

# ANNOTATED MINUTES

Tuesday, December 7, 1999 - 7:00 AM  
Portland City Hall, Lovejoy Room, Second Floor  
1221 SW Fourth Avenue, Portland

## PUBLIC SAFETY COORDINATING COUNCIL MEETING

WS-1 Discussion of Multnomah County's November 2000 Public Safety Levy with the Public Safety Coordinating Council. Chair Beverly Stein and Commissioners Sharron Kelley and Lisa Naito in Attendance. Presentations by Beverly Stein, Mike Schrunk, Chiquita Rollins, Sharron Kelley, Jim Ellis, Suzanne Riles, Jim Hennings, Kris Olson, Linda Jaramillo and Lisa Naito.

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Tuesday, December 7, 1999 - 9:30 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## BUDGET WORK SESSION

*Chair Beverly Stein convened the meeting at 9:36 a.m., with Vice-Chair Diane Linn, Commissioners Sharron Kelley and Lisa Naito present, and Commissioner Serena Cruz arriving at 9:40 a.m.*

WS-2 Emerging Budget Issues for FY 2000-2001: Department of Support Services. Presented by Vickie Gates and Invited Staff.

***VICKIE GATES, FAITH LONG, LISA YEO AND  
TOM SIMPSON PRESENTATIONS AND RESPONSE  
TO BOARD QUESTIONS AND DISCUSSION  
REGARDING CLASSIFICATION AND  
COMPENSATION, INTEGRATED ENTERPRISE  
SYSTEM, BENEFITS AND BENEFIT PROGRAM,  
AND TECHNOLOGY ISSUES.***

WS-3 Emerging Budget Issues for FY 2000-2001: Aging and Disability Services Department. Presented by Jim McConnell and Invited Staff.

**JIM MCCONNELL, MARY SHORTALL, REY ESPAÑA AND SHARON MILLER PRESENTATIONS AND RESPONSE TO BOARD QUESTIONS AND DISCUSSION REGARDING INTEGRATING HEALTH, HOUSING AND LONG TERM CARE, IMPROVING CASE MANAGEMENT PRACTICES, IN-HOME PROVIDER SERVICES, MENTAL HEALTH FOR THE ELDERLY AND DISABLED, THE DEVELOPMENTAL DISABILITIES COORDINATOR PILOT PROJECT, AND TRANSPORTATION ISSUES.**

*There being no further business, the meeting was adjourned at 11:35 a.m.*

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Thursday, December 9, 1999 - 9:00 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **REGULAR MEETING**

*Chair Beverly Stein convened the meeting at 9:07 a.m., with Vice-Chair Diane Linn, Commissioners Lisa Naito and Serena Cruz present, and Commissioner Sharron Kelley arriving at 9:35 a.m. due to another meeting.*

### **CONSENT CALENDAR**

**UPON MOTION OF COMMISSIONER LINN, SECONDED BY COMMISSIONER NAITO, THE CONSENT CALENDAR (ITEMS C-1 THROUGH C-8) WAS UNANIMOUSLY APPROVED.**

### **NON-DEPARTMENTAL**

- C-1 Appointments of Serena Cruz, Ron Wyden, Gordon Smith, Earl Blumenauer, David Wu, Dan Noelle, Mike Schrunck, Alma Soria Ayuso, David Beebe, Elyse Clawson, Robin Redwine, Frank Noonan, Steven Wax, Lynnae Berg, Bernie Guisto, Julie Franz, Jim Hennings, F. J. Capriotti, Linda Ramirez, Julie Neburka and Timothy Barnhardt to the MULTNOMAH COUNTY INS TASK FORCE
- C-2 Budget Modification NOND 03 Reclassifying Assistant County Counsel 2 Position to Assistant County Counsel 3

- C-3 Budget Modification NOND 04 Reclassifying Paralegal Assistant Position to Litigation Paralegal (Law Clerk)

**AGING AND DISABILITY SERVICES DEPARTMENT**

- C-4 Amendment 7 to Intergovernmental Agreement 100145 with Tri-Met, Extending Door-to-Door Rides for Frail Elders through June 30, 2000

**DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

- C-5 Intergovernmental Agreement 0010663 with Multnomah Education Service District, Purchasing School-to-Work Services Under the Urban/Rural Opportunity Grant through June 30, 2000

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

- C-6 RESOLUTION Authorizing Execution of Deed D001697 for Repurchase of Tax Foreclosed Property to Former Owner Marida A. Peterson

***RESOLUTION 99-237.***

**DEPARTMENT OF HEALTH**

- C-7 Budget Modification HD 7 Approving Increase of \$98,087 and 1.25 FTE in the Primary Care Behavioral Health Budget Funded with an Increase in the Federal Health Resources and Services Administration Primary Care Grant
- C-8 Budget Modification HD 8 Approving Increase of \$199,286 and 2.18 FTE in the Planning and Development Budget Funded with a Federal Health Resources and Services Administration Grant for HIV Medical Adherence Evaluation; and an Increase of \$9,478 and .2 FTE in the STD Budget Funded with State of Oregon AIDS Surveillance Grant Increase

**REGULAR AGENDA**

**DEPARTMENT OF HEALTH**

- R-1 Budget Modification HD 9 Requesting \$500,000 General Fund Contingency Transfer to the Primary Care Division, Various Accounts, to Restore Clinical Services Previously Funded through State Safety Net Funds

***COMMISSIONER CRUZ MOVED AND  
COMMISSIONER LINN SECONDED, APPROVAL***

**OF R-1. TOM FRONK AND SHARON ARMSTRONG  
EXPLANATION AND RESPONSE TO BOARD  
QUESTIONS. BUDGET MODIFICATION  
UNANIMOUSLY APPROVED.**

**DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

R-2 NOTICE OF INTENT to Apply to the U.S. Department of Justice/Bureau of Justice Assistance 1999 Open Solicitation for \$150,000 Local Criminal Justice Planning Grant to Create a Comprehensive Plan for Domestic Violence Intervention and Prevention in Multnomah County

**COMMISSIONER NAITO MOVED AND  
COMMISSIONER CRUZ SECONDED, APPROVAL  
OF R-2. CHIQUITA ROLLINS EXPLANATION AND  
RESPONSE TO BOARD QUESTIONS AND  
COMMENTS IN RESPONSE. NOTICE OF INTENT  
UNANIMOUSLY APPROVED.**

R-3 NOTICE OF INTENT to Apply to the U.S. Department of Justice/Bureau of Justice Assistance 1999 Open Solicitation for \$150,000 Grant to Fund Maintenance and Enhancement of Mental Health Services Provided for Youth in the Donald E. Long Juvenile Detention Center

**COMMISSIONER NAITO MOVED AND  
COMMISSIONER LINN SECONDED, APPROVAL  
OF R-3. JANICE GRATTON EXPLANATION.  
NOTICE OF INTENT UNANIMOUSLY APPROVED.**

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

R-4 RESOLUTION Endorsing the Adoption of Land Use Planning Values for Rural Multnomah County

**COMMISSIONER NAITO MOVED AND  
COMMISSIONER LINN SECONDED, APPROVAL  
OF R-4. KATHY BUSSE EXPLANATION AND  
READING OF VALUES DEVELOPED BY BOARD,  
PLANNING COMMISSION AND INTERESTED  
PARTNERS. BOARD COMMENTS IN  
APPRECIATION OF PARTICIPATION OF STAFF,  
PLANNING COMMISSION AND INTERESTED  
PARTNERS. AT CHAIR STEIN'S SUGGESTION,**

**MS. BUSSE ADVISED SHE WILL HAVE VALUES PRINTED ON POSTER BOARD FOR USE DURING BOARDROOM HEARINGS. RESOLUTION 99-238 UNANIMOUSLY APPROVED.**

- R-5 PUBLIC HEARING and Consideration of a RESOLUTION Surrendering Jurisdiction of SW 49th Avenue (Kerr Parkway, County Road No. 1391) to the City of Lake Oswego

**COMMISSIONER LINN MOVED AND COMMISSIONER NAITO SECONDED, APPROVAL OF R-5. CLERK EXPLANATION. COMMISSIONER LINN ADVISED SHE HAS HEARD NOTHING AGAINST THE PROPOSED TRANSFER. NO ONE WISHED TO TESTIFY. RESOLUTION 99-239 UNANIMOUSLY APPROVED.**

**PUBLIC COMMENT**

- R-6 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

**NO ONE WISHED TO COMMENT.**

**NON-DEPARTMENTAL**

- R-7 Budget Modification NOND 02 Funding a Permanent Assistant County Counsel 1 Position and Deleting a Portion of an Existing Line Item for Temporary Employee in the Office of County Counsel

**COMMISSIONER NAITO MOVED AND COMMISSIONER CRUZ SECONDED, APPROVAL OF R-7. AGNES SOWLE AND TOM SPONSLER EXPLANATION. BUDGET MODIFICATION UNANIMOUSLY APPROVED.**

- R-8 First Reading of a Proposed ORDINANCE Repealing MCC 27.300 and 27.301 and Adding New Provisions to Multnomah County Code Chapter 21 Relating to Workplace Hazards [Providing Smoke-Free Workplaces by Prohibiting Smoking in Places of Employment]

**ORDINANCE READ BY TITLE ONLY. COPIES AVAILABLE. COMMISSIONER NAITO MOVED**

**AND COMMISSIONER LINN SECONDED,  
APPROVAL OF FIRST READING.**

*Commissioner Sharron Kelley arrived at 9:35 a.m.*

**COMMISSIONER NAITO EXPLANATION, AND COMMENTS IN APPRECIATION OF STAFF EFFORTS. COMMISSIONER LINN EXPLANATION OF RESOLUTION R-9 AND COMMENTS IN APPRECIATION OF THE EFFORTS OF THE TOBACCO PREVENTION COALITION. JERRY SPEGMAN, FRANK BAUMEISTER, MEL KOHN, MICHAEL LEWIS, CAROLYN MORRISON, RICHARD NORTH, PATRICIA LENT, MARGARET LINN, CAROL HAYWOOD, DARRYL JOANNIDES, CRAIG ZIELINSKI, TALEESHA PITTMAN AND KATIE SINNOTT TESTIMONY IN SUPPORT. EBONY HINCK TESTIMONY AND SUBMITTED SIGNED POSTCARDS IN SUPPORT OF SMOKE-FREE WORKPLACES. MARY CHRISTIANSEN, DANA KAYE, DEBY CHURNSIDE AND WARDEN MINOR TESTIMONY IN SUPPORT. HOWARD HODGES AND JOHN MCENROE TESTIMONY IN OPPOSITION. JIM EDDY AND GAIL JEIDY TESTIMONY IN SUPPORT. CRYSTAL IMES TESTIMONY AND SUBMITTED SIGNED PETITIONS IN SUPPORT OF SMOKE-FREE WORKPLACES. JACQUELINE MARTIN, PHENA HAY AND DANNA LEI TESTIMONY IN SUPPORT. ANDREW CRAIG SUBMITTED SIGNED PETITIONS TO KEEP SMOKING LEGAL IN BARS AND RESTAURANTS. BRUCE ALEXANDER KNIGHT TESTIMONY IN OPPOSITION. JONATHAN WONG AND MAYE THOMPSON TESTIMONY IN SUPPORT. ALEXANDER HAMALIAN TESTIMONY AND SUBMITTED SIGNED PETITIONS TO KEEP SMOKING LEGAL IN BARS AND RESTAURANTS, AND RESPONSE TO QUESTIONS OF COMMISSIONER LINN. KELLY SCANNELL TESTIMONY IN SUPPORT.**

*The public hearing on the proposed ordinance was tabled at 11:09 a.m. in order to address the following land use planning meeting scheduled for 11:00 a.m.*

Thursday, December 9, 1999 - 11:00 AM  
Multnomah County Courthouse, Boardroom 602  
1021 SW Fourth Avenue, Portland

## **LAND USE PLANNING MEETING**

P-1 DE NOVO HEARING Regarding the Hearings Officer Decision Denying SEC 39-98, a Request for Approval of a Significant Environmental Concern Permit for a 120' by 60' Parking Area, Access Road and Pond Constructed on Property in the Commercial Forest Use Zoning District Located on a Forty Acre Parcel of Land Near Forest Park in West Portland.

**CHAIR STEIN ADVISED THAT ATTORNEY FOR APPLICANTS SENT WRITTEN NOTIFICATION THIS MORNING WITHDRAWING APPEAL IN THIS MATTER. CLERK READ HEARINGS OFFICER DECISION. UPON MOTION OF COMMISSIONER KELLEY, SECONDED BY COMMISSIONER LINN, THE HEARINGS OFFICER DECISION WAS UNANIMOUSLY AFFIRMED.**

*The land use planning meeting was adjourned and the public hearing on the proposed ordinance was resumed at 11:10 a.m.*

**T FOXE AND LINDA HAGEN TESTIMONY IN OPPOSITION. BILL PERRY TESTIMONY IN SUPPORT OF GIVING RESTAURANT INDUSTRY THE CHOICE OF GOING SMOKE-FREE. PHAEDRA CULLITON TESTIMONY IN OPPOSITION. PAT RUZICKA TESTIMONY IN SUPPORT. COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, AMENDMENT TO SECTION 3 CHANGING THE EFFECTIVE DATE TO JULY 1, 2000. ROBERT TRACHTENBERG EXPLANATION. COMMISSIONERS LINN AND NAITO COMMENTS IN SUPPORT. AMENDMENT UNANIMOUSLY APPROVED. COMMISSIONER KELLEY MOVED AND COMMISSIONER LINN SECONDED, AMENDMENT ADDING SECTION 4 TO HAVE ENFORCEMENT DATE EFFECTIVE JULY 1, 2001. AMENDMENT UNANIMOUSLY APPROVED. COMMISSIONER KELLEY'S MOTION TO ADD ANOTHER AREA WHERE SMOKING**

**WOULD NOT BE REGULATED FAILED FOR LACK OF A SECOND. COMMISSIONERS NAITO AND LINN COMMENTS IN SUPPORT. COMMISSIONERS CRUZ AND KELLEY COMMENTS EXPLAINING WHY THEY DO NOT SUPPORT THIS LEGISLATION. CHAIR STEIN COMMENTS IN SUPPORT. FIRST READING APPROVED, AS AMENDED, WITH COMMISSIONERS LINN, NAITO AND STEIN VOTING AYE, AND COMMISSIONERS KELLEY AND CRUZ VOTING NO. SECOND READING THURSDAY, DECEMBER 16, 1999.**

R-9 RESOLUTION Establishing a Citizen Task Force on Smokefree Workplaces

**COMMISSIONER LINN MOVED AND COMMISSIONER NAITO SECONDED, APPROVAL OF R-9. CHAIR STEIN DIRECTED WENDY RANKIN TO MAINTAIN LOG ON ALL CALLS RECEIVED FOR AND AGAINST AND MAKE IT AVAILABLE TO THE BOARD AND TASK FORCE. RESOLUTION 99-240 APPROVED, WITH COMMISSIONERS LINN, NAITO AND STEIN VOTING AYE, AND COMMISSIONERS KELLEY AND CRUZ VOTING NO.**

**COMMISSIONER COMMENT/LEGISLATIVE ISSUES**

R-10 Opportunity (as Time Allows) for Commissioners to Comment on Non-Agenda Items or to Discuss Legislative Issues.

**NO ONE WISHED TO COMMENT.**

*There being no further business, the meeting was adjourned at 11:49 a.m.*

OFFICE OF THE BOARD CLERK  
FOR MULTNOMAH COUNTY, OREGON

**Deborah L. Bogstad**

Deborah L. Bogstad



Multnomah County Oregon

# Board of Commissioners & Agenda

connecting citizens with information and services

## BOARD OF COMMISSIONERS

### Beverly Stein, Chair

1120 SW Fifth Avenue, Suite 1515  
Portland, Or 97204-1914  
Phone: (503) 248-3308 FAX (503) 248-3093  
Email: mult.chair@co.multnomah.or.us

### Diane Linn, Commission Dist. 1

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914  
Phone: (503) 248-5220 FAX (503) 248-5440  
Email: diane.m.linn@co.multnomah.or.us

### Serena Cruz, Commission Dist. 2

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914  
Phone: (503) 248-5219 FAX (503) 248-5440  
Email: serena.m.cruz@co.multnomah.or.us

### Lisa Naito, Commission Dist. 3

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914  
Phone: (503) 248-5217 FAX (503) 248-5262  
Email: lisa.h.naito@co.multnomah.or.us

### Sharron Kelley, Commission Dist. 4

1120 SW Fifth Avenue, Suite 1500  
Portland, Or 97204-1914  
Phone: (503) 248-5213 FAX (503) 248-5262  
Email: sharron.e.kelley@co.multnomah.or.us

**ANY QUESTIONS? CALL BOARD  
CLERK DEB BOGSTAD @ 248-3277**

Email: deborah.l.bogstad@co.multnomah.or.us

**INDIVIDUALS WITH DISABILITIES  
PLEASE CALL THE BOARD CLERK  
AT 248-3277, OR MULTNOMAH  
COUNTY TDD PHONE 248-5040, FOR  
INFORMATION ON AVAILABLE  
SERVICES AND ACCESSIBILITY.**

## DECEMBER 7 & 9, 1999

## BOARD MEETINGS

### FASTLOOK AGENDA ITEMS OF INTEREST

Pg. 2	7:00 a.m. Tuesday PSCC Meeting
Pg. 2	9:30 a.m. Tuesday DSS Budget Session
Pg. 2	10:30 a.m. Tuesday ADS Budget Session
Pg. 3	9:00 a.m. Thursday Regular Board Meeting, Including Consent Calendar
Pg. 4	9:30 a.m. Thursday Resolution Surrendering Jurisdiction of County Road to the City of Lake Oswego
Pg. 5	9:45 a.m. Thursday Ordinance Prohibiting Smoking in Places of Employment
Pg. 5*	11:00 a.m. Thursday SEC 39-98 Land Use Appeal Hearing
*	<b>Check the County Web Site:</b> <a href="http://www.co.multnomah.or.us/">http://www.co.multnomah.or.us/</a>

Thursday meetings of the Multnomah County Board of Commissioners are cable-cast live and taped and may be seen by Cable subscribers in Multnomah County at the following times:

Thursday, 9:00 AM, (LIVE) Channel 30  
Friday, 10:00 PM, Channel 30  
Sunday, 1:00 PM, Channel 30

Produced through Multnomah Community  
Television

**Tuesday, December 7, 1999 - 7:00 AM**  
**Portland City Hall, Lovejoy Room, Second Floor**  
**1221 SW Fourth Avenue, Portland**

**PUBLIC SAFETY COORDINATING COUNCIL**  
**MEETING**

WS-1 Discussion of Multnomah County's November 2000 Public Safety Levy with the Public Safety Coordinating Council. Chair Beverly Stein and Commissioners Sharron Kelley and Lisa Naito in Attendance. Presentations by Beverly Stein, Mike Schrunk, Chiquita Rollins, Sharron Kelley, Jim Ellis, Suzanne Riles, Jim Hennings, Kris Olson, Linda Jaramillo and Lisa Naito. 2 HOURS REQUESTED.

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**Tuesday, December 7, 1999 - 9:30 AM**  
**Multnomah County Courthouse, Boardroom 602**  
**1021 SW Fourth Avenue, Portland**

**BUDGET WORK SESSION**

WS-2 Emerging Budget Issues for FY 2000-2001: Department of Support Services. Presented by Vickie Gates and Invited Staff. 1 HOUR REQUESTED.

WS-3 Emerging Budget Issues for FY 2000-2001: Aging and Disability Services Department. Presented by Jim McConnell and Invited Staff. 1 HOUR REQUESTED.

**Thursday, December 9, 1999 - 9:00 AM**  
**Multnomah County Courthouse, Boardroom 602**  
**1021 SW Fourth Avenue, Portland**

**REGULAR MEETING**

**CONSENT CALENDAR - 9:00 AM**

**NON-DEPARTMENTAL**

- C-1 Appointments of Serena Cruz, Ron Wyden, Gordon Smith, Earl Blumenauer, David Wu, Dan Noelle, Mike Schrunk, Alma Soria Ayuso, David Beebe, Elyse Clawson, Robin Redwine, Frank Noonan, Steven Wax, Lynnae Berg, Bernie Guisto, Julie Franz, Jim Hennings, F. J. Capriotti, Linda Ramirez, Julie Neburka and Timothy Barnhardt to the MULTNOMAH COUNTY INS TASK FORCE
- C-2 Budget Modification NOND 03 Reclassifying Assistant County Counsel 2 Position to Assistant County Counsel 3
- C-3 Budget Modification NOND 04 Reclassifying Paralegal Assistant Position to Litigation Paralegal (Law Clerk)

**AGING AND DISABILITY SERVICES DEPARTMENT**

- C-4 Amendment 7 to Intergovernmental Agreement 100145 with Tri-Met, Extending Door-to-Door Rides for Frail Elders through June 30, 2000

**DEPARTMENT OF COMMUNITY AND FAMILY SERVICES**

- C-5 Intergovernmental Agreement 0010663 with Multnomah Education Service District, Purchasing School-to-Work Services Under the Urban/Rural Opportunity Grant through June 30, 2000

**DEPARTMENT OF ENVIRONMENTAL SERVICES**

- C-6 RESOLUTION Authorizing Execution of Deed D001697 for Repurchase of Tax Foreclosed Property to Former Owner Marida A. Peterson

**DEPARTMENT OF HEALTH**

- C-7 Budget Modification HD 7 Approving Increase of \$98,087 and 1.25 FTE in the Primary Care Behavioral Health Budget Funded with an Increase in the Federal Health Resources and Services Administration Primary Care Grant
- C-8 Budget Modification HD 8 Approving Increase of \$199,286 and 2.18 FTE in the Planning and Development Budget Funded with a Federal Health Resources and Services Administration Grant for HIV Medical Adherence Evaluation; and an Increase of \$9,478 and .2 FTE in the STD Budget Funded with State of Oregon AIDS Surveillance Grant Increase

**REGULAR AGENDA - 9:00 AM**

**DEPARTMENT OF HEALTH - 9:00 AM**

- R-1 Budget Modification HD 9 Requesting \$500,000 General Fund Contingency Transfer to the Primary Care Division, Various Accounts, to Restore Clinical Services Previously Funded through State Safety Net Funds

**DEPARTMENT OF COMMUNITY AND FAMILY SERVICES - 9:05 AM**

- R-2 NOTICE OF INTENT to Apply to the U.S. Department of Justice/Bureau of Justice Assistance 1999 Open Solicitation for \$150,000 Local Criminal Justice Planning Grant to Create a Comprehensive Plan for Domestic Violence Intervention and Prevention in Multnomah County
- R-3 NOTICE OF INTENT to Apply to the U.S. Department of Justice/Bureau of Justice Assistance 1999 Open Solicitation for \$150,000 Grant to Fund Maintenance and Enhancement of Mental Health Services Provided for Youth in the Donald E. Long Juvenile Detention Center

**DEPARTMENT OF ENVIRONMENTAL SERVICES - 9:15 AM**

- R-4 RESOLUTION Endorsing the Adoption of Land Use Planning Values for Rural Multnomah County
- R-5 PUBLIC HEARING and Consideration of a RESOLUTION Surrendering Jurisdiction of SW 49th Avenue (Kerr Parkway, County Road No. 1391) to the City of Lake Oswego

**PUBLIC COMMENT - 9:35 AM**

R-6 Opportunity for Public Comment on Non-Agenda Matters. Testimony Limited to Three Minutes Per Person.

**NON-DEPARTMENTAL - 9:40 AM**

R-7 Budget Modification NOND 02 Funding a Permanent Assistant County Counsel 1 Position and Deleting a Portion of an Existing Line Item for Temporary Employee in the Office of County Counsel

R-8 First Reading of a Proposed ORDINANCE Repealing MCC 27.300 and 27.301 and Adding New Provisions to Multnomah County Code Chapter 21 Relating to Workplace Hazards [Providing Smoke-Free Workplaces by Prohibiting Smoking in Places of Employment]

R-9 RESOLUTION Establishing a Citizen Task Force on Smokefree Workplaces

**COMMISSIONER COMMENT/LEGISLATIVE ISSUES - 10:55 AM**

R-10 Opportunity (as Time Allows) for Commissioners to Comment on Non-Agenda Items or to Discuss Legislative Issues.

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**Thursday, December 9, 1999 - 11:00 AM**  
**Multnomah County Courthouse, Boardroom 602**  
**1021 SW Fourth Avenue, Portland**

**LAND USE PLANNING MEETING**

P-1 DE NOVO HEARING Regarding the Hearings Officer Decision Denying SEC 39-98, a Request for Approval of a Significant Environmental Concern Permit for a 120' by 60' Parking Area, Access Road and Pond Constructed on Property in the Commercial Forest Use Zoning District Located on a Forty Acre Parcel of Land Near Forest Park in West Portland. TESTIMONY LIMITED TO 20 MINUTES PER SIDE.

MEETING DATE: DEC 09 1999  
AGENDA NO: C-1  
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

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**AGENDA PLACEMENT FORM**

**SUBJECT:** Appointments to Multnomah County INS Task Force

**BOARD BRIEFING:** DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

**REGULAR MEETING:** DATE REQUESTED: 12/9/99  
AMOUNT OF TIME NEEDED: Consent

**DEPARTMENT:** Nondepartmental **DIVISION:** Chair's Office

**CONTACT:** Chair Beverly Stein **TELEPHONE #:** 503/248-3308  
**BLDG/ROOM #:** 106/1515

**PERSON(S) MAKING PRESENTATION:**

**ACTION REQUESTED:**

INFORMATIONAL ONLY    POLICY DIRECTION    APPROVAL    OTHER

**SUGGESTED AGENDA TITLE:**

*Appointments of Commissioner Serena Cruz; Senator Ron Wyden; Senator Gordon Smith; Congressman Earl Blumenauer; Congressman David Wu; Sheriff Dan Noelle; Mike Schrunk, District Attorney; Alma Soria Ayuso, Mexican Consul General; David Beebe, INS District Director; Elyse Clawson, Community Justice Department Director; Dr. Robin Redwine; Frank Noonan, US Federal Attorney; Steven Wax, Federal Public Defender's Office; Lynnae Berg, City of Portland Interim Chief of Police; Bernie Guisto, Gresham Chief of Police; Judge Julie Franz; Jim Hennings, Metropolitan Public Defender's Office; F. J. Capriotti, Attorney; Linda Ramirez, Attorney; Julie Neburka, Multnomah County Budget Analyst; and Timothy Barnhardt, Multnomah County Corrections Counsellor, to the Multnomah County INS Task Force*

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** Beverly Stein  
**(OR)**  
**DEPARTMENT**  
**MANAGER:** \_\_\_\_\_

99 NOV 30 PM 4:22  
CLERK OF COUNTY COURTS  
MULTNOMAH COUNTY  
OREGON

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

*Any Questions: Call the Board Clerk @ 248-3277*

BUDGET MODIFICATION NO.

Nond 03

(For Clerk's Use) Meeting Date DEC 09 1999  
Agenda No. C-2

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

(Date)

DEPARTMENT County Counsel  
CONTACT Sandra N. Duffy

DIVISION N/D  
TELEPHONE 248-3138

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

Sandra N. Duffy  
Agnes Sowle  
Gerald H. itkin

SUGGESTED

AGENDA TITLE (to assist in preparing a description for the printed agenda)

Budget Modification Nond 03 reclassifies existing Assistant Counsel 2 position to Assistant County Counsel 3.

(Estimated Time Needed on the Agenda - NONE --CONSENT AGENDA)

2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet

This modification transfers funds now in the County Counsel budget from Temporary Services to Personnel costs. County Counsel has been facing a significant staffing shortage in meeting the challenge of defending claims and lawsuits as their volume and complexity have increased in the 90's. This will allow County Counsel to retune its litigation staff to better meet these challenges. It will also allow County Counsel to focus additional attention on proactive risk management and training. No change to the General Fund or Risk Management Fund for FY 1999-2000. The difference between midrange of an Assistant County Counsel 2 and an Assistant County Counsel 3 is \$21,534 annually (increase in base pay and benefits). For FY 1999-2000 we would need six months of the increase funded -- \$10,766. This budget modification would transfer that amount from line item for Temporary Services to Personnel Services for this fiscal year and decrease Temporary Services line item by the full amount \$21,534 in future years. This results in no net budget impact.

General Fund: \$0 Risk amangement Fund: FY 1999-2000 - \$0 FY 2000-2001 - \$0

3. REVENUE IMPACT (Explain revenues being changed and reason for the change)

This transaction does not affect the General Fund. It increases the Risk Management Fund by \$307 to cover increased insurance expenses. This is an internal service reimbursement.

4. CONTINGENCY STATUS (to be completed by Budget & Quality)

Fund Contingency before this modification \_\_\_\_\_

		Date	
		After this modification	
Originated By	<u>Sandra Duffy</u>	Date	<u>11-29-99</u>
Plan/Budget Analyst	<u>[Signature]</u>	Date	<u>11-29-99</u>
Department Director	<u>[Signature]</u>	Date	<u>11-29-99</u>
Employee Services	<u>[Signature]</u>	Date	<u>11-29-99</u>
Board Approval	<u>[Signature]</u>	Date	<u>12/9/99</u>

99 NOV 23 PM 4:05  
MULTICOUNTY COUNTY  
COUNTY CLERK'S OFFICE





DEPARTMENT REQUEST TO CREATE/RECLASSIFY A POSITION

1. List the proposed duties and related information of the position (please do not copy from the class specification) on the Multnomah County **Job Description** form. The Job Description form and a supplemental guide are also available on-line through the MINT (County's Intranet site), [http://dss.co.multnomah.or.us/hr/hr\\_forms/index.htm](http://dss.co.multnomah.or.us/hr/hr_forms/index.htm). At this point you can fill out the request on-line or print out a copy of the form for draft purposes, etc.

