Commissioner Willis expressed that he will be abstaining from the vote:
 - He supports health insurance;
 - He does not agree with the HISC recommendation for the PPO; and
 - He feels a better deal could have been reached.
- Commissioner Cameron requested that it be noted for the record that Commissioner Willis was not available for the vote.

Motion: Commissioner Bethell moved to approve the Health Insurance Study Committee (HISC) renewal recommendations for the Marion County Law Enforcement Association (MCLEA) and the Marion County (MC) Health Insurance Plans for plan year 2024. Seconded by Commissioner Cameron; motion carried 2-0 with Commissioner Willis abstaining from the vote.

(Video Time 01:40:47)

PUBLIC WORKS

10. Consider accepting an appeal of the hearings officer's decision denying Administrative Review (AR)/Case #23-007/Ivanov. –Austin Barnes and Cody Walterman

Summary of presentation:

- Administrative Review (AR)/Case 23-007 is a request to place a primary farm dwelling on a 17.50-acre parcel of land that is located in an Exclusive Farm Use (EFU) zone on Boones Ferry Road N.E.;
- The Marion County Planning Director denied the request on May 22, 2023;
- The denial was appealed to the Marion County Hearings Officer on June 6, 2023;
- The hearings officer held a hearing on July 20, 2023;
- The record for the hearing remained open until August 11, 2023, to allow for the submission of additional information;
- On September 8, 2023, the hearings officer issued a decision denying the request for Administrative Review (AR)/Case 23-007;
- The applicant appealed the hearings officer's decision on September 21, 2023, to the Marion County Board of Commissioners:
 - The applicant submitted a statement; and
 - A filing fee was paid.
- County staff reviewed the information that was submitted by the applicant with the appeal and determined the following:
 - No new evidence was provided;
 - No new argument was given; and
 - There is no request for the board to make any policy decisions.
- Staff recommended that the board not accept the appeal expressing that there were three main issues with the appeal:
 - The applicant's attorney argued that the county's land use code is vague where it requires a property to not be in violation of a local, state, or federal law unless issuing a land use permit will remedy the violation:
 - They feel this is a violation of ORS 215.416(8)(a); and
 - This section of the code is not part of the zoning ordinance:
 - The hearings officer considered the argument and determined that the county's code in this situation is valid; and
 - The applicant's attorney did not provide any new evidence or a new argument for the hearing's officer to consider.

- The applicant's attorney argued that the decision is in violation of ORS 197.307(4) which requires that the county adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing:
 - The hearings officer considered this argument and found that the county's code is clear and objective.
- The applicant's attorney argued that the ability of the property to produce income in the future should not be a reason for denial:
 - Staff expressed that the hearings officer's decision to deny the request was not based on this argument;
 - The property does not have the required irrigation rights needed to produce the income;
 - Staff received notice from the state regarding the unlawful appropriation and storage of ground water;
 - The applicant's attorney did not provide any new evidence or a new argument for the hearing's officer to consider; and
 - Nothing has been submitted by the property owner that shows the irrigation rights for the farm have been obtained.
- There are no policy interpretations for the board to make;
- Staff recommended that the board not accept the appeal;
- The applicant does have the option of appealing the hearings officer's decision to the Oregon Land Use Board of Appeals (LUBA); and
- If the board decides to accept an appeal of the hearings officer's decision, then a public hearing will be held:
 - The recommended date for a public hearing is November 29, 2023.

Board discussion:

- The section of the county's code that talks about violations of state or federal law is MCC 17.110.680 under General Provisions; and
- Commissioner Willis expressed the following:
 - He is sympathetic to individuals that want to build homes;
 - Marion County has high standards because the county wants to protect farmland and forests grounds;
 - There are state laws regarding building in an Exclusive Farm Use (EFU) zone;
 - Marion County's code is not vague;
 - The applicant is in violation of state law;
 - If the applicant provides a remedy for the violations, then the request can be heard by the board.

- The applicant does have the option of appealing the decision to the Oregon Land Use Board of Appeals (LUBA).

MOTION: Commissioner Cameron moved to accept the staff's recommendation to deny the appeal of the hearings officer's decision for Administrative Review (AR) Case #23-007/Ivanov. Seconded by Commissioner Bethell; motion carried. A voice vote was unanimous.

(Video Time 01:46:58)

PUBLIC HEARINGS

9:30 A.M.

PUBLIC WORKS

A. Public hearing to receive testimony regarding the use of a competitive alternative contracting method for the procurement of goods and services for the Marion County Public Safety Radio Communications System Project.

