

**Minutes of the Board of Commissioners
Multnomah Building, Board Room 100
501 SE Hawthorne Blvd., Portland, Oregon
Thursday, June 14, 2012**

REGULAR MEETING

Chair Jeff Cogen called the meeting to order at 9:33 a.m. with Vice-Chair Loretta Smith and Commissioners Deborah Kafoury, and Judy Shiprack present and Commissioner Diane McKeel excused.

Also attending were Jenny Morf, County Attorney and Lynda Grow, Board Clerk.

CONSENT AGENDA

- C.1 BUDGET MODIFICATION CW-03 Finance Study Phase 2 – Classification Only Study for Non-Represented Positions in Seven (7) Classifications.
- C.2 Government Revenue Agreement 1213033 with the U. S. Department of Agriculture, Forest Service, for Summer Patrols of Forest Service Lands.

Upon motion made by Vice-Chair Smith and seconded by Commissioner Shiprack the consent calendar was unanimously approved.

PUBLIC COMMENT

Opportunity for Public Comment was announced, however, no one chose to provide testimony.

REGULAR AGENDA

- R.1 **RESOLUTION Approving the Conveyance through a Disposition and Development Agreement of the Morrison Bridgehead Properties, Portland, Oregon, to Melvin Mark Development Company. Presenters: Warren Fish, Chair's Office; Ken Elliott, County Attorney's Office; Mike Sublett, FPM; and Dan Petrovich, Melvin Mark Development Co. & Ron Paul, James Beard Public Market Foundation.**

Commissioner Shiprack moved and Commissioner Kafoury seconded approval of R-1.

Chair Cogen made opening remarks and welcomed everyone for attending.

Mr. Sublett gave the history of the 3.12 acres and explained how the Morrison Bridgehead was used for staging, construction and operation of the Morrison Bridge, its approaches and ramps. An intergovernmental agreement (IGA) approved in 2007 in conjunction with Portland Development Commission (PDC) allows for the sale and

redevelopment of the bridgeheads. A Request for Proposal (RFP) was drafted and reviewed by all impacted departments and presented to the Board. An Evaluation Committee was created and evaluated the two submissions. Melvin Mark and James Beard Public Market's proposal scored higher. Two Resolutions adopted by the Board on May 26, 2011, authorized negotiations and directed the proceeds to help fund a new or remodeled downtown courthouse. Negotiations resulted in an agreement that provides for the sale price of the property of \$10,430,000, which equals the appraised value completed March 1, 2011. The escrow is due ten days from the effective date of the agreement and provides up to 37 months to close in order to facilitate fund raising for the James Beard Public Market. It also provides for semi-annual Board Briefings on the market development's progress and includes an escrow holdback of \$350,000 for environmental conditions of the property. He added that the sale of this property will generate significant annual property and business tax revenues, but these revenues are offset by the loss of revenues from the parking lots. He added that maintenance of the Morrison bridge remains the responsibility of Multnomah County.

Mr. Mark reviewed the public market site plan. Mr. Petrovich discussed the physical, economic and social connections of the market district and how it will extend the retail core. The Board reviewed the concept diagram. Mr. Paul spoke about the significance of this public market and the important role the market will play in this revitalized core area. The presenters discussed the economic benefits, estimated gross economic impacts, job creation, and accessibility.

Mr. Sublett closed by reviewing the action items before the Board today. He responded to questions and comments from the Board. Chair Cogen thanked everyone for attending and commended the team for this exciting development for the community.

Resolution No. 2012-075 was unanimously adopted.

R.2 PROCLAMATION Proclaiming the Month of June 2012 as LGBTQ Pride Month in Multnomah County, Oregon. Presenters: Elizabeth Carroll, Co-Chair, Prism & Jeff Urbach, SMYRK.

Commissioner Kafoury moved and Commissioner Shiprack seconded, approval of R-2.