2. Forward the final completed Request form and Job Description, (plus an organizational chart) **106/1430, Angela Cration, Classification/Compensation Analyst**. The Classification/Compensation Unit will forward copies of the information to the appropriate union representative, if applicable.

State the proposed classification title: Assistant County Counsel 3

4. Is this a new position?  Yes  No

5. If this is an existing position, state the name of the incumbent or current classification:

Vacant; current classification Assistant County Counsel 2

6. Proposed effective date of change: December 1, 1999

Hiring Manager: Tom Sponsler

Phone Number: 248-3138 Date: 11/19/99

Department/Division: ND - Office of County Counsel

\*\*\*\*\*

Action:  Approved as submitted.  
 Approved for classification title.  
 Denied (for Reclassification Requests only)

Reason(s) for Denial: \_\_\_\_\_

Analyst Name: Susan Ayers by D. Farnon

Date: 11-29-99

**JOB DESCRIPTION  
MULTNOMAH COUNTY**

*\*PLEASE READ INSTRUCTIONS BEFORE COMPLETING THIS FORM\**

**SECTION 1. POSITION INFORMATION**

- a. Department Name: **N/D**
- b. Work Unit/Location: **County Counsel 106/1530**
- c. Employee Name: **Vacant**
- d. Supervisor Name/Title: **Tom Sponsler**
- e. Job Class: **Previous: County Counsel 2 to County Counsel 3 (Senior**
- f. Working Title: **Senior Assistant County Counsel**
- g. Phone Numbers for Supervisor/Employee: **284-3138**

**EMPLOYEE SERVICES USE ONLY**

Supervisory Responsibility

Classified

Unclassified

Represented

Non-represented

New  Revised

Class Title: \_\_\_\_\_

Position Number: \_\_\_\_\_

Overtime: \_\_\_\_\_

FLSA: Exempt / Non-Exempt

- h. Position Type:  Permanent  Temporary  Oncall  Academic Year  
 Full Time  Part Time  Intermittent  Job Share

**SECTION 2. PROGRAM/POSITION INFORMATION**

- a. Describe the program (in which this job exists) Please include program purpose, who is effected, size, and scope. Include relationship to agency mission. You may attach a program description and mission statement if available.  
  

The position is assigned to County Counsel to provide highly skilled legal services in the defense of litigation against the County
- b. Describe the purpose of this job/position (why does this position exist?)  
  

County Counsel 3 independently evaluates and defends or prosecutes lawsuits filed against or on behalf of the County. This includes case evaluation, preparing and taking depositions, research and writing legal memoranda and briefs, doing motions practice in state and federal courts, doing discovery, preparing trial exhibits, determining the theory of a case, preparing witnesses, trying the case and representing the County in appeals.

**SECTION 3. DESCRIPTION OF JOB DUTIES**

List major duties. Note percentage of time duties are performed. To add rows to the table, place cursor anywhere within the table, click "Table" on the tool bar, then click "Insert Rows"

%	DUTIES
85%	Evaluate complex and difficult cases filed in state and federal courts; determine reserve amounts to cover potential risk; develop theory of the case; direct law clerks, support staff and junior attorneys in research and writing assignments, investigation, discovery, document preparation and less complex tasks; learn complex expert testimony to present at trial; prepare jury instructions, pretrial orders and complex pretrial motions. Prepare and try complex tort employment and other types of cases.
15%	Management of litigation files; preparing litigation reports for lawyers, clients and Board; negotiate and memorialize settlements of cases.
100%	<b>TOTAL</b>

**SECTION 4. GUIDELINES**

- a. List any established guidelines used to do this job, such as state or federal laws or regulations, policies, manuals or desk procedures.  
  

**Position demands substantial experience and knowledge of federal laws, Federal Rules of Civil Procedure, Federal District Court Local Rules, Federal Rules of Evidence, Oregon Revised Statutes, Oregon Administrative Rules, Multnomah County Code, Oregon Rules of Civil Procedure, Oregon Rules of Evidence.**
- b. How are these guidelines used to perform the job?  
  

**All of the above listed guidelines must be followed in the performance of the duties of the position.**

**SECTION 5 WORK CONTACTS**

With whom outside of coworkers in this work unit must this position regularly come in contact?

<u>Who Contacted</u>	<u>How</u>	<u>Purpose</u>	<u>How Often?</u>
County clients Outside attorneys Judges County employees Witnesses Experts	In person Phone E-mail Writing	To direct investigation on cases, discovery, document review, trial preparation and settlements	Daily

Describe the nature of any difficult interpersonal contacts encountered:

**During litigation any or all of the above-listed contacts could become very difficult depending upon the circumstances of the case.**

**SECTION 6 JOB-RELATED DECISION MAKING**

Describe the kinds of decisions likely to be made by this position. Indicate effect of these decisions where possible.

**This position will be responsible for supervision of complex and costly claims against the County; will supervise and try complex and potentially costly cases in state and federal courts; will perform risk management functions in setting case reserves and consulting with County management on preventative measures.**

**SECTION 7 BUDGET AUTHORITY**

If this position has authority to commit Department operating money, indicate in what area, how much money and types of funds:

**This position will decide the amount of money which needs to be set for a reserve in specific cases; also determines expenses allocated in each case. Amounts can vary from hundreds of dollars to hundreds of thousands of dollars. Participates in budget development. All money comes from the Risk Management Fund (400).**

**SECTION 8 REVIEW OF WORK**

Who reviews the work of this position? (List name, job title and position number.) How? How often? Purpose of the review?

**Thomas Sponsler, County Counsel (9510) is the supervisor of this position and performs an annual evaluation based on input from County Clients. There is no day-to-day review of work product. It is expected that this senior litigator will manage a heavy and diverse case load using own management skills.**

**SECTION 9 SUPERVISORY DUTIES**

Names of employees supervised:

**This position will supervise for work product legal secretaries, paralegal assistants, litigation paralegal, law clerks, junior litigators and possibly contract attorneys.**

For positions you supervise. Please clarify your level of responsibility for the following decisions. Check the appropriate boxes.

Function	RESPONSIBILITY			
	Take Action/ Inform Spvr	Effectively Recommend	Provide Input	N/A
Hiring		X	X	
Termination/Firing		X	X	
Promotion		X	X	
Performance Appraisal		X	X	
Employee Discipline (suspension)		X	X	
Assign Duties	X			
Setting Goals and Objectives	X			
Grievance Handling				X
Schedule the Work	X			
Training Staff		X		

**SECTION 10. PHYSICAL FACTORS**

Check the box that best describes the overall amount of physical effort typically required by your job. Double-click the appropriate gray box, then change the Default Value to "Checked"

- Standard** - Normally seated, standing or walking at will; normal physical ability to do some bending and light carrying.
- Restricted/Mobile** - Confined to immediate work area; can only leave work station during assigned breaks.
- Exertive** - Extensive walking, recurring bending, crouching, stooping, stretching, reaching or similar activities; recurring lifting of light or moderately heavy items.
- Strenuous** - Considerable and rapid physical exertion or demands on the body such as frequent climbing of tall ladders, continuous lifting of heavy objects, crouching or crawling in restricted areas; exertion requires highly intense muscular action leading to substantial muscular exhaustion.

Please identify each appropriate physical activity required in the performance of this job and indicate the relative code (see below) for each activity. Enter "N/A" in column I if you are not required to perform the respective activity.

<b>Frequency Codes:</b>	I = Infrequent (less than 10%)	M = Moderate, Average (25% - 50%)
	S = Seldom, Minimal (10% - 25%)	A = Almost Always (more than 50%)

Condition	Relative Frequency			
	I	S	M	A
Heavy lifting/carrying, 45 lbs. & over				
Moderate lifting/carrying, 15-45 lbs.				
Light lifting/carrying, under 15 lbs.				
Pulling/Pushing				
Reaching				
Use of fingers				
Both hands required				
Walking				
Standing				
Sitting				
Crawling				
Kneeling				
Repeated bending				
Climbing				
Operating of motorized equipment				
Ability to discharge firearms				
Speech				
Visual requirements				
- Near vision, 20 inches or less				
- Mid-range, more than 20 inches/less than 20 ft				
- Distance, 20 feet or more				
- Color, ability to identify and distinguish colors				
- Depth Perception				
Repetitive motions				
Hearing requirements				
Special Factors not listed:				

**SECTION 11. WORKING CONDITIONS**

Describe special working conditions, if any, that are a regular part of this job. Include items such as standing for long periods, environment if other than office, exposure to heat/health risks/violent individuals/wild animals, etc. and the frequency of exposure.

**SECTION 12. ADDITIONAL JOB RELATED INFORMATION**

**COMMENTS:**

**SPECIAL RECRUITING REQUIREMENTS:**

**Five or more years of trial experience preferably defending governmental entities.**

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**ORGANIZATIONAL CHART**

**Attach a current organizational chart. See instructions for detail to be included on the chart.**

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**SIGNATURES:**

\_\_\_\_\_  
Employee Signature                      Date

\_\_\_\_\_  
Supervisor Signature                      Date

\_\_\_\_\_  
Appointing Authority Signature                      Date

EMPLOYEE SERVICES USE ONLY

Supervisory Responsibility

Classified

Unclassified

Represented

Non-represented

New  Revised

Class Title: \_\_\_\_\_

Position Number: \_\_\_\_\_

Overtime: \_\_\_\_\_

FLSA: Exempt / Non-Exempt



OFFICE OF  
MULTNOMAH COUNTY COUNSEL

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County Counsel

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MATTHEW O. RYAN  
KATHRYN A. SHORT  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
Assistants

**MEMORANDUM**

**TO:** Board of County Commissioners  
Beverly Stein, Chair  
Diane Linn, Commissioner  
Lisa Naito, Commissioner  
Gary Hansen, Commissioner  
Sharron Kelley, Commissioner

**FROM:** Sandra N. Duffy (106/1530) *S. Duffy*  
Chief Assistant County Counsel  
Agnes Sowle (106/1530)  
Assistant County Counsel  
Gerald H. Itkin (106/1530)  
Assistant County Counsel

**DATE:** November 29, 1999

**RE:** Budget Modification Nond 03

---

**BUDGET MODIFICATION REQUEST--NO GENERAL OR RISK  
MANAGEMENT FUNDS IMPACT--TO FUND RECLASSIFICATION OF AN  
EXISTING ASSISTANT COUNTY COUNSEL 2 POSITION TO ASSISTANT  
COUNTY COUNSEL 3.**

**I. RECOMMENDATION/ACTION REQUESTED:**

The Office of County Counsel recommends approval of Budget Modification Nond 03. This modification transfers funds now in the County Counsel budget from Temporary Services to Personnel costs.

**II BACKGROUND ANALYSIS:**

County Counsel has been facing a significant staffing shortage in meeting the challenge of defending claims and lawsuits as their volume and complexity have increased in the 90's. As previously outlined to the BOCC, a new Assistant County Counsel 1 position is being requested to meet this demand. The recent resignation of an existing Assistant County Counsel 2

(recruited away by a sister agency offering substantially better pay and greater responsibilities) has opened up an opportunity to retune our staffing mix to better meet these challenges.

With ten (10) current wrongful death claims and numerous other difficult cases, the need for an additional seasoned litigator is paramount. Serious cases require intensive team oriented preparation and motions practice. Coupled with a budget modification adding an Assistant County Counsel 1 who would support this team approach which we have found to be essential, the seasoned litigator can direct team strategy and try cases. This will allow the Litigation Manager to share the load he has presently single-handedly carried of primary responsibility for all serious non-employment claims. Coupled with his other myriad duties, it is far too much for one person. The other litigation staff are not sufficiently experienced to lead the defense team of a serious case.

One of the collateral benefits will be to allow the Litigation Manager to focus additional attention on proactive risk management. This has been the intent for several years, but the press of litigation and other administrative responsibilities has made this impossible.

Defense of claims and lawsuits is a required service both to protect taxpayers and employees. There are no shortcuts in this labor-intensive undertaking and failure to properly defend a case results in loss of taxpayers funds and deterioration of employee morale. Sophisticated defense requires sophisticated defenders. The growth of claims and lawsuits has created the need for more than one person to shoulder primary responsibility for some of the serious cases. Replacing a departing attorney of less experience with a more experienced litigator will accomplish this important staff refocusing.

**III. FINANCIAL IMPACT:**

General Fund: 0

Risk Management Fund: 0

The difference between the actual cost of an Assistant County Counsel 2 and the mid-range of an Assistant County Counsel 3 is \$21,534 (base salary and benefits). This budget modification would transfer six months of that increase from the line item for Temporary Services to Personnel services. The salary and benefits increase would be funded in future years by permanently transferring funds from Temporary Services to Personnel Services.

**IV. LEGAL ISSUES:**

ORS 30.287 provides that every officer or employee of the county is entitled to legal representation when a suit is brought against them in Federal or State Court concerning actions they took during the course and scope of their employment. The County itself is similarly subject to suit. By MCC 7.201, the Board has vested this responsibility in the County Counsel.

**V. CONTROVERSIAL ISSUES:**

None.

**VI. LINK TO CURRENT COUNTY POLICY:**

Good Government: Assures the provision of quality legal services to defend the public interest in the least costly manner.

**VII. CITIZEN PARTICIPATION:**

Not applicable.

**VIII. PARTNERSHIPS AND COLLABORATIONS:**

Each elected county official and employee can perform his or her own responsibilities most effectively when access to quality legal services is timely available. Prevents the erosion of employee morale which would result from understaffing caused poor quality defense.

## 120.02 Types of Appointments

Departments shall use one of the following methods to appoint persons to County service:

A. Regular: A regular appointment is an appointment from a certified eligible list to a regular, budgeted position in the classified service with a work schedule that is one-half time or more. An employee so appointed becomes a regular employee upon completion of the probationary period for the position.

B. Limited Duration: An appointment to the exempt classified service, for a defined period of time for a special project, a grant or to perform duties that have other limited funding, is a limited duration appointment.

Limited duration appointments shall be made from certified eligible lists whenever possible. Such appointments must be for a specified period of time, and the appointing Department shall notify the employee of the duration at the time of hire. The notice shall be in writing, and must state the ending date of the appointment. Persons appointed to such limited duration appointments will be returned to their previous position or equivalent position at the end of the appointment. If they did not previously have regular or probationary status with the County, they will be terminated.

C. On-Call: An appointment that is intermittent, irregular or is normally less than half time is an on-call appointment.

1. Persons appointed to perform on-call duties normally performed by regular employees shall meet the minimum requirements for the classification. On-call appointments have no time limit. On-call employees may be discharged at any time by the appointing manager and shall have no appeal rights within the County.

D. Temporary: An appointment whose duration is uncertain due to an emergency workload, absence of an employee or because of a short-term need for a skill or ability is a temporary appointment.

1. Such appointments must have prior approval of the Appointing Executive.

2. Temporary employees who will be performing duties normally performed by classified employees must meet the minimum requirements established for the classification.

3. Temporary employees shall be notified of their status when appointed. They may be terminated at any time by the appointing manager and have no appeal rights within the County.

4. A temporary appointment may be made for a period of up to six months or 1040 hours within the preceding 12 months. A temporary employee who has already worked 1040 hours may be appointed within the same 12 month period to another position typically by a different Department, following a break in County service lasting 15 days or longer. A temporary employee may be reappointed to a different position when an unforeseen circumstance requiring the employee's services arises shortly after the termination of one appointment, even when the break in service is limited.

5. An employee who has attained regular status and is subsequently given a temporary appointment shall be returned to the position previously held or equivalent position upon expiration of the temporary appointment. If a layoff affects the employee's previously held regular position, the employee shall have the same rights provided in Rule 170 Seniority and Layoff as a regular employee.

**BUDGET MODIFICATION NO.**

Nond 04

(For Clerk's Use) Meeting Date DEC 09 1999  
 Agenda No. C-3

**1. REQUEST FOR PLACEMENT ON THE AGENDA FOR**

(Date)

DEPARTMENT County Counsel  
 CONTACT Sandra Duffy

DIVISION N/D  
 TELEPHONE 248-3138

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

Sandra Duffy  
Agnes Sowle  
Gerald H. Itkin

SUGGESTED

AGENDA TITLE (to assist in preparing a description for the printed agenda)

**Budget Modification Request to fund reclassification of an existing Paralegal Assistant to Litigation Paralegal (Law Clerk) using money already in the budget for Temporary Services. No budget impact.**

(Estimated Time Needed on the Agenda - NONE -- CONSENT AGENDA)

**2. DESCRIPTION OF MODIFICATION**

(Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet

This is a budget modification to fund the additional costs of reclassifying a position of Paralegal Assistant in the Office of County Counsel to a Law Clerk (working title: Litigation Paralegal). This funding will be accomplished by using savings from a four month vacancy in the position this fiscal year. In future years the increase will be funded by transferring funds from Temporary Services to Personnel Costs. County Counsel has experienced an increase in tort and employment litigation over the past decade increasing the demand for both advisory and litigation legal services. A law clerk to assist in research, drafting briefs and other legal documents, increases the efficiency of the attorneys providing legal advice to County departments and elected officials. FY 1999-2000: \$4,275 is needed to fund the reclassification for the last six months of this fiscal year.

That can be paid with the savings realized from a vacancy in this position for four months (a savings of \$15,918).

Future years: The annualized increase for the reclassification is \$8,551. This will be funded by a transfer of funds from Temporary Services line item to Personal Services.

General Fund: \$0 Risk Management Fund: FY 1999-2000 - \$0 FY 2000-2001 - \$0

**3. REVENUE IMPACT**

(Explain revenues being changed and reason for the change)

This transaction does not affect the General Fund. It increases the Risk Management Fund by \$122 to cover increased insurance expenses. This is an internal service reimbursement

**4. CONTINGENCY STATUS**

(to be completed by Budget & Quality)

Fund Contingency before this modification

Date

After this modification

Originated By <u>Sandra Duffy</u>	Date <u>11-29-99</u>	Department Director <u>Thomas Spensh</u>	Date <u>11-29-99</u>
Plan/Budget Analyst <u>[Signature]</u>	Date <u>11-29-99</u>	Employee Services <u>[Signature]</u>	Date <u>11-29-99</u>
Board Approval <u>[Signature]</u>	Date <u>12/9/99</u>		

99 NOV 28 PM 4:05  
 HOLLAND COUNTY  
 COUNTY COMMISSIONER

**PERSONNEL DETAIL FOR BUDGET MODIFICATION NO.**

**Nond 04**

**5. ANNUALIZED PERSONNEL CHANGES**

(Compute on a full-year basis even though this action affects only a part of the fiscal year (FY).)

FTE Increase (Decrease)	POSITION TITLE	BASE PAY Increase (Decrease)	ANNUALIZED Increase/(Decrease)		TOTAL Increase (Decrease)
			Fringe	Ins.	
			(1 FTE)	(Paralegal Assistant)	
1 FTE	Litigation Paralegal (Law Clerk)	40,000	10,084	6,222	0 56,306
0	<b>TOTAL CHANGE (ANNUALIZED)</b>	6,634	1,673	244	0 8,551

**6. CURRENT YEAR PERSONNEL DOLLAR CHANGES**

(Calculate costs/savings that will take place this FY; these should explain the actual dollar amounts changed by this BudMod.)

Permanent Positions, Temporary, Overtime, or Premium	Explanation of Change	BASE PAY Increase (Decrease)	CURRENT FY Increase/(Decrease)		TOTAL Increase (Decrease)
			Fringe	Ins.	
			(1 FTE)	(Paralegal Assistant)	
1 FTE	Litigation Paralegal (Law Clerk)	19,988	5,041	3,110	0 28,139
	9999 vacancy savings	(4,266)	0	0	0 (4,266)
<b>TOTAL CURRENT FISCAL YEAR CHANGES</b>		(958)	836	122	0 0



**JOB DESCRIPTION  
MULTNOMAH COUNTY**

\*PLEASE READ INSTRUCTIONS BEFORE COMPLETING THIS FORM\*

**EMPLOYEE SERVICES USE ONLY**

- Supervisory Responsibility
- Classified
- Unclassified
- Represented
- Non-represented
- New  Revised

Class Title: \_\_\_\_\_

Position Number: \_\_\_\_\_

Overtime: \_\_\_\_\_

FLSA: Exempt / Non-Exempt

**SECTION 1. POSITION INFORMATION**

- a. Department Name: County Counsel
- b. Work Unit/Location:
- c. Employee Name: For reclassification
- d. Supervisor Name/Title: Tom Sponsler
- e. Job Class: Previous: paralegal Reclass: law clerk
- f. Working Title: Litigation paralegal
- g. Phone Numbers for Supervisor/Employee: 248-3138

- h. Position Type:  Permanent  Temporary  Oncall  Academic Year  
 Full Time  Part Time  Intermittent  Job Share

**SECTION 2. PROGRAM/POSITION INFORMATION**

- a. **Describe the program** (in which this job exists) Please include program purpose, who is effected, size, and scope. Include relationship to agency mission. **You may attach a program description and mission statement if available.**  
**The position is assigned to County Counsel to help provide competent legal services in the defense of litigation against the County.**
- b. **Describe the purpose of this job/position (why does this position exist?)**  
 To independently perform a wide variety of general and technical legal work to support Assistant County Counsel assigned to litigation, including investigation, document preparation, maintenance of accurate and detailed records and document control for complex litigation and provide other pre-trial and trial support.

**SECTION 3. DESCRIPTION OF JOB DUTIES**

List major duties. Note percentage of time duties are performed. To add rows to the table, place cursor any where within the table, click "Table" on the tool bar, then click "Insert Rows"

% of Time	DUTIES
70%	<p>Perform discovery and investigative support to include: schedule witnesses, depositions, independent medical examinations and expert witnesses; draft routine discovery demands and ensure that such demands are complied with; obtain documents pertaining to claims, discovery requests and investigative needs and initiate and supervise document control.</p> <p>Investigate facts related to litigated fact situations and claims; talk to and meet with clients with or without an attorney present to establish problem areas and set deadlines for resolution.</p> <p>Draft legal documents, including briefs, pleadings, motions, exhibits, legal opinions, correspondence and other documents.</p> <p>Perform trial support to include: create exhibit and witness lists, trial exhibits, and trial notebooks; annotate depositions; subpoena witnesses.</p> <p>Maintain calendars and schedules of activities, meetings, and various events; coordinate activities with other County departments, the public and outside agencies; maintain events calendar for program.</p>
10%	<p>Compile information and data for document control and financial reports using manual records or computer software; maintain a variety of statistical records manually or on a personal computer; check and tabulate statistical data; review, compute and correct data requiring analysis and coordination of several data sources and interpretation of policy.</p>
10%	<p>Management of litigation files, status and preparation of litigation reports for lawyers, clients and Board.</p>

10%	Perform paraprofessional duties as assigned
100%	TOTAL

**SECTION 4. GUIDELINES**

- a. List any established guidelines used to do this job, such as state or federal laws or regulations, policies, manuals or desk procedures. Position will understand and use Multnomah County Code, Oregon Federal Rules of Procedure, Uniform Trial Court Rules, Federal Rules of Civil Procedure and District Court (Local) Rules. In addition position will update and write desk procedure manual.
- b. How are these guidelines used to perform the job? All must be followed in the performance of the duties of the position.

**SECTION 5. WORK CONTACTS**

With whom outside of coworkers in this work unit must this position regularly come in contact?

Who Contacted	How	Purpose	How Often?
Internal: County clients/employees	In person, phone, email, writing	Investigate facts, interview Compile documents, schedule, review documents, schedule.	Daily
External: Opposing Counsel Court Personnel Other Parties	In person, phone, email, writing	Same as above	Daily

Describe the nature of any difficult interpersonal contacts encountered: During litigation, any of the contacts could become difficult depending on the situation.

**SECTION 6. JOB-RELATED DECISION MAKING**

Describe the kinds of decisions likely to be made by this position. Indicate effect of these decisions where possible. The position will regularly exercise independent judgment regarding the prioritization of work assignments, and will make decisions about selection of issues to investigate and contacts to make, extent of discovery to produce, compile and request, how to organize litigation files, documents and trial materials, scheduling.

**SECTION 7. BUDGET AUTHORITY**

If this position has authority to commit Department operating money, indicate in what area, how much money and types of funds: Some authority to spend money for litigation costs including fees, delivery services, copying, supplies, etc.

**SECTION 8. REVIEW OF WORK**

Who reviews the work of this position? (List name, job title and position number.) How? How often? Purpose of the review? The work product of this position will integrate with that of other various professional staff in the litigation team and as such will be reviewed informally in connection with the team's work. Formal yearly evaluation by Tom Sponsler, County Counsel.

**SECTION 9. SUPERVISORY DUTIES**

Names of employees supervised:  
None

For positions you supervise. Please clarify your level of responsibility for the following decisions. Check the appropriate boxes.

Function	RESPONSIBILITY			
	Take Action/ Inform Spvr	Effectively Recommend	Provide Input	N/A
Hiring				
Termination/Firing				
Promotion				
Performance Appraisal				
Employee Discipline (suspension)				
Assign Duties				
Setting Goals and Objectives				
Grievance Handling				
Schedule the Work				



---

**SECTION 12. ADDITIONAL JOB-RELATED INFORMATION**

**COMMENTS:**

**SPECIAL RECRUITING REQUIREMENTS:**

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**ORGANIZATIONAL CHART**

**Attach a current organizational chart. See instructions for detail to be included on the chart.**

---

**SIGNATURES:**

\_\_\_\_\_  
Employee Signature                      Date

\_\_\_\_\_  
Supervisor Signature                      Date

\_\_\_\_\_  
Appointing Authority Signature                      Date

EMPLOYEE SERVICES USE ONLY

Supervisory Responsibility

Classified

Unclassified

Represented

Non-represented

New  Revised

Class Title: \_\_\_\_\_

Position Number: \_\_\_\_\_

Overtime: \_\_\_\_\_

FLSA: Exempt / Non-Exempt



OFFICE OF  
MULTNOMAH COUNTY COUNSEL

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MATTHEW O. RYAN  
KATHRYN A. SHORT  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

**MEMORANDUM**

**TO:** Board of County Commissioners  
Beverly Stein, Chair  
Diane Linn, Commission District 1  
Serena Cruz, Commission District 2  
Lisa Naito, Commission District 3  
Sharron Kelley, Commission District 4

**FROM:** Sandra N. Duffy (106/1530) *S. Duffy*  
Chief Assistant County Counsel  
Agnes Sowle (106/1530)  
Assistant County Counsel  
Gerald H. Itkin (106/1530)  
Assistant County Counsel

**DATE:** November 23, 1999

**RE:** Budget Modification Nond 04

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**BUDGET MODIFICATION TO FUND RECLASSIFICATION OF  
AN EXISTING PARALEGAL ASSISTANT TO LITIGATION  
PARALEGAL (LAW CLERK) IN THE OFFICE OF COUNTY  
COUNSEL**

- I. **RECOMMENDATION/ACTION REQUESTED:** The Office of County Counsel recommends the approval of Budget Modification Nond 04. This modification transfers funds now in the County Counsel budget from Temporary Services to Personnel costs to effectively aid attorney staff in handling an increase in serious tort and employment litigation.
- II. **BACKGROUND ANALYSIS:** Law clerks provide valuable services for County Counsel and to the Board of County Commissioners and county departments by helping attorneys provide proactive legal services to anticipate and reduce claims against the insurance fund. County Counsel has experienced an increase in tort and employment litigation over the

course of the past decade increasing the demand for both advisory and litigation legal services.

A law clerk to assist in research increases the efficiency of the attorneys providing legal advice to county departments and elected officials, and reduces claims against the insurance fund. This assistance allows County Counsel to provide timely, efficient and effective advice regarding the legal basis for and the risks associated with contemplated actions.

The alternative for existing attorneys is to perform the tasks now performed by the law clerk, thereby reducing the amount of attorney time available for necessary legal services, and increasing response time to clients. Without the assistance of this law clerk, advice will be less timely and less often thoroughly researched and analyzed. Clients will be forced to make less informed decisions. Uninformed or misinformed decisions can result in claims against the insurance fund.

County Counsel has postponed adding a permanent FTE by referring cases out to private sector lawyers, using contract law clerks and attorney services, and most recently, temporary employee law clerks and attorneys. Such expenses in the past have been charged to the cost of defense of cases and paid from the Risk Management Fund. Last year, at our request, the BOCC permitted a \$50,000 line item for temporary employees in hopes of utilizing this strategy to defer an additional FTE. This strategy has not proven effective primarily due to the County's Rule limiting temporary employment to no more than six (6) months (see attached). Litigation has a half-life greatly exceeding six (6) months and this results in the loss of irreplaceable expertise and institutional wisdom. These measures are no longer efficient, cost effective, or the best practice. The number of serious complex cases that exceed six months makes the use of temporaries impractical. The attached memo from Employee Services underscores the problem. Maintaining continuity in the defense of cases is critical to success. A temporary employee who must leave before a case is complete undermines that continuity.

