

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, August 31, 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 9:02 a.m.

(Video Time 00:00:53)

The Commissioners called Shahrom Taghizadegan up to thank him for his six years of service to the county as a video producer for Capital Community Media recording the weekly Board Session meetings.

PUBLIC COMMENT

None.

(Video Time 00:04:02)

CONSENT

FINANCE

1. Approve Amendment #1 to the Cable Television Franchise Agreement with Comcast of Oregon to increase the franchise area to include the unincorporated areas of Marion County through June 30, 2028, and revise the Side Letter Agreement to extend the county's free use of Comcast dark fiber for three additional months through September 30, 2022.

SHERIFF'S OFFICE

2. Approve Amendment #6 to the incoming funds Intergovernmental Agreement with the United States Department of the Interior, Bureau of Land Management (BLM) to add \$101,952 for a new contract total of \$268,740.72 to continue to provide patrol services on BLM land through September 30, 2023.

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

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(Video Time 00:05:37)

ACTION

HEALTH AND HUMAN SERVICES

3. Consider approval of the incoming funds Intergovernmental Agreement with the Oregon Health Authority in the amount of \$901,705 for aid and assistance to enhance programs and services that support individuals retroactive to July 1, 2022, through June 30, 2023.

–Ryan Matthews

Summary of presentation:

- The funding supports individuals who are unable to participate in their own defense due to mental health challenges;
- One of the following occurs if it is determined by the courts that an individual needs to receive services before they can participate at trial:
 - The individual is referred to the Oregon State Hospital to receive treatment; or
 - They are assigned under community restoration and to the community mental health program, to ensure that they receive the services and supports that they need.
- The funding supports a treatment team that is comprised of the following:
 - One qualified mental health professional;
 - Two qualified mental health associates; and
 - Two peers.
- The funding also pays for a probation officer from the Sheriff's Office:
 - The funding provides for additional monitoring capability, including GPS devices; and
 - The probation officer attends court to report on individuals that are not actively participating in their treatment.

Board discussion:

- This topic was discussed at a prior Management Update meeting.

MOTION: Commissioner Cameron moved to approve the incoming funds Intergovernmental Agreement with the Oregon Health Authority in the amount of \$901,705 for aid and assistance to enhance programs and services that support individuals retroactive to July 1, 2022, through June 30, 2023. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

(Video Time 00:09:00)

HEALTH AND HUMAN SERVICES

4. Consider approval of the incoming funds Intergovernmental Agreement with the Oregon Health Authority in the amount of \$6,419,022 to operate and contract services for the operation of addiction treatment services through December 31, 2023. –Ryan Matthews

Summary of presentation:

- The funds come from Measure 110 that was passed in November 2020:
 - Measure 110 decriminalized low-level drug offenses and added resources for increased access to substance use treatment.
- Marion County as a region received \$20 million dollars that was split between the county’s Health and Human Services (HHS) Department and six providers:
 - All entities meet as a group to ensure that there is coordination of care and communication across the system.
- HHS is looking to expand addiction treatment services to a 24/7 model:
 - There will be a 24/7 community response team that will focus on response that does not require law enforcement intervention:
 - The team would include a qualified mental health professional and a certified recovery mentor.
- There will be addiction treatment providers located at the psychiatric crisis center;
- Approximately 90 percent of individuals who come to the psychiatric crisis center have substance use concerns;
- The funds will also be used to enhance the supported employment program so that it can provide services to individuals enrolled in addiction treatment services; and
- Some of the funds are set aside for community-based grants to increase access to various populations across the county:
 - HHS has a request for applications (RFA) out seeking proposals from community partners.

Board discussion:

- HHS and the Commissioners have previously discussed this topic;
- There are concerns with statewide policy regarding addiction; and
- Measure 110 needs to be reworked due to problems with its implementation, and the negative effect it is having on Oregon communities.