Vice-Chair Smith made opening remarks and introductions. Ms. Carroll talked about the PRISM employee resource group and how it offers a full spectrum of resources to employees. Mr. Urbach discussed the purpose and programs available at SMYRK and the work they are doing in the community. They responded to questions and comments from the Board.

The Chair and Commissioners thanked the Presenters and acknowledged the work of their department.

Vice-Chair Smith read the Proclamation into the record.

Proclamation No. 2012-073 was unanimously adopted.

R.3 PROCLAMATION to Recognize the Retirement of Central Stores after More than Forty (40) Years of Service. Presenters: Sherry Swackhamer, Garret Vanderzanden, and Joanne Fuller.

Commissioner Kafoury moved and Commissioner Shiprack seconded approval of R-3.

Chair Cogen made introductions and opening remarks. He thanked everyone that staffed Central Stores for their hard work over the past 40 years. Ms. Fuller said we pride ourselves in finding ways to refine best practices and provide services to the community that we serve. Sometimes it requires painful and innovative changes to ensure the financial resources entrusted to us are used in the most effective and innovative practices.

Mr. Vanderzanden stated that some employees in the department retired, while others are being assisted to find positions in other areas of the County.

The Board thanked the employees for their dedicated work in Central Stores.

Ms. Fuller read the Proclamation into the record.

Proclamation No. 2012-074 was unanimously adopted.

R.4 RESOLUTION to Approve Vacation of a Portion of a Public Road as Shown on the Hillhurst Plat Pursuant to ORS 368.326 to 368.366. Presenters: Patrick Hinds, LUT ROW Manager & Matthew Ryan, Asst. County Attorney.

Commissioner Shiprack moved and Commissioner Kafoury seconded approval of R-4.

Mr. Ryan announced that this is the third and final reading of this item and provided the background on this action. Mr. Hinds stated that a 30-foot wide right-of-way encompassing a subdivision and referred to as the Hillhurst Road was established by dedication on the recorded plat for Hillhurst Subdivision in 1892. In 2009, Mr. and Mrs. Fred and Corrine Bacher, the abutting landowners, filed a declaratory judgment action challenging the existence of Hillhurst Road. It was tried in August 2010, and in August 2011, the trial court issued its decision, finding the road was created by the recording of the Hillhurst Plan, but events subsequent to the road's establishment resulted in a vacation of the entire Hillhurst Road.

The County believed the trial court made an error in this decision and filed a notice to the State Court of Appeals October 2011. The Appellate Court implemented a Settlement Program requiring the parties to make a good faith effort to settle. The County and respondents have proposed a mutually acceptable settlement. The Board declared its intent to vacate this property on March 8, 2012 by Resolution 2012-028. On April 26, 2012, the Board accepted the County Engineer's report by Resolution

2012-046. It was determined to be in the best interest of the public to proceed with this vacation, since the action is consistent with County land use, transportation goals, and needs in the vicinity, and it accomplishes an equitable resolution of the court appeal. Additionally, the area surrounding this portion has recently been designated as Rural Reserve under the County's pending Comprehensive Plan Revision. It protects rural and forest practices in this area and restricts development. Additionally, the slope of the land prohibits any type of road development. Therefore, there should be no need for new road construction in the future.

Written testimony was received and is part of the file. Public testimony was given in this matter both for and against this action, including testimony from the Bachers. They declared their intent to protect this rural reserve and continue their practice of forestry. This action would enable them to add another 2,000 trees to the 22,000 they have planted over the past ten years to their adjoining property.

Mr. Ryan answered questions raised by the Board. He clarified that if this action is approved this morning, both parties will file to dismiss. This action can be challenged for a period of time. Subsequently, counsel negotiates terms for a final settlement and files for dismissal of the Appellate case.

The Commissioners gave comments on this issue.

Following ensuing discussion and deliberation, Resolution No. 2012-076 was unanimously adopted.

R.5 *Quasi-Judicial Hearing.* Public Hearing Regarding an ORDER to Demolish a Historic Garage on the Springdale School Site. Presenter: Don Kienholz, Planner, LUT.