### III. FINANCIAL IMPACT

General Fund: 0

Risk Management Fund: \$0

#### IV. LEGAL ISSUES

ORS 30.287 provides that every officer or employee of the county is entitled to legal representation when a suit is brought against them in Federal or State Court concerning actions they took during the course and scope of their employment. The County itself is similarly subject to suit. By MCC 7.201, the Board has vested this responsibility in the County Counsel.

#### V. CONTROVERSIAL ISSUES

None.

#### VI. LINK TO CURRENT COUNTY POLICIES AND BENCHMARKS

Good Government: Assures the provision of quality legal services to defend the public interest in the least costly manner.

#### VII. CITIZEN PARTICIPATION

Not applicable.

#### VIII. PARTNERSHIPS AND COLLABORATION

Each elected county official and employee can perform his or her own responsibilities most effectively when access to quality legal services is timely available.

#### Enclosures:

County's Rule  
Memo from Employment Services

1. Maintaining and codifying rules, ordinances, resolutions, laws, etc.
2. Legal research and analysis.
3. Drafting, formatting, editing and finalizing rules, ordinances, laws, etc.
4. Developing and maintaining on-line access to legal documents.
5. Selection, implementation, and use of legal software.

<< File: 905502.doc >>

Thanks,

***James Opoka***  
***248-5015 ext. 29474***

-----Original Message-----

**From:** LARSON Debra A  
**Sent:** Monday, 15 November, 1999 4:08 PM  
**To:** DUFFY Sandra N; SOWLE Agnes  
**Cc:** ULLRICK Ellen L; OPOKA James J; AYERS Susan J  
**Subject:** Approval of Law Clerk reclassification from Paralegal  
**Importance:** High

Sue Ayers and I discussed your request and have approved the reallocation of the position as a Law Clerk. The new description looked good.

## 120.02 Types of Appointments

Departments shall use one of the following methods to appoint persons to County service:

A. **Regular:** A regular appointment is an appointment from a certified eligible list to a regular, budgeted position in the classified service with a work schedule that is one-half time or more. An employee so appointed becomes a regular employee upon completion of the probationary period for the position.

B. **Limited Duration:** An appointment to the exempt classified service, for a defined period of time for a special project, a grant or to perform duties that have other limited funding, is a limited duration appointment.

Limited duration appointments shall be made from certified eligible lists whenever possible. Such appointments must be for a specified period of time, and the appointing Department shall notify the employee of the duration at the time of hire. The notice shall be in writing, and must state the ending date of the appointment. Persons appointed to such limited duration appointments will be returned to their previous position or equivalent position at the end of the appointment. If they did not previously have regular or probationary status with the County, they will be terminated.

C. **On-Call:** An appointment that is intermittent, irregular or is normally less than half time is an on-call appointment.

1. Persons appointed to perform on-call duties normally performed by regular employees shall meet the minimum requirements for the classification. On-call appointments have no time limit. On-call employees may be discharged at any time by the appointing manager and shall have no appeal rights within the County.

D. **Temporary:** An appointment whose duration is uncertain due to an emergency workload, absence of an employee or because of a short-term need for a skill or ability is a temporary appointment.

1. Such appointments must have prior approval of the Appointing Executive.

2. Temporary employees who will be performing duties normally performed by classified employees must meet the minimum requirements established for the classification.

3. Temporary employees shall be notified of their status when appointed. They may be terminated at any time by the appointing manager and have no appeal rights within the County.

4. A temporary appointment may be made for a period of up to six months or 1040 hours within the preceding 12 months. A temporary employee who has already worked 1040 hours may be appointed within the same 12 month period to another position typically by a different Department, following a break in County service lasting 15 days or longer. A temporary employee may be reappointed to a different position when an unforeseen circumstance requiring the employee's services arises shortly after the termination of one appointment, even when the break in service is limited.

5. An employee who has attained regular status and is subsequently given a temporary appointment shall be returned to the position previously held or equivalent position upon expiration of the temporary appointment. If a layoff affects the employee's previously held regular position, the employee shall have the same rights provided in Rule 170 Seniority and Layoff as a regular employee.

MEETING DATE: DEC 09 1999  
AGENDA NO: C-4  
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: Approval of extension to Intergovernmental Agreement with Tri-Met

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: December 9, 1999  
AMOUNT OF TIME NEEDED: N/A

DEPARTMENT: Aging and Disability Services DIVISION: N/A

CONTACT: \_\_\_\_\_ TELEPHONE #: 248-3620  
BLDG/ROOM #: 161/3rd

PERSON(S) MAKING PRESENTATION: \_\_\_\_\_

ACTION REQUESTED:

INFORMATIONAL ONLY  POLICY DIRECTION  APPROVAL  OTHER

SUGGESTED AGENDA TITLE:

Approval of Amendment 7 to Intergovernmental Agreement 100145 with Tri-Met to extend door-to-door rides for frail elders through June 30, 2000 or until such time as a contract renewal is approved

12/17/99 originals to CAROLINE Sullivan

Board of  
COUNTY COMMISSIONERS  
JUNIOR COUNTY  
OREGON  
NOV 29 PM 12: 20

SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_

(OR)  
DEPARTMENT MANAGER: James W. Council

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



# MULTNOMAH COUNTY OREGON

AGING AND DISABILITY SERVICES  
AREA AGENCY ON AGING  
421 S.W. 5TH, 3RD FLOOR  
PORTLAND, OREGON 97204  
HELPLINE: (503) 248-3646 ADMINISTRATION: 248-3620  
TTY: 248-3683 FAX: 248-3656

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

**TO:** Beverly Stein, Board Chair  
**FROM:** Jim McConnell *Jim McConnell*  
**DATE:** November 18, 1999  
**SUBJECT:** Amendment 7 to Intergovernmental Agreement 100145 with Tri-Met

**Retroactive Status:** This agreement is retroactive because of delays experienced in extended discussion with Tri-Met regarding the service delivery requirements. The agreement was originally sent through a Type 1 contract process because it is an interim extension. County Counsel subsequently advised that this extension needs Board consent.

**Recommendation:** Aging and Disability Services recommends approval of the attached Amendment 7 to Intergovernmental Agreement 100145 with Tri-Met, for the period October 1, 1999 through January 30, 2000 or until such time as a contract renewal is approved, whichever is sooner.

**Background/Analysis:** This amendment extends the contract period through June 30, 2000. This additional extension on the same terms is needed to allow time for a new contract to be developed or other arrangements made. Payment will continue on a requirements basis at the current ADS rate of \$2.60/ride. Tri-Met reports the average total cost of a ride to be \$18.00, requiring a subsidy by Tri-Met of an average \$15.40/ride. This contract addresses Older Americans Act rides scheduled and authorized through the District Senior Centers and does not include the Medicaid Medical Transportation rides.

**Fiscal Impact:** Funds up to \$165,590 from County General Funds, City General Funds and the federal Older American Act Funds are budgeted and available during FY2000 on a requirements basis to provide needed transportation for elderly clients not able to use the regular public transportation system. An additional contract with Radio Cab provides back-up services when Tri-Met is unable to schedule needed rides. These 2 contracts draw from the same pool of funds.

**Legal Issues:** This intergovernmental agreement is renewable annually. No formal procurement process is required because Tri-Met is a quasi-governmental organization.

**Controversial Issues:** Individuals and advocates continue to report instances of unsatisfactory service. The proposed wording being negotiated during the extension period for the contract renewal has conditions specified to address issues of unsatisfactory service.

**Citizen Participation:** Discussions continue with advocates and consumers to identify areas for improvement.

**Other Governmental Participation:** The State legislature, Oregon Medical Assistance Program (OMAP) and SDSD continue to play significant roles in the development of a more-integrated and user-friendly door-to-door special needs transportation system.

TL00TM7

MULTNOMAH COUNTY CONTRACT APPROVAL FORM (See Administrative Procedure CON-1)

Pre-approved Contract Boilerplate (with County Counsel signature)  Attached  Not Attached

Contract #: 100145  
Amendment #: 7

<p><b>CLASS I</b></p> <p><input type="checkbox"/> Professional Services not to exceed \$50,000 (and not Awarded by RFP or Exemption)</p> <p><input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption)</p> <p><input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000</p> <p style="margin-left: 20px;"><input type="checkbox"/> Expenditure</p> <p style="margin-left: 20px;"><input type="checkbox"/> Revenue</p> <p><input type="checkbox"/> Architectural &amp; Engineering not to exceed \$10,000 (for tracking purposes only)</p>	<p><b>CLASS II</b></p> <p><input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount)</p> <p><input type="checkbox"/> PCR Contract</p> <p><input type="checkbox"/> Maintenance Agreement</p> <p><input type="checkbox"/> Licensing Agreement</p> <p><input type="checkbox"/> Construction</p> <p><input type="checkbox"/> Grant</p> <p><input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)</p>	<p><b>CLASS III</b></p> <p><input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000</p> <p><input checked="" type="checkbox"/> Expenditure</p> <p><input type="checkbox"/> Revenue</p>
--	---	---

**RECEIVED**  
OCT 29 1999  
AGING SERVICES DEPARTMENT

**RECEIVED**  
APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS  
AGENDA # 4 DATE 12/13/99  
DEB BOUSTADON  
**BOARD CLERK**

COPY APPROVED 8/13/99 #C-5

Department: Aging and Disability Services Division: \_\_\_\_\_ Date: 5/24/1999  
 Originator: Caroline Sullivan/ Phone: 248-3620 Bldg/Rm: 161/3rd Floor  
 Contact: Caroline Sullivan/Donald E. Carlson Phone: 248-3620 x26841 Bldg/Rm: 161/3rd Floor

Description of Contract: Extends contract period 4 months while provisions are considered and negotiations continue.

RENEWAL:  PREVIOUS CONTRACT #(S): \_\_\_\_\_  
 RFP/BID: Exemption RFP/BID DATE: \_\_\_\_\_  
 EXEMPTION #/DATE: \_\_\_\_\_ EXEMPTION EXPIRATION DATE: \_\_\_\_\_ ORS/AR #: \_\_\_\_\_  
 CONTRACTOR IS:  MBE  WBE  ESB  QRF  N/A  NONE (Check all boxes that apply)

<p>Contractor <u>Tri-Met</u></p> <p>Address <u>2800 NW Nela Street</u> <u>Portland OR 97210</u></p> <p>Phone <u>(503) 802-8200</u></p> <p>Employer ID# or SS# <u>93-0579353</u></p> <p>Effective Date <u>October 1, 1999</u></p> <p>Termination Date <u>January 31, 2000</u></p> <p>Original Contract Amount \$ _____</p> <p>Total Amt of Previous Amendments \$ _____</p> <p>Amount of Amendment \$ _____</p> <p>Total Amount of Agreement \$ _____</p>	<p>Remittance address _____ (if different)</p> <p>Payment Schedule / Terms</p> <p><input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt</p> <p><input type="checkbox"/> Monthly \$ _____ <input type="checkbox"/> Net 30</p> <p><input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other</p> <p><input checked="" type="checkbox"/> Requirements Not to Exceed \$ <u>165,590</u></p> <p>Encumber <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>
--	---

REQUIRED SIGNATURES:

Department Manager *James L. Council* DATE 10-12-99  
 Purchasing Manager \_\_\_\_\_ DATE \_\_\_\_\_  
 (Class II Contracts Only)  
 County Counsel *Thomas J. Spaulder* DATE 11-29-99  
 County Chair *William J. ...* DATE December 9, 1999  
 Sheriff \_\_\_\_\_ DATE \_\_\_\_\_  
 Contract Administration *Bertie Carroll* DATE 10/26/99  
 (Class I, Class II Contracts only)

LGFS VENDOR CODE						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/ REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01									See Attached		
02											
03											

Exhibit A, Rev. 3/9/98 DIST: Originator, Accts Payable, Contract Admin - Original If additional space is needed, attach separate page. Write contract # on top of page.

*NO INSURANCE CERTIFICATES REQD (IGA)*

11/18/99

CONTRACT APPROVAL FORM SUPPLEMENT

Page 1

FISCAL YEAR: 00

CONTRACTOR: TRIMET

CONTRACT #: 100145

AMENDMENT#: 7

AGENCY CODE: 86

EFFECTIVE DATE:

1-OCT-99

END DATE: 31-Jan-00

AMENDMENT DATE:

LINE #	FUND	AGY	ORGN CODE	LGFS ACT	LGFS OBJT	REPT CAT	FND CAT	DESCRIPTION	ORIGINAL AMOUNT	MOD1	MOD2	MOD3	FINAL AMOUNT
R1	156	011	1832	TTZZ	6060	179A	COUNTR	REQUIREMENTS LIMIT--DO NOT ENCUMBER	37,217	0			37,217
R2	156	011	1832	TTZZ	6060	1723	IIIB R	REQUIREMENTS LIMIT--DO NOT ENCUMBER	91,837	0			91,837
R3	156	011	1832	TTZZ	6060	1728	CITY	REQUIREMENTS LIMIT--DO NOT ENCUMBER	36,536	0			36,536
TOTAL									165,590	0	0	0	165,590

MULTNOMAH COUNTY SERVICES CONTRACT AMENDMENT  
(Renewal of Contract)  
CONTRACT 100145  
Amendment 7

ORIGINAL

This is a renewal of an Intergovernmental Agreement (Multnomah County contract 100145) effective July 1, 1994 between Multnomah County, hereinafter referred to as COUNTY, and Tri-County Metropolitan Transportation District of Oregon (Tri-Met), hereinafter referred to as CONTRACTOR.

The parties agree:

- Contract 100145 shall be extended for an additional period commencing October 1, 1999 and ending June 30, 2000 or until such time as a new contract renewal is approved, whichever is sooner.
- The following changes are made to Contract 100145:
  - CONTRACTOR shall provide services on the same basis until such time a new contract renewal is approved.
  - COUNTY shall pay CONTRACTOR on the same basis until such time a new contract renewal is approved.
- The total payment for the **renewal period**, including expenses, shall be made on a requirements basis not to exceed \$165,590.
- All other terms and conditions of the contract shall remain the same.

**CONTRACTOR DATA AND SIGNATURE**

Contractor Address: \_\_\_\_\_

Federal Tax ID# or Social Security: \_\_\_\_\_

Is Contractor a nonresident alien?  Yes  No

Business Designation (check one):  Sole Proprietorship  Partnership  
 Corporation  Government  
 Other [describe here: \_\_\_\_\_]

Federal tax ID numbers or Social Security numbers are required pursuant to ORS 305.385 and will be used for the administration of state, federal and local laws. Payment information will be reported to the Internal Revenue Service under the name and Federal tax ID number or, if none, the Social Security number provided above.

**I have read this Contract Amendment. I understand the Contract Amendment and agree to be bound by its terms.**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Name (please print)

\_\_\_\_\_  
Date

**MULTNOMAH COUNTY SIGNATURE**

(This contract is not binding on the County until signed by the Chair or the Chair's designee)

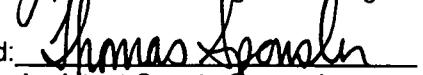
  
\_\_\_\_\_  
County Chair or Designee

December 9, 1999  
\_\_\_\_\_  
Date

**Department and County Counsel Approval and Review**

Approved:   
\_\_\_\_\_  
Department Manager or Designee

11-24-99  
\_\_\_\_\_  
Date

Reviewed:   
\_\_\_\_\_  
Assistant County Counsel

11-29-99  
\_\_\_\_\_  
Date

APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-4 DATE 12/9/99  
DEB BOGSTAD  
BOARD CLERK

MEETING DATE: DEC 09 1999

AGENDA NO: C-5

ESTIMATED START TIME: 9:00

(Above space for Board Clerk's Use Only)

**AGENDA PLACEMENT FORM**

**SUBJECT:** Intergovernmental Agreement with the Multnomah Education Service District to carry out School-to-Work activities under the Department of Labor Urban/Rural Opportunity Grant. Total funding is \$153,612.

**BOARD BRIEFING**

Date Requested: \_\_\_\_\_

Requested By: \_\_\_\_\_

Amount of Time Needed: \_\_\_\_\_

**REGULAR MEETING**

Date Requested: \_\_\_\_\_ Next Available \_\_\_\_\_

Amount of Time Needed: \_\_\_\_\_ Consent \_\_\_\_\_

**DEPARTMENT:** Community and Family Services

**DIVISION:** Community and Family Services

**CONTACT:** Lorenzo Poe/Regena Warren

**TELEPHONE:** 248-3691

**BLDG/ROOM:** B166/7th

**PERSON(S) MAKING PRESENTATION:** N/A

**ACTION REQUESTED:**

INFORMATIONAL ONLY  POLICY DIRECTION  APPROVAL  OTHER

**SUGGESTED AGENDA TITLE**

Approval of the Intergovernmental Agreement with the Multnomah Education Service District to carry out School-to-Work activities.

12/17/99 ORIGINALS TO REGENA WARREN

**SIGNATURES REQUIRED:**

**ELECTED OFFICIAL:** \_\_\_\_\_

OR

**DEPARTMENT MANAGER:** Lorenzo Poe

99 NOV 29 AM 8:32  
MULTNOMAH COUNTY  
OREGON  
BOARD OF  
COUNTY COMMISSIONERS

**ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES**

Any Questions: Call the Board Clerk @ 248-3277



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204-1618  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

DATE: November 8, 1999

TO: Board of County Commissioners

FROM: Lorenzo Poe, Director *Lorenzo Poe mms*  
Department of Community and Family Services

SUBJECT: FY1999-2000 Intergovernmental Agreement between Multnomah Education Service District and Department of Community and Family Services

- I. **Retroactive Status:** This agreement is retroactive to October 1, 1999 due to program negotiations.
- II. **Recommendation/Action Requested:** The Department of Community and Family Services recommends Board of County Commissioners approval of the Intergovernmental Agreement #0010663 with Multnomah Education Service District, effective October 1, 1999 through June 30, 2000.
- III. **Background/Analysis:** The Department of Community and Family Services (DCFS) received an extension to the current Urban/Rural Opportunities Grant (UROG) fund for Empowerment & Enterprise Communities from the Department of Labor/Employment and Training Administration. This agreement supports School-to-Work activities using UROG funds.
- IV. **Financial Impact:** Total funding for this agreement is \$153,612
- V. **Legal Issues:** None.
- VI. **Controversial Issues:** None.
- VII. **Link to Current County Policies:** The Urban/Rural Opportunities Grant-School to-Work activities relate to County Urgent Benchmark: Increase high school completion or an equivalent program.
- VIII. **Citizen Participation:** The Portland/Multnomah Enterprise Community Commission is involved in reviewing these services.
- IX. **Other Government Participation:** The Intergovernmental Agreement demonstrates cooperation and coordination in planning and implementation of School-to-Work activities for students who attend alternative schools in the Enterprise Community.

f:\admin\ceu\9900cont\mesdurogmm.doc

**MULTNOMAH COUNTY CONTRACT APPROVAL FORM**  
(See Administrative Procedure CON-1)

Contract #: 0010663

Pre-approved Contract Boilerplate (with County Counsel signature)  Attached  Not Attached

Amendment #: 0

<p align="center"><b>Class I</b></p> <input type="checkbox"/> Professional Services not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Revenue not to exceed \$50,000 (and not awarded by RFP or Exemption) <input type="checkbox"/> Intergovernmental Agreement (IGA) not to exceed \$50,000 <input type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <input type="checkbox"/> Architectural & Engineering not to exceed \$10,000 (for tracking purposes only)	<p align="center"><b>Class II</b></p> <input type="checkbox"/> Professional Services that exceed \$50,000 or awarded by RFP or Exemption (regardless of amount) <input type="checkbox"/> PCRB Contract <input type="checkbox"/> Maintenance Agreement <input type="checkbox"/> Licensing Agreement <input type="checkbox"/> Construction <input type="checkbox"/> Grant <input type="checkbox"/> Revenue that exceeds \$50,000 or awarded by RFP or Exemption (regardless of amount)	<p align="center"><b>Class III</b></p> <input checked="" type="checkbox"/> Intergovernmental Agreement (IGA) that exceeds \$50,000 <input checked="" type="checkbox"/> Expenditure <input type="checkbox"/> Revenue <p align="center"><b>APPROVED MULTNOMAH COUNTY BOARD OF COMMISSIONERS</b></p> <p>AGENDA # <u>C-5</u> DATE <u>12/9/99</u>                  _____                  DEB BOGSTAD                  _____                  BOARD CLERK</p>
--	--	---

Department: Community and Family Services Division: Community Programs and Partnerships Date: November 2, 1999  
 Originator: Regena Warren Phone: 28134 Bldg/Rm: 166/2  
 Contact: Elaine Summerfield Phone: 29804 Bldg/Rm: 166/7

Description of Contract **This agreement purchases School-to-Work services under the Urban/Rural Opportunity Grant for the period October 1, 1999 through June 30, 2000.**

RENEWAL:  PREVIOUS CONTRACT #(S): \_\_\_\_\_  
 RFP/BID: \_\_\_\_\_ RFP/BID DATE: \_\_\_\_\_  
 EXEMPTION EX99154 EXEMPTION EXPIRATION \_\_\_\_\_  
 #/DATE: \_\_\_\_\_ DATE: 09/30/02 ORS/AR #: \_\_\_\_\_  
 CONTRACTOR IS:  MBE  WBE  ESB  QRF  N/A  NONE (Check all boxes that apply)

Contractor <u>Multnomah Education Service District</u>	Remittance Address _____
Address <u>PO Box 301039</u>	(If different) _____
<u>Portland, OR 97294-9039</u>	
Phone <u>255-1841</u>	Payment Schedule / Terms
Employer ID# or SS# <u>93-6000829</u>	<input type="checkbox"/> Lump Sum \$ _____ <input type="checkbox"/> Due on Receipt
Effective Date <u>October 1, 1999</u>	<input checked="" type="checkbox"/> Monthly \$ <u>Invoice</u> <input type="checkbox"/> Net 30
Termination Date <u>June 30, 2000</u>	<input type="checkbox"/> Other \$ _____ <input type="checkbox"/> Other
Original Contract Amount \$ <u>153,612</u>	
Total Amt of Previous Amendments \$ <u>0</u>	<input type="checkbox"/> Requirements \$ _____
Amount of Amendment \$ <u>0</u>	
Total Amount of Agreement \$ <u>153,612</u>	Encumber <input type="checkbox"/> Yes <input type="checkbox"/> No

REQUIRED SIGNATURES

Department Manager *Lolenz Poe mus* DATE 11/22/99  
 Purchasing Manager \_\_\_\_\_ DATE \_\_\_\_\_  
 County Counsel *Kate Gault* DATE 11/24/99  
 County Chair *Valley Deer* DATE 12/9/99  
 Sheriff \_\_\_\_\_ DATE \_\_\_\_\_  
 Contract Administration \_\_\_\_\_ DATE \_\_\_\_\_

LGFS VENDOR CODE 629561B						DEPT REFERENCE					
LINE #	FUND	AGENCY	ORG	SUB ORG	ACTIVITY	OBJ/REV	SUB OBJ	REP CAT	LGFS DESCRIPTION	AMOUNT	INC DEC
01								See	Attached		
02											
03											

PROCUREMENT REPORT

---

Contractor Name : **MULTNOMAH EDUCATION SERVICE DISTRICT**

Vendor Code: **629561B**

---

*Procurement : EX99154                      Part :            Issue Date : 11/27/98            First Contract : 01/01/99            Expiration Date : 09/30/2002*

---

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Svc Element</u>	<u>Original Amount</u>	<u>Amendment Amount</u>	<u>Final Amount</u>	<u>Requirements Estimate</u>
0	10/01/99	06/30/2000	Z55A    School to Work Administration	153,612.00		153,612.00	

---

COMMUNITY AND FAMILY SERVICES DEPARTMENT  
 CONTRACT APPROVAL FORM SUPPLEMENT

Contractor : MULTNOMAH EDUCATION SERVICE DISTRICT

Vendor Code : 629561B

Fiscal Year : 1999/2000

Through Amendment Number : 00

Contract Number : 0010663

LINE	FUND	AGEN	ORG CODE	ACTIVITY CODE	OBJECT CODE	REPORTING CATEGORY	LGFS DESCRIPTION	ORIGINAL AMOUNT	AMENDMENT AMOUNT	FINAL AMOUNT	REQT'S ESTIMATE
01	156	010	0142	Z55A	6060	9995F	Urban/Rural Opportunity Grant School to Work Administration	\$153,612.00	\$0.00	\$153,612.00	
							<i>DRAFT</i>				
TOTAL								\$153,612.00	\$0.00	\$153,612.00	\$0.00

**INTERGOVERNMENTAL AGREEMENT #0010663**

THIS CONTRACT is between MULTNOMAH COUNTY, acting by and through its Department of Community and Family Services, hereinafter called "COUNTY", and MULTNOMAH EDUCATION SERVICE DISTRICT, a body politically organized and existing under the laws of the State of Oregon, hereinafter called "CONTRACTOR",

**IGA Narrative:**

The Department of Community and Family Services received an Urban Rural Opportunity Grant from the Department of Labor/Employment and Training Administration. The UROG grant supports School-to-Work activities for nine Alternative Schools serving the Enterprise Community. The Multnomah Education Service District will provide coordination, support, and leadership in the development of a comprehensive School-to-Work system.

This IGA provides \$153,612 in Urban Rural Opportunity Grant funds to support UROG School-to-Work system building activities retroactive beginning October 1, 1999 through June 30, 2000.

**THE PARTIES AGREE:**

**I. CONTRACTOR will provide the following services:**

- A. CONTRACTOR will provide services as summarized below and described in Attachment A: Service Elements and Contract Amount. COUNTY agrees to reimburse CONTRACTOR for providing COUNTY-funded services under the payment terms and conditions up to the amounts specified in Attachment A. As applicable, and subject to program instructions, by reference made part of this contract.
- B. CONTRACTOR shall provide written notice and obtain written COUNTY approval prior to implementing any substantive program changes and/or change in method of service delivery that affects level, scope, or outcome of client services funded under this contract.
- C. CONTRACTOR shall perform in accordance with the Department of Labor/Employment and Training Administration special clauses/conditions, statement of work, and proposal response.

**II. Statement of Work:**

**A) Program Overview**

Alternative Pathways is designed to strengthen School-to-Work efforts. The Alternative Schools participating in the Alternative Pathways project will transform their curriculum from a traditional GED focus to and integrated, contextualized curriculum that is organized and delivered around career pathways.

Students who participate in the Alternative Pathways project will be assisted as they make the transition from alternative education environments to community college, professional-technical education or apprenticeships and/or jobs that lead to high-wage, high-skill employment. They will take part in comprehensive and intense career awareness, career orientation, and structured work-based learning experiences. Their curriculum will be organized around the six CAM endorsement areas, or pathways.

**B) Scope of Work: In Project Year 1999-2000, the CONTRACTOR will:**

- Provide administrative oversight and project coordination services for the nine participating Enterprise Community Alternative Schools.
- Articulate and facilitate the integration of Alternative Pathways project goals and objectives for participating Alternative Schools.
- Facilitate the coordination and development of School-to-Work Implementation Plans for each Alternative Pathways school. These plans will include a needs assessment, corresponding goals, objectives, and timelines. (January 31, 2000)
- Facilitate the coordination and implementation of improvement plans in the transition of Pathway students to community college, professional-technical education or apprenticeships and/or jobs that lead to high-wage, high skill employment.
- Perform curriculum needs assessment for each Alternative School and assist in the development and implementation of these plans. These plans will have an integrated, contextualized curriculum that is organized and delivered around career pathways.
- Facilitate the coordination and implementation of a system-wide employer connection plan. Engage active participation of worksystems, inc, Portland Public Schools, Portland Community College, business, and industry in Alternative Pathways. Work to enhance these entities as partners in STW activities and employment of student participants.
- Work with Alternative Pathways partners in the development and delivery of professional development workshops and training.
- Facilitate and coordinate system-wide monthly meetings related to the successful implementation of Alternative Pathways' project i.e., steering committee, student advocate sub-committee, directors sub-committee, curriculum and employer involvement sub-committees.
- Represent Alternative Pathways at local, regional, and national conferences. Provide information dissemination as appropriate, and participate in the Regional Alternative Schools Consortium representing Alternative Pathways.
- Develop strategies for project sustainability after expenditure of UROG funds.
- Collaborate with all other partners in implementing specific aspects of the Alternative Pathways project as appropriate and beneficial (marketing this project to business, participating in developing and validating industry-based skill standards, developing contextualized classes).
- Oversee the Pathway project coordinator, the curriculum specialist, and clerical support staff.
- Manage and facilitate a year two system-wide evaluation and recommend improvements as necessary.
- Meet monthly with the COUNTY Liaison on Pathways project progress.
- Prepare quarterly and annual progress reports in accordance with COUNTY reporting requirements and Department of Labor timelines. The annual progress report detailing activities shall include, but not be limited to, the following:
  - Alternative Pathways Program introduction;

- A discussion regarding the achievement of project goals, progress made towards those goals including successes and challenges;
- Any barriers identified in the year and how the project can address those barriers in the future, particularly how it relates to building a system-wide School-to-Work program;
- Student transition to Community College;
- A discussion about the year's evaluation, and how the third year evaluation will tie to the second year's;
- A discussion regarding strategies to address employer involvement;
- A discussion about the partnership, including new partnerships that will be pursued or strengthened;
- Lessons learned-best practices, and
- Other Pertinent information, which will provide a comprehensive overview of what it takes to build a comprehensive School-to-Work program.