MOTION: Commissioner Willis moved to approve the incoming funds Intergovernmental Agreement with the Oregon Health Authority in the amount of \$6,419,022 to operate and contract services for the operation of addiction treatment services through December 31, 2023. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:16:08)

PUBLIC WORKS

5. Consider approval of the incoming funds Intergovernmental Agreement with the City of Salem in the amount of \$600,000 for the development of Culver Drive SE due to traffic impacts associated with the extension of Gaia Street. –Max Hepburn

Summary of presentation:

- In 2009 the Salem Business Campus subdivision, formerly known as the Salem Renewable Energy and Technology Park, was approved:
 - It is being developed by the City of Salem's Urban Development Department.
- The City of Salem has proposed extending Gaia Street so that it would connect into Culver Drive:
 - Culver Drive is a county road located within the urban growth boundary (UGB);
 - Approval from the county is required for the proposed new intersection at Gaia Street and Culver Drive; and
 - Culver Drive is a rural roadway, and its current structural capacity does not allow for a new intersection.
- In lieu of requiring urban improvements along Culver Drive, the county thinks that it would benefit the public more to have the city improve Culver Drive from Macleay Road across their frontage;
- The county has agreed to take a fee from the city, in lieu of the city doing the project; and
- The intergovernmental agreement establishes the following:
 - The city will contribute \$600,000 by January 1, 2023, with the funds going towards the county's project to improve the structural capacity of Culver Drive;
 - The county agrees that the project will be completed no later than September 30, 2023; and
 - The Gaia Street intersection will be constructed in advance of it being opened to the public:
 - The county will allow a gated, emergency vehicle access only; and
 - When the structural improvements are completed by the county the gate will be removed, and the intersection will be opened for regular traffic use.

Board discussion:

- This topic was previously discussed with the Commissioners;
- Culver Drive is a rural road and Salem is providing the resources to fix the road, but when the project is complete, it will still be a rural road:
 - With the Amazon facility located there, if the new intersection is allowed, there will be a large number of Amazon trucks and other commercial traffic going through onto Culver Drive:
 - To allow the new intersection the road needs to be urbanized, and that is not the plan for this project.
- The property is within city limits, but the frontage of Culver Drive is in the UGB:

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- East and west of the frontage of the development is considered rural and is outside of the UGB.

MOTION: Commissioner Cameron moved to approve the incoming funds Intergovernmental Agreement with the City of Salem in the amount of \$600,000 for the development of Culver Drive SE due to traffic impacts associated with the extension of Gaia Street. Seconded by Commissioner Bethell; motion carried 2-1 with Commissioner Willis voting nay.

(Video Time 00:22:38)

6. Consider adopting an administrative ordinance amending the Marion County Code to permit an event business as a home occupation in the Exclusive Farm Use, Special Agriculture, and Farm/Timber (EFU/SA/FT) zones. –Lindsey King

Summary of presentation:

- On April 15, 2022, staff met with the Board and interested citizens to discuss the code that permits home occupations on farmland;
- The Board directed staff to work with stakeholders to develop a code that would permit an event business as a home occupation in the farm zones:
 - Staff has met with stakeholders and developed a draft code.
- On June 29, 2022, the Board initiated consideration of the amendment to the zoning code;
- The code provides the ability for property owners who live on a farm, and are farming their land, to hold events on their property as a part of the home occupation permitting process;
- The code contains standards to minimize potential conflicts with surrounding residential uses and nearby farms;
- The code includes health and safety measures for the operation of the business, and is designed to ensure that the business operates as a home occupation;
- On August 3, 2022, the Board held a hearing to consider the amendments:
 - The Board approved the amendments and directed staff to return with an ordinance reflecting its decision.
- On August 24, 2022, the Board scheduled consideration of adoption of the ordinance for today; and
- Staff recommends the ordinance be adopted as provided.