Commissioner Shiprack moved and Commissioner Kafoury seconded approval of R-5.

Chair Cogen announced this is the time set for a Quasi-Judicial Public Hearing concerning the demolition of a historic garage on the Springdale School site at 32405 East Historic Columbia River Highway near Corbett, Oregon.

He outlined the process for the de Novo Hearing and reviewed the steps involved. He indicated that the staff report outlines the approval criteria for this matter and is available online or at the back of the room. He stated that all testimony, arguments and evidence must be directed toward the identified approval criteria or other criteria the person believes is applies to this decision. He advised that this decision can be appealed to the Oregon Land Use Board of Appeals. However, failure to raise an issue at today's hearing accompanied by statements or evidence sufficient to afford the County and parties an opportunity to respond to the issue, precludes an appeal based on that issue. He invited those who wanted to participate in this hearing to fill out a speaker form and give it to the Board Clerk. He added that demonstrations are not allowed during the Hearing.

Chair Cogen set forth to establish the impartiality of the decision makers and the fairness of this proceeding. He asked if any Commissioner had ex-parte contacts, bias, pre-judgment or conflicts of interest that should be disclosed at this time.

Chair Cogen declared that he had no ex-parte contacts, bias, pre-judgment or conflicts of interest that should be disclosed at this time.

Vice-Chair Smith declared she had no ex-parte contacts, bias, pre-judgment or conflicts of interest that should be disclosed at this time.

Commissioner Kafoury declared she had no ex-parte contacts, bias, pre-judgment or conflicts of interest that should be disclosed at this time.

Commissioner Shiprack declared she had no ex-parte contacts, bias, pre-judgment or conflicts of interest that should be disclosed at this time.

Commissioner McKeel declared she had no ex-parte contacts, bias, pre-judgment or conflicts of interest that should be disclosed at this time.

Chair Cogen asked if anyone present wished to challenge any member on the Board on these grounds or on procedural grounds. No one offered a challenge on either.

Mr. Kienholz presented the staff report. This action is related to a proposal to re-open the Springdale School. The applicant has proposed to demolish the garage to make room for a parking lot and bus drop off zone for the new school. Because the school is listed on the National Register of Historic Places, it is considered a historical building as defined in Multnomah County Code 35.0005. That triggers review by the Planning Commission and Board of County Commissioner before a demolition permit can be approved.

Mr. Keinholz said the garage on the school property is vacant, rotted, cannot be preserved, and is not safe. The school itself will be remodeled, and the exterior and grounds restored. By tearing down this rotted structure they can create a bus drop-off area in the parking lot so kids aren't dropped off on the busy road. He said this proposal has been processed through appropriate community service use procedures pursuant to MCC 35.0520(c). The Planning Commission's findings of compliance with the relevant approval criteria in the Multnomah County Zoning code is included as Exhibit PCR T4 2012-2176. Mr. Kienholz informed the Board that the Planning Commission conducted a public hearing at the Corbett School after mailing public notice to property owners and community groups in the area of the school. All persons who appeared were given the opportunity to testify and to hear the Planning Commission make their recommendation to the Multnomah County Board. The State Historic Preservation office met and have been partners in this proposal and concluded there is no adverse impact in removing this small garage. The Multnomah Planning Commission agreed and recommended allowing this garage to be torn down on May 7, 2012.

The applicant/owner was represented by Peter Frye, Legal Counsel. He testified on the applicant's behalf.

Chair Cogen called for public testimony, but no one at the meeting chose to testify.

Chair Cogen asked if anyone wanted to raise a procedural objection to this Hearing.

No one did so.

Chair Cogen asked if anyone wanted to present additional evidence, arguments or testimony regarding the application.

Hearing no objection or request, the Board began their deliberation to consider this application. Mr. Kienholz responded to the Board's questions.

After the Board made their comments, Chair Cogen called for the vote.

Order No. 2012-077 was approved unanimously.