Quarterly and annual report periods and due dates are as follows:

<u>Report period:</u>	<u>Due Date:</u>
October 1, 1999 to December 31, 1999	January 31, 2000
January 1, 2000 to March 31, 2000	April 30, 2000
April 1, 2000 to June 30, 2000	July 31, 2000
July 1, 2000 to September 30, 2000*	October 31, 2000
October 1, 1999 to September 30, 2000	October 31, 2000

\*Quarterly report will be waived during the quarter in which the grantee submits its continuation application for a multi-year grant.

### **III. COMPENSATION: County will pay Contractor expenses on the following bases: Per Invoice Cost Reimbursement**

CONTRACTOR shall be reimbursed for specific services based upon the payment terms set forth under Attachment A. and Statement of Work of this contract. Payment terms and required reports for that payment method and basis shall apply to the CONTRACTOR.

#### **Payment Terms and Reports: All Contracts**

An Annual Budget (see example in exhibit 6C) is due within one month and twenty (20) calendar days of contract effective date; revised annual budget(s) is due within thirty (30) calendar days of COUNTY'S receipt of executed contract amendments if cumulative year-to-date dollar changes for that service element exceed 25%.

1) Expenditures of the CONTRACTOR under service capacity or cost reimbursement contracts, may be charged to this contract only if they are: 1) in payment for services performed under this contract; 2) expensed in conformance with all applicable accounting standards, state and federal regulations and statutes; 3) in payment of an obligation incurred during the contract period; and 4) not in excess of one hundred percent of allowable program costs. For fee-for-service contracts, services of the CONTRACTOR may be charged to this contract only if the services are: 1) included in this contract; 2) performed in conformance with all applicable state and federal regulations and statutes; 3) rendered during the contract period; and 4) not in excess of one hundred percent of designated allocation as stated in Attachment A. Any refunds to the state or federal government resulting from state or federal audits of CONTRACTOR'S program shall be the sole responsibility of CONTRACTOR. CONTRACTOR agrees to make all such payments within twenty working days of receipt of formal notification by COUNTY of disallowance of CONTRACTOR expenditures.

2) Any COUNTY funds spent for purposes not authorized by this contract shall be deducted from payments or refunded to COUNTY at COUNTY'S discretion. Payments by COUNTY in excess of authorized amounts shall be deducted from payment or refunded to COUNTY no later than thirty (30) calendar days after the contract's expiration or after notification by COUNTY. CONTRACTOR shall be responsible for any prior contract overpayments and unrecovered advances provided by COUNTY. Repayment of prior period obligations shall be made by CONTRACTOR in a manner specified by COUNTY. Except when CONTRACTOR is a city, county, or public school district, COUNTY shall be entitled to the legal rate of interest for late payment from the date such payments became delinquent, and in case of litigation, to reasonable attorney's fees.

3) All final requests for payment or an estimate of the final requests for payments shall be received by the Department of Community and Family Services no later than July 20<sup>th</sup> or the next working day after July 20<sup>th</sup> if the 20<sup>th</sup> falls on a weekend or legal holiday. Final requests or estimates of final request for payment documents not received by the Department of Community and Family Services within the specified time frame shall not be processed and the expense shall be the sole responsibility of the CONTRACTOR.

4) Notwithstanding any other payment provision of this contract, failure of CONTRACTOR to submit required reports when due, comply with federal audit standards, repay disallowed costs, perform or document the performance of contracted services, or maintain services at program standards, may result in the withholding and/or reduction of payments under this contract. Such withholding of payment for cause may continue until CONTRACTOR submits required reports, performs required services, or establishes, to COUNTY'S satisfaction, that such failure arose out of causes beyond the control and without the fault or negligence of CONTRACTOR.

#### **Payment Terms and Reports: Cost Reimbursement**

1) Cost Reimbursement contracts may be paid on a reimbursement basis or in equal monthly allotments of annual contract amounts paid in advance, adjusted periodically to reflect:

- a) Increases or decreases in annual contract amounts;
- b) Amounts of client services contributions, if applicable;
- c) Under-expenditures of reimbursement-based contract amounts.

2) Payment of monthly allotments or reimbursed costs is triggered by receipt by COUNTY of required fiscal reports; (see samples in Exhibit 6A & 6B). CONTRACTOR shall have sole responsibility to submit required reports in order to obtain contract payments. If required reports are received on time and are complete and correct, COUNTY agrees to process monthly allotments to be received by CONTRACTOR by the 10th calendar day of each month. For reimbursed costs, COUNTY agrees to process payment requests within ten working days of receipt of billing.

3) Monthly Expenditure Reports are due the 20th calendar day of the month following incurred expenditures. Quarterly Year-to-Date Budget Comparisons are due the 20th calendar day of the month following each calendar quarter. If required, the Annual State MHDDSD Carryover Report is due November 20th following the end of the contract year or within thirty (30) calendar days of contract termination if prior to June 30. COUNTY shall provide notification, forms, and

instructions to CONTRACTOR subject to carryover reporting at least thirty (30) days prior to the report due date.

4) Reported expenditures shall be supported by properly executed payrolls, time records, invoices, contracts, vouchers, orders, and/or any other accounting documents pertaining in whole or in part to the contract, in accordance with Generally Accepted Accounting Principles (GAAP), Oregon Administrative Rules, and applicable federal requirements. Expenditures shall be segregated by service element within the agency accounting system and so reported on the required fiscal reports. All above-referenced accounting documents shall be maintained within a local facility of the CONTRACTOR, and contractual funds shall be maintained within local financial institutions.

**Contractor will bill County for the work as described in Attachment A\*\***

**IV. TERM.** The CONTRACTOR'S services will begin on October 1, 1999 and terminate when completed but no later than June 30, 2000.

**V. CONTRACT DOCUMENTS.** This Contract consists of this contract document, the attached Conditions of Contract, and Attachment A.

**VI. SIGNATURES**

MULTNOMAH COUNTY, OREGON

CONTRACTOR MULTNOMAH  
EDUCATION SERVICE DISTRICT

BY Lorenzo Poeschl 11/22/99  
Director, Dept of Community & Family Svcs Date

BY \_\_\_\_\_  
Signature Date

BY Beverly Stein 12/9/99  
Beverly Stein, Multnomah County Chair Date

\_\_\_\_\_  
Name, (please print)

\_\_\_\_\_  
Title

REVIEWED:  
Katie Dwyer 11/24/99  
THOMAS SPONSLER, County Counsel  
for Multnomah County, Oregon

APPROVED MULTNOMAH COUNTY  
BOARD OF COMMISSIONERS  
AGENDA # C-5 DATE 12/9/99  
DEB BOGSTAD  
BOARD CLERK

**MULTNOMAH COUNTY CONTRACT NO. 0010663**  
**CONDITIONS OF INTERGOVERNMENTAL CONTRACT**

The attached contract for services between Multnomah County, herein "COUNTY", and Multnomah Education Service District, herein "CONTRACTOR", is subject to the following:

1. **FUNDS AVAILABLE.** COUNTY certifies that sufficient funds are available and authorized to finance the costs of this agreement. In the event that funds cease to be available to COUNTY in the amounts anticipated, COUNTY may terminate or reduce contract funding accordingly. COUNTY will notify CONTRACTOR as soon as it receives notification from funding source.

2. **INDEPENDENT CONTRACTOR STATUS.** CONTRACTOR is an independent contractor, and neither CONTRACTOR, CONTRACTOR'S subcontractors nor employees are employees of the COUNTY. CONTRACTOR is responsible for all federal, state, and local taxes and fees applicable to payments for services under this agreement.

3. **SUBCONTRACTS AND ASSIGNMENT.** CONTRACTOR shall neither subcontract with others for any of the work prescribed herein, nor assign any of CONTRACTOR's rights acquired hereunder without the prior written consent of COUNTY. The COUNTY is not liable to any third person for payment of any compensation payable to CONTRACTOR as provided in this agreement.

4. **ACCESS TO RECORDS.** The COUNTY'S authorized representatives shall have access to the books, documents, papers, and records of CONTRACTOR which are directly pertinent to this contract for the purpose of making audit, examination, excerpts, and transcripts.

5. **PROPERTY OF COUNTY.** All work performed by CONTRACTOR under this contract shall be the property of the COUNTY.

6. **WORKERS' COMPENSATION INSURANCE.**

A. CONTRACTOR shall maintain worker's compensation insurance coverage for all non-exempt workers employed by CONTRACTOR in the performance of the work either as a carrier or insured employer as provided in Chapter 656 of Oregon Revised Statutes. CONTRACTOR shall provide COUNTY with a certificate showing current worker's compensation insurance upon request.

B. If CONTRACTOR'S worker's compensation insurance coverage is due to expire before completion of the work, CONTRACTOR will renew or replace such insurance coverage and provide COUNTY with a certificate of insurance coverage showing compliance with this section.

7. **INDEMNIFICATION.**

CONTRACTOR agrees to indemnify, defend, and save harmless COUNTY, the State of Oregon, and other funding sources, and their agents and employees against all liability, loss, and costs arising from actions, suits, claims, or demands attributable to or allegedly attributable to acts or omissions of CONTRACTOR, its employees, agents, or subcontractors. CONTRACTOR further agrees to defend COUNTY, the state, and other funding sources, their agents and employees, against all suits, actions, or proceedings brought against them in connection with CONTRACTOR'S performance of its duties under this contract. This indemnification is limited to the extent permitted by the Oregon Tort Claim Act and the Oregon Constitution.

8. **ADHERENCE TO LAW.** The CONTRACTOR shall comply with all federal, state, and local laws and ordinances applicable to the work to be done under this contract.

9. **NONDISCRIMINATION.** CONTRACTOR shall not unlawfully discriminate against any individual with respect to hiring, compensation, terms, conditions, or privileges of employment, nor shall any person be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any program or activity because of such individual's race, color, religion, sex, national origin, age, handicap, or sexual orientation. CONTRACTOR must comply with all applicable provisions of federal, state, and local laws, regulations, and policies concerning nondiscrimination.

10. **EARLY TERMINATION.**

A. This contract may be terminated by mutual consent of both parties or by either party upon thirty (30) days notice in writing and delivered by certified mail or in person.

B. The COUNTY, by written notice of default, may terminate this agreement if CONTRACTOR fails to provide any part of the services described herein within the time specified for completion of that part or any extension thereof.

C. Upon termination before completion of the services, payment of CONTRACTOR shall be prorated to and including the day of termination and shall be in full satisfaction of all claims by CONTRACTOR against COUNTY under this Agreement.

D. Termination under any provision of this paragraph shall not affect any right, obligation, or liability of CONTRACTOR or liability of CONTRACTOR or COUNTY which accrued prior to termination.

11. **FINAL PAYMENT.**

All final requests for payment shall be received within thirty (30) calendar days following the end of this contract term. Final requests for payment documents not received within the specified time frame shall not be processed and the expense shall be the sole responsibility of the CONTRACTOR.

CONTRACT FOR SERVICES 11/2/1999 12:12:31 PM  
MULTNOMAH COUNTY COMMUNITY AND FAMILY SERVICES DEPARTMENT

**Attachment A:**  
**Service Elements and Contract Amounts**

Contractor Name : MULTNOMAH EDUCATION SERVICE DISTRICT	Vendor Code: 629561B	
Contractor Address : PO BOX 301039 PORTLAND OR 97294-9039		
Telephone : 255-1841	Fiscal Year : 1999/2000	Federal ID # : 93-6000829

---

**Program Office Name : Enterprise Community Contracts**

---

*Service Element Name : School to Work Administration (Z55A)*

<u>Mod. #</u>	<u>Begin Date</u>	<u>End Date</u>	<u>Payment Method</u>	<u>Payment Basis</u>	<u># of Units</u>	<u>Unit Description</u>	<u>Unit Rate</u>	<u>Amount</u>
0	10/01/1999	06/30/2000	Per Invoice	Cost Reimbursement				\$153,612.00
Total								\$153,612.00



MULTNOMAH COUNTY DEPARTMENT OF COMMUNITY & FAMILY SERVICES

SERVICE CONTRACT No. 0010663

**EXHIBIT 6B - QUARTERLY BUDGET COMPARISON REPORT**

For Quarter Ended \_\_\_\_\_

Subcontractor: \_\_\_\_\_ Activity Code: \_\_\_\_\_  
 Address: \_\_\_\_\_ Phone #: \_\_\_\_\_

	YTD BUDGET	YTD ACTUALS	VARIANCE (Favorable) Unfavorable
<b>REVENUE</b>			
This Contract			
State	_____	_____	_____
County General Fund	_____	_____	_____
Local 2145	_____	_____	_____
Title XIX	_____	_____	_____
Other: _____	_____	_____	_____
Other State Funds: _____	_____	_____	_____
Federal Funds: _____	_____	_____	_____
Client Fees	_____	_____	_____
Third Party Payments	_____	_____	_____
Contributions	_____	_____	_____
United Way	_____	_____	_____
Other: _____	_____	_____	_____
<b>TOTAL REVENUE</b>			
<b>EXPENDITURES</b>			
<b>Personnel</b>			
Salaries & Wages	_____	_____	_____
Taxes & Benefits	_____	_____	_____
<b>Total Personnel</b>	_____	_____	_____
<b>Services and Supplies</b>			
Communications	_____	_____	_____
Professional Services	_____	_____	_____
Depreciation	_____	_____	_____
Education & Training	_____	_____	_____
Equipment Rental	_____	_____	_____
Indirect Expenses	_____	_____	_____
Insurance	_____	_____	_____
Occupancy	_____	_____	_____
Office Supplies	_____	_____	_____
Postage	_____	_____	_____
Printing	_____	_____	_____
Other: _____	_____	_____	_____
<b>Total Services &amp; Supplies</b>	_____	_____	_____
<b>TOTAL EXPENDITURES</b>			

**EXCESS OF REVENUE OVER EXPENSE**

I certify that I am the Official Disbursing Officer of \_\_\_\_\_, and that this Statement of revenues and expenditures for the period \_\_\_\_\_ through \_\_\_\_\_ is true and correct to the best of my knowledge.

Authorized Organization Signature: \_\_\_\_\_ Date: \_\_\_\_\_

MULTNOMAH COUNTY DEPARTMENT OF COMMUNITY & FAMILY SERVICES

SERVICE CONTRACT NO. 0010663

EXHIBIT 6C - CONTRACTOR ANNUAL BUDGET

For FY July \_\_\_\_\_ through June \_\_\_\_\_

Subcontractor: \_\_\_\_\_

Activity Code: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

	Activity Code	Activity Code	Activity Code
<b>REVENUE</b>			
This Contract			
State	_____	_____	_____
County General Fund	_____	_____	_____
Local 2145	_____	_____	_____
Title XIX	_____	_____	_____
Other: _____	_____	_____	_____
Other State Funds:	_____	_____	_____
Federal Funds:	_____	_____	_____
Client Fees	_____	_____	_____
Third Party Payments	_____	_____	_____
Contributions	_____	_____	_____
United Way	_____	_____	_____
Other: _____	_____	_____	_____
<b>TOTAL REVENUE</b>			
<b>EXPENDITURES</b>			
<b>Personnel</b>			
Salaries & Wages	_____	_____	_____
Taxes & Benefits	_____	_____	_____
<b>Total Personnel</b>	_____	_____	_____
<b>Services and Supplies</b>			
Communications	_____	_____	_____
Professional Services	_____	_____	_____
Depreciation	_____	_____	_____
Education & Training	_____	_____	_____
Equipment Rental	_____	_____	_____
Indirect Expenses	_____	_____	_____
Insurance	_____	_____	_____
Occupancy	_____	_____	_____
Office Supplies	_____	_____	_____
Postage	_____	_____	_____
Printing	_____	_____	_____
Other: _____	_____	_____	_____
<b>Total Services &amp; Supplies</b>	_____	_____	_____
<b>TOTAL EXPENDITURES</b>			

TOTAL BUDGETED EXPENDITURES FOR ENTIRE ORGANIZATION: \$ \_\_\_\_\_

Required for determination of Annual Audit Requirements

Authorized Organization Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## Alternative Pathways (AP) Monthly Performance Report

Program: \_\_\_\_\_ Month: \_\_\_\_\_

School's total enrollment this month: \_\_\_\_\_ # of Alternative Pathways students enrolled this month: \_\_\_\_\_



<i>School-to-Work Activities</i>	<i>Total Enrolled</i>	<i>Eligible</i>	<i>AP Candidates</i>	<i>AP Students</i>
Participation in <i>Career Fair</i>				
Participation in <i>Career Related Mentoring</i>				
Completion of <i>Community Service Learning</i>				
Completion of a <i>Cooperative Work Experience</i>				
Completion of an <i>Entrepreneurial Work Experience</i>				
Participation in <i>Guest Speaker session</i>				
Completion of an <i>Internship</i>				
Completion of a <i>Job Shadow</i>				
Completion of <i>Project-Based Learning</i>				
Completion of a <i>Site Visit/Tour</i>				
Completion of a <i>Structured Work Experience</i>				
Completion of a <i>Subsidized Work Experience</i>				
Completion of a <i>Workplace Simulation</i>				
<i>Career Development Activities</i>	<i>Total Enrolled</i>	<i>Eligible</i>	<i>AP Candidates</i>	<i>AP Students</i>
Completion of <i>Career Interest Inventory</i>				
Completion of <i>Professional interviews (3)</i>				
Completion of <i>Research Project</i>				
<i>College Orientation Activities</i>	<i>Total Enrolled</i>	<i>Eligible</i>	<i>AP Candidates</i>	<i>AP Students</i>
<small>(Beside number, assign: "(1)" if PCC provided or "(2)" if school provided)</small>				
Completion of <i>Asset Test</i>				
Completion of <i>After School, Then What? Session</i>				
Completion of <i>College to Career Pathways Session</i>				
Completion of <i>Transitional Planning</i>				
Completion of <i>Pre-College Inst./College Success</i>				
Completion of <i>Academic Advising Session</i>				
Completion of <i>Campus Tour</i>				
Completion of <i>College Fund-amentals Session</i>				
Completion of <i>Student R&amp;R Session</i>				
<i>Academic Accomplishments</i>	<i>Total Enrolled</i>	<i>Eligible</i>	<i>AP Candidates</i>	<i>AP Students</i>
# of <i>High School Diplomas or GED Completions</i>				
# of <i>Total Community College Credits</i>				
# of <i>High-School Credits Awarded for CC courses</i>				
Completion of <i>CIM work sample(s)</i>				
<i>System-Building Activities</i>	<i>Yes</i>	<i>No</i>	<i>N/A</i>	
Curriculum development with college faculty				
Curriculum development with Curriculum Specialist				
Participation in disseminating project (i.e., conferences, professional development workshops)				

MEETING DATE: DEC 09 1999  
AGENDA NO: C-6  
ESTIMATED START TIME: 9:00

(Above Space for Board Clerk's use only)

**AGENDA PLACEMENT FORM**

SUBJECT: Request Approval of Repurchase Deed to Former Owner

BOARD BRIEFING: Date Requested: \_\_\_\_\_  
Requested by: \_\_\_\_\_  
Amount of Time Needed: \_\_\_\_\_

REGULAR MEETING: Date Requested: December 2, 1999  
Amount of Time Needed: \_\_\_\_\_

DEPARTMENT: Environmental Services DIVISION: Assessment & Taxation

CONTACT: Gary Thomas TELEPHONE #: 248-3380 x22591  
BLDG/ROOM #: 166/300/Tax Title

PERSON(S) MAKING PRESENTATION: Consent Calendar

**ACTION REQUESTED:**

{ } INFORMATION ONLY    { } POLICY DIRECTION    {X} APPROVAL    { } OTHER

Request approval of Repurchase Deed of Former Owner, Marida A. Peterson.  
Resolution and Deed D001697A attached.

12/16/99 ORIGINAL DEED & COPIES  
OF ALL TO TAX TITLE

**SIGNATURES REQUIRED:**

ELECTED OFFICIAL: \_\_\_\_\_  
OR  
DEPARTMENT MANAGER: Pat Frable, Tax Title Clerk

99 NOV 29 PM 2:28  
MULTICOUNTY CLERK  
OREGON  
CLERK OF COUNTY COMMISSIONERS

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES  
Any Questions: Call the Board Clerk @ 248-3277

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-237

Authorizing Execution of Deed D001697A for Repurchase of Tax Foreclosed Property to Former Owner  
Marida A. Peterson

The Multnomah County Board of Commissioners Finds:

- a) Multnomah County acquired the real property hereinafter described through foreclosure of liens for delinquent taxes, and that Marida A. Peterson is the former record owner
- b) Marida A. Peterson has applied to the County to repurchase the property for the amount of \$11,359.12, which amount is not less than that required by ORS 275.180; and it is in the best interest of the County that the property be sold to the former owner.

The Multnomah County Board of Commissioners Resolves:

1. That the Chair of the Multnomah County Board of County Commissioners is authorized to Execute a deed in a form substantially complying with the attached deed conveying to the contract purchaser the following described real property:

LOT 20, FALLOW AC, a recorded subdivision in the City of Portland, County of Multnomah and State of Oregon.

2. The County's Division of Assessment and Taxation is authorized to forward the signed deed to the appropriate Escrow Officer under letter of instruction which shall provide: (a) that the deed is to be processed only upon the receipt by the County of all funds the County is due in consideration for the above described property, and (b) that if the escrow is closed without the proper payment to the County the deed and any copies there of shall be returned immediately to the County.

Approved this 9th day of December, 1999.



BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

By *Beverly Stein*  
Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel  
Multnomah County, Oregon

By *Matthew O. Ryan*  
Matthew O. Ryan, Assistant County Counsel

Deed D001697 A

MULTNOMAH COUNTY, a political subdivision of the State of Oregon, Grantor, conveys to Marida A. Peterson, Grantee, the following described real property, situated in the County of Multnomah, State of Oregon:

LOT 20, FALLOW AC, a recorded subdivision in the County of Multnomah and State of Oregon.

The true and actual consideration paid for this transfer, stated in the terms of dollars is \$11,359.12.

**THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.**

Until a change is requested, all tax statements shall be sent to the following address:

Marida A. Peterson  
6110 NE Failing St  
Portland OR 972133232

IN WITNESS WHEREOF, MULTNOMAH COUNTY has caused these presents to be executed by the Chair of the Multnomah County Board of Commissioners the 9th day of December, 1999, by authority of a Resolution of the Board of County Commissioners heretofore entered of record.



BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY, OREGON

By *Beverly Stein*  
Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel  
Multnomah County, Oregon

By *Matthew O. Ryan*  
Matthew O. Ryan, Assistant County Counsel

DEED APPROVED:

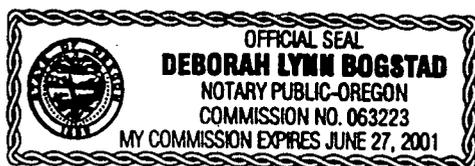
Kathleen A. Tuneberg, Director  
Tax Collections/Records Management

By *Pat Frahler*  
Pat Frahler

After recording, return to 166/300/Multnomah County Tax Title

STATE OF OREGON                    )  
  ) ss  
COUNTY OF MULTNOMAH         )

The foregoing instrument was acknowledged before me this 9th day of December, 1999, by Beverly Stein, to me personally known, as Chair of the Multnomah County Board of Commissioners, on behalf of the County by authority of the Multnomah County Board of Commissioners.



Deborah Lynn Bogstad  
Notary Public for Oregon  
My Commission expires: 6/27/01

BUDGET MODIFICATION NO.

HD 7

(For Clerk's Use) Meeting Date  
Agenda No.

DEC 09 1999

C-7

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

(Date)

DEPARTMENT Health  
CONTACT Kathy Innes

DIVISION \_\_\_\_\_  
TELEPHONE 248-3056 x27027

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD \_\_\_\_\_

SUGGESTED

AGENDA TITLE (to assist in preparing a description for the printed agenda)

Approve an increase of \$98,087 and 1.25 FTE in the Primary Care Behavioral Health budget funded with an increase in the Federal Health Resources & Services Administration Primary Care Grant.

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet

Adds 1.25 Social Worker

3. REVENUE IMPACT (Explain revenues being changed and reason for the change)

Adds \$98,087 to the Federal State Fund  
Adds \$2,959 of indirect to the General Fund.

BOARD OF  
COUNTY COMMISSIONERS  
99 DEC 1 AM 11:11  
MULTNOMAH COUNTY  
OREGON

4. CONTINGENCY STATUS (to be completed by Budget & Quality)

General

Fund Contingency before this modification

11-30-99

3,188,698

Date

After this modification

3,191,657

Originated By

Sharon Armstrong

Date

11/23/99

Department Director

[Signature]

Date

Ev Lillian Shively

11-24-99

Plan/Budget Analyst

[Signature]

Date

11-30-99

Employee Services

Melissa Dailey

Date

11/23/99

Board Approval

[Signature]

Date

12/9/99

**PERSONNEL DETAIL FOR BUDGET MODIFICATION NO.**

**HD 7**

**5. ANNUALIZED PERSONNEL CHANGES HD 7** (Compute on a full-year basis even though this action affects only a part of the fiscal year (FY).)

Permanent Positions, Temporary, Overtime, or Premium	JCN	Org	Explanation of Change	BASE PAY Increase (Decrease)	ANNUALIZED		TOTAL Increase (Decrease)
					Increase/(Decrease)		
					Fringe	Ins.	
1.00	6295	0060	Social Worker	42,612	10,742	6,066	59,420
0.25	6295	0060	Social Worker	10,653	2,686	1,491	14,830
							0
1.25	TOTAL CHANGE (ANNUALIZED)			\$53,265	\$13,428	\$7,557	\$74,250

**6. YEAR PERSONNEL DOLLAR CHANGES** 0 (Calculate costs/savings that will take place this FY; these should explain the actual dollar amounts changed by this BudMod.)

Permanent Positions, Temporary, Overtime, or Premium	JCN	Org	Explanation of Change	BASE PAY Increase (Decrease)	CURRENT FY		TOTAL Increase (Decrease)
					Increase/(Decrease)		
					Fringe	Ins.	
1.00	6295	0060	Social Worker	40,599	10,235	5,992	56,826
0.25	6295	0060	Social Worker	10,653	2,686	1,483	14,822
1.25							
TOTAL CURRENT FISCAL YEAR CHANGES				\$51,252	\$12,921	\$7,476	\$71,648

EXPENDITURE								HD 7					
TRANSACTION EB GM [ ]			TRANSACTION DATE					ACCOUNTING PERIOD			BUDGET FY		
Document Number	Action	Fund	Agency	Organization	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description	
		156	015	0707			5100			51,252			
		156	015	0707			5500			12,921			
		156	015	0707			5550			7,476	71,649		
		156	015	0707			6110			3,200			
		156	015	0707			6230			8,975			
		156	015	0707			6310			438			
		156	015	0707			6330			378			
		156	015	0707			7100			11,834			
		156	015	0707			7150			563			
		156	015	0707			7250			800			
		156	015	0707			7300			250	98,087		
		100	075	9120			7700			2,959			
		100	015	0905			6110			8,875	11,834		
		400	070	7522			6520			7,476			
		402	070	7990			6140			563			
		401	030	5920			6230			250			
		403	070	7935			6230			800			
TOTAL EXPENDITURE CHANGE										119,010	181,569		

REVENUE								HD 7					
TRANSACTION RB GM [ ]			TRANSACTION DATE					ACCOUNTING PERIOD			BUDGET FY		
Document Number	Action	Fund	Agency	Organization	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description	
		156	015	0707			2050			98,087			
		100	075	7410			6602			11,834			
		400	070	7522			6602			7,476			
		402	070	7990			6602			563			
		401	030	5920			6602			250			
		403	070	7935			6602			800			
TOTAL REVENUE CHANGE										119,010	0		



# MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN  
DIANE LINN  
SERENA CRUZ  
LISA NAITO  
SHARRON KELLEY

HEALTH DEPARTMENT  
BUSINESS SERVICES  
426 SW STARK  
PORTLAND, OR 97204  
PHONE (503) 248-3056

TO: Board of County Commissioners

FROM: Lillian Shirley *LS*

TODAY'S DATE: Nov 22, 1999

REQUESTED PLACEMENT DATE: Dec. 2, 1999

SUBJECT: Health Budget Modification Number 7

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**I. Recommendation / Action Requested:**

*1-25*

Approve an increase of \$98,087 and ~~1/2~~ 1.25 FTE in the Primary Care Behavioral Health budget funded with an increase in the Federal Health Resources & Services Administration Primary Care Grant.

**II. Background / Analysis:**

The Bureau of Primary Health Care of the Health Resources Services Administration has awarded funds for the expansion of our Community Health Centers Program. The funds are approved for the hiring 1.25 FTE of bilingual-bicultural Latino social worker to work in the Primary Care Division of the Health Department. The additional staff will allow the Behavioral Health Primary Care program to expand services, and to provide language and culturally appropriate behavioral health services to the Primary Care Division's largest language minority population without interpretation.

**III. Financial Impact:** Adds \$98,087 to the Federal State Fund and \$2,959 of indirect to the General Fund.

**IV. Legal Issues:** NA

**V. Controversial Issues:** NA

**VI. Link to Current County Policies:** NA

**VII. Citizen Participation:** NA

**VIII. Other Government Participation:** NA

**BUDGET MODIFICATION NO.**

HD 8

(For Clerk's Use) Meeting Date

DEC 09 1999

Agenda No.