Board discussion:

- There was an extensive hearing on the amendments;
- The county's management of the changes will be important:
 - There were legitimate concerns raised during the hearing; and
 - The changes do not allow for mass gatherings;

- Staff needs to consider this when reviewing the conditional use permits, and they need to make sure that events do not conflict with surrounding farm use.
- The county has an agricultural heritage, and the Board protects the county’s land and agricultural production:
 - The events will allow individuals to experience the rich agricultural heritage of the county.
- There are five pages of rules that must be complied with in order to be able to hold an event;
- Events can have a maximum capacity of 750 people; and
- Individuals who want to hold an event must obtain a Conditional Use permit from the county:
 - Conditional Use permits can be revoked if the terms of the conditional use are violated.

MOTION: Commissioner Willis moved to approve an administrative ordinance amending the Marion County Code to permit an event business as a home occupation in the Exclusive Farm Use, Special Agriculture, and Farm/Timber (EFU/SA/FT) zones. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:30:22)

***Recess as Board of Commissioners.
Convene as Contract Review Board.***

CONTRACT REVIEW BOARD ACTION

INFORMATION TECHNOLOGY

1. Consider approval of an order granting an exemption to reinstate an expired Contract for Services with Siemens Industry, Inc for the Marion County Jail Facility Video Surveillance System. –Toby Giddings

Summary of presentation:

- In September of 2020 the county entered into a contract with Siemens Industry, Inc. for the design and implementation of a surveillance system for the Marion County Jail:
 - The contract expired in December of 2021.
- In February of 2022 the Finance Department was notified that more work was needed:
 - In March of 2022 the contract was reinstated, with an expiration date of July 31, 2022.
- On July 27, 2022, the Finance Department was notified that more work was needed, as implementation of the system was being problematic:

- The Finance Department attempted to draft an amendment, but the amendment did not get approved before the expiration of the contract.
- Marion County rule does not allow a contract to be reinstated more than one time:
 - Staff is requesting an exemption to the rule so the contract may be reinstated a second time, and the project can be successfully finished and implemented.

Board discussion:

- The project is important for the safety of county jail employees and the public.

MOTION: Commissioner Cameron moved to approve an order granting an exemption to reinstate an expired Contract for Services with Siemens Industry, Inc for the Marion County Jail Facility Video Surveillance System. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

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

(Video Time 00:32:48)

ACTION

INFORMATION TECHNOLOGY

7. Consider approval of Amendment #3 to the Contract for Services with Siemens Industry, Inc to add \$250,137 for a new contract total of \$710,010 for the provision and installation of additional cameras and replacement cameras for the Marion County Jail video surveillance system. –Gary Christofferson

Summary of presentation:

- Staff is requesting approval of funding for the following two change requests:
 - The first change request has been completed, but the contract needed to be reinstated so that payment can be made:
 - A subset of the existing cameras was replaced.
 - The second change request will finish the project and will result in all of the cameras being on a single system:
 - The old equipment needs to be replaced with new equipment:
 - All of the older cameras were rolled into the new system, and failures started to happen as the project was nearing completion.

Board discussion:

None.

MOTION: Commissioner Willis moved to approve Amendment #3 to the Contract for Services with Siemens Industry, Inc to add \$250,137 for a new contract total of \$710,010 for the provision and installation of additional cameras and replacement cameras for the Marion County Jail video surveillance system. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:35:15)

PUBLIC HEARINGS

9:30 A.M.

PUBLIC WORKS

A. Public hearing to consider Zone Change/Comprehensive Plan Amendment (ZC/CP) Case #22-001/Trung Diep (Chom) and Alyssa Tieu. –Lindsey King

Summary of presentation:

Lindsey King:

- The application is for a change to the comprehensive plan designation from multi-family residential to single family residential, and to change the zone from urban development (UD) to single family residential (RS), on a .76-acre parcel located at 4694 Center Street NE:
 - The property is located on the south side of Center Street approximately .7 miles from Lancaster Drive;
 - Properties to the west are zoned UD and are developed with single family homes;
 - Properties to the north are zoned RS and are developed with single family homes, and they are within Salem city limits; and
 - Properties to the east and south are zoned residential multi-family (RM2) and are currently being developed with multi-family, and they are within Salem city limits.
- The Planning Division requested comments from various governmental agencies, and those comments are located within the file:
 - Comments from the City of Salem are included.
- On May 31, 2022, the Hearings Officer conducted a public hearing;
- On June 28, 2022, the Hearings Officer issued a recommendation that the Board deny the request:
 - The Hearings Officer found that the applicant did not satisfy all of the relevant approval criteria for a comprehensive plan amendment and a zone change stating the following:
 - The change to single family in an area already developed with multi-family uses could affect future development of parcels to more intensive uses.
- The applicant is seeking a comprehensive plan amendment and a zone change:

