

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, May 3, 2017

9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97301

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

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

PUBLIC COMMENT

None.

PRESENTATION

(Video Time 00:00:55)

Economic Development – Oregon Garden Foundation 3rd Quarter Report and Volunteer Recognition of Sue Thompson. – Mark Hunter, Development Director, Oregon Garden Foundation

Summary of presentation:

- Appreciates the commissioners' support of the Oregon Garden;
- Very excited about the significant gifts that have been received in the last month;
- Met with one of the long time members of the Oregon Garden who made a large contribution to the conifer garden; and
- Recognized Sue Thompson for her many years serving on the Oregon Garden Foundation.

(Video Time 00:09:45)

Economic Development – SEDCOR 3rd Quarter Report. – Chad Freeman, Nick Harville

Summary of presentation:

- The economy is continuing to do really well;
- Low vacancy rates in the area as low as one percent on industrial land;
- Half a million square feet under construction of industrial buildings;
- Working with many individuals on the construction side;
- Movement in industrial real estate;
- Henningsen Cold Storage Facility opening up in June 2017 in the Mill Creek Complex;

- Took 14 months to build.
- Distribution jobs continue to drive the market;
- Most every community in Marion County has a manufacturing plant and all are expanding;
- Santiam and Stayton High Schools are taking on the task of teaching students in manufacturing and construction;
- Currently conducting Business Retention and Expansion (BR&E) Surveys in Silverton:
 - All volunteer basis.
- Hazelnut processing plant in Donald will be getting its foundation poured:
 - Wilco will be moving into the facility.

Board discussion:

- The BR&E Grant is running out:
 - In 2012, received a federal grant to expand the region;
 - Through the grant, SEDCOR has been able to expand manufacturers in Marion, Polk and Yamhill Counties;
 - The grant will expire July 2017; and
 - SEDCOR is looking for the next step to build and maintain capacity.
- Mill Creek was a public property that grew food for inmates:
 - Department of Administrative Services and the City of Salem have partnered to develop a 600 acre industrial park;
 - Home Depot moved in 2009;
 - Fed Ex moved in 2012 and are currently undergoing its second expansion;
 - There are 39 acres of shovel ready land left; and
 - State and city will develop the parcels in the south.

CONSENT

(Video Time 00:23:25)

BUSINESS SERVICES

Approve recommendations to uphold pay grade for classification #532, Medical Billing Specialist; adjust pay grade upward for classifications #600, Information Technology Director, #664, Computer Forensic Specialist and #666, Computer Forensics Trainee.

HEALTH

Approve Amendment #2 of the Contract for Services with Idea Learning Group to add \$8,750 for Change Order 0916-01 for Health Department Policies and Procedures eLearning modules.

Approve Amendment #15 of the Intergovernmental Agreement with Oregon Health Authority to add \$23,716 for Reproductive Health Program.

PUBLIC WORKS

Approve a dedication of right-of-way from foreclosed property #R37284 along a portion of 5th Street, Jefferson.

Receive hearings officer's decision affirming planning director's decision revoking the operating plan for Comprehensive Plan Case #09-001/Phillips Family Limited Partnership, LLC.

TAX OFFICE

Approve a property tax refund in the amount of \$120,127.17 to GE Capital Corp.

Approve a property tax refund in the amount of \$94,267.02 to Kettle Foods Inc.

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

ACTION

(Video Time 00:25.06)

PROCLAMATION

1. Consider approval of a proclamation designating the week of May 7-13, 2017 as National Corrections Professional Appreciation Week in Marion County. – Sheriff Jason Myers, Commander Kevin Schultz

Summary of presentation:

- Have a number of number of professionals that work for Marion County that supervise inmates;
- Historically, the commissioners have been supportive of the proclamation;
- For every one person that complains about service, dozens are satisfied with services provided; and
- The job of supervising inmates is a dangerous job.

Board discussion:

- The jail is always well-managed, orderly and clean;
- Great to see the teamwork and comradery; and
- Commends the leadership and the individuals who come to work every day to serve Marion County.