C-8

**1. REQUEST FOR PLACEMENT ON THE AGENDA FOR**

(Date)

DEPARTMENT

Health

DIVISION

CONTACT

Kathy Innes

TELEPHONE 248-3056 x27027

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

SUGGESTED

AGENDA TITLE

86 (to assist in preparing a description for the printed agenda)

Approve an increase of \$199,268 and 2.18 FE in the Planning & Development budget funded with a Federal Health Resources & Services Administration grant for HIV Medical Adherence Evaluation; and an increase of \$9,478 and .2 FTE in the STD budget funded with State of Oregon AIDs Surveillance grant increase.

(Estimated Time Needed on the Agenda)

**2. DESCRIPTION OF MODIFICATION**

(Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet

Adds .17 Principal Investigator, 1.34 data Analyst Sr., and .67 Office Assistant Sr. to Planning & Development  
Adds .2 Nurse practitioner to STD.

CLERK OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
99 DEC - 1 AM 11:11

**3. REVENUE IMPACT**

(Explain revenues being changed and reason for the change)

Adds \$208,746 to the Federal State Fund  
Adds \$6,222 of indirect to the General Fund.

**4. CONTINGENCY STATUS**

(to be completed by Budget & Quality)

General

Fund Contingency before this modification

11-30-99

3,188,698

Date

After this modification

3,194,920

Originated By

*[Signature]*

Date

11/24/99

Department Director

*[Signature]* For Lillian Shuler

Date

11-24-99

Plan/Budget Analyst

*[Signature]*

Date

11-30-99

Employee Services

*[Signature]* Suzanne S. Kalin

Date

11/24/99

Board Approval

*[Signature]* Deborah C. Bostick

Date

12/9/99

**PERSONNEL DETAIL FOR BUDGET MODIFICATION NO.**

**HD 8**

**5. ANNUALIZED PERSONNEL CHANGES HD 8** (Compute on a full-year basis even though this action affects only a part of the fiscal year (FY).)

Permanent Positions, Temporary, Overtime, or Premium	JCN	Org	Explanation of Change	BASE PAY Increase (Decrease)	ANNUALIZED		TOTAL Increase (Decrease)
					Increase/(Decrease)		
					Fringe	Ins.	
0.22	9798	0060	Co-princ Investigator	20,210	4,966	2,511	27,687
1.00	9747	0060	Data Analyst/Senior	45,605	11,497	6,577	63,679
1.00	9747	0060	Data Analyst/Senior	45,605	11,497	6,577	63,679
1.00	6002	0060	Office Asst/Sr	27,102	6,832	5,748	39,682
0.20	6314	0330	Nurse Prac	6,668	1,681	267	8,616
0							
3.42	TOTAL CHANGE (ANNUALIZED)			\$145,190	\$36,473	\$21,680	\$203,343

**6. YEAR PERSONNEL DOLLAR CHANGES** 0 (Calculate costs/savings that will take place this FY; these should explain the actual dollar amounts changed by this BudMod.)

Permanent Positions, Temporary, Overtime, or Premium	JCN	Org	Explanation of Change	BASE PAY Increase (Decrease)	CURRENT FY		TOTAL Increase (Decrease)
					Increase/(Decrease)		
					Fringe	Ins.	
0.17	9798	0060	Co-princ Investigator	13,473	3,311	1,674	18,458
0.67	9747	0060	Data Analyst/Senior	30,403	7,665	4,385	42,453
0.67	9747	0060	Data Analyst/Senior	30,403	7,665	4,385	42,453
0.67	6002	0060	Office Asst/Sr	18,068	4,555	3,832	26,455
0.20	6314	0330	Nurse Prac	6,668	1,681	267	8,616
2.38							
TOTAL CURRENT FISCAL YEAR CHANGES				\$99,015	\$24,877	\$14,543	\$138,435

EXPENDITURE								HD 8			ACCOUNTING PERIOD		BUDGET FY	
TRANSACTION EB GM [ ]			TRANSACTION DATE											
Document Number	Action	Fund	Agency	Organization	Activity	Reporting Category	Object	Current Amount	Revised Amount	Increase (Decrease)	Subtotal	Description		
		156	015	0060			5100			92,347				
		156	015	0060			5500			23,196				
		156	015	0060			5550			14,276				
		156	015	0060			6110			11,244		Client incentives for participating in c		
		156	015	0060			6120			2,500				
		156	015	0060			6230			27,260				
		156	015	0060			6310			3,780				
		156	015	0060			7100			24,028	175,258			
		156	015	0060			7150			655	199,286			
		156	015	0330			5100			6,668				
		156	015	0330			5500			1,681				
		156	015	0330			5550			267				
		156	015	0330			7100			862	8,616			
		156	015	0330			7100			320	9,798			
		100	015	0330			7608			320				
		100	015	0905			6110			18,667				
		100	075	9120			7700			6,222	25,210			
		400	070	7522						14,543				
		402	030	7990			6140			655				
TOTAL EXPENDITURE CHANGE										249,492	418,168			

REVENUE								HD 8			ACCOUNTING PERIOD		BUDGET FY	
TRANSACTION RB GM [ ]			TRANSACTION DATE											
Document Number	Action	Fund	Agency	Organization	Activity	Reporting Category	Object	Current Amount	Revised Amount	Increase (Decrease)	Subtotal	Description		
		156	015	0060			new		199,286	199,286		SPNS Grant		
									0					
		156	015	0330			2061		9,478	9,478				
							7601		320	320	9,798			
		100	075	7410			6602			25,210				
									0					
		400	070	7522			6602		14,543	14,543				
		402	070	7990			6602		655	655				
TOTAL REVENUE CHANGE										249,492	9,798			



# MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN  
DIANE LINN  
SERENA CRUZ  
LISA NAITO  
SHARRON KELLEY

HEALTH DEPARTMENT  
BUSINESS SERVICES  
426 SW STARK  
PORTLAND, OR 97204  
PHONE (503) 248-3056

TO: Board of County Commissioners

FROM: Lillian Shirley *LS*

TODAY'S DATE: Nov 23, 1999

REQUESTED PLACEMENT DATE: Dec. 2, 1999

SUBJECT: Health Budget Modification Number 8

## I. Recommendation / Action Requested:

Approve an increase of \$199,268<sup>86</sup> and 2.18 FE in the Planning & Development budget funded with a Federal Health Resources & Services Administration grant for HIV Medical Adherence Evaluation; and an increase of \$9,478 and .2 FTE in the STD budget funded with State of Oregon AIDS Surveillance grant increase.

## II. Background / Analysis:

The goals of this project are 1) to evaluate the effectiveness of the Multi-Disciplinary Highly Active Anti-Retroviral Therapy, (HAART) Adherence Assistance Program and 2) to collaborate with the Health Resources and Services Administration on the multi-site antiretroviral treatment adherence evaluation. This project is part of a national multi-site evaluation of Antiretroviral treatment programs. Multnomah County Health Department's HIV/AIDS Health Services Center (HHSC) developed and implemented the multidisciplinary Antiretroviral Treatment Adherence Assistance Program in June of 1998 to increase client participation in and adherence to HAART. The program uses a clinical pharmacist, health care professionals and social workers to address the needs of HAART clients. The pharmacist coordinates the program and serves as an integral part of the care of HIV clients. The pharmacy component of the interventions consists of a series of educational interventions, supplemented by counseling and adherence aids tailored to meet the needs of individual clients.

III. Financial Impact: Adds \$199,268<sup>86</sup> to the Federal State Fund and \$6,222 of indirect to the General Fund. *208,764*

IV. Legal Issues: NA

V. Controversial Issues: NA

VI. Link to Current County Policies: NA

VII. Citizen Participation: NA

VIII. Other Government Participation: NA

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

DEPARTMENT	<u>Health</u>	DIVISION	<u>Primary Care</u>
CONTACT	<u>Tom Fronk</u>	TELEPHONE	<u>24274</u>
* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD		<u>Lillian Shirley</u>	

SUGGESTED  
AGENDA TITLE (to assist in preparing a description for the printed agenda)

The Department of Health requests the transfer of \$500,000 from General Fund Contingency and the addition of \$100,000 of State Safety Net grant funds to the Primary Care Division, various accounts, to restore clinical services previously funded through State Safety net funds.

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

[ X ] Personnel changes are shown in detail on the attached sheet

This budget modification would reduce the General Fund contingency account by \$500,000. The resources would be used to restore clinical services targeting the uninsured in this community. In the prior fiscal year, these services were funded through a State Safety net grant, a funding source largely eliminated for the current fiscal year through legislative action. Services are provided through medical teams assigned to Multnomah County clinics.

This buget modification also increases the appropriation for Pass Through, Primary Care Division, by \$100,000. This is the current best estimate of the amount of funds that will flow from the State Office of Rural Health to Safety Net clinics located in Multnomah County. The budget modification will allow the Department to receive and pass through these funds to existing Coalition Clinics.

3. REVENUE IMPACT (Explain revenues being changed and reason for the change)

Adds \$500,000, plus appropriate Indirect Cost, to the Federal State fund. Adds \$100,000 of State Safety Net funding to the Federal State fund.

4. CONTINGENCY STATUS (to be completed by Budget & Quality)

General Fund Contingency before this modification

99 DEC - 8 PM 4:41  
 MULTNOMAH COUNTY  
 CLERK'S OFFICE

After this modification

Originated By	Date	Department Director	Date
<u>Tom Fronk</u>	<u>12-8-99</u>	<u>Tom Fronk</u>	<u>12-8-99</u>
Plan/Budget Analyst	Date	Employee Services	Date
<u>Christy</u>	<u>12-8-99</u>	<u>Melissa Shirley</u>	<u>12-8-99</u>
Board Approval	Date		
<u>Deborah C. Bogstad</u>	<u>12/9/99</u>		

**PERSONNEL DETAIL FOR BUDGET MODIFICATION NO.**

**DOH 9**

**5. ANNUALIZED PERSONNEL CHANGES** (Compute on a full-year basis even though this action affects only a part of the fiscal year (FY).)

Permanent Positions, Temporary, Overtime, or Premium	JCN	Org	Explanation of Change	ANNUALIZED			TOTAL Increase (Decrease)
				Increase/(Decrease)			
				Base Pay	Fringe	Ins.	
1.00	6001	0720	Office Asst 2	22,406	5,649	5,037	33,094
1.00	9490	0720	Physician	88,844	22,398	5,874	117,116
1.00	6315	0720	Community Health Nurse	48,208	12,153	4,303	64,664
0.30	6294	0720	Health Assistant	7,633	1,924	1,181	10,737
0.20	6303	0720	LCPN	5,506	1,388	1,102	7,997
0.20	6321	0720	Med Rec Tech	5,893	1,486	1,117	8,495
0.20	6333	0720	Lab Technician	5,611	1,415	1,106	8,132
1.00	9490	0730	Physician	96,330	24,285	7,472	128,087
1.00	6001	0730	Office Asst 2	22,406	5,649	4,755	32,810
1.00	6315	0730	Community Health Nurse	38,776	9,775	4,956	53,507
0.30	6294	0730	Health Assistant	7,633	1,924	1,181	10,737
0.20	6303	0730	LCPN	5,506	1,388	1,102	7,997
0.20	6321	0730	Med Rec Tech	5,893	1,486	1,117	8,495
0.20	6333	0730	Lab Technician	5,611	1,415	1,106	8,132
7.80	TOTAL CHANGE (ANNUALIZED)			\$366,256	\$92,335	\$41,409	\$500,000

**6. PERSONNEL DOLLAR CHANGES** (Calculate costs/savings that will take place this FY; these should explain the actual dollar amounts changed by this BudMod.)

Permanent Positions, Temporary, Overtime, or Premium	JCN	Org	Explanation of Change	CURRENT FY			TOTAL Increase (Decrease)
				Increase/(Decrease)			
				Base Pay	Fringe	Ins.	
1.00	6001	0720	Office Asst 2	22,406	5,649	5,037	33,094
1.00	9490	0720	Physician	88,844	22,398	5,874	117,116
1.00	6315	0720	Community Health Nurse	48,208	12,153	4,303	64,664
0.30	6294	0720	Health Assistant	7,633	1,924	1,181	10,737
0.20	6303	0720	LCPN	5,506	1,388	1,102	7,997
0.20	6321	0720	Med Rec Tech	5,893	1,486	1,117	8,495
0.20	6333	0720	Lab Technician	5,611	1,415	1,106	8,132
1.00	9490	0730	Physician	96330	24285	7472	128,087
1.00	6001	0730	Office Asst 2	22,406	5,649	4,755	32,810
1.00	6315	0730	Community Health Nurse	38,776	9,775	4,956	53,507
0.30	6294	0730	Health Assistant	7,633	1,924	1,181	10,737
0.20	6303	0730	LCPN	5506	1388	1102	7997
0.20	6321	0730	Med Rec Tech	5893	1486	1117	8495
0.20	6333	0730	Lab Technician	5611	1415	1106	8132
7.80	TOTAL CURRENT FISCAL YEAR CHANGES			\$366,256	\$92,335	\$41,409	\$500,000

EXPENDITURE							HD 10		ACCOUNTING PERIOD			BUDGET FY	
TRANSACTION EB GM [ ]			TRANSACTION DATE										
Document Number	Action	Fund	Agency	Organization	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description	
		156	015	0720			5100			184,101			
		156	015	0720			5500			46,413			
		156	015	0720			5550			19,720	250,233		
		156	015	0720			7100			34,307	284,540		
		156	015	0730			5100			182,155			
		156	015	0730			5500			45,922			
		156	015	0730			5550			21,690	249,767		
		156	015	0730			7100			34,243	284,010		
		156	015	0709			6060			100,000			
		156	015	0709			7100			700			
		100	015	0720			7608			284,540			
		100	015	0730			7608			284,010			
		100	015	0709			7608			700			
		100	075	9120			7700			(500,000)			
										0			
<b>TOTAL EXPENDITURE CHANGE</b>										738,500			

REVENUE							HD 10		ACCOUNTING PERIOD			BUDGET FY	
TRANSACTION RB GM [ ]			TRANSACTION DATE										
Document Number	Action	Fund	Agency	Organization	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description	
										0			
		100	075	7410			6602		69,250	69,250			
										0			
		156	015	0720			7601		284,540	284,540			
		156	015	0730			7601		284,010	284,010			
		156	015	0709			2482		100,000	100,000			
		156	015	0709			7608		700	700			
										0			
										0			
										0			
<b>TOTAL REVENUE CHANGE</b>										738,500	0		

BUDGET MODIFICATION NO. DOH 9

(For Clerk's Use) Meeting Date DEC 09 1999  
Agenda No. R-1

1. REQUEST FOR PLACEMENT ON THE AGENDA FOR

DEPARTMENT	<u>Health</u>	DIVISION	<u>Primary Care</u>
CONTACT	<u>Tom Fronk</u>	TELEPHONE	<u>24274</u>
* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD		<u>Lillian Shirley</u>	

SUGGESTED  
AGENDA TITLE (to assist in preparing a description for the printed agenda)

The Department of Health requests the transfer of \$500,000 from General Fund Contingency to the Primary Care Division, various accounts, to restore clinical services previously funded through State Safety net funds.

(Estimated Time Needed on the Agenda)

2. DESCRIPTION OF MODIFICATION (Explain the changes this Bud Mod makes. What budget does it increase? What do changes accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

[ X ] Personnel changes are shown in detail on the attached sheet

This budget modification would reduce the General Fund contingency account by \$500,000. The resources would be used to restore clinical services targeting the uninsured in this community. In the prior fiscal year, these services were funded through a State Safety net grant, a funding source largely eliminated for the current fiscal year through legislative action. Services are provided through medical teams assigned to Multnomah County clinics, and through community clinics.

3. REVENUE IMPACT (Explain revenues being changed and reason for the change)

Adds \$500,000, plus appropriate Indirect Cost, to the Federal State fund.

4. CONTINGENCY STATUS (to be completed by Budget & Quality)

<u>General</u>	Fund Contingency before this modification	<u>3,188,698</u>
	After this modification	<u>2,691,657</u>

Originated By <u>Tom Fronk</u>	Date <u>11-28-99</u>	Department Director <u>Lillian Shirley TOMF</u>	Date
Plan/Budget Analyst <u>any</u>	Date <u>11-30-99</u>	Employee Services <u>Melissa Dickey</u>	Date <u>11/30/99</u>
Board Approval <u>Deborah Coaster</u>	Date <u>12/9/99</u>		

BOARD OF COUNTY COMMISSIONERS  
MULTNOMAH COUNTY  
OREGON  
DEC - 1 AM 11:10 1999

EXPENDITURE

DOH 9

TRANSACTION EB GM [ ] TRANSACTION DATE \_\_\_\_\_

ACCOUNTING PERIOD \_\_\_\_\_

BUDGET FY \_\_\_\_\_

Document Number	Action	Fund	Agency	Organization	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description
<b>Expenditure Detail to follow. Discussions with Coalition Clinics will conclude the week the budget modification is presented.</b>												
TOTAL EXPENDITURE CHANGE										0	0	

REVENUE

DOH 9

TRANSACTION RB GM [ ] TRANSACTION DATE \_\_\_\_\_

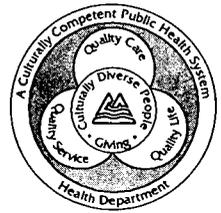
ACCOUNTING PERIOD \_\_\_\_\_

BUDGET FY \_\_\_\_\_

Document Number	Action	Fund	Agency	Organization	Activity	Reporting Category	Object	Current Amount	Revised Amount	Change Increase (Decrease)	Subtotal	Description
TOTAL REVENUE CHANGE										0	0	



# MULTNOMAH COUNTY OREGON



HEALTH DEPARTMENT  
BUSINESS SERVICES DIVISION  
426 SW STARK, 7TH FLOOR  
PORTLAND, OREGON 97204-2394  
(503) 248-3056  
FAX (503) 248-3015  
TDD (503) 248-3816

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

TO: Board of County Commissioners  
FROM: Lillian Shirley *Lillian Shirley*  
TODAY'S DATE: Nov 30, 1999  
REQUESTED PLACEMENT DATE: December 9, 1999  
SUBJECT: Health Budget Modification Number 9

**I. Recommendation / Action Requested:**

Approve a transfer from the General Fund contingency account of \$500,000 to replace State of Oregon Safety Net grant revenues, increasing various budgetary accounts, and allowing the continuation of clinical services to uninsured clients of Health Department and Coalition clinics.

**II. Background / Analysis:**

The State of Oregon budgeted \$3.1 million in the 1997-1999 biennium as direct funding to Oregon safety net medical clinics. These funds were limited to the provision of medical care to the uninsured. The funds were awarded mid way through the biennium. In County FY 1999, the Department budgeted \$468,000 of State safety net funds, and received \$447,000. In addition, the Coalition of Community Clinics received \$319,000 during the same period, for a total of \$766,000 to safety net clinics in this County.

In the current biennium, the State budgeted \$1 million for safety net clinic support. This amount will be awarded over a two year period. The funds are budgeted with the Oregon Medical Assistance Program (OMAP). OMAP is awarding these funds through the Office of Rural Health, with a directive that the funds be spread throughout three broad regions (rural counties, tri-county, and mixed rural/urban counties) based on the proportion of the State's uninsured population resides in these three groupings. The Oregon Population Survey of 1998 will be used as the basis for this allocation. The State has not expressed an interest in developing federal financial participation on these funds.

This reduced funding is part of OMAP's baseline appropriation, and should be expected to continue past this biennium.

Based on this survey, the tri-county area has 37% of the State's uninsured, and Multnomah County has just under 20% of the total. Safety net clinics in the tri-county area will share \$165,000 per year

over the two years of the biennium. We may predict that \$100,000 of this amount will stay in the County, available to County clinics and the Coalition.

The Board in June set aside \$500,000 in the contingency account to provide flexibility in dealing with adverse outcomes to the Oregon Health Plan and the safety net services from the legislative budget process. In October the Department briefed the Board on the effects of the budget process. At that time the Department was instructed to prepare and present a recommendation to the full Board when the funding situation had completely settled.

**III. Financial Impact**

Adds \$500,000 of General Fund support to the Federal State Fund, reducing the General Fund contingency account. Also adds and \$2,959 of indirect to the General Fund.

The Department anticipates that this modification is not one time in nature.

**IV. Legal Issues:**

None.

**V. Controversial Issues:**

The State's role in assuring all residents have access to dignified and necessary health care is central to this modification. This role is not well defined by the State.

**VI. Link to Current County Policies:**

The County has established through resolution its role in assuring through provision of care that the neediest of County residents have access to health care.

**VII. Citizen Participation:**

The Community Health Council has served a central role with this issue, dating back to the legislative action in the last biennium establishing the first safety net grant.

**VIII. Other Government Participation:**

Several State agencies have been involved in this issue, ranging from the Governor's Office to the Office of Rural Health. The current lead State agency is OMAP.





# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204-1618  
PHONE (503) 248-3691  
FAX (503) 248-3379  
TDD (503) 248-3598

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

**TO:** Board of County Commissioners  
**FROM:** Lorenzo T. Poe, Jr., Director *Lorenzo Poe Jr*  
**RE:** Grant Notice of Intent  
**DATE:** November 30, 1999

I. Recommendation/Action Requested: Approval of the NOI to apply for funding for the U.S. Department of Justice/Bureau of Justice Assistance 1999 Open Solicitation for **Local Criminal Justice Planning**. The proposed response will be for funding up to \$150,000 for a period of performance up to 30 months.

II. Background/Analysis: The proposal requires submission of a six page concept paper. Deadline is December 13, 1999. Maximum award is \$150,000 for up to 30 months. Match is not required, however in order to achieve maximum points in the "costs and benefits" section it must be demonstrated that other organizations are contributing financially to the project.

The DCFS Domestic Violence Coordinator proposes to utilize the funding to create a comprehensive plan for domestic violence intervention and prevention in Multnomah County. The first 12 months of the funding would result in creation of the comprehensive plan, the final six months devoted to implementation of initial priorities. The goal is to engage the community in the planning process, including victims of domestic violence. The Local Public Safety Coordinating Council and the Family Violence Prevention Fund would be key participants in the planning process.

III. Financial Impact: A successful proposal will result in an award of \$150,000 for 30 months. No match is required.

IV. Legal Issues: None are anticipated.

V. Controversial Issues: None

VI. Line to Current County Policies: This proposal supports the County's 1999-2000 Investments in Reducing Crime/Domestic Violence.

VII. Citizen Participation: If the proposal is successful, a variety of non-profit organizations and concerned citizen groups will be involved in the planning process.

VIII. Other Government Participation: Government participants will include the Local Public Safety Coordinating Council, the Multnomah County Department of Community Justice, the Multnomah County Health Department, Multnomah County Board of Commissioners, the Portland and Gresham Police Departments, the Multnomah County District Attorney, and the Multnomah County Sheriff's Office.





# MULTNOMAH COUNTY OREGON

DEPARTMENT OF COMMUNITY AND FAMILY SERVICES  
421 SW SIXTH AVENUE, SUITE 700  
PORTLAND, OREGON 97204-1618  
PHONE (503) 248-3691  
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BOARD OF COUNTY COMMISSIONERS  
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LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

**TO:** Board of County Commissioners  
**FROM:** Lorenzo T. Poe, Jr., Director *Lorenzo Poe mjb*  
**RE:** Grant Notice of Intent  
**DATE:** November 30, 1999

I. Recommendation/Action Requested: Approval of the NOI to apply for funding for the U.S. Department of Justice/Bureau of Justice Assistance 1999 Open Solicitation for **Mental Health** linked criminal justice funding. The proposed response will be for funding up to \$150,000 for a period of performance up to 18 months.

II. Background/Analysis: The proposal requires submission of a six page concept paper. Deadline is December 13, 1999. Maximum award is \$150,000 for up to 18 months. Match is not required, however in order to achieve maximum points in the "costs and benefits" section it must be demonstrated that other organizations are contributing financially to the project.

The activities proposed by the Behavioral Health Division include the maintenance and enhancement of mental health services provided for youth in the Donald E. Long juvenile detention center. These services have heretofore been provided with funding from the Annie E. Casey Foundation - funding which is expiring. Funds received would be utilized for 1FTE Mental Health Consultant and to enhance services to juveniles transitioning out of detention or transitioning to MacLaren. This would include; building funds in for transporting juveniles to agencies/therapists or bringing agency/therapist into the detention facility; buying time for agencies to meet with child, to establish relationship with the child; and meeting with parents. The QMHP stationed in the detention center would do the initial assessment and then bring in the appropriate agency(s).

III. Financial Impact: A successful proposal will result in an award of \$150,000 for 18 months. No match is required.

IV. Legal Issues: None are anticipated.

V. Controversial Issues: None

VI. Line to Current County Policies: This proposal supports County Long Term Benchmarks directed to increasing school completion and crime reduction.

VII. Citizen Participation: The services proposed for continuation have been provided within the juvenile detention facility for the past year. No citizen participation was sought to prepare this proposal.

VIII. Other Government Participation: The Multnomah County Department of Juvenile Justice will continue as a government partner.

Meeting Date: DEC 09 1999  
Agenda No: R-4  
Est. Start Time: 9:15

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

**SUBJECT:** A Public Hearing adopting Land Use Planning Values for Rural Multnomah County.

**BOARD BRIEFING** Date Requested:  
Amt. of Time Needed:  
Requested By:

**REGULAR MEETING** Date Requested: December 9, 1999  
Amt. of Time Needed: ~~15~~ 30 minutes

**DEPARTMENT:** DES **DIVISION:** Land Use Planning  
**CONTACT:** Kathy Busse **TELEPHONE:** 248-3043  
**BLDG/ROOM:** 455/116

**PERSON(S) MAKING PRESENTATION:** Kathy Busse

**ACTION REQUESTED**

Informational Only     Policy Direction     Approval     Other

**SUGGESTED AGENDA TITLE**

Adoption of Land Use Planning Values for  
Rural Multnomah County  
12/15/99 copies to BCC, SANDY  
DUFFY & KATHY BUSSE

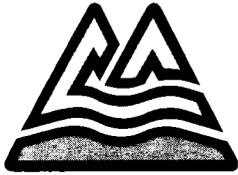
**SIGNATURES REQUIRED**

**Elected Official:** \_\_\_\_\_

or

**Department Manager:** KB Lane E. Nicholas

BOARD OF  
COUNTY COMMISSIONERS  
99 NOV 30 PM 12:06  
MULTNOMAH COUNTY  
OREGON



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
LAND USE PLANNING  
1600 SE 190TH AVE.  
PORTLAND, OREGON 97233  
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## Supplemental Staff Report

**TO:** Board of County Commissioners  
**FROM:** Kathy Busse  
**DATE:** November 29, 1999  
**RE:** Board Land Use Planning Values Statement

**I. Recommendation/Action Requested:**

Adoption of a resolution articulating core values to guide land use decisions.

**II. Background/Analysis:**

The BCC has responsibility for adopting policies that guide land uses for the rural areas of Multnomah County; and for hearing appeals of land use decisions. These can present difficult and controversial issues that involve competing values. The BCC has engaged in several public discussions to help organize and articulate the Board's overarching values into a statement. The outcome will assist planners and planning commissioners in making land use decisions and recommendations in alignment with the County Commissioners' visions and values.

**III. Financial Impact: None**

**IV. Legal Issues: None**

**V. Controversial Issues: None**

**VI. Link to Current County Policies:**

The adopted land use goals, ordinances, and rural area plan policies were made available by reference and considered in the public discussions.

**VII. Citizen Participation:**

The most recent public discussion (August 3, 1999) generated a draft values statement that was sent to 144 stakeholders for comment.

**VIII. Other Government Participation:**

Neighboring jurisdictions were notified as stakeholders in the public comment process mentioned in VII, above.

**Exhibit A**

**Multnomah County Oregon  
Board of County Commissioners**

**DRAFT LAND USE PLANNING VALUES  
AUGUST 1999**

*We value the preservation and protection of:  
Wildlife; Streams; Scenic Views; the Gorge; Forest Lands;  
Farm and Nursery Production.*

*We value sustainability and an eye to the future, and believe that  
maintaining the quality of life in the rural areas of Multnomah County  
provides a social benefit that serves those on both sides of the urban  
growth boundary.*

*We recognize that we are part of a larger ecosystem and want to make  
decisions accordingly, working with other jurisdictions and stakeholders  
with common purpose.*

*We value rural communities and support an economically viable rural  
lifestyle.*

*We support the Statewide Planning Goals adopted by the Oregon  
Legislature in 1973, and strive to further those goals with locally adopted  
plans and policies.*

*We value clear, courteous, respectful and responsive communication and  
collaboration with citizens and the many communities and jurisdictions  
involved.*

*We seek fairness, equity and balance in finding creative solutions that  
build community as well as benefit the public.*

*We value swift, accessible and understandable processes.*

*We value history and a sense of place.*

**Multnomah County Board Land Use Values Discussion  
December 9, 1999**

**Stakeholder Comments:**

- Steve Shipsey, "We support the state wide Planning goals established in 1973 and in addition 14-19 adopted later."
- Michael Lang, "Add to the preservation section 'recreational values' and 'cultural and historic values.'"

