

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, July 20, 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.

*(Video Time 00:01:07)*

**CONSENT**

**PUBLIC WORKS**

1. Approve Amendment #1 to the incoming funds Intergovernmental Agreement with the Oregon Department of Transportation to add \$137,287 in federal funds for a new contract total of \$4,846,855.78 for the Hazelgreen Road NE: Pudding River Bridge Replacement Project through November 3, 2030.
2. Receive notice of the hearings officer's decision denying Administrative Review (AR) Case #22-001/Dustin and Kanoe Barth.

**SHERIFF'S OFFICE**

3. Approve Amendment #3 to the incoming funds Intergovernmental Agreement with the Oregon State Marine Board to add \$149,764 for a new contract total of \$322,880 to continue to provide law enforcement services related to recreational boating through June 30, 2023.
4. Approve the incoming funds Grant Award Agreement with the United States Department of Justice (DOJ), Bureau of Justice Assistance (BJA) in the amount of \$180,453 for the Fiscal Year 2020 State Criminal Alien Assistance Program (SCAAP) through December 31, 2022.

**Board discussion:**

- Commissioner Willis requested clarification from Lindsey King regarding item number two:
  - The farm income test states that the applicant must establish that they received in excess of \$80,000 the last two years for their crop;
  - Based on the evidence provided by the applicant it was concluded that they had not met the income test for farm product;
  - The applicant provided evidence, but it was not sufficient to pass the income test:
    - No contract of sale was provided; and
    - No product was harvested.
  - The applicant received two checks for more than \$80,000 a year, for two consecutive years:
    - The applicant stated that the money was for farm products:
      - The corresponding documents do not support this.
  - The applicant can appeal the decision.

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

*(Video Time 00:05:51)*

**ACTION**

**BUSINESS SERVICES**

5. Consider approval of the Standard Professional Services Contract with Mackenzie Engineering, Inc. in the amount of \$80,500 to provide architectural and engineering services for the new Marion County Evidence Building through June 28, 2024. –Geoff Bonney

***Summary of presentation:***

- Earlier this year staff sent out Request for Qualifications for architectural and engineering services for the new Marion County evidence building:
  - Three architecture teams responded.
- Mackenzie Engineering is the most qualified of the three architecture teams, primarily due to the experience they have with similar facilities:
  - They have worked on several police facilities that have included evidence storage.
- It was determined that it would be best to break the work up into a couple of phases:
  - The contract before the Board today is for the first phase of the project.
- Following are the next steps of the project:
  - Staff will meet with Mackenzie Engineering to refine the program; and
  - Mackenzie Engineering will produce schematic designs for the new building:
    - These designs will show what the building will look like.
- When the schematic design phase is complete, another contract will be required to proceed with the rest of the work which will include the preparation of construction drawings; and
- Depending on how the work is broken into phases a third contract may be required.

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**Board discussion:**

- The contract is for design services only, not the construction of the building.

**MOTION:** Commissioner Willis moved to approve the Standard Professional Services Contract with Mackenzie Engineering, Inc. in the amount of \$80,500 to provide architectural and engineering services for the new Marion County Evidence Building through June 28, 2024. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:08:58)

**HEALTH AND HUMAN SERVICES**

6. Consider approval of Amendment #9 to the incoming funds Intergovernmental Agreement with the Oregon Health Authority to add \$4,956,627.42 for a new contract total of \$19,087,297.31 to operate and contract for the operation of public health services through June 30, 2023. –Ryan Matthews

**Summary of presentation:**

- The additional funding is for the new fiscal year that started July 1, 2022;
- The funding supports Health and Human Services' (HHS) core public health functions including the following:
  - Public health emergency preparedness;
  - Immunizations;
  - HIV prevention;
  - Women, Infants, and Children (WIC) Program;
  - Nursing home visiting; and
  - Other programs.
- The prior contract was larger, but it included a lot of one-time funding for COVID-19 related items;
- The county was awarded \$5.5 million in Fiscal Year 2021-22 for the Epidemiology and Laboratory Capacity (ELC) grant:
  - These funds can be carried forward through the end of 2024; and
  - After the county submits their final expenditure report in August the Oregon Health Authority will know how much of the \$5.5 million is left, and it will be re-awarded to the county in an amendment to this contract.
- The county may receive some immunization funding in the future; and
- The funding provided in this amendment aligns with the county's budget estimates for all services covered except the WIC Program:
  - Nationally there is less participation in the WIC program, so funding has been declining;
  - There is approximately a \$120,000 reduction in WIC funding from the prior year; and
  - HHS has other funds available to supplement the WIC program.

***Board discussion:***

- The funding for WIC food vouchers does not come out of the HHS budget:
  - Mr. Matthews will find out if inflation is factored into the voucher amounts.
- Additional funding will be coming for tobacco prevention, immunizations, ELC, and potentially alcohol and drug prevention.