MOTION: Commissioner Cameron moved for approval a proclamation designating the week of May 7-13, 2017 as National Corrections Professional Appreciation Week in Marion County. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

(Video Time 00:36:38)

BUSINESS SERVICES

2. Accept final closeout report on Jail HVAC project. – Colleen Coons-Chaffins, Larry Tilford

Summary of presentation:

- Project was formed from the facility condition assessment of the county assets;
- The HVAC system at the jail was identified as one of the highest needs in the county for attention, funding and replacement;

- Contracted with Solarc Architecture and Engineering, Inc.;
- Identified five condensing units, six heat pumps, a new air conditioning unit and five exhausted fans that needed replacement;
- Were able to salvage some units that were still viable;
- Initial cost was \$769,067;
- All bids came well over the amount;
- The budget was increased to \$1,028,254;
- Design build contract was for \$1,084,310;
- Paid Hydro-Temp Mechanical, which was the contractor on the job, \$993,735;
- This was a prevailing wage project:
 - Once a project is over \$50,000, the government agency is required to pay a prevailing wage to the contractors and subcontractors on the job.
- Lessons learned:
 - The project manager for Hydro-Temp Mechanical left midway through the project to do a larger project in Portland:
 - Difficult to contact him.
 - Want to collect every single agreement made by the contractor in writing;
 - Test and retest the equipment installation throughout the process;
 - Ensure that the owner's representative, architect and engineer are aggressively acting in Marion County's best interest;
 - Perform a physical onsite verification and communicate to all stakeholders that not all problems are going to be solved; and
 - Negotiate an absolute, unequivocal and irrevocable requirement that the major contract representatives cannot leave the project early under any conditions.
- Conclusions:
 - Very successful project;
 - Old system was from 1984;
 - Was controlled by pneumatic systems that were obsolete;
 - Now controlled digitally;
 - Were able to partner with Energy Trust of Oregon to get an incentive rebate for the work;
 - Were able to recover \$68,152.50 from Energy Trust of Oregon;
 - Saving \$118,151 a year on the cost of energy; and
 - Payback period of 8.1 years.
- Appreciates the patience of the Sheriff's Office during the project.

Board discussion:

- Waterproofed the building by replacing the roof:
 - Added a protective seal on all block walls.
- With improved airflow, there are more air changes per hour; and
- There have not been any complaints of lack of air quality by staff.

MOTION: Commissioner Carlson moved for approval of the final closeout report on Jail HVAC project. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:46:46)

PUBLIC WORKS

3. Review and accept the annual road easement dedication report for 2016. – Cindy Schmitt

Summary of presentation:

- Public Works is responsible for maintaining and improving the road system;
- Need to acquire public roadway easements to do various projects;
- The board needs to accept the dedications for the county in order for them to be public road right-of-way inventory;
- In 2002, the board executed an order that delegated the authority to the director of Public Works, subject to Public Works bringing forth an annual report;
- Accepted 15 easements and right-of-way dedications on the board's behalf;
- Total value is just below \$92,000; and
- Most of the dedications were acquisitions for capital projects.

Board discussion:

- The county acquired the dedication at 1st Street and Washington Street in Stayton through a foreclosure:
 - There is a long term need to redo the intersection.

MOTION: Commissioner Cameron moved to accept the annual road easement dedication report for 2016. Seconded by Commissioner Carlson; motion carried. A voice vote was unanimous.

PUBLIC HEARINGS

10:30 A.M.

(Video Time 00:51:09)

PUBLIC WORKS

Public hearing to consider the application for Mass Gathering Case #17-001/Sonnen, Clerk's file #5722. – Brandon Reich

Summary of presentation:

Brandon Reich:

- On Exclusive Farm Use (EFU) zoned property located at 13206 Killiam Loop NE, Woodburn;
- The property is located on the south side of Killiam Loop, approximately 2,600 feet east of Union School Road;
- Surrounding properties are zoned EFU;
- The applicant is requesting to conduct a series of mass gathering events related to horse racing;
- In 2015, the Sonnen's received approval for similar agri-tourism events, up to four per year:
 - Among the conditions of approval were dust suppression;
 - A maximum of 600 people can attend any one event;
 - Security be provided;