- The zone change is dependent upon receiving the comprehensive plan amendment.
- Beginning on page 4 of the recommendation, the Hearings Officer discusses the applicable comprehensive plan policies and zone change criteria:
 - The Hearings Officer concluded that the policies and criteria were not met and recommends denial of the request.
- The Board has the following options:
 - Continue the public hearing;
 - Close the hearing and leave the record open;
 - Close the hearing and approve, modify, or deny the request; or
 - Remand the matter back to the Hearings Officer.

Board discussion:

- In the analysis the applicable goals and policies of the Salem Area Comprehensive Plan are addressed including the following:
 - Policy E.1, the location and density of residential usage, shall be determined after consideration of the following factors:
 - Consideration means that the governing body has to consider the factors, and make findings on those factors, but it is not determinative of the outcome.

Testimony:

Support:

Britany Randall:

- Ms. Randall represents the applicants;
- The applicants are requesting a down zoning from multi-family to single family; and
- Sometimes multi-family zoning is not appropriate.

Board discussion:

- In order for the property to be developed, including a partition, the property would have to be annexed into the City of Salem because it abuts city limits;
- The zone needs to be changed because the comprehensive plan is the governing document;
- Land zoned urban transition is normally rezoned when it is developed:
 - Urban transition land is often rezoned to single family or multi-family.
- Currently the property is not zoned multi-family:
 - If the current UD zoning remains, once the property is annexed into the city it would be zoned multi-family which would disallow a partition.
- Before a zone change is done the Board must consider the request for the change to the comprehensive plan designation from multi-family residential to single family residential.

Testimony:

Support:

Brittany Randall:

- The applicants are requesting to change the comprehensive plan map and zoning designations to the following:
 - The comprehensive plan would change from multi-family residential to single family; and
 - The zoning would change from UD to RS.
- The applicants wish to maintain their single-family residence, while exploring opportunities for future development of single-family housing types like those addressed in House Bill 2001;
- The subject site is approximately 0.79-acres;
- The application falls under the jurisdiction of Marion County;
- Ms. Randall strongly disagrees with the Hearings Officer statement that the applicants had not adequately responded to the approval criteria;
- The Hearings Officer is bound by old information concerning density and housing requirements;
- For the property to be further developed it would have to be annexed into the City of Salem:
 - Due to House Bill 2001, when the property is annexed into the city middle housing types will be allowed on the property.
- The removal of the 0.79 acres of land from the inventory of multi-family is not detrimental to the community:
 - If the property were developed with its current designation, the allowable density would be 1 dwelling unit per 1,500 square feet, or approximately 23 dwelling units:
 - There is a large single-family home on the property occupying approximately 12,000 square feet, which drops the maximum density to 15 dwelling units.
- The property cannot be developed in Marion County as noted by comments received from the City of Salem Public Works;
- If the property is annexed into the city with its current comprehensive plan designation, it would become Multiple-family Residential 1 (RM1) or residential family residential 2 (RM2):
 - With the removal of the area of the single family dwelling the remaining property is approximately .51 acres;
 - RM1 density would be 4 to 8 dwelling units; and
 - RM2 density would be 7 to 15 dwelling units.
- With a cottage cluster in the RS zone there is no maximum density, and there is a minimum density of 4 cottages;
- Staff asserts in their report that House Bill 2001 does not impact the property:

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- Ms. Randall states that House Bill 2001 needs to be considered, as it will apply to any future development upon annexation of the subject property into the city.
- With the current designation the applicants cannot partition their land and keep their existing home separate from future development;
- In order for the development of additional dwelling units on the remainder of the property in the future, the requested designation change is imperative; and
- Ms. Randall and the applicants believe the application does satisfy the applicable policies and goals, given newly adopted codes that allow a wider variety of housing types within a single-family zone.