**MOTION:** Commissioner Cameron moved to approve Amendment #9 to the incoming funds Intergovernmental Agreement with the Oregon Health Authority to add \$4,956,627.42 for a new contract total of \$19,087,297.31 to operate and contract for the operation of public health services through June 30, 2023. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

*(Video Time 00:17:04)*

**PUBLIC WORKS**

7. Consider approval of Amendment #2 to the Contract for Services with River City Environmental, Inc. to add \$750,000 for a new contract total of \$3,750,000 to adjust the Base Disposal Rate (BDR) for leachate wastewater disposal through June 30, 2026. –Brian May

***Summary of presentation:***

- The contract is for transport and disposal of the leachate generated at the North Marion ash monofill;
- Leachate is the moisture and precipitation that percolates through the landfill;
- Department of Environmental Quality (DEQ) regulatory requirements state that the county must have an engineered collection system for leachate, and the leachate must be transported to a DEQ approved disposal location;
- During dry months ash is transported from Covanta to North Marion and added to the landfill;
- During the winter the ash is transported to the Coffin Butte Landfill;
- In a normal year the county generates 2 to 2.5 million gallons of leachate;
- Due to equipment failure leachate has not been hauled since November 2021:
  - The equipment has been fixed.
- The two approved disposal locations used by River City Environmental have changed ownership, requiring new disposal contracts:
  - The disposal rates were raised.

**Board discussion:**

- Some leachate is sent to Covanta where it is injected into the flues to cool temperatures, allowing the site to incinerate more.

**MOTION:** Commissioner Willis moved to approve Amendment #2 to the Contract for Services with River City Environmental, Inc. to add \$750,000 for a new contract total of \$3,750,000 to adjust the Base Disposal Rate (BDR) for leachate wastewater disposal through June 30, 2026. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:22:53)

8. Consider approval of the incoming funds Intergovernmental Agreement with the Oregon Department of Transportation in the amount of \$3,000,000 for the Coronavirus State Fiscal Recovery Fund Grant Agreement intended to fund the McKay Road NE Traffic Safety Improvement Project through April 30, 2027. –Ryan Crowther and Carl Lund

**Summary of presentation:**

- The project is located in north Marion County between Highway 219 and Case Road NE:
  - There will be intermittent improvements within the area.
- The project is located within Marion County's safety corridor;
- The expected crash rate within the safety corridor is a little over 6 crashes per million vehicle miles traveled;
- The current crash rate on this portion of McKay Road is a little over 12 crashes per million vehicle miles traveled;
- The safety corridor is a four-year program that allows the enforcement in the area to be increased;
- The project scope includes the following:
  - Increasing the center median width; and
  - Adding a median barrier.
- Additional lanes are not being added;
- No local match by the county is required;
- There is no cost to the county unless the project exceeds \$3 million;
- Following is the preliminary schedule:
  - Design- 2022 to 2024; and
  - Construction- 2025.
- The county is required to have a contractor under contract by December 31, 2024; and
- The project must be built by December 31, 2026.

**Board discussion:**

- A turn lane is not being added;
- There will be rumble strips on both sides of the center and on the edges of the road;
- Marion County is the first county to put in a safety corridor; and

- The project must be built by December 31, 2026, and the contract goes through April 30, 2027:
  - The extra time can be used to finish billings and final project items.

**MOTION:** Commissioner Cameron moved to approve the incoming funds Intergovernmental Agreement with the Oregon Department of Transportation in the amount of \$3,000,000 for the Coronavirus State Fiscal Recovery Fund Grant Agreement intended to fund the McKay Road NE Traffic Safety Improvement Project through April 30, 2027. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

*(Video Time 00:31:02)*

9. Consider a remand of the application for Comprehensive Plan Amendment/ Zone Change/Partition (CP/ZC/P) Case #19-005/Lois M. Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust. –Lindsey King

**Summary of presentation:**

- The application was remanded back to the county by the Land Use Board of Appeals (LUBA);
- In 2019, Lois Pfennig, Trustee of the Henry and Lois Pfennig Trust, submitted an application for a zone change and a comprehensive plan amendment as follows:
  - Requested the zone be changed from Special Agriculture to Acreage Residential-two acre minimum (AR-2); and
  - Asked for statewide goal exceptions for Goal 3 and Goal 14.
- The hearings officer conducted a public hearing in July 2019, and issued a recommendation that the Board deny the request;
- The Board held a public hearing in February 2021, and granted approval of the application;
- The Board approval was appealed to LUBA, and LUBA issued a remand in November 2021;
- On July 6, 2022, the applicant submitted a reconsideration request of the LUBA remand with a modified proposal as follows:
  - The applicant modified their proposal to change the requested zone from AR-2 to AR-10:
    - This change increases the minimum lot size allowed from 2-acres to 10-acres.
- The modified proposal removes the Goal 14 requirement;
- The new proposal will be based on a Goal 3 exception;
- The Board has the following options:
  - Hold a public hearing on the matter; or
  - Remand the case back to the Hearings Officer for a recommendation.
- Staff recommends that the Board remand the matter back to the Hearings Officer for a recommendation based on the new proposal and the removal of the Goal 14 exception.