- Solid waste must be disposed of properly; and
 - Receive approval from OLCC to serve alcohol.
- After the events took place in 2016, Code Enforcement received complaints regarding violations of the conditions of approval;
- Code Enforcement met with Mr. Sonnen to discuss compliance with conditions;
- When complaints were still received about violations, Code Enforcement and a representative from the OLCC attended the final event in 2016;
- Code Enforcement noticed a number of violations:
 - Dust suppression was not adequate enough to prevent dust from impacting neighboring properties;
 - The attendance exceeded the 600 person limit and reached up to 2,200 people;
 - Solid waste was prevalent on the ground of the event;
 - Access to the site was via a one lane roadway, which could be inadequate during an emergency; and
 - Lighting was not adequate for security purposes and for participants to move around the property.
- In December 2016, Marion County Planning Director did not approve extending Sonnen's permit to hold agri-tourism events on the property, because attendance exceeded the 600 person limit:
 - Mr. Sonnen applied for a Mass Gathering permit:
 - The events will be held on:
 - June 11, 2017;
 - July 16, 2017;
 - August 6, 2017; and
 - August 27, 2017.
 - The four events are planned to last 9.5 hours each;
 - Estimated attendance is 1,500 per day;
 - Sound amplification will be used from 12:00 p.m. – 9:30 p.m.;
 - Alcohol will be available;
 - No fireworks will be used or shown;
 - The mass gathering ordinance requires the applicant to coordinate with various governmental agencies to ensure that there are adequate facilities and services available:
 - Sheriff's Office;
 - Marion County Public Works;
 - Environmental Health;
 - Risk Management;
 - Monitor Fire District; and
 - Woodburn for ambulance service.
 - Each agency was provided with a copy of the request and given an opportunity to comment:
 - Marion County Public Works Department Traffic commented on conditions that should be applied to any permit approved;
 - Marion County Risk Management did not comment on the request;
 - The Monitor Fire District did not comment on the request and the applicant did not provide a fire prevention plan;

- Based on information in the record, it is unclear that the applicant would comply with the mass gathering code or the code could be satisfied through conditions of approval;
 - Marion County Environmental Health commented on conditions that should be applied to any permit approval; and
 - Marion County Code Enforcement staff identified at the agri-tourism event on the property a large volume of solid waste present without being disposed of properly.
 - The applicant does not have a safety plan approved by the Marion County Sheriff's Office:
 - Sheriff's Office is concerned about emergency access;
 - Lighting; and
 - Responded to numerous fights and alcohol related issues.
 - The applicant proposes a location on the property for serving alcohol:
 - In 2016, OLCC attended a similar even held by the applicant; and
 - The OLCC determined the applicant was in violation of their OLCC permit.
- The board has the option to do the following:
 - Close the public hearing, close the record and approve the mass gathering permit subject to conditions;
 - Close the public hearing, close the record and deny the mass gathering permit;
 - Continue the public hearing to a date certain, leaving the record open; or
 - Close the public hearing, leave the record open and reconvene at a future date to make a decision.
- Staff recommends the board deny the request based on lack of evidence in the file that the event operator complies with or will be able to comply with the criteria for issuing a mass gathering permit.

Jeremy Landers, Sergeant with Enforcement Division of the Sheriff's Office:

- Night shift supervisor for patrol during three events on Sonnen's property that occurred in 2016;
- Received excessive calls to respond to the property;
- Put strain on the rest of the county for law enforcement coverage;
- June 12, 2016 incident led deputies to two separate assaults on the premises resulting in arrests:
 - Third call was just outside the event with possible shots fired and possible attempted stabbing.
- June 12th events led to having overtime DUII patrol car assigned to that area;
- During the July 3, 2016 event, the Sheriff's Office received calls involving noise complaints and trespassing issues:
 - Approximately 500 cars at event;
 - While attempting to assist security with the trespassing issue, wound up having 4-5 separate fights around the deputies;
 - Had to call in Woodburn Police Department to assist.
 - Concern that because of the size of crowd, could not make arrests in order to keep peace;