–Brian Nicholas

Summary of presentation:

- Marion County Public Works is requesting authorization to use a Design-Build project delivery:
 - This is a competitive, alternative, contracting method.
- The request would be for the design and construction of the Marion County Public Safety Radio Communications Systems Project;
- The new county wide system will consist of the following:
 - A P25 Phase Two trunked radio system;
 - A data transport system;
 - A conventional radio overlay system;
 - Supply of the system;
 - Provisioning of the system;
 - Installation of all system components; and
 - Installation of subscriber radios.
- The new system will be utilized by the following:
 - The Marion County Sheriff's Office;
 - First responder agencies throughout the county;
 - The Marion County Juvenile Department; and
 - Other county departments;
- American Rescue Plan Act (ARPA) funding will be utilized for the bulk of the project:
 - The funds need to be fully obligated by December 31, 2024; and
 - The funds need to be fully expended by December 31, 2026.
- Marion County Public Contracting Rules (MCPCR) identified Design-Build as an alternative contracting method;

- Oregon statute allows the Marion County Board of Commissioners acting as the Marion County Contracting Review Board to authorize the use of Design-Build as an exemption for public improvement projects when justified as prescribed in the public contracting code;
- Five significant findings for the exemption include:
 - Design-Build will maximize competition:
 - All qualifying organizations can submit responsive proposals;
 - This method will not result in decreased competition; and
 - This will result in no favoritism for the contract reward.
 - Radio systems are proprietary:
 - The Design-Build method eliminates wasted time and expense associated with the development of a fully detailed design bid document; and
 - This method is the industry norm of this type of project.
 - Design-Build minimizes the project delivery timeline:
 - This is essential in order to meet the deadlines mandated by ARPA.
 - Design-Build minimizes financial risk to the public:
 - Performance obligations will be placed on the radio system manufacturer; and
 - The manufacturer is the best entity to ensure the system functions as specified.
 - Price will be highly considered to ensure there is no overpayment of county funds for the selected system.

Testimony:

James Montgomery:

- Mr. Montgomery is an employee of Day Wireless Communications;
- There is confusion regarding the purpose for the change;
- The number of vendors is unclear; and
- It is unclear if system price will be a key factor when selecting a vendor.

Brian Nicholas:

- In order to maximize the contracting opportunities, the project has been broken down into multiple project components:
 - The core radio system;
 - The data transport system;
 - The conventional radio overlay system;
 - Supplying the radios; and
 - Installing the radios.
- The components will be advertised and bid under one procurement;
- The components may be awarded to the highest scoring proposal with the best value;
- The following three components are interconnected and must work well together:

- The core radio system;
- The backhaul data system; and
- The radios that operate on the system:
 - These three components will be awarded to a single vendor.
- There will be multiple awards for the project;
- Pricing is one component for the project;
- Scoring criteria will be listed in the Request For Proposal (RFP) and entails some of the following:
 - The ability to comply with the performance criteria that is specified in the procurement specifications;
 - The cost of components; and
 - A contractor's delivery plan needs to make sense.

Commissioner Willis closed the public hearing.

(Video Time 01:55:25)

***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 the use of an alternative solicitation process for the Marion County Public Safety Radio Communications System Project and direct Marion County Public Works to issue a competitive bidding solicitation for the project. –Brian Nicholas

MOTION: Commissioner Bethell moved to approve an order granting an exemption to allow the use of an alternative solicitation process for the Marion County Public Safety Radio Communications System Project and direct Marion County Public Works to issue a competitive bidding solicitation for the project. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

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

(Video Time 01:56:07)

Board discussion:

Commissioner Bethell expressed the following:

- Cost related to the Marion County Public Safety Radio Communications System Project is very important;
- The project will require a lot of money;
- Staff has dedicated a lot of time to the project;
- The taxpayers are paying for the project;
- The project needs to be:
 - Affordable;
 - Effective; and
 - Without issues if possible.
- Commissioner Willis expressed that first responders are relying on the new system to work; and
- Commissioner Cameron expressed the following:
 - A communication system is important when there is an emergency; and
 - Ensuring first responders and individuals can communicate is an important public safety issue.

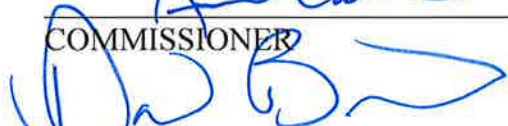
Commissioner Willis adjourned the meeting at 10:58 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

Board Sessions can be viewed on-line at

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