- Kelly Ross,  
"Two comments:

(1) The statement beginning with, 'We support the Statewide Planning Goals. . .' is technically incorrect. The Statewide Planning Goals were in fact adopted by the Land Conservation & Development Commission in 1975. SB 100, which required adoption of the Goals, was passed by the Oregon Legislature in 1973. The County may also wish to express support for the land use statutes and administrative rules that guide implementation of the statewide planning program.

(2) I would suggest adding to the statement beginning with, 'We value swift. . .' the words 'that are administered in a consistent and predictable manner in compliance with applicable local and state laws.'

Again, thank you for the opportunity to comment on this issue."

Kelly Ross  
Home Builders Association of Metropolitan Portland

- Blair Batson, "What a great idea. Thank you for sending me a copy of the draft statement. I think it is fine as is."



# Oregon's Department of Land Conservation and Development (DLCD)



Salem Office Has MOVED!

DLCD Home Page

What's New

Planning in Oregon

- LCDC/DLCD/CIAC
- DLCD Staff
- Oregon Statutes
- Statewide Goals
- Administrative Rules
- DLCD Processes
- Participants
- Courts / LUBA
- Oregon Data

What's Happening

- Legislative Affairs
- Commission Activities
- Meeting Summaries
- On the Horizon
- 25th Anniversary
- Jobs and Staff Changes

Planning Issues

- Urban Issues
- TGM
- Rural Issues
- Coastal Issues
- Publication Lists
- Other Issues and Sites

How Planning Works

- City/County Plans
- Citizen Involvement

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## A Summary of Oregon's Statewide Planning Goals

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*A link to the full-text of the Statewide Planning Goals is available courtesy of the University of Oregon.*

Oregon's Land Use Program includes nineteen statewide planning goals. Cities and counties must adopt comprehensive plans and ordinances which are consistent with these goals. Following is a summary of the statewide planning goals. More detailed information on the goals is available under Statwide Planning Goals.

1. *Citizen Involvement* -- Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program with six components specified in the goal. It also requires local governments to have a committee for citizen involvement (CCI) to monitor and encourage public participation in planning.
2. *Land Use Planning* -- Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land-use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed.  
  
Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.
3. *Agricultural Lands* -- Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through exclusive farm use (EFU) zoning (per ORS Chapter 215).
4. *Forest Lands* -- This goal defines forest lands and requires

ARCHIVES

counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

5. *Open Spaces, Scenic and Historic Areas, and Natural Resources* -- Goal 5 encompasses 12 different types of resources, including wildlife habitats, mineral resources, wetlands and waterways. It establishes a process through which resources must be inventoried and evaluated. If a resource or site is found to be important, the local government has three policy choices: to preserve the resource, to allow the proposed uses that conflict with it, or to establish some sort of a balance between the resource and those uses that would conflict with it.
6. *Air, Water and Land Resources Quality* -- This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.
7. *Areas Subject to Natural Disasters and Hazards* -- Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.
8. *Recreation Needs* -- This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expedited siting of destination resorts.
9. *Economy of the State* -- Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.
10. *Housing* -- This goal specifies that each city must plan for and accommodate needed housing types (typically, multifamily and manufactured housing). It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.
11. *Public Facilities and Services* -- Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should to be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

12. *Transportation* -- The goal aims to provide "a safe, convenient and economic transportation system." It asks for communities to address the needs of the "transportation disadvantaged."
13. *Energy* -- Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."
14. *Urbanization* -- This goal requires all cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.
15. *Willamette Greenway* -- Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.
16. *Estuarine Resources* -- This goal requires local governments to classify Oregon's 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."
17. *Coastal Shorelands* -- The goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water-related" uses.
18. *Beaches and Dunes* -- Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.
19. *Ocean Resources* -- Goal 19 aims "to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than

cities and counties.

*Updated: 11/97*

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[Planning in Oregon](#) | [What's Happening](#)  
[Planning Issues](#) | [How Planning Works](#) | [Archives](#) | [Home](#)

Webmaster [Lloyd.Chapman@state.or.us](mailto:Lloyd.Chapman@state.or.us)

**Exhibit A**

With revisions included

**Multnomah County Oregon  
Board of County Commissioners**

**DRAFT LAND USE PLANNING VALUES  
AUGUST 1999**

*We value the preservation and protection of:  
Wildlife; Streams; Scenic Views; the Gorge; Forest Lands;  
Farm and Nursery Production.*

*We value sustainability and an eye to the future, and believe that  
maintaining the quality of life in the rural areas of Multnomah County  
provides a social benefit that serves those on both sides of the urban  
growth boundary.*

*We recognize that we are part of a larger ecosystem and want to make  
decisions accordingly, working with other jurisdictions and stakeholders  
with common purpose.*

*We value rural communities and support an economically viable rural  
lifestyle.*

*We support the Statewide Planning Goals adopted by Land  
Conservation and Development Commission in 1975 and strive to  
further those goals with locally adopted plans and policies.*

*We support the "recreational Values" and "cultural and historic  
values" imbedded in the goals.*

*We value clear, courteous, respectful and responsive communication and  
collaboration with citizens and the many communities and jurisdictions  
involved.*

*We seek fairness, equity and balance in finding creative solutions that  
build community as well as benefit the public.*

*We value swift, accessible and understandable processes that are  
administered in a consistent and predictable manner in compliance with  
applicable local and state laws ."*

*We value history and a sense of place.*

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-238

Endorsing the Adoption of Land Use Planning Values for Rural Multnomah County

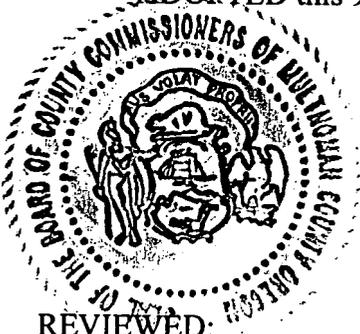
The Multnomah County Board of Commissioners Finds:

- a. The Multnomah County Board of Commissioners met on August 3, 1999 to propose the adoption of Land Use Planning Values for rural lands administered by Multnomah County.
- b. The Multnomah County Board of Commissioners has responsibility for adopting policies that guide land uses for the rural areas of Multnomah County.
- c. The Multnomah County Board of Commissioners hears appeals of land use decisions.
- d. These difficult and controversial land use decisions involve competing values and the Multnomah County Board of Commissioners is values driven.

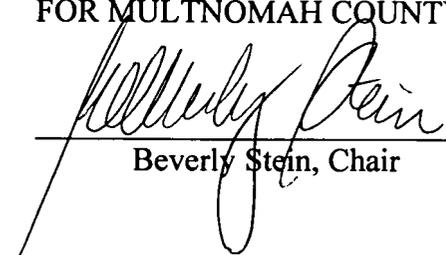
The Multnomah County Board of Commissioners Resolves:

1. That a values statement will help organize and articulate the Multnomah County Board of Commissioner's overarching values to assist planners and Planning Commissioners in making land use decisions and recommendations in alignment with the Commissioners vision and values.
2. Exhibit A (Land Use Planning Values) is adopted and made part of this Resolution.

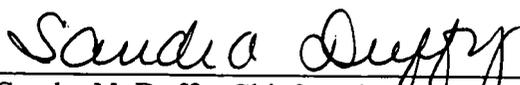
ADOPTED this 9th day of December, 1999.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Beverly Stein, Chair

THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

By   
Sandra N. Duffy, Chief Assistant County Counsel

**Exhibit A**

**Multnomah County Oregon  
Board of County Commissioners**

**LAND USE PLANNING VALUES  
DECEMBER 1999**

We value the preservation and protection of:

Wildlife; Streams; Scenic Views; the Gorge; Forest  
Lands; Farm and Nursery Production.

We value sustainability and an eye to the future, and believe that maintaining the quality of life in the rural areas of Multnomah County provides a social benefit that serves those on both sides of the urban growth boundary.

We recognize that we are part of a larger ecosystem and want to make decisions accordingly, working with other jurisdictions and stakeholders with common purpose.

We value rural communities and support an economically viable rural lifestyle.

We support the Statewide Planning Goals adopted by Land Conservation and Development Commission in 1975 and strive to further those goals with locally adopted plans and policies.

We support the "recreational values" and "cultural and historic values" imbedded in the goals.

We value clear, courteous, respectful and responsive communication and collaboration with citizens and the many communities and jurisdictions involved.

We seek fairness, equity and balance in finding creative solutions that build community as well as benefit the public.

We value swift, accessible and understandable processes that are administered in a consistent and predictable manner in compliance with applicable local and state laws.

We value history and a sense of place.

MEETING DATE: DEC 09 1999

AGENDA NO: R-5

ESTIMATED START TIME: 9:30

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: Resolution to Surrender Jurisdiction of county road SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) to the City of Lake Oswego.

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_

REQUESTED BY: \_\_\_\_\_

AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: December 9, 1999

AMOUNT OF TIME NEEDED: 5 Minutes

DEPARTMENT: Environmental Services DIVISION: Transportation

CONTACT: John Dorst TELEPHONE #: 83599

BLDG/ROOM #: 455/Yeon

PERSON(S) MAKING PRESENTATION: John Dorst

ACTION REQUESTED:

INFORMATIONAL ONLY  POLICY DIRECTION  APPROVAL  OTHER

SUGGESTED AGENDA TITLE:

Resolution to Surrender Jurisdiction of SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) to the City of Lake Oswego.

12/15/99 copies to John Dorst & Carter Kramer

SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_

(OR)

DEPARTMENT

MANAGER: Lois K. Kildow

99 OCT 25 PM 4:33  
CITY OF LAKE OSWEGO  
CLERK'S OFFICE

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
TRANSPORTATION DIVISION  
1600 SE 190TH AVENUE  
PORTLAND, OREGON 97233  
(503) 248-5050

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## MEMORANDUM

**TO:** Board of County Commissioners

**FROM:**  Larry F. Nicholas, P. E., Director, Department of Environmental Services  
John Dorst, Engineering Services Administrator

**TODAY'S DATE:** October 20, 1999

**REQUESTED PLACEMENT DATE:** December 9, 1999

**RE:** Resolution to Surrender Jurisdiction of SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) to the City of Lake Oswego

I. Recommendation/Action Requested:

It is requested that the Board of County Commissioners approve the date of the public hearing. The public hearing is to determine if surrendering jurisdiction of SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) to the City of Lake Oswego is necessary, expedient or for the best interest of the County as required by ORS 373.270.

II. Background/Analysis:

A request was made by the City of Lake Oswego to surrender jurisdiction of county road SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) to the City. The City could provide more cost-effective maintenance since the road is connected to the City's service area and the location of the road with respect to the rest of the County's road responsibilities is relatively isolated.

III. Financial Impact:

No monies are being transferred, either now or in the future, as part of this road surrender.

IV. Legal Issues:

The surrender of jurisdiction is in accordance with ORS 373.270.

V. Controversial Issues:

N/A

VI. Link to Current County Policies:

This is consistent with the transfer of urban services from county to the responsible cities.

VII. Citizen Participation:

Notice of the public hearing scheduled for December 9, 1999, was posted in three places in the county.

VIII. Other Government Participation:

The City of Lake Oswego has requested this surrender of jurisdiction.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

RESOLUTION NO. 99-239

SURRENDERING JURISDICTION OF SW 49<sup>TH</sup> AVENUE (KERR PARKWAY, COUNTY ROAD NO. 1391) TO THE CITY OF LAKE OSWEGO.

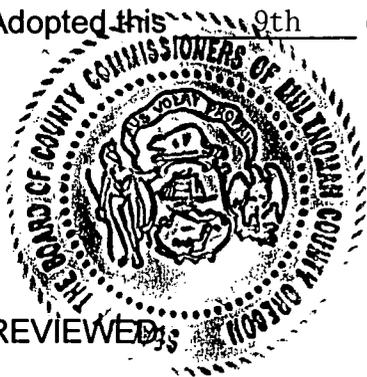
The Multnomah County Board of Commissioners Finds:

- a. In accordance with ORS 373.270 the public was notified, by the posting of notices on November 8, 1999, of the public hearing to consider any objections to surrendering the jurisdiction of SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) to the City of Lake Oswego.
- b. The public was invited to attend the public hearing on this matter on December 9, 1999, in accordance with ORS 373.270, to offer testimony and voice their concerns or support, to enable the Board of County Commissioners to determine whether it's in the best interest of the County to surrender jurisdiction of SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) to the City of Lake Oswego.
- c. The County's Department of Environmental Services, Transportation Division recommends the surrender of jurisdiction to SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) to be necessary, expedient, or for the best interest of the County.

The Multnomah County Board of Commissioners Resolves:

1. It is necessary, expedient, and for the best interest of the County to surrender jurisdiction of SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) to the City of Lake Oswego.
2. That this resolution shall be effective at such time as the City of Lake Oswego shall specifically accept jurisdiction of SW 49<sup>th</sup> Avenue (Kerr Parkway, County Road No. 1391) by appropriate legislation pursuant to ORS 373.270.

Adopted this 9th day of December, 1999.

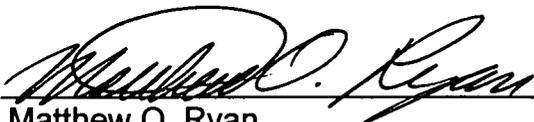


REVIEWED

BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Beverly Stein, Chair

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

By   
Matthew O. Ryan

DFRJ2888 RES (YA2724)

**BUDGET MODIFICATION NO.**

Nond 02

(For Clerk's Use) Meeting Date

DEC 09 1999

Agenda No.

R-7

**1. REQUEST FOR PLACEMENT ON THE AGENDA FOR**

(Date)

DEPARTMENT

County Counsel

DIVISION N/A

CONTACT

Sandra N. Duffy

TELEPHONE 248-3138

\* NAME(S) OF PERSON MAKING PRESENTATION TO BOARD

Sandra N. Duffy, Agnes Sowle

Gerald H. Itkin

SUGGESTED

AGENDA TITLE

(to assist in preparing a description for the printed agenda)

**Budget Modification request to fund a permanent Assistant County Counsel 1 and deleting a portion of existing line item for temporary employee in the Office of County Counsel**

(Estimated Time Needed on the Agenda -- NONE -- CONSENT AGENDA)

**2. DESCRIPTION OF MODIFICATION**

(Explain the changes this Bud Mod makes. What budget does it increase? What do changes

accomplish? Where does the money come from? What budget is reduced? Attach additional information if you need more space.)

Personnel changes are shown in detail on the attached sheet The County has experienced an increase in tort and employment litigation over the past decade. The number of claims has doubled and the complexity has increased. Employment issues have risen the fastest and adverse employment verdicts now represent greatest legal threat to the County's resources. County Counsel has postponed adding a permanent FTE by utilizing contract lawyers, law clerks and temporary staff. Due to the County's rule limiting temporary employment to six months, this results in the loss of irreplaceable expertise and undermines continuity in the defense of cases critical to the County. The new County Counsel 1 position will be funded for the last six months of FY 1999-00, in the amount of \$33,223, by personnel cost savings from the 4-month vacancy in the Paralegal Assistant position of \$11,643, and by a transfer of funds from 5200 Temporary Services to 5100 Permanent Personnel Services in the amount of \$21,580. In future years the position can be funded in part by moving the 5200 Temporary Services to 5100 Permanent Personnel Services in amount of \$19,000, leaving \$47,446 of new money required. That sum would be a new ongoing line item paid from the Risk Management Fund. This additional amount in the budget of County Counsel will have an immaterial impact on the County Counsel liability rates.

**GENERAL FUND: \$0**

**Risk management Fund:**

**FY 1999-2000 - \$0**

**FY 2000-2001 - \$47,466**

**3. REVENUE IMPACT**

(Explain revenues being changed and reason for the change)

This transaction does not affect the General Fund. It increases the Risk Management Fund by \$3,651 to cover increased insurance expenses. This is an internal service reimbursement.

BOARD OF  
 COUNTY COMMISSIONERS  
 99 NOV 30 PM 4:19  
 MULTNOMAH COUNTY  
 OREGON

4. CONTINGENCY STATUS (to be completed by Budget & Quality)

Fund Contingency before this modification \_\_\_\_\_

Date

After this modification

Originated By	<i>Sandra Duffy</i>	Date	<i>11-29-99</i>	Department Director	<i>James Spaulin</i>	Date	<i>11-29-99</i>
Plan/Budget Analyst	<i>Alexandra</i>	Date	<i>11-30-99</i>	Employee Services	<i>[Signature]</i>	Date	<i>11-29-99</i>
Board Approval	<i>Deborah C. Borsted</i>		Date	<i>12/9/99</i>			







OFFICE OF  
MULTNOMAH COUNTY COUNSEL

THOMAS SPONSLER  
*County Counsel*

SANDRA N. DUFFY  
*Chief Assistant*

1120 S.W. FIFTH AVENUE, SUITE 1530  
PORTLAND, OREGON 97204-1977

FAX 248-3377  
(503) 248-3138

SUSAN DUNAWAY  
KATIE GAETJENS  
PATRICK HENRY  
GERALD H. ITKIN  
JEFFREY B. LITWAK  
MATTHEW O. RYAN  
KATHRYN A. SHORT  
AGNES SOWLE  
JOHN S. THOMAS  
JACQUELINE A. WEBER  
*Assistants*

**MEMORANDUM**

**TO:** Board of County Commissioners  
Beverly Stein, Chair  
Diane Linn, Commission District 1  
Serena Cruz, Commission District 2  
Lisa Naito, Commission District 3  
Sharron Kelley, Commission District 4

**FROM:** Sandra N. Duffy (106/1530) *S. Duffy*  
Chief Assistant County Counsel  
Agnes Sowle (106/1530)  
Assistant County Counsel  
Gerald H. Itkin (106/1530)  
Assistant County Counsel

**DATE:** November 29, 1999

**RE:** Budget Modification Nond 02

---

**BUDGET MODIFICATION FOR A PERMANENT ASSISTANT  
COUNTY COUNSEL I AND TO DELETE THE EXISTING LINE  
ITEM FOR A TEMPORARY EMPLOYEE TO THE OFFICE OF  
COUNTY COUNSEL**

- I. **RECOMMENDATION/ACTION REQUESTED:** The Office of County Counsel recommends the approval of Budget Modification Nond 02. This additional position will be funded for this fiscal year within County Counsel budget but requires a budget infusion of \$47,446 from the Risk Management Fund (0 from General Fund) in future years to effectively handle an increase in serious tort and employment litigation.
- II. **BACKGROUND ANALYSIS:** County Counsel has experienced an increase in tort and employment litigation over the course of the past decade. The number of claims has doubled and their complexity increased. Cases raising employment issues have risen the fastest and adverse employment verdicts now represent the greatest legal threat to the County's fiscal resources.

County Counsel has postponed adding a permanent FTE by referring cases out to private sector lawyers, using contract law clerks and attorney services, and most recently, temporary employee law clerks and attorneys. Such expenses in the past have been charged to the cost of defense of cases and paid from the Risk Management Fund. Last year, at our request, the BOCC permitted a \$50,000 line item for temporary employees in hopes of utilizing this strategy to defer an additional FTE. This strategy has not proven effective primarily due to the County's Rule limiting temporary employment to no more than six (6) months (see attached). Litigation has a half-life greatly exceeding six (6) months and this results in the loss of irreplaceable expertise and institutional wisdom. These measures are no longer efficient, cost effective, or the best practice. The number of serious complex cases that exceed six months makes the use of temporaries impractical. The attached memo from Employee Services underscores the problem. Maintaining continuity in the defense of cases is critical to success. A temporary employee who must leave before a case is complete undermines that continuity.

### III. FINANCIAL IMPACT

General Fund: 0

Risk Management Fund: 1999-2000 -- \$0  
2000-2001 -- \$47,446

It will cost \$66,446 annually to fund a new County Counsel 1 position. The Office of County Counsel can fund this position out of this budget for this fiscal year for the last six months of the year. The cost for six months is \$33,618. We can allocate \$11,643 from Personnel Services savings based on a four-month vacancy of a paralegal assistant. We can also transfer the balance, \$21,975, from our Temporary Services line item to Personnel Services.

In future years we will need a budget infusion of \$47,446 annually. We can permanently reallocate \$19,000 of our Temporary Services line item to this position. (The remainder of that line item has been permanently reallocated to funding the costs of reclassification of two other positions in the office)

This new expenditure of \$47,446 should actually save money for the Risk Management Fund. If we have inadequate legal services available in-house, we have to hire outside legal counsel. At a minimum of \$125 per hour,

\$47,000 would only buy 375 hours of legal services. A new lawyer in-house will mean approximately 1500 hours of legal services annually for the County.

#### IV. LEGAL ISSUES

ORS 30.287 provides that every officer or employee of the county is entitled to legal representation when a suit is brought against them in Federal or State Court concerning actions they took during the course and scope of their employment. The County itself is similarly subject to suit. By MCC 7.201, the Board has vested this responsibility in the County Counsel.

#### V. CONTROVERSIAL ISSUES

None.

#### VI. LINK TO CURRENT COUNTY POLICIES AND BENCHMARKS

Good Government: Assures the provision of quality legal services to defend the public interest in the least costly manner.

#### VII. CITIZEN PARTICIPATION

Not applicable.

#### VIII. PARTNERSHIPS AND COLLABORATION

Each elected county official and employee can perform his or her own responsibilities most effectively when access to quality legal services is timely available.

## 120.02 Types of Appointments

Departments shall use one of the following methods to appoint persons to County service:

A. **Regular:** A regular appointment is an appointment from a certified eligible list to a regular, budgeted position in the classified service with a work schedule that is one-half time or more. An employee so appointed becomes a regular employee upon completion of the probationary period for the position.

B. **Limited Duration:** An appointment to the exempt classified service, for a defined period of time for a special project, a grant or to perform duties that have other limited funding, is a limited duration appointment.

Limited duration appointments shall be made from certified eligible lists whenever possible. Such appointments must be for a specified period of time, and the appointing Department shall notify the employee of the duration at the time of hire. The notice shall be in writing, and must state the ending date of the appointment. Persons appointed to such limited duration appointments will be returned to their previous position or equivalent position at the end of the appointment. If they did not previously have regular or probationary status with the County, they will be terminated.

C. **On-Call:** An appointment that is intermittent, irregular or is normally less than half time is an on-call appointment.

1. Persons appointed to perform on-call duties normally performed by regular employees shall meet the minimum requirements for the classification. On-call appointments have no time limit. On-call employees may be discharged at any time by the appointing manager and shall have no appeal rights within the County.

D. **Temporary:** An appointment whose duration is uncertain due to an emergency workload, absence of an employee or because of a short-term need for a skill or ability is a temporary appointment.

1. Such appointments must have prior approval of the Appointing Executive.
2. Temporary employees who will be performing duties normally performed by classified employees must meet the minimum requirements established for the classification.
3. Temporary employees shall be notified of their status when appointed. They may be terminated at any time by the appointing manager and have no appeal rights within the County.
4. A temporary appointment may be made for a period of up to six months or 1040 hours within the preceding 12 months. A temporary employee who has already worked 1040 hours may be appointed within the same 12 month period to another position typically by a different Department, following a break in County service lasting 15 days or longer. A temporary employee may be reappointed to a different position when an unforeseen circumstance requiring the employee's services arises shortly after the termination of one appointment, even when the break in service is limited.
5. An employee who has attained regular status and is subsequently given a temporary appointment shall be returned to the position previously held or equivalent position upon expiration of the temporary appointment. If a layoff affects the employee's previously held regular position, the employee shall have the same rights provided in Rule 170 Seniority and Layoff as a regular employee.

#3 presenter/moderator

SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME

JEFF Spegman

ADDRESS

3736 SE Salmon

Portland

PHONE

234-0462

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#6 (Presenter)

## SPEAKER SIGN UP CARDS

DATE 9 DEC 99

NAME

Michael S. Lewis MD OREGON

ADDRESS

PRESIDENT, THORACIC SOCIETY

PHONE

288.5201

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC

Second-hand smoke

**GIVE TO BOARD CLERK**

#8

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME RICHARD NORTH

ADDRESS 17070 SW RIVENDELL

DURHAM, OR 97224

PHONE 503-736-6325 (B) 503-968-1520 (H)

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smoke free Workplace Ordinance

**GIVE TO BOARD CLERK**

#9

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME PATRICIA L. LENT

ADDRESS 11355 SE 27

MILWAUKIE, OR 97222

PHONE 227-3424 (BUS) 654-6826 (RES)

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smoke free Workplace Ordinance

GIVE TO BOARD CLERK

#12

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME DARRYL JOANNIDES

ADDRESS 1515 SE MARTINS ST

PORTLAND, OR 97202

PHONE 231-1464

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#13

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME

Craig Zielinski

ADDRESS

15134 N.W. Oakmont Loop

Beaverton Or 97006

PHONE

(503) 645-3695

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#14

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME Talesha Pittman

ADDRESS 9729 N. Oswego

Portland OR 97203

PHONE (503) 283-5151

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#15

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME Katie Sinnott

ADDRESS 9431 N. Trumbull Ave

Portland, OR 97203

PHONE (503) #286-5193

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#140

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME

George Minck

ADDRESS

1513 SE ASH

#1

PHONE

(503) 231-1348

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#19

## SPEAKER SIGN UP CARDS

DATE

12/9/99

NAME

DEBY CHURNISIDE

ADDRESS

28626 E. WOODARD RD

TROUTDALE OR 97068

PHONE

(503) 492-8857

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC

Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#20

## SPEAKER SIGN UP CARDS

DATE Dec 9 1999

NAME Warden Minor - AMERICAN

ADDRESS 9320 SW Barbut <sup>WING</sup>  
~~ASBN~~  
Portland, 97219

PHONE 246-1997

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smoke free workplace

GIVE TO BOARD CLERK

#21

## SPEAKER SIGN UP CARDS

DATE 12-9-99

NAME Howard A. Nodjes

ADDRESS 4630 SE Thiesen Rd

Milwaukie OR 97267

PHONE 503 653-0450

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smoking Ban

**GIVE TO BOARD CLERK**

#22

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME John McEnroe

ADDRESS 1800 SE Stark #206

PHONE 503-232-6918

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smoking ban

GIVE TO BOARD CLERK

#23

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME

JIM EDDY

ADDRESS

1923 SE 46th Ave

PORTLAND OR 97215

PHONE

(503) 234-3907

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#24

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME Gail Teidy

ADDRESS 2237 NE Stanton

Portland, OR

PHONE <sup>hm</sup> 284-2812 <sup>wk</sup> 287-1180

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#25

## SPEAKER SIGN UP CARDS

DATE 12 / 9 / 99

NAME

Crystal Imes

ADDRESS

1407 N. Baldwin

Portland, Or. 97217

PHONE

(503) 289-2152

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#240

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME Jacqueline Martin

ADDRESS 7615 N Interstate

Portland, OR 97217

PHONE (503) 240-1704

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#27

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME Phena Hay

ADDRESS Marshall High School

PHONE \_\_\_\_\_

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#28

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME

Danna Lei

ADDRESS

3417 SE 67th AVE

Portland OR 97206

PHONE

774-6931

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

Submitted Petition

SPEAKER SIGN UP CARDS

DATE Dec. 9, 1999

NAME ANDREW E. CRAIG

ADDRESS 16650 NW SOMERSET DR  
BEAVERTON, ORE. 97006

PHONE 503 645 1121 / 503 2864788 (w)

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC SMOKING 1

GIVE TO BOARD CLERK

#29

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME BRUCE ALEXANDER KNIGHT

ADDRESS 131 SE 22d Ave. #2

PORTLAND, OR 97214

PHONE 736-1259

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC SMOKING BAN

GIVE TO BOARD CLERK

#30

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME Jonathan Wong

ADDRESS 3104 NE Everett St  
Rdx. Or 97232

PHONE 235-1234

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#31

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME

Maye Thompson

Pres.

- ONA

ADDRESS

734 SE 47th Ave

Dist 1

PDX

PHONE

232-6167

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smokefree Workplace Ordinance

GIVE TO BOARD CLERK

#32

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME

Alexander Hamalian

ADDRESS

510 SW 3rd #400

Portland, OR

PHONE

503-222-3641

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smoking card. as applied to Bars.

GIVE TO BOARD CLERK

(look in  
ear  
case)

#33

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME

Kelly Scannel

ADDRESS

1929 NW Irving

Portland, OR 97209

PHONE

503-224-0615

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smoke free Workplace Ordinance

GIVE TO BOARD CLERK

#34

## SPEAKER SIGN UP CARDS

DATE 12.9.99

NAME

T FOXE

ADDRESS

625 NW EVERETT ST

PORTLAND, OR

PHONE

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC SMOKING BAN

GIVE TO BOARD CLERK

#35

## SPEAKER SIGN UP CARDS

DATE 12-9-99

NAME LINDA HAGEN

ADDRESS 8114 SW 11<sup>th</sup> Ave

PORTLAND, OR 97219

PHONE 503-245-6328

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC SMOKE-FREE WORKPLACE

GIVE TO BOARD CLERK

#36

## SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME BILL PERRY

ADDRESS 8565 SALISH LANE  
WILSONVILLE

PHONE 682-4422

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC R-8

GIVE TO BOARD CLERK

#37

## SPEAKER SIGN UP CARDS

DATE Dec 9-99

NAME

Phaedra Culliton

ADDRESS

124 SE 127<sup>th</sup> ave

PHONE

254-0424

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC

GIVE TO BOARD CLERK

#38

## SPEAKER SIGN UP CARDS

DATE 12-9-99

NAME

PAT RUZICKA

ADDRESS

3835 NE STANTON ST

PORTLAND, OR.