- Onsite security did not have capacity to control the crowd;
- Met with OLCC officers and Mr. Sonnen to try and mitigate issues to make it a safe event;
- Brought in four deputies on overtime to work the area to make sure there were resources specifically to help with the event issues.
- During the July 24, 2016 event, two calls were placed by security:
 - Trespassing; and
 - Inciting a riot.
- During the traffic saturation operation, there were multiple alcohol related offenses;
- During the August 14, 2016 event, the Sheriff's Office responded to multiple instances at the property:
 - Disturbances and alcohol related issues; and
 - Attendance estimated at 2,200 people.
- Concerns were vehicle access onto property;
- Reached out to Woodburn Fire Chief Paul Iverson to get the department's information:
 - Access was marginal to gain entry into facility; and
 - Had issues locating on the property where the emergency was.
- Minimal information was given as far as public safety;
- There is not an approved safety plan;
- Valid health and safety concerns; and
- Does not think the event is safe to approve the mass gathering application.

Laura Pekarek, Code Enforcement Officer:

- Mass gathering events cannot meet the criteria for approval because of the issues of events previously held on the property;
- Several 911 calls for service;
- Deputies had concerns with behavior due to alcohol consumption;
- Based on the issues of the first two events, meetings were held with Mr. Sonnen, event manager and security officer before the next events were to take place on the property:
 - Mr. Sonnen agreed to alcohol and safety plans with OLCC and the Sheriff's Office.
- The third event brought additional criminal issues and civil complaints;
- Because of ongoing issues, Ms. Pekarek joined an OLCC officer at the August 14th event:
 - Observed no dust control on roadway;
 - Single entrance into and out of the event:
 - Not a safe entrance or exit of event; and
 - Compromised ability for first responders entering or exiting the event.
 - The current location does not match comprehensive plan:
 - Lower area, further down property.
 - No water trucks in area or visible fire suppression equipment;
 - The number of security was not adequate due to spectator size;
 - The final count for the day was 2,200, which was four times higher than the accepted amount;
 - One trash can located by food truck and one by beer trailer:
 - Created a large accumulation of garbage on the ground.
 - The evening lighting was only two stadium lights in the whole area:

- Lighting on the back of the event on the spectator side of the racetrack;
- West side of the dance floor behind the vendor trailers;
- No lighting on the horse or riders side of the track;
- Impossible to see people's wristbands or if individuals were intoxicated; and
- Created problems for people to get around.
- The hours of operation ran over the approved time by two hours during every event.

Board discussion:

- It was not a requirement to have fire suppression.

Testimony:

Support:

Rudy Sonnen, applicant:

- The agri-tourism event is intended to promote the farm;
- Cuts hay and runs a horse boarding business;
- The family friendly event has turned into a community event;
- The event has grown;
- A lot of interest to participate;
- Applied for a mass gathering permit and made four trips to the Woodburn Fire Department:
 - Turned in materials to Woodburn; and
 - Worked out a comprehensive program.
- Made three trips to the Sheriff's Office and Ms. Pekarek finally returned call:
 - No coordination with the Sheriff's Office or code enforcement.
- Believes the lack of communication was from what code enforcement cited:
 - Observed dust on the road:
 - Marion County does not take care of the road like in previous years;
 - Only area of the road to apply dust suppression is where the road is graded;
 - Since dust suppression has been applied, neighbors have a dust free environment during the whole summer; and
 - Dust suppression applied by Mr. Sonnen does work.
 - Traffic control problem:
 - There is a 20 foot gate at the entrance of the property;
 - Right next to the entrance gate, there are two 20 foot gates to exit the property; and
 - The roadway is a pasture.
- Fire suppression:
 - Irrigation out of Butte Creek; and
 - Fire extinguishers throughout the venue.
- Have adequate trash receptacles:
 - Trash is picked up by noon the next day.
- Mass gathering permit applied for was for 1,000-1,500 people:

- Considered applying for a larger mass gathering permit.
- Will furnish an insurance certificate;
- Have provided good security for preserving order and safety for attendees:
 - Checking vehicles and patrons for alcohol and weapons.
- Proposal to change event to have a beer garden, which will be fenced off with one entrance and one exit:
 - Better able to handle situations; and
 - Will have adequate security.
- Would have liked more cooperation from Marion County Sheriff's Office in planning the event.