R.6 Authorizing Approval of Amendment #4 of the Local Agency AGREEMENT with Oregon Dept. of Transportation (ODOT) for Additional Funds for the Sellwood Bridge Project. Presenter: Ian Cannon, Sellwood Program Manager.

Commissioner Kafoury moved and Commissioner Shiprack seconded approval of R-6.

Mr. Cannon provided the explanation. He said Amendment #4 includes the construction phase of the project; adds \$17.7M in funding from Federal TIGER III Grant; and, adds \$5M funding from the State of Oregon to be used for construction of OR 43 at the Sellwood Bridge Interchange. He responded to questions and comments from the Board. The Board commended staff and Commissioner Kafoury for seeking and obtaining these much-needed funds.

Agreement No. 22858, Amendment No. 4, was unanimously approved.

R.7 RESOLUTION to Assign Publically Donated Funds to the Kyron Horman Fund as Committed Funds. Presenter: Chief Deputy Jason Gates.

Commissioner Kafoury moved and Commissioner Shiprack seconded approval of R-7.

Commissioner Smith moved on behalf of the Sheriff's Office, to postpone this item indefinitely. It was seconded by Commissioner Shiprack and unanimously voted to postpone Item R.7 indefinitely.

R.8 Briefing on Multnomah County Downtown Courthouse Options Analysis and RESOLUTION Establishing Community Participation. Sponsors: Commissioner Kafoury, D-1 & Commissioner Shiprack, D-3. Presenters: Brett Taute, Project Manager, Strategic Projects Team & Peggidy Yates, Strategic Planning Manager, F&PM; and Karl Schultz & Faith Luch from Inici Group.

Commissioner Shiprack and Commissioner Kafoury made opening remarks and acknowledgements. Mr. Taute explained that the options in the analysis report will address the complex issues surrounding the decision the Board will have to make to either build a new courthouse and remodel the existing courthouse for another purpose, or remodeling the courthouse to remain as such.

Mr. Schultz gave the presentation. He gave an overview of the goals of their report, and the interviews that were done to assess the priorities and needs of the users of the courthouse. He discussed the working assumptions and localities considered. The site evaluation matrix includes the weighting to determine what was most beneficial when considering regulations, access, transportation, staffing, criteria, advantages, challenges time, disruption of services, and construction costs.

He reviewed financing strategies He said their findings showed that renovation of the existing courthouse is the lowest cost, with that cost based on building a new courthouse and also remodeling the existing courthouse for an alternative use. He also said a new courthouse is the shortest duration for construction and has the least impact on court operations; and that Locality 1 and 2 are preferred but Locality 5 is most cost effective for a new courthouse. New construction provides for a higher level of security, energy efficiency and a reduction in operational costs. He said their recommendations are to: prepare a project schedule with milestone deliverables; authorize them to prepare a study of financial capacity; prepare a cash flow analysis of costs; seek developer interest for new construction and renovation of the existing courthouse, and get approval to proceed with a task force. They would be responsible for evaluating programming and contractual standards for recommended delivery solution for the courthouse.

The presenters responded to the Board's questions and comments. The Board expressed their appreciation for the detail and content of the study.

Mr. Taute said that an action was required by the Board to establish community participation as the next step.

The Board discussed the Resolution before them and Mr. Taute answered their questions. They thanked the presenters for their in-depth report.

Upon motion made by Commissioner Shiprack and seconded by Commissioner Kafoury, it was unanimously voted to approve Resolution No. 2012-078. It passed unanimously.

BOARD COMMENT

BC.1 Opportunity as time allows, for the Commissioners to provide comment on non-agenda items.

No comments were made by the Board on non-agenda items.

ADJOURNMENT

There being no further business, the meeting was adjourned at 11:17 a.m.

The minutes reflect the actions of the Board. For more detail, you are welcome to view the video at: http://multnomah.granicus.com/ViewPublisher.php?view_id=3

Submitted by:
Lynda J. Grow, Board Clerk and
Marina Baker, Assistant Board Clerk
Board of County Commissioners
Multnomah County, Oregon