Board discussion:

- Within the City of Salem if a property is zoned single family, higher density can be added based on House Bill 2001:
 - This is not true of property within Marion County.
- If the Board allows the change to a single-family residential zone, the property will still need to be annexed into the city, and at that point it could be developed into multi-family based on House Bill 2001;
- If the property is not rezoned single family, then it cannot be partitioned and developed with more units:
 - It would not be financially feasible.
- To put more density on this lot, the practical way to do it is to rezone it.

Testimony:

Support:

Craig Wigginton:

- Mr. Wigginton is a friend of Trung Diep's, who is also known as Chom;
- He is speaking on Chom's behalf, who is unable to attend today;
- Chom's intent when he purchased the property was to build the home that is there today, and then at a future date partition the property for homes for his daughters and a couple of rental houses for retirement income;
- Chom is a builder;
- If the application is not approved, it will cause great economic harm to Chom;
- First time home buyers can purchase a single-family residence with a low, or no, down payment loan:
 - These loans are not available for the purchase of a duplex, triplex, or fourplex.
- If Chom was required to build 12 units next to his existing large house, it would devalue his house:
 - He would not do this, and the land would sit vacant.

Board discussion:

- The comprehensive plan is not always reflective of reality:
 - The comprehensive plan says that this property is multi-family, even though surrounding properties mainly have single family homes on them.
- A large apartment complex is being built to the east and south of the property, within Salem city limits:
 - The apartment complex is being developed directly next to the subject property.
- A couple of parcels that are to the west of the subject property are being developed with higher density:
 - The parcels are not directly adjacent to the subject property.
- Marion County's Board is the governing body for zoning of these parcels;
- One of the criteria that is considered is if the development fits with the existing neighborhood:
 - The type of housing needs to be consistent with the type of housing that surrounds it:
 - The Hearings Officer was wrong when she found that this was not the case; and
 - The majority of properties surrounding the subject property have single family homes on them.
- Ms. Vetto clarified that the Hearings Officer found that the proposed designation could disrupt the pattern of development given its current designation:
 - The Hearings Officer did not use the correct analysis for the criteria when she stated that the site is bordered by both single-family housing types and multi-family designations, and that the proposed designation could disrupt the pattern of development that focuses on multi-family.
- The Hearings Officer may be looking towards the City of Salem's jurisdiction, and their intent, to make her findings;
- The point of Salem's housing needs analysis was to develop more housing:
 - Salem is focusing on multi-family, densification.
- The Commissioners appreciate being provided information today regarding the property owners' intention for the property;
- Another criterion considered is the type and distribution of housing units required to meet the expected population growth in the Salem Urban Growth Boundary:
 - The Hearings Officer was wrong when she found that this criterion was not met; and
 - Based on what has been heard today, the new designation will allow for more housing on the subject property.
- Once the property is annexed into the city it can be developed multi-unit, even though it is single family zoned, based on House Bill 2001;
- If the request is approved the property owner will be allowed to diversify the property in the way that they want to:
 - More housing will be provided in a way that the landowners want; and

- There will not be multi-family in the property owners' backyard.
- The Hearings Officer's analysis was wrong when she stated that the comprehensive plan amendment would lead to less housing, and that it would change the property so that it was inconsistent with the surrounding neighborhood; and
- Ms. Vetto commented that most of the criteria is centered around Goal 10, housing:
 - She commented that the Commissioners have had a great discussion around the criteria, and they have explained what their basis is for their upcoming decision.

MOTION: Commissioner Cameron moved to close the public hearing and approve Zone Change/Comprehensive Plan Amendment (ZC/CP) Case #22-001/Trung Diep (Chom) and Alyssa Tieu. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

Commissioner Bethell adjourned the meeting at 10:08 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

Board Sessions can be viewed on-line at

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