Jessica Villanova, translator for Manuel Villanova:

- Worked with Mr. Sonnen the last four years helping with the events;
- Started events as a small family gathering;
- Growing by the years;
- Attendees come from Washington, California, and Idaho;
- Started off first event with 300 people attending;
- Was not prepared for the popularity of last event;
- Planning to apply for a permit that will allow for more people to attend;
- In a letter from Ms. Pekarek and the Sheriff's Office stated she only saw two trash cans:
 - Had 25 trash cans on property; and
 - Wasn't prepared for the amount in attendance so the trash cans were full.
- There is free water for all who need it;
- Ms. Pekarek asked the right questions to the wrong people:
 - Would have liked to have spoken to Ms. Pekarek to give her correct information.
- Here to fix everything that Marion County saw unfit;
- Want to keep event safe; and
- Want to work together with Marion County's terms and conditions.

Opposition:

Robert Tewell:

- Dream for Mr. Tewell was to buy property and raise cattle after he was discharged from the military;
- Has lived on Killiam Loop Road for the last 15 years;
- Raises cattle;
- Main road to the Sonnen property;
- From the very beginning, the event has not been small;
- Feels offended that the Sonnen's state that it is a family oriented event with what goes on at the property;
- One lane road up to the Sonnens property;
- Have children, runners and animals in the neighborhood;
- The noise starts way before the event day;
- As people are waiting to enter the event, they light fireworks on the road;
- Passing cars on a one lane road;

- Has to take time off work on the days the events take place because of wife feeling unsafe;
- The road following to the event is littered with trash and alcohol bottles;
- Fight broke out in front of Mr. Tewell's gate, which led to a stabbing;
- Shooting right in front of house;
- Zero security on Killiam Loop Road;
- There's a proper facility for these type of events such as the Oregon State Fairgrounds;
- Dust cloud never ends;
- There is a marijuana grow facility on the premises;
- There is also a licensed daycare facility on the property;
- The events are driving down property values; and
- Believes Marion County Sheriff's Office has better use of time rather than policing the events.

General Comments:

Rudy Sonnen:

- There were not cars backed up to Mr. Tewell's place;
- Moved the ticket gate 150 yards inside property line;
- If the road was not treated, there would be dust all year long; and
- One problem with surfacing the road is a lack of cooperation from the neighbors.

Final Comments:

Brandon Reich:

- The marijuana grow is on an adjacent property and it is a medical marijuana grow;
- This is not a land use case;
- Burden is on the applicant to provide information that they are able to meet criteria of the code;
- Two types of approvals the board can give:
 - Decide that the applicant has met the requirements; or
 - The applicant is able to meet the requirements based on conditions.
- One type of denial is that they haven't met criteria in the code and will be able to come back in the future to attempt to meet the criteria;
- Since the applicant exceeded the 750 attendees, the board could find that they held a mass gathering without a permit:
 - The code states that if you hold a mass gathering without a permit then in the future you can't hold anymore mass gatherings.

Board discussion:

- There have been enough violations of agreements in conditions that involve the Sheriff's Office to make the issues very concerning;

- Safety issues;
- Applicant blaming Public Works for the roadway;
- Facility is inadequate;
- Gave the applicant an opportunity to hold mass gatherings on the property and he did not adhere to the conditions agreed upon;
- Public safety issues are excessive;
- Long history of complaints from neighbors:
 - Trespassing;
 - Fights;
 - Intoxication; and
 - Noise.
- Lack of access for emergency vehicles; and
- The applicant is incapable of holding a sizeable event.


MOTION: Commissioner Carlson moved to close the public hearing, close the record and deny the application due to prior violation of holding a mass gathering without a permit and the applicant not be eligible for applying for future permits. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

Commissioner Brentano read the calendar.

Commissioner Brentano adjourned the meeting at 11:06 a.m.



 CHAIR



 COMMISSIONER



 COMMISSIONER

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