PHONE

281-0442

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC Smoke Free Ordinance

GIVE TO BOARD CLERK

DID NOT SPEAK

SPEAKER SIGN UP CARDS

DATE 12/9/99

NAME Peter Schwimmer

ADDRESS 3615 NE 63rd Ave

Portland, OR 97213

PHONE 282-0344

SPEAKING ON AGENDA ITEM NUMBER OR  
TOPIC anti-smoking o. h. v. v. v.

GIVE TO BOARD CLERK

MEETING DATE: DEC 09 1999  
AGENDA NO: R-8  
ESTIMATED START TIME: 9:45

(Above Space for Board Clerk's Use ONLY)

**AGENDA PLACEMENT FORM**

SUBJECT: An Ordinance repealing MCC 27.300 and 27.301, adding new provisions to MCC Chapter 21 relating to workplace hazards, and creating smoke-free workplaces

BOARD BRIEFING: DATE REQUESTED: \_\_\_\_\_  
REQUESTED BY: \_\_\_\_\_  
AMOUNT OF TIME NEEDED: \_\_\_\_\_

REGULAR MEETING: DATE REQUESTED: December 9, 1999  
AMOUNT OF TIME NEEDED: 1 hour

DEPARTMENT: Non-departmental DIVISION: Commissioners Diane Linn and Lisa Naito

CONTACT: Ramsay Weit/Charlotte Comito TELEPHONE #: 248-5220/248-5217  
BLDG/ROOM #: 106/1500

PERSON(S) MAKING PRESENTATION: Commissioners Linn and Naito and invited others

ACTION REQUESTED:

INFORMATIONAL ONLY  POLICY DIRECTION  APPROVAL  OTHER

SUGGESTED AGENDA TITLE:

An Ordinance repealing MCC 27.300 and 27.301, adding new provisions to MCC Chapter 21 relating to workplace hazards, and creating smoke-free workplaces

SIGNATURES REQUIRED:

ELECTED OFFICIAL: \_\_\_\_\_  
(OR)  
DEPARTMENT  
MANAGER: \_\_\_\_\_



BOARD OF  
COUNTY COMMISSIONERS  
99 NOV 30 PM 4:42  
MULTIOMAH COUNTY  
OREGON

ALL ACCOMPANYING DOCUMENTS MUST HAVE REQUIRED SIGNATURES

Any Questions: Call the Board Clerk @ 248-3277



Diane Linn, Multnomah County Commissioner  
DISTRICT ONE

## SUPPLEMENTAL STAFF REPORT

TO: Board of County Commissioners

FROM: Commissioners Linn and Naito

DATE: November 30, 1999

RE: Smoke-free workplace ordinance

1. Recommendation/Action Requested:

Approval on First Reading of the ordinance establishing smoke-free workplaces in Multnomah County.

2. Background/Analysis:

Documented health risks attached to the prevalence of secondhand smoke in the workplace create a matter of county concern. As the public health authority, Multnomah County is specifically charged with providing services to reduce tobacco consumption. Many workers are routinely exposed to personal health hazards resulting from others' smoking habits on the job. This ordinance, with noted exemptions, requires every employer in the County to provide a place of employment free of tobacco smoke for all employees.



3. Financial Impact:

No identified financial impact to the County. Multnomah County already provides a smoke-free workplace to its employees and the public at all County facilities. Moreover, the cost of any enforcement and/or educational activities that result from adoption of the Ordinance will be absorbed by the health Department.

4. Legal Issues:

Regulation of smoking is consistent with the County's public health authority.

5. Controversial Issues:

Smoking is not an illegal activity, and some argue that regulating secondhand smoke is a violation of smokers' "right to smoke."

6. Link to Current County Policies:

This ordinance expands the existing policy prohibiting smoking in County facilities.

7. Citizen Participation:

The Multnomah County Tobacco Prevention Coalition represents a cross-section of the community whose goals include preventing tobacco-related illness and promoting projects that prevent and reduce tobacco use.

8. Other Government Participation:

Public employers are subject to the provisions of the Ordinance.

1                                   BEFORE THE BOARD OF COUNTY COMMISSIONERS  
2                                   FOR MULTNOMAH COUNTY, OREGON

3                                   ORDINANCE NO. \_\_\_\_\_  
4

5                   An ordinance repealing MCC 27.300 and 27.301 and adding new provisions to MCC  
6 Chapter 21 relating to workplace hazards.

7                   **The Multnomah County Board of Commissioners Finds:**

8                   a.       Health hazards brought about by breathing second-hand smoke include lung  
9 cancer, heart disease, respiratory infection, and decreased respiratory function, including  
10 bronchoconstriction and bronchospasm.

11                  b.       Children exposed to second hand smoke suffer increased rates of bronchitis, ear  
12 infections, asthma, allergies and meningococcal meningitis.

13                  c.       Thirty-two percent (32%) of Multnomah County workers report being exposed to  
14 second-hand tobacco smoke in the workplace. (1997) Tobacco Baseline Survey, Multnomah  
15 County Respondent, Oregon Health Division.

16                  d.       Forty-three percent (43%) of food service workers in Multnomah County report  
17 being exposed to second-hand smoke while they are working. (1998) Multnomah County Food  
18 Service Worker Survey.

19                  e.       Multnomah County is the local public health authority, under ORS 431.375(2),  
20 charged with providing public health services in Multnomah County.

21                  f.       As the local public health authority, Multnomah County is charged with assuring  
22 the "activities necessary for the preservation of health or prevention of disease in the area under  
23 its jurisdiction." ORS 431.416(2).

24                  g.       The Multnomah County Department of Health has established a county-wide  
25 network of education and clinical services available to all residents of Multnomah County.  
26

1 h. As the public health authority, Multnomah County is specifically charged with  
2 providing services to reduce tobacco consumption. ORS 431.832 and OAR 333-010-330.

3 i. Multnomah County Home Rule Charter Chapter 2.10 grants the county authority  
4 over matters of county concern.

5 j. The Board of County Commissioners declares that this ordinance is to protect  
6 the public health and welfare by prohibiting smoking in places of employment.

7  
8 **Multnomah County Ordains as follows:**

9 **Section 1.** MCC Chapter 21 is amended to add:

10 **§ 21.500 SMOKE-FREE WORKPLACES**

11 **§ 21.501 DEFINITIONS.**

12 For the purpose of this subchapter, the following definitions shall apply unless the  
13 context requires a different meaning.

14 **BAR.** An area devoted to the serving of alcoholic beverages for consumption by guests  
15 on premises and where the serving of food is only incidental to the consumption of such  
16 beverages.

17 **BUSINESS.** Any sole proprietorship, partnership, joint venture, corporation, or other  
18 business entity, including retail establishments where goods or services are sold, as well as  
19 professional corporations and other entities where professional services are delivered.

20 **EMPLOYEE.** Any person who is employed by any employer in the consideration for  
21 direct or indirect monetary wages or profit, and any person who volunteers his or her services to  
22 a non-profit entity.

23 **EMPLOYER.** Any person or entity who employs the services of one or more individuals.

24 **ENCLOSED AREA.** All space between a floor and a ceiling that is enclosed on all sides  
25 by solid walls or windows (exclusive of door or passageways) that extend from the floor to the  
26 ceiling, including all space therein screened by partitions that do not extend to the ceiling or are

1 not solid, such as "office landscaping" or similar structures. Enclosed areas do not include  
2 breakrooms designated for smoking (smoking room) by employers if the following conditions are  
3 met:

4 1. The smoking room is not accessible to minors.

5 2. Air from the smoking room is exhausted directly to the outside by an exhaust fan  
6 and not recirculated to other parts of the building.

7 3. The smoking room is in compliance with ventilation standards established by the  
8 Department of Health by administrative rule.

9 4. The smoking room is located in a non-work area where no one, as part of his or  
10 her work responsibilities, is required to enter. For purposes of this paragraph, "work  
11 responsibilities" does not include custodial or maintenance work carried out in the smoking room  
12 when it is unoccupied.

13 5. There are sufficient nonsmoking breakrooms to accommodate nonsmokers.

14 **PLACE OF EMPLOYMENT.** Any enclosed area under the control of a public or private  
15 employer that employees normally frequent during the course of employment, including, but not  
16 limited to, work areas, employee lounges and rest rooms, conference and class rooms,  
17 cafeterias and hallways. A private residence is not a "place of employment" unless it is used as  
18 a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS  
19 410.490 or a health care facility as defined in ORS 442.015.

20 **RETAIL TOBACCO STORE.** A retail store utilized primarily for the sale of tobacco  
21 products and accessories and where the sale of other products is secondary.

22 **SMOKING.** Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette,  
23 weed, plant, or other tobacco-like product or substances in any manner or in any form.

24 **TOBACCO PRODUCT.** Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco  
25 or any other form of tobacco which may be utilized for smoking, inhalation, or other means of  
26 ingestion.

1 **§ 21.502 SMOKING PROHIBITED IN PLACES OF EMPLOYMENT.**

2 Every employer shall provide a place of employment free of tobacco smoke for all  
3 employees.

4 **§ 21.503 PLACES WHERE SMOKING IS NOT REGULATED.**

5 Notwithstanding any other provision of this section to the contrary, the following areas  
6 shall not be subject to any smoking restrictions contained within this subchapter:

7 (A) Private residences, unless the private residence is used as a child care facility as  
8 defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490 or a health care  
9 facility as defined in ORS 442.015;

10 (B) Rented motel or hotel rooms that are designated in some manner as smoking-  
11 allowed rooms by the owners of the establishment renting the rooms;

12 (C) Private rooms rented for an occupancy that exceeds one month and that are not  
13 located in a private residence used as a child care, adult day care or health facility;

14 (D) Bars, if the Oregon Liquor Control Commission requires posting the premises to  
15 prohibit the presence of minors;

16 (E) Bar portions of bar and restaurant combinations if the Oregon Liquor Control  
17 Commission requires posting the premises to prohibit the presence of minors;

18 (F) Bingo operations licensed pursuant to ORS 464.250 et seq. and race courses  
19 operated by a licensee licensed under ORS chapter 462;

20 (G) Retail tobacco stores.

21 **§ 21.504 POSTING "NO SMOKING" SIGNS.**

22 "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial  
23 representation of a burning cigarette enclosed in a circle with a bar across the cigarette) shall be  
24 clearly, sufficiently, and conspicuously posted in every building or other area where smoking is  
25 prohibited by this subchapter, by the owner, manager, or other person having control of such  
26

1 building or other area, including private residences used as a child care, adult day care or health  
2 care facility.

3 **§ 21.505 OTHER VIOLATIONS.**

4 It shall be a violation of this subchapter for every day any person, who owns, manages,  
5 operates or otherwise controls the use of any premises, subject to regulation under §§ 21.500 et  
6 seq., fails to comply with any provisions therein. Each day shall be a separate violation.

7 **§ 21.506 SMOKING IN WORKPLACE PROHIBITED**

8 It shall be a violation of §§ 21.500 et seq. for any person to smoke in any area where  
9 smoking is prohibited by the provisions of §§ 21.500 et seq.

10 **§ 21.507 OTHER LAWS**

11 This subchapter shall not be interpreted or construed to permit smoking where it is  
12 otherwise restricted by other applicable laws.

13

14 **Section 2.** MCC § 21.999 is amended to add:

15 **§ 21.999 PENALTY.**

16

\* \* \* \* \*

17 (D) *Smoke-Free workplace violations*

18 Any person who violates §§ 21.500 et seq. shall be subject to the following penalties  
19 imposed by the Multnomah County Department of Health:

20 (1) For a first violation, a notice and warning, with educational materials and  
21 a referral phone number for the Tobacco Prevention Program. The Tobacco Prevention  
22 Program shall provide technical assistance to achieve compliance upon request.

23 (2) For a second violation within a 12 month period, the employer and  
24 Tobacco Prevention staff will jointly develop a smoke-free workplace remediation plan.

25

26

1 (3) For subsequent violations, a civil fine consistent with the fine schedule  
2 adopted by the Director of the Department of Health by administrative rule.

3 (4) Fines imposed under (3) may be appealed in writing to the Director of the  
4 Multnomah County Department of Health. The Director's decision shall be final.

5

6 Section 3. MCC §§ 27.300 and 27.301 are repealed and this ordinance is effective  
7 April 3, 2000.

8

9 FIRST READING: \_\_\_\_\_

10 SECOND READING AND ADOPTION: \_\_\_\_\_

11

MULTNOMAH COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

12

13

By \_\_\_\_\_  
Beverly Stein, Chair

14

15

16 REVIEWED:

17 THOMAS SPONSLER, COUNTY COUNSEL  
FOR MULTNOMAH COUNTY, OREGON

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19

By  \_\_\_\_\_  
Katie Gaetjens, Assistant County Counsel

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## Testimony

The presentation will be moderated by Jerry Spegman, American Cancer Society and member of Citizens for a Healthy Workplace.

### **Presentation**

**Commissioners Linn and Naito** – explaining the ordinance and why they are bringing it forward – Please introduce the moderator, Jerry Spegman

**Dr. Mel Kohn** – Epidemiology, science of secondhand smoke exposure

**Dr. Michael Lewis** – President of Thoracic Society, treating patients with secondhand smoke exposure

**Dr. Frank Baumeister** – influential in the Measure 44 campaign

**Carolyn Morrison** – Metro Child Care, story of underweight babies due to working in a smoky workplace

**Rick North** – reading testimony from factory workers unable to attend

**Patricia Lent** – worker at a small company, affected by secondhand smoke

**Margaret Linn** – Diane's sister – testifying to the effect of secondhand smoke on musicians forced to work in smoky bars and Leroy Vinegar's story

**Darryl Joannides** - owner of Assagio restaurant – effect on business of smokefree policies

### ***Video Presentation***

**Josh Rowe** - Mt. Hood Community College Student Body Assn. Vice President

**Katie Sinnott and Taleesha Pittman** - 2 sophomores from Roosevelt High School – talk about programs, story of restaurant owner

**Ebony Hinck** - Hosford Middle School 7<sup>th</sup> grader – Will be a future worker, presents postcards to Chair Stein

**Mary Christiansen** - Former Corvallis City Council member – what happened in Corvallis, how she was convinced that passing the ordinance was necessary

**Dana Kaye** - Prevention Coordinator, Benton County – how is it now, enforcement

**Deby Churnside** – Coalition Chair

#7  
12/9/99

## TESTIMONY IN SUPPORT OF SMOKE FREE WORKPLACE ORDINANCE

By

Carolyn Morrison  
Gresham, Oregon

I would like to share with you a personal anecdote that clearly illustrates the importance of a smoke free workplace, especially as it relates to pregnant women.

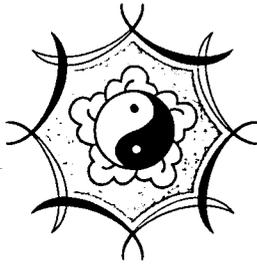
In my early 20's I worked in an office environment in which nearly everyone smoked. I personally have never been a smoker. I worked while pregnant and had a normal pregnancy in all regards. When my first son was born, he was of low birth weight and I was not asked if I smoked, but how much I smoked.

I continued to work at this same firm. Five years later I was pregnant with my second child. I suffered from a persistent lung infection. This is the only time in my life I ever have had difficulty with my lungs. When my second son was born, again I was asked "how much do you smoke" as he too was low birth weight.

I quit working and stayed home with my family. My third and final pregnancy, during which I was not exposed to a smoke filled environment, resulted in the birth of a normal birth weight baby, again a boy. I have no doubt that seven years of breathing side stream smoke affected my health.

Now I am an employer with a staff of 25. We make accommodations in the work environment for individuals with sensitivity to many things, including the air they breathe. Fragrances and temperature fluctuations adversely affect some individuals, and we accommodate them - in fact, it is required by ADA. That smoking is an option in the workplace is unfair to those who choose not to smoke. It unnecessarily and unfairly exposes those who choose not to smoke to potential adverse health effects imposed on them by those who chose to smoke.

In the existing shrunken labor pool of skilled employees and the indisputable evidence of the harm caused by smoking, it makes good business sense to offer a smoke free work environment. Had I known in the 70's what I know about side stream cigarette smoke today, I would never had stayed in that smoke filled work environment for 7 years.



# OREGON COLLEGE OF ORIENTAL MEDICINE

10525 S. E. Cherry Blossom Drive • Portland, OR 97216 • (503) 253-3443 • FAX (503) 253-2701

#23  
12/9/99

Hello, and thank you for this opportunity to testify in support of the proposed ordinance. My comments will be brief and very focused.

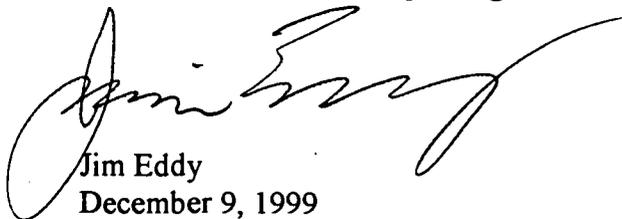
My name is Jim Eddy. I work as the Dean of Institutional Affairs at the Oregon College of Oriental Medicine, a master's degree program located in Southeast Portland that trains independent practitioners of acupuncture and Oriental medicine. I also volunteer as a citizen on the policy committee of Citizens for a Healthy Workplace.

In our college teaching clinic, we treat significant numbers of patients who have as a treatment focus smoking cessation. Our clinicians know from extensive experience that individuals addicted to cigarette smoking require multiple levels of support in any successful plan to quit. There is no "silver bullet" in smoking cessation; there are no magic acupuncture points or foolproof herbal formulas. Instead, sound medical care needs to complement psychological support services, family support, and environmental upgrades in order to effectively address the challenge.

The quality of the air we breathe at work is crucial to us all. It is even more crucial that individuals who are making a concerted effort to quit smoking can count on smokefree air at work. It is documented that when businesses go smokefree, 25% of employees who smoke quit smoking, and another 50% cut back significantly on their cigarette consumption. These are powerfully important trends for all of us to fully understand and consider.

I've been working in higher education for 21 years. It doesn't seem like that long ago that I invited Commissioner Cruz, then a student about to graduate from Lewis & Clark College, to speak to a group of college administrators about progressive social change, and about the specific responsibilities of individuals in decision-making positions to improve the lives of those who find themselves outside the corridors of power. In my view there could not be a more progressive, useful opportunity for all of us in positions of administrative decision-making than this opportunity – the collective intention to provide for clean and healthy air for everyone, especially those without the power and authority to set their workplace rules.

Thank you again for this privilege to testify.



Jim Eddy  
December 9, 1999

#35  
12/9/99

Testimony on Multnomah County Proposed Ordinance, 21,500 Smoke-Free Workplaces  
Presented: 12/9/99 by Linda L Hagen, 8114 SW 11<sup>th</sup> Ave, Portland, OR 97219

In the Supplemental Staff Report (11/30/99) presented with the proposed ordinance, it states:

1. "Many workers are routinely exposed..." although it does not say how many.
2. Further it states, "No identified financial impact to the County." But it says nothing about the financial impact on the businesses which will be affected.
3. And under Citizen Participation, it lists only the Multnomah County Tobacco Prevention Coalition. Now this group may represent a "cross-section of the community" of anti-smokers but it certainly does not represent a cross-section of the community at large.

**The citizens who should participate are the employers and employees who will be affected.**  
And I question whether most of them have been informed or are even aware of this proposal.

I have seen little of this publicized, virtually nothing in the Oregonian, except I happened to see this small announcement about Diane Linn's Meeting on November 12, which I attended.

And at that meeting I heard two things.

1. One man, an anti-smoker, stated 18% of workers in Multnomah County do not work in smoke-free environments. This means about 80% of workers do work in smoke-free places.
2. And Diane Linn stated that 70-80% of the restaurants in the County are now smoke-free.

I have no way of validating these numbers, but they sound about right.

And what it tells me is that workplace smoke is not a big problem in Multnomah County. Federal & State Regulations have already contributed to this large percentage smoke-free result.  
**Further regulation by the County would be excessive and is not needed or warranted.**

Clearly, many businesses and restaurants have also made the choice to go smoke-free. The remaining businesses should also be allowed to make this business decision and choose to whom they will cater..  
But instead, the anti-smokers would make this business decision for them, and take away that choice.

The greatest impact will be on small businesses who can ill-afford to lose customers or install ventilated smoking rooms, and on restaurants and bars.  
Right now, anti-smokers and non-smokers have a choice of 4 out of 5 restaurants in the County. You would take away the one remaining choice from smokers.  
Furthermore, if you force the remaining smokers out on the street, you could expose more of the public and children to smoke.

This proposal purports to protect workers in non-smoke free workplaces.

My question: Have these workers been surveyed?

Some may choose to work where they can smoke.

Others may not have a problem with it.

And of those who do, have they looked for alternative employment or tried to work with their employer to accommodate both smokers and non-smokers?

**This proposal has not had adequate public participation or analysis of the impacts.**  
Smokers are people too. They are employers, producers, consumers, taxpayers-and they vote.

# MULTNOMAH COUNTY, OREGON

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN  
DIANE LINN  
SERENA CRUZ  
LISA NAITO  
SHARRON KELLEY

COMMISSIONER SHARRON KELLEY  
1120 S.W. FIFTH - SUITE 1500  
PORTLAND, OREGON 97204  
PHONE: (503) 248-5213  
FAX: (503) 248-5262  
sharron.e.kelley@co.multnomah.or.us

## MEMORANDUM

TO: Board of County Commissioners  
FROM: Commissioner Sharron Kelley  
RE: Proposed Amendments to R-8 (smoke-free workplaces)  
DATE: December 9, 1999

---

Deletions are [bracketed]; additions are underlined.

1. Amend Section 3 (page 6, lines 6-7) to read as follows:

MCC sections 27.300 and 27.301 are repealed and this ordinance is effective [April 3] July 1, 2000[.], except as provided in Section 4.

2. Add Section 4 (page 6) to read as follows:

**Section 4.** Sections 21.999 (3)-(4) are effective on July 1, 2001.

3. Add Section 21.503(H) (page 4) to read as follows:

**(H)** Employers with a total of five or fewer employees, either full or part-time, may permit smoking where all of the following conditions are met:

1. The smoking area is not accessible to minors.
2. All employees who enter the smoking area consent to permit smoking. No one, as part of his or her work responsibilities, shall be required to work in an area where smoking is permitted.
3. Air from the smoking area is exhausted directly to the outside by an exhaust fan and not recirculated to other parts of the building.
4. The smoking area is in compliance with ventilation standards established by the Department of Health by administrative rule.

1                                   BEFORE THE BOARD OF COUNTY COMMISSIONERS

2   FOR MULTNOMAH COUNTY, OREGON

3   ORDINANCE NO. \_\_\_\_\_

4  
5           An ordinance repealing MCC 27.300 and 27.301 and adding new provisions to MCC  
6 Chapter 21 relating to workplace hazards.

7           **The Multnomah County Board of Commissioners Finds:**

8           a.     Health hazards brought about by breathing second-hand smoke include lung  
9 cancer, heart disease, respiratory infection, and decreased respiratory function, including  
10 bronchoconstriction and bronchospasm.

11          b.     Children exposed to second hand smoke suffer increased rates of bronchitis, ear  
12 infections, asthma, allergies and meningococcal meningitis.

13          c.     Thirty-two percent (32%) of Multnomah County workers report being exposed to  
14 second-hand tobacco smoke in the workplace. (1997) Tobacco Baseline Survey, Multnomah  
15 County Respondent, Oregon Health Division.

16          d.     Forty-three percent (43%) of food service workers in Multnomah County report  
17 being exposed to second-hand smoke while they are working. (1998) Multnomah County Food  
18 Service Worker Survey.

19          e.     Multnomah County is the local public health authority, under ORS 431.375(2),  
20 charged with providing public health services in Multnomah County.

21          f.     As the local public health authority, Multnomah County is charged with assuring  
22 the "activities necessary for the preservation of health or prevention of disease in the area under  
23 its jurisdiction." ORS 431.416(2).

24          g.     The Multnomah County Department of Health has established a county-wide  
25 network of education and clinical services available to all residents of Multnomah County.

1 h. As the public health authority, Multnomah County is specifically charged with  
2 providing services to reduce tobacco consumption. ORS 431.832 and OAR 333-010-330.

3 i. Multnomah County Home Rule Charter Chapter 2.10 grants the county authority  
4 over matters of county concern.

5 j. The Board of County Commissioners declares that this ordinance is to protect  
6 the public health and welfare by prohibiting smoking in places of employment.

7

8 **Multnomah County Ordains as follows:**

9 **Section 1.** MCC Chapter 21 is amended to add:

10 **§ 21.500 SMOKE-FREE WORKPLACES**

11 **§ 21.501 DEFINITIONS.**

12 For the purpose of this subchapter, the following definitions shall apply unless the  
13 context requires a different meaning.

14 **BAR.** An area devoted to the serving of alcoholic beverages for consumption by guests  
15 on premises and where the serving of food is only incidental to the consumption of such  
16 beverages.

17 **BUSINESS.** Any sole proprietorship, partnership, joint venture, corporation, or other  
18 business entity, including retail establishments where goods or services are sold, as well as  
19 professional corporations and other entities where professional services are delivered.

20 **EMPLOYEE.** Any person who is employed by any employer in the consideration for  
21 direct or indirect monetary wages or profit, and any person who volunteers his or her services to  
22 a non-profit entity.

23 **EMPLOYER.** Any person or entity who employs the services of one or more individuals.

24 **ENCLOSED AREA.** All space between a floor and a ceiling that is enclosed on all sides  
25 by solid walls or windows (exclusive of door or passageways) that extend from the floor to the  
26 ceiling, including all space therein screened by partitions that do not extend to the ceiling or are

1 not solid, such as "office landscaping" or similar structures. Enclosed areas do not include  
2 breakrooms designated for smoking (smoking room) by employers if the following conditions are  
3 met:

4 1. The smoking room is not accessible to minors.

5 2. Air from the smoking room is exhausted directly to the outside by an exhaust fan  
6 and not recirculated to other parts of the building.

7 3. The smoking room is in compliance with ventilation standards established by the  
8 Department of Health by administrative rule.

9 4. The smoking room is located in a non-work area where no one, as part of his or  
10 her work responsibilities, is required to enter. For purposes of this paragraph, "work  
11 responsibilities" does not include custodial or maintenance work carried out in the smoking room  
12 when it is unoccupied.

13 5. There are sufficient nonsmoking breakrooms to accommodate nonsmokers.

14 **PLACE OF EMPLOYMENT.** Any enclosed area under the control of a public or private  
15 employer that employees normally frequent during the course of employment, including, but not  
16 limited to, work areas, employee lounges and rest rooms, conference and class rooms,  
17 cafeterias and hallways. A private residence is not a "place of employment" unless it is used as  
18 a child care facility as defined in ORS 657A.250, an adult day care facility as defined in ORS  
19 410.490 or a health care facility as defined in ORS 442.015.

20 **RETAIL TOBACCO STORE.** A retail store utilized primarily for the sale of tobacco  
21 products and accessories and where the sale of other products is secondary.

22 **SMOKING.** Any inhaling, exhaling, burning, or carrying any lighted cigar, cigarette,  
23 weed, plant, or other tobacco-like product or substances in any manner or in any form.

24 **TOBACCO PRODUCT.** Any tobacco cigarette, cigar, pipe tobacco, smokeless tobacco  
25 or any other form of tobacco which may be utilized for smoking, inhalation, or other means of  
26 ingestion.

1    **§ 21.502       SMOKING PROHIBITED IN PLACES OF EMPLOYMENT.**

2       Every employer shall provide a place of employment free of tobacco smoke for all  
3 employees.

4    **§ 21.503       PLACES WHERE SMOKING IS NOT REGULATED.**

5       Notwithstanding any other provision of this section to the contrary, the following areas  
6 shall not be subject to any smoking restrictions contained within this subchapter:

7       (A)   Private residences, unless the private residence is used as a child care facility as  
8 defined in ORS 657A.250, an adult day care facility as defined in ORS 410.490 or a health care  
9 facility as defined in ORS 442.015;

10       (B)   Rented motel or hotel rooms that are designated in some manner as smoking-  
11 allowed rooms by the owners of the establishment renting the rooms;

12       (C)   Private rooms rented for an occupancy that exceeds one month and that are not  
13 located in a private residence used as a child care, adult day care or health facility;

14       (D)   Bars, if the Oregon Liquor Control Commission requires posting the premises to  
15 prohibit the presence of minors;

16       (E)   Bar portions of bar and restaurant combinations if the Oregon Liquor Control  
17 Commission requires posting the premises to prohibit the presence of minors;

18       (F)   Bingo operations licensed pursuant to ORS 464.250 et seq. and race courses  
19 operated by a licensee licensed under ORS chapter 462;

20       (G)   Retail tobacco stores.

21    **§ 21.504       POSTING "NO SMOKING" SIGNS.**

22       "No smoking" signs or the international "no smoking" symbol (consisting of a pictorial  
23 representation of a burning cigarette enclosed in a circle with a bar across the cigarette) shall be  
24 clearly, sufficiently, and conspicuously posted in every building or other area where smoking is  
25 prohibited by this subchapter, by the owner, manager, or other person having control of such  
26

1 building or other area, including private residences used as a child care, adult day care or health  
2 care facility.