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***Board discussion:***

- In addition to the change from AR-2 to AR-10 and the removal of the Goal 14 exception, the applicants have submitted the following documentation:
  - The farmability of the land; and
  - Surrounding uses.
- LUBA named three specific items that the applicant needs to address in order to bring the case back; and
- The Commissioners agree to take staff's recommendation and send the case back to the Hearings Officer.

MOTION: Commissioner Willis moved to send the application for Comprehensive Plan Amendment/Zone Change/Partition (CP/ZC/P) Case #19-005/Lois M. Pfennig, Trustee of the Henry O. and Lois M. Pfennig Trust, to the Hearings Officer for a recommendation. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

*(Video Time 00:35:36)*

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

**PUBLIC WORKS**

A. Public hearing to consider proposed amendments to the Marion County Comprehensive Plan to concur with the City of Turner Urban Growth Boundary (UGB). –Brandon Reich

***Summary of presentation:***

- The City of Turner is proposing an amendment to its Urban Growth Boundary (UGB);
- The City of Turner has held hearings and adopted an ordinance to add 53.1 acres of land:
  - 50.8 acres for residential use; and
  - 2.8 for public use.
- Establishing or revising a UGB is a cooperative process between the city and the county;
- The city has requested that the county concur in the UGB amendment;
- On June 1, 2022, the Board approved a resolution initiating amendment to the comprehensive plan to consider concurring in an amendment to the City of Turner UGB and schedule a public hearing for today;
- In 2021 the City of Turner prepared a housing needs analysis to identify the types of housing needed through 2041, and they did an available lands inventory to identify lands that were available to accommodate the needed housing;
- The city based its plan on a 20-year population projection provided by Portland State;
- The city identified a variety of housing types needed, and a variety of means to provide more residential development within the city;
- The city is proposing to add land for single-family and multi-family residential use, and for a public zone surrounding the Franzen Reservoir;

- During the city’s public hearing process on the current amendments to its plan county planning staff participated in meetings with the city:
  - The city addressed all issues raised by county staff.
- Upon approval of the UGB amendment the land would remain outside the incorporated city until it is annexed and provided with services;
- In order to apply an appropriate urban zoning until the land is annexed staff recommends the following:
  - The urban transition 20-acre density zone be applied to the residential land; and
  - The public land would be zoned public.
- Staff recommends that the Board concur in the City of Turner comprehensive plan UGB amendment, and direct staff to prepare an ordinance.

***Testimony:***

***Support:***

Beth Goodman:

- Ms. Goodman works for ECONorthwest and is a consultant for the City of Turner;
- The project was started in January 2020 to look at Turner’s housing needs, their buildable lands inventory, and to develop a forecast for new housing needs;
- The city has approximately 49 acres of unconstrained, buildable, residential land within its UGB:
  - This equates to approximately 189 dwelling units of capacity.
- With the forecast for approximately 500 new housing units needed a UGB expansion of approximately 73 acres is needed:
  - The city elected to consider land use efficiency measures that reduced the need to approximately 50 acres, plus a small amount of land to buffer around Franzen Reservoir.
- There were four meetings with the city council to develop the analysis and land use efficiency measures;
- The most important land use efficiency measure agreed to is to allow smaller lots for development consistent with the types of development occurring over the last few years; and
- The city council held three hearings, with two of those having substantive discussion with a lot of input received from the community:
  - There were concerns about the land use efficiency measures:
    - These concerns were resolved.
  - There were concerns from a landowner who was not being brought into the UGB that their water system would be harmed by new urban growth:
    - The UGB proposal was reconfigured to address this concern.
  - After the code change concerns were addressed and the UGB proposal was reconfigured, there were no disagreements from the community at the last two hearings.



**Board discussion:**

- The property owner’s water system concern was that their well might be negatively impacted with lower quality water, and their well might dry up:
  - The property owner was satisfied with the reconfiguration of the UGB expansion proposal area that now includes her land:
    - The property owner will be able to connect to the domestic water supply by being part of the UGB.

**MOTION:** Commissioner Cameron moved to close the public hearing and concur with the City of Turner’s UGB amendment and directing staff to return with an ordinance consistent with the Board’s decision. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

*(Video Time 00:43:34)*

Commissioner Bethell adjourned the meeting at 9:43 a.m.

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CHAIR

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COMMISSIONER

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