

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, December 31, 2014  
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 Gloria Roy as legal counsel and Kim Hulett as recorder.

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

**PUBLIC COMMENT**

None.

**CONSENT**

PUBLIC WORKS

Approve Cordon Road Supplemental Project Agreement #30084 for \$781,000 to the Master Certification Agreement #28125 between Oregon Department of Transportation (ODOT) and Marion County.

Approve a resolution transferring \$120,000 from Contingency to Special Payments within the Public Works Fund.

SHERIFF'S OFFICE

Approve an Amendment #2 to the Intergovernmental Agreement for \$90,000 for Chemeketa Community College to continue providing the Student Opportunity for Achieving Results (SOAR) program.

TAX COLLECTOR

Approve an order authorizing a property tax refund in the amount of \$47,119.15 to Strickfaden, LLC.

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

**ACTION**

HEALTH

1. Consider adoption of an ordinance amending Marion County Code Chapter 8.40 Smoking, to prohibit the use of electronic cigarettes by emergency procedure. – Diana Dickey, Bruce Armstrong, Rod Calkins

***Summary of presentation:***

- Smoking and tobacco use is one of the primary contributors to ill health and escalating healthcare costs;
- Smoking affects not only those that smoke, but is a danger to others through secondhand smoke;
- Oregon Clean Air Act prohibits smoking in public buildings and within 10 feet of doors, windows, and air intakes;
- Quitting smoking is very difficult and Marion County needs to provide assistance and supports for smoking cessation; and
- Two items before the board today regarding smoking and tobacco use on Marion County properties:
  - First is to amend Marion County Code Chapter 8.40 relating to smoking to add prohibition for e-cigarettes or electronic vaping device;
  - Second item is a comprehensive ordinance that would move Marion County properties to a tobacco free status within a year and a half.
- Amendment to the code is by emergency procedure to ensure the change will take effect immediately;
- Current code only addresses tobacco and smoking and does not include e-cigarettes;
- E-cigarettes are not lighted and do not contain tobacco; and
- Proposed language change would include e-cigarettes being turned on and emitting vapor.
- Examples shown on new and emerging tobacco products:
  - Electronic devices;
  - Tobacco products that are not traditional cigarettes; and
  - Products that usually have a scent, special color and enticing packaging.
- All products are included in the comprehensive ordinance because of nicotine and being addictive;
- Electronic cigarettes have a lot of appeal to youth;
- No federal, state or local restrictions on e-cigarettes for youth purchasing or use;
- The liquid that goes into e-cigarettes is flavored and does not smell like tobacco;
- Concern with e-cigarettes in Washington and Colorado is kids have been putting marijuana oil (THC) in the e-cigarettes and there is no odor;
- No long-term studies on the safety of e-cigarettes;
- Early studies are suggesting that secondhand vapor could be harmful; and
- Reason for recommending amendment to include electronic devices.

***Board discussion:***

- People have been seen coming into county lobbies using e-cigarettes; and
- Under contract with the Oregon Health Authority all county treatment facilities for chemical dependency are tobacco free.
- In many instances the enforcement is difficult:
  - Because it looks like a person might be smoking a cigarette and it is an e-cigarette; and
  - Until amendment is approved, cannot tell a person that e-cigarettes are not allowed on county property.

- Nicotine goes into system faster by vaping;
- Early studies are discussing the secondhand vapor and how it might be harmful;
- Marijuana possession and home grown use is allowed by law in Oregon on July 1, 2015, for adults;
- E-cigarettes are not allowed on state properties; and
- The county's policy will now be consistent with the state and some other Oregon counties.

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

Commissioner Brentano read the ordinance by title only twice.

**MOTION:** Commissioner Carlson moved adoption of an ordinance amending Marion County Code Chapter 8.40 Smoking, to prohibit the use of electronic cigarettes, by emergency procedure. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

2. Consider adoption of an ordinance prohibiting smoking, tobacco use, and electronic smoking device use on county property. – Rod Calkins, Emily de Hayr, Bruce Armstrong

***Summary of presentation:***

- Proposed ordinance includes all tobacco use on all county owned or leased properties and vehicles;
- Does not include county roads;
- Includes ingesting tobacco or tobacco like products;
- Includes use of electronic smoking devices, cigarettes, clove cigarettes, chew or snuff;
- Use of tobacco products is prohibited at any time on county property; and
- Not to be adopted by emergency procedure, but read by title only once.
- Tobacco use will continue to be allowed in designated areas on county properties until June 30, 2016; and will only include three 24/7 operations (jail, juvenile and public works):
  - June 30, 2016 tobacco use will not allowed at all; and
  - Business Services Director can designate a location where tobacco use will be allowed.
- At all other locations smoking will continue to be allowed until June 30, 2015;
- Education and assistance will be provided for employees to quit smoking;
- Proposed order will be brought before the board later with fine recommendations; and
- If employee violates code it could be handled through discipline process.

***Board discussion:***

- Implementation of ordinance to take effect in phases; and
- Second reading of ordinance will happen in two weeks and ordinance will take effect 90 days from that date.

**Powerpoint presentation:** Marion County Tobacco-Free & Smokefree Ordinance (attachment A)

**Board discussion:**

- City of Salem passed ordinance that includes public right-of-way for no smoking;
- Specifically for public agencies and would include Marion County;
- Allows public agencies with a 100 feet of frontage to include the landscape or green space area; and
- Each agency would be responsible for enforcement.

**Commissioner Brentano**

- Will not be voting for this ordinance;
- Philosophically opposed to this type of control;
- County is trying to change behavior; and
- This is harassing employees and public.

**Commissioner Cameron**

- Supporting this for consistency because of state and city laws.

**Commissioner Carlson**

- Firmly believes this is the right thing to do.

**MOTION:** Commissioner Cameron moved that the chair read the ordinance by title only once for the first reading. Seconded by Commissioner Carlson; motion carried. A voice vote was two for; one against (Commissioner Brentano voted against).

**PUBLIC WORKS**

3. Consider entering into a Declaration of Covenants and Restrictions with the Army Corps of Engineers to restrict development within a 1,800 sq. ft. parcel of property owned by Marion County. – Cindy Schmitt

**Summary of presentation:**

- Declaration of Covenants and Restrictions potentially applied to a small portion of a remnant county parcel adjacent to a county bridge (attachment B);
- Purpose is to create a conservation easement on a small portion of land to keep it in its natural state forever;
- County owned bridge over Abiqua Creek and creek is very active;
- Even small rainstorms make the creek rise quickly;
- Turbulences undermining the pier of the bridge, abutments, and bank;
- Need to go in to do a scour mitigation project to protect integrity of structure;
- Requires various environmental permits to work in area;
- Permits from Division of State Lands and Army Corps of Engineers;
- Permits come with rules to address any environmental concerns related to work done;
- Requires plantings along stream bank to address fish and clean water issues, but determined it would not be successful;

- County negotiated to create this conservation easement;
- Small county owned parcel by bridge is not buildable and underwater most of year;
- Easement proposed would cover a small portion of one bank and approximately 1,800 sq. ft.;
- Actual Declaration does not impose significant restrictions in terms of how the property has historically been used;
- Requires that the county not build on property or do anything to take it out of its natural state;
- Does allow recreational use and public use to access the river bank;
- Declaration will not have a practical impact to the way property has been managed in the past; and
- Declaration needs to have signatures from the board and would be recorded and become a perpetual requirement for this remnant piece of property.

**MOTION:** Commissioner Carlson moved approval to enter into a Declaration of Covenants and Restrictions with the Army Corps of Engineers to restrict development within a 1,800 sq. ft. parcel of property owned by Marion County. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

**PUBLIC HEARING  
9:30 A.M.**

None.

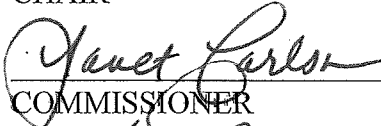
Commissioner Brentano read the weekly calendar.

Commissioner Brentano adjourned the meeting at 10:15 a.m.


Attachments: (A) Smokefree PowerPoint  
(B) Declaration of Covenants and Restrictions

  
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CHAIR

  
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COMMISSIONER

  
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COMMISSIONER

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