3 **§ 21.505 OTHER VIOLATIONS.**

4 It shall be a violation of this subchapter for every day any person, who owns, manages,  
5 operates or otherwise controls the use of any premises, subject to regulation under §§ 21.500 et  
6 seq., fails to comply with any provisions therein. Each day shall be a separate violation.

7 **§ 21.506 SMOKING IN WORKPLACE PROHIBITED**

8 It shall be a violation of §§ 21.500 et seq. for any person to smoke in any area where  
9 smoking is prohibited by the provisions of §§ 21.500 et seq.

10 **§ 21.507 OTHER LAWS**

11 This subchapter shall not be interpreted or construed to permit smoking where it is  
12 otherwise restricted by other applicable laws.

13

14 **Section 2.** MCC § 21.999 is amended to add:

15 **§ 21.999 PENALTY.**

16

\*\*\*\*\*

17 (D) *Smoke-Free workplace violations*

18 Any person who violates §§ 21.500 et seq. shall be subject to the following penalties  
19 imposed by the Multnomah County Department of Health:

20 (1) For a first violation, a notice and warning, with educational materials and  
21 a referral phone number for the Tobacco Prevention Program. The Tobacco Prevention  
22 Program shall provide technical assistance to achieve compliance upon request.

23 (2) For a second violation within a 12 month period, the employer and  
24 Tobacco Prevention staff will jointly develop a smoke-free workplace remediation plan.

25

26

1 (3) For subsequent violations, a civil fine consistent with the fine schedule  
2 adopted by the Director of the Department of Health by administrative rule.

3 (4) Fines imposed under (3) may be appealed in writing to the Director of the  
4 Multnomah County Department of Health. The Director's decision shall be final.

5  
6 **Section 3.** MCC §§ 27.300 and 27.301 are repealed and this ordinance is effective  
7 July 1, 2000, except as provided in Section 4.

8  
9 **Section 4.** MCC §§ 21.999(3)-(4) are effective July 1, 2001.

10  
11 FIRST READING: December 9, 1999

12 SECOND READING AND ADOPTION: December 16, 1999

13  
14 MULTNOMAH COUNTY COMMISSIONERS  
15 FOR MULTNOMAH COUNTY, OREGON

16  
17 By \_\_\_\_\_  
18 Beverly Stein, Chair

19 REVIEWED:  
20 THOMAS SPONSLER, COUNTY COUNSEL  
21 FOR MULTNOMAH COUNTY, OREGON

22  
23 By   
Katie Gaetjens, Assistant County Counsel





**Diane Linn, Multnomah County Commissioner**

DISTRICT ONE

## **SUPPLEMENTAL STAFF REPORT**

TO: Board of County Commissioners

FROM: Commissioners Linn and Naito

DATE: November 30, 1999

RE: Resolution establishing Citizen Task Force on Smokefree Workplaces

1. Recommendation/Action Requested:  
Approval of the Resolution requesting the appointment of the Task Force by the County Chair.
2. Background/Analysis:  
The Board of Commissioners today considers a companion Ordinance that prohibits smoking in the workplace. That Ordinance lists numerous areas exempted from the smoking restrictions, e.g. bars and the bar portions of bar and restaurant combinations. This Task Force will examine the health and economic implications of extending the smoking prohibition to those exempted areas. Between now and August, 2000, the task Force will assess the impact of expansion on local tourism, business/employment, and public health. The mechanics of enforcement will also be examined as part of the workplan.
3. Financial Impact:  
The Task Force will be staffed by the County Health Officer.
4. Legal Issues:  
None presented by the establishment or operation of the Task Force.



5. Controversial Issues:

The expansion of the smoking prohibition to bars and shared bar/restaurant areas would likely generate considerable debate if the Task Force made such a recommendation.

6. Link to Current County Policies:

The companion Ordinance under consideration today establishes the overall County policy prohibiting smoking in the workplace so as to reduce exposure to cigarette smoke and increase the number of safe and healthy places in the County. The product of this Task Force will be recommendations on whether or not to expand that prohibition to currently exempted areas.

7. Citizen Participation:

This is a citizen Task Force, and its meetings will be open for public participation.

8. Other Government Participation:

Membership may include representatives from local government.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

**RESOLUTION NO. 99-240**

Establishing a Citizen Task Force on Smokefree Workplaces

The Multnomah County Board of Commissioners Finds:

- a. Health hazards induced by breathing second-hand smoke include lung cancer, heart disease, respiratory infection, and decreased respiratory function, including broncho-constriction and broncho-spasm.
- b. Thirty-two percent (32%) of Multnomah County workers report being exposed to second-hand smoke in the workplace (1997 Tobacco Baseline Survey, Multnomah County Respondents. Oregon Health Division).
- c. Forty-three percent (43%) of food service workers in Multnomah County report being exposed to second-hand smoke while they are working (1998 Multnomah County Food Service Worker Survey).
- d. Secondhand smoke may be even more harmful to children because their bodies and lungs are not completely developed. Children exposed to secondhand smoke have higher rates of asthma attacks, sinus and ear infections, allergies, bronchitis, pneumonia, and croup.
- e. On this date, the Board considered the first reading of an Ordinance prohibiting smoking in places of employment, with notable exemptions including bars, lounges, pubs, bingo halls, and the bar portions of bar and restaurant combinations where the bar is separate from the restaurant.
- f. The Board seeks an assessment of the impact of extending the above prohibition of smoking in workplaces to include the exempted establishments. Such an assessment would include an examination of the history and impacts of similar ordinances in other jurisdictions and the effect that banning smoking in currently exempted establishments would have on public health, the food and beverage industry, and the local economy.

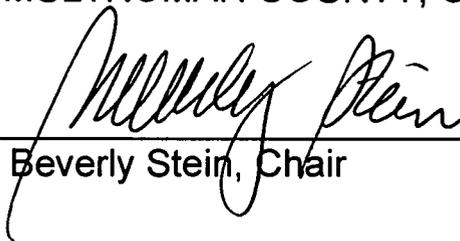
The Multnomah County Board of Commissioners Resolves:

1. The Chair shall appoint a Task Force on Smokefree Workplaces, representative of the various stakeholders involved, including public health, advocacy groups, the restaurant and alcoholic beverage industry, those engaged in tourism, bingo, organized labor, and interested citizens.
2. The Task Force is charged with examining the potential implications of extending the prohibition on workplace smoking adopted today to those establishments exempted by the Ordinance, including bars and the bar portions of bar/restaurant combinations. Parameters for this assessment include the impact on local tourism, business/employment, public health, and the mechanics of enforcement.
3. The County Health Officer will be responsible for staffing the Task Force and assuring that it carries out its charge.
4. The Task Force will report its Findings to the Board of Commissioners on or before August 1, 2000.

Adopted this 9th day of December, 1999.



BOARD OF COUNTY COMMISSIONERS  
FOR MULTNOMAH COUNTY, OREGON

  
Beverly Stein, Chair

REVIEWED:

Thomas Sponsler, County Counsel  
For Multnomah County, Oregon

By   
Katie Gaetjens, Assistant County Counsel





CASE NAME: SIGNIFICANT ENVIRONMENTAL CONCERN FOR WILDLIFE PERMIT NUMBER: SEC 39-98

1. Applicant Name/Address:

Walter and Janet Bowen
121 SW Morrison Street, #1000
Portland, Oregon 97204

2. Action Requested By Applicant:

Application for "after-the-fact" approval of a Significant Environmental Concern permit for a 120' x 60' parking area, access road and pond that have been recently constructed on the subject property.

Action Requested Of Board

- Affirm Hearings Officer Decision
Hearing/Rehearing
Scope of Review
On the Record
De Novo
New Information Allowed

3. Planning Director's Decision:

Deny the application based on the findings and conclusions contained within the Administrative Decision of the Planning Director.

4. Hearings Officer Decision:

Affirm Planning Director's Decision, finding that the Notice of Appeal filed by the applicant did not contain grounds sufficient to merit reversal of the Director's Decision.

5. If Recommendation And Decision Are Different, Why?

The Hearings Officer's decision supports the action taken by the Planning Director.

6. Issues:

Three key issues appear to exist. First, the parking lot is not a use permitted in the Commercial Forest Use Zone district. The amount of parking is so great (37 to 43 spaces per Hearings Officer) that it could not be considered customarily accessory to the existing residence as maintained by the applicant. Secondly, the area within which development is proposed was to be re-vegetated and maintained in native vegetation pursuant to a 1995 land use decision authorizing construction of the existing dwelling. Approval of development in this area would violate the 1995 decision and put into question the legal status of the dwelling. Lastly, development is within an area of Significant Environmental Concern for Wildlife Habitat, given that the property is within close proximity of Forest Park. The application failed to satisfy the review criteria and development standards for a Significant Environmental Concern land use permit.

Please note that the deadline for appeal of the Hearings Officer's decision is Friday, October 1, 1999. Any issues of concern to the applicant must be included in an appeal.

**7. Do Any Of These Issues Have Policy Implications? Explain.**

Policy implications relate to implementation of Commercial Forest Use and Significant Environmental Concern sections of the County Zoning Ordinance. These code sections are designed to ensure compliance with two Statewide Planning Goals, Goal 4 to conserve forest lands for forest uses, and Goal 5 to conserve and protect scenic and natural resources, the resource in this case being wildlife habitat.



MULTNOMAH COUNTY

DEPARTMENT OF ENVIRONMENTAL SERVICES  
LAND USE PLANNING DIVISION  
1600 SE 190<sup>TH</sup> AVENUE  
PORTLAND, OREGON 97233  
(503) 248-3043 FAX: (503) 248-3389

### NOTICE OF REVIEW

1. Name: Bowen ,  , Walter and Janet  
*Last Middle First*

2. Address: 3850 US Bancorp Tower, 111 SW Fifth , Portland, , OR , 97204  
*Street or PO Avenue City State Zip Code*

3. Telephone: ( 503 ) 274 - 8400

4. If serving as a representative of other persons, list their names and addresses:

Michael C. Robinson , 900 SW Fifth Avenue, Suite 2600 Portland, OR, 97204  
*Name Address Zip Code*

,  ,   
*Name Address Zip Code*

5. What is the decision you wish reviewed (e.g., denial of a zone change, approval of a subdivision, etc.) ?

Multnomah County File No. SEC 39-98. Denial of a request for approval of SEC permit  
for property in CFU zoning district.

6. The decision was announced by the Hearing Officer on September 21, 1999 .

7. On what grounds do you claim status as a party pursuant to MCC 11.15.8225?

Applicants



**STOEL RIVES ILLP**

## ATTORNEYS

STANDARD INSURANCE CENTER  
 900 SW FIFTH AVENUE, SUITE 2600  
 PORTLAND, OREGON 97204-1268  
 Telephone (503) 224-3380  
 Fax (503) 220-2480

	Name:	Fax No.	Company/Firm:	Office No.
TO:	<b>Ms. Deb Bogstad</b> Board Clerk	<b>(503) 248-3013</b>		<b>(503) 248-3277</b>
	<b>Mr. Derrick I. Tokos</b>	<b>(503) 248-3389</b>		<b>(503) 248-3043</b>
	<b>Ms. Sandra N. Duffy</b>	<b>(503) 248-3377</b>		<b>(503) 248-3137</b>
	<b>Mr. Stephen T. Janik</b>	<b>(503) 295-1058</b>		<b>(503) 228-2525</b>
	<b>Mr. and Mrs. Walter Bowen</b>	<b>(503) 274-4685</b>		<b>(503) 227-4000</b>

	Name:	Sender's Direct Dial:
FROM:	<b>Michael C. Robinson</b>	<b>(503) 294-9194</b>

Client: 0099999 Matter: 00006

DATE: December 9, 1999

No. of Pages (including this cover): 2

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In case of error call the fax operator at (503) 294-9508.

*This facsimile may contain confidential information that is protected by the attorney-client or work product privilege. If the reader of this message is not the intended recipient or an employee responsible for delivering the facsimile, please do not distribute this facsimile, notify us immediately by telephone, and return this facsimile by mail. Thank you.*

**COMMENTS: Deb, Please provide this letter to the Board of County Commissioners prior to this morning's 11:00 appeal hearing. Thank you for your assistance.**

**STOEL RIVES** LLP

ATTORNEYS

STANDARD INSURANCE CENTER  
900 SW FIFTH AVENUE, SUITE 260J  
PORTLAND, OREGON 97204-126A  
Phone (503) 224-3380 Fax (503) 220-2480  
TDD (503) 221-1045  
Internet: www.stoel.com

December 9, 1999

MICHAEL C. ROBINSON  
Direct Dial  
(503) 294-9194  
email mrobinson@stoel.com

**VIA FACSIMILE**

Ms. Beverly Stein, Chair  
Multnomah County Board of Commissioners  
Portland Building, Room 1515  
1120 SW Fifth Avenue  
Portland, Oregon 97204

**Re: Multnomah County Case File No. SEC 39-98**

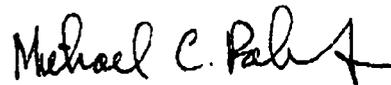
Dear Ms. Stein:

This law firm represents Walter and Janet Bowen, the applicants in this matter. On behalf of the Bowens, I hereby withdraw this application and appeal of the Hearings Officer's decision. The appeal is scheduled before the Board at 11:00 a.m. today.

The Bowens have requested that this application be withdrawn in order for them to come into compliance with applicable Multnomah County Land Use Regulations. The Bowens believe that withdrawal of this application and a fair stipulated agreement as to compliance is the best way to resolve this ongoing matter.

Please place this letter before the Board of County Commissioners and in the official Planning Department file for this application.

Very truly yours,



Michael C. Robinson

MCR:tj

cc: Mr. and Mrs. Walter Bowen (via facsimile)  
Mr. Derrick I. Tokos (via facsimile)  
Ms. Sandra N. Duffy (via facsimile)  
Mr. Stephen T. Janik (via facsimile)

Portland1-2021832.1 0099999-00006

SEATTLE

PORTLAND

VANCOUVER, WA

BOISE

SALT LAKE CITY

WASHINGTON, D.C.



# MULTNOMAH COUNTY OREGON

DEPARTMENT OF ENVIRONMENTAL SERVICES  
LAND USE PLANNING  
1600 SE 190TH AVE.  
PORTLAND, OREGON 97233  
(503) 248-3043

BOARD OF COUNTY COMMISSIONERS  
BEVERLY STEIN • CHAIR OF THE BOARD  
DIANE LINN • DISTRICT 1 COMMISSIONER  
SERENA CRUZ • DISTRICT 2 COMMISSIONER  
LISA NAITO • DISTRICT 3 COMMISSIONER  
SHARRON KELLEY • DISTRICT 4 COMMISSIONER

## FAX TRANSMITTAL

TO: DEB BOGSTAD, BOARD FAX: 248-3013  
CLERK  
FROM: DERRICK TOKOS, PLANNING FAX: (503) 248-3389  
DATE: 12/8/99 CASE: SEC 39-9B  
RE: APPLICANT REQUEST TOTAL PAGES: 4  
FOR CONTINUANCE

COMMENTS: \_\_\_\_\_  
ENCLOSED IS AN APPLICANT REQUEST  
FOR CONTINUANCE ALONG WITH OUR  
WRITTEN OBJECTION TO A CONTINUANCE.  
WE TOLD THE APPLICANT THEY CAN  
MAKE THE REQUEST DIRECTLY TO  
THE BOARD AT THE HEARING  
TOMORROW.

*DT*

99 DEC 9 PM 4:01  
MULTNOMAH COUNTY  
OREGON  
CLERK OF COMMISSIONERS



**MULTNOMAH COUNTY**  
**LAND USE PLANNING DIVISION**  
1600 SE 190<sup>TH</sup> Avenue Portland, OR 97233  
(503) 248-3043 FAX: (503) 248 -3389

December 8, 1999

Michael C. Robinson  
Stoel Rives, LLP  
900 SW Fifth Avenue, Suite 2600  
Portland, Oregon 97204-1268

**Re: Significant Environmental Concern Application (SEC 39-98)**

Dear Mr. Robinson:

We received a fax from you yesterday requesting that the appeal hearing scheduled before the Board of County Commissioners for December 9, 1999 at 11:00 AM be continued to a date certain. As we discussed on the phone earlier that day, this request for continuance must be directed to the Board of County Commissioners, the County body authorized to grant a continuance (Ref: MCC .8275(A)).

You are correct in your letter that we object to a continuance of this hearing. Reasons for a continuance relate to your desire to negotiate how the county implements its code enforcement regulations, a matter unrelated to issues raised in the appeal of this land use permit application. This is your second request for continuance of this hearing, on a land use application initially submitted to our office in November of 1998. Since no reason has been given relative to issues raised in your appeal to justify continuance of this hearing, it is our firm belief that your request for continuance will serve only to further delay resolution of this case.

Sincerely,

Derrick I. Tokos, AICP  
Land Use Planner

xc: Deb Bogstad, Board Clerk (via facsimile)  
Sandra Duffy, County Counsel (via facsimile)  
File

**STOEL RIVES** LLP

ATTORNEYS

STANDARD INSURANCE CENTER  
 900 SW FIFTH AVENUE, SUITE 2600  
 PORTLAND, OREGON 97204-1268  
 Phone (503) 224-3380 Fax (503) 220-2480  
 TDD (503) 221-1045  
 Internet: www.stoel.com

December 7, 1999

MICHAEL C. ROBINSON  
 Direct Dial  
 (503) 294-9194  
 email mrobinson@stoel.com

**VIA FACSIMILE**

Mr. Derrick I. Tokos, Planner  
 Multnomah County  
 Department of Environmental Services  
 Transportation and Land Use Division  
 1600 SW 190th Avenue  
 Portland, OR 97233

Re: Multnomah County Casefile No. SEC 39-98; Appeal Hearing Before  
 Multnomah County Board of Commissioners on December 9, 1999

Dear Mr. Tokos:

This office represents Walt and Janet Bowen. I am writing to request that the appeal hearing scheduled before the Multnomah County Board of Commissioners for December 9, 1999 at 9:00 a.m. be continued to a date certain. MCC 11.15.8275 (A) authorizes a continuance. The purpose of the continuance is to allow my clients to enter into a stipulated compliance agreement with Multnomah County. I have spoken with Mr. Arnie Rochlin about the continuance. Mr. Rochlin told me that he would probably not say anything at the hearing if a continuance is requested. No other party is affected by this request.

According to my discussion with Lisa Estrin earlier this fall, the County's goal is compliance with its land use regulations. This continuance request is consistent with that goal since it will result in compliance with the County's land use regulations by the Bowens. A continuance will also save County time by avoiding a hearing that may be unnecessary.

I understand from our conversations this morning that you are opposed to a continuance. An alternative I could discuss with my clients is withdrawal of the application if

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SEATTLE

PORTLAND

VANCOUVER WA

BOSE

SALT LAKE CITY

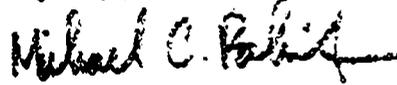
WASHINGTON, D.C.

STOEL RIVES LLP

Mr. Derrick I. Tokos, Planner  
December 7, 1999  
Page 2

we agree in advance on the form of a compliance agreement and that no penalties will be initially imposed by the County.

Very truly yours,



Michael C. Robinson

MCR:kfb

cc: Mr. Walt Bowen (via facsimile)  
Mr. Stephen Janik (via facsimile)

RECEIVED

99 DEC -6 AM 10:36

MULTNOMAH COUNTY  
PLANNING SECTION

December 6, 1999

Forest Park Neighborhood Association  
Development Committee

Arnold Rochlin, Chair  
P.O. Box 83645  
Portland, OR 97283-0645  
289-2657

Board of County Commissioners  
Multnomah County

**Re. SEC 39-98 SEC—Appeal of Hearings Officer Decision—Hearing 12/9/99**

These responses are to the grounds for review raised in the Notice of Review.  
Italic text quotes or summarizes the appellant's issues.

A. *"The Hearings Officer erred in affirming the Planning Director's decision by misapplying the applicable law and misinterpreting relevant facts."*

MCC 11.15.8260(B)(3) requires that the Notice of Review contain "The specific grounds relied upon for review". And 11.15.8270(G) limits the Board's consideration to "the grounds relied upon in the Notice of Review". The latter makes clear that the former must be sufficiently specific to provide some discernable limit to the scope of review. But the applicant's grounds are not specific at all, and don't identify any issue or any error, or even any topic concerning what error is alleged. There is no way the Board could find grounds for reversal of the hearings officer in this allegation.

B. *"Mr. Rochlin does not have standing to appear because there is no evidence that the Forest Park Neighborhood Association is recognized by the Multnomah County Board of Commissioners."*

I claimed standing to appear before the hearings officer (and claim standing to appear before the Board) on two bases. First, in my own right, I would be aggrieved by a decision adverse to the positions I have taken, or contrary to the correct findings and conclusions of the Planning Director (and hearings officer). Second, I am the Development Committee Chair of the Forest Park Neighborhood Association (FPNA), a recognized community organization entitled to notice under state law. MCC 11.15.8225(A)(1) provides for party status to a person entitled to notice under .8220(C). The latter provides for notice as required by law, and ORS 197.763(2)(b) requires notice to a community organization recognized by the governing body, whose boundaries include the site. I have attached a September 3, 1999 E-Mail letter from John Legry, Executive Director of the county's Office of Citizen Involvement, indicating that FPNA is recognized. Recognition is based on prior agreement to recognize all such organizations recognized by the City of Portland. He and planning staff have indicated he is your delegate in the matter of recognition of community organizations. The record includes materials from a recent Office of Neighborhood Involvement (ONI) publication indicating we are recognized by the city. I have attached pages from our bylaws indicating our boundaries which

extend to the Multnomah/Washington County Line on the west. The original is on file at the Neighbors West/Northwest Coalition office at 1809 NW Everett, 97209. A copy is on file at the City's ONI. I have attached a map of the area of the development site, identifying it within the boundaries of FPNA. All of these documents were filed with the hearings officer and copies were served on the appellant's counsel at the same time. This issue is exemplary of the shallowness of most of the grounds for appeal.

11.15.8225(A)(2) provides for party status of a person who would be aggrieved by an adverse decision. I have attached a copy of my statement to the hearings officer establishing my standing on that basis. It is notable that in prior writings, the applicant has confused "aggrieved" with "adversely affected". The former is no more than a state of mind induced by circumstances, while the latter generally implies a more tangible injury. In *League of Women Voters v. Coos County*, 15 LUBA 447, 455 (1987), LUBA said: "We conclude, therefore, that a person may be "aggrieved" by not having his views adopted, and this frustration is sufficient "interest" under the Warren test to earn standing."

C. *"The hearings officer erred by refusing to allow new facts and changes to the site plan" based on limiting issues to the grounds in the notice of appeal. Concerning the pond, "it was impossible for the applicants to appeal with any specificity the Director's decision on the point because the Director's decision contained no findings on the pond."*

Appellant mischaracterizes the hearings officer's ruling. She held that because the notice of appeal included no complaint regarding denial of SEC approval for a sports court or pond, she could not consider any issues concerning them. In fact, the sports court device wasn't even proposed until after the notice of appeal of the Director's decision was filed. The claim of impossibility of framing grounds for appeal concerning the pond is absurd. The Director's decision (p.1) is

"Deny this request for "after-the-fact" approval of a Significant Environmental Concern permit for a 120' x 60' parking area, access road and pond that have been recently constructed on the property. Such denial is based on the following findings and conclusions."

If the applicant's allegation were true, he could have easily asserted lack of findings supporting denial of the pond permit as grounds for holding the Director's decision to be in error. He might (if he could) have then proposed alternate findings in support of the application.

D. *"The Hearings Officer erred by finding that ORS 197.763(3)(a) prohibited the applicant from requesting changes to the proposed plan." There is objection that the applicant had wanted to submit the sports court plan before the appeal, but a meeting about it with staff was not held until after the appeal was filed. An argument for consideration of the plan is that it could be the basis for a condition of approval that the hearings officer and Board have the*

*power to impose. "The Notice of Appeal ... was broad enough to include all issues raised before the Hearings Officer."*

A sports court was not mentioned before the Planning Director's decision. It was not mentioned in the notice of appeal of that decision. The hearings officer's scope of review was limited to issues in the notice of appeal. She had no authority to consider a proposal for an accessory use different from the proposal that had been denied, and of which no public notice had been given, and of which approval or denial would be based on different approval criteria (or different considerations under the same criteria). ORS 197.763 required timely public notice including a description of the development proposal under consideration. If, for the sake of argument, a parking lot smaller than the 120' by 60' could have been lawfully approved, the hearings officer's discretion would have extended to approving such a reduced parking lot, because the public notice was of that use. Arguably, approval of a smaller lot was a possibility implicit in the public notice of a request for a larger lot. But the grounds for approval of a parking lot are distinctly different from a sports court, and notice of one does not serve for the other. (Regulations discussed later, concerning parking area, are different from those applying to a sports court.)

Obviously, a notice of appeal that says nothing about a sports court, which wasn't even an issue in the decision under appeal, is not broad enough to raise an issue about a sports court.

E. *"The Hearings Officer erred by finding that the Director did not err by concluding that the proposed parking lot is not a permitted use." And,*

G. *"The Hearings Officer erred by finding the Director did not err in denying the application by applying minimum parking requirements." And,*

M. *"The Hearings Officer erred by finding that the proposed parking area is not either a permitted use or a use permitted subject to review or an accessory use in the CFU zoning district." "Further, the Hearings Officer erred in footnote 3 by attempting to distinguish between 'a parking lot' and the 'Bowen parking lot'." The appellant goes on to complain that the hearings officer miscounted the number of parking spaces by not allowing the applicant to substitute the new sports court parking lot combination for the proposal appealed and for not subtracting the original dozen parking places approved near the house, because the applicant intended to remove them. And,*

O. *"The Director erred and the Hearings Officer perpetuated the error by finding that exceeding the minimum number of parking spaces is a violation or a reason to deny a request for additional parking spaces." "Further, the Hearings Officer ignored substantial evidence that the requested number of parking spaces was accessory and customarily incidental to the use of the single family residence."*

Actually, neither the Director nor Hearings Officer went far enough in applying the very strict limitations on accessory parking for a single family dwelling in a commercial forest area.

The CFU regulations provide for parking as an accessory use under 11.15.2054(B). The applicant earlier interpreted that provision as requiring approval of any requested parking. The code language is far more limiting. 11.15.2054 provides in relevant part:

“The following structures or uses may be authorized in this district provided they are customarily accessory or incidental to a permitted use:

\* \* \* \* \*

“(B) Off-street parking and loading as required by MCC .6100 through .6148;

\* \* \* \* \*

“(D) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.” (Emphasis added.)

Parking is allowed on forest land only when customarily accessory or incidental to the dwelling, and only as limited by paragraph (B) to what is required by the MCC parking regulations in .6100 through .6148. .2054(D) is not an alternate provision under which more parking space might be allowable. It concerns “other structures or uses”. A parking lot is not an “other” structure or use, because it is not other than the structures and uses provided for in .2054(A) through (C).

11.15.6142(A)(1) requires two off-street parking spaces for a single family dwelling. 11.15.2054(B) allows off-street parking in the forest zone only “as required” by 11.15.6100 to .6148. That requirement thereby becomes the maximum allowed for a dwelling in a forest zone. And the Board should add those grounds for denial to the findings.

The evidence of 120’ by 60’ parking lots being customary for single family dwellings was just observations that one or two neighbors have parking areas. The hearings officer did not ignore that “evidence”. But none are even claimed to be as large and none are demonstrated to have been allowed under current regulations, and two lots do not rise to the level of a custom. But, even if it were indisputably established that a huge parking lot is customary, it would be a former custom at best, because off-street parking on protected forest land is limited to what is required by .6142(A)(1), which is 2 spaces.

The complaint about not distinguishing between “a parking lot” and the “Bowen parking lot” is absurd. The applicant’s argument to the hearings officer was: if the code allows a parking area, and the proposal is for a parking area, a parking area must be approved. It ignores that there are regulations limiting the

characteristics of a parking area, both in the CFU zone, and in and SEC overlay area. The point of CFU together with SEC zoning is to control use, scope, siting and design. The decision did not prohibit parking on the property. It denied the Bowen proposal.

The hearings officer estimated the number of cars that could park in the proposed 120' by 60' parking lot as more than 30. She also saw at least 10 parking spaces approved with the original dwelling, located around the circular drive and in front of the garages. The applicant claims they intend to remove the original parking places, but the revised plan does not indicate such removal.<sup>1</sup>

The applicant may argue that a dozen parking spaces are just not enough for a 25,000 square foot house. But the primary purpose of the forest zone regulations is to protect forest land for forest use and not to accommodate housing. The limitations on forest land development may be reason for a developer to find it unsuitable for huge mansions. Mansions do not justify extra spoilage of forest land for super accessories.

F. *"The Hearings Officer erred by finding that the Director did not err in applying the purpose statement in the CFU zoning district."* And,

N. *"The Hearings Officer erred by finding that the purpose statement of the commercial forestry zoning district is an approval criterion."* *"The Hearings Officer erred in finding that the use restrictions are relevant approval criteria where they are not listed in the approval criteria."*

The "purpose" statement of 11.15.2042 is not an approval criterion. The Director's decision does find that the 120' parking lot is not in accord with the forest zone purpose, but neither he nor the hearings officer relies on it as an approval criterion. It is used only as context for interpretation of other standards.

The appellant vaguely challenges the application of CFU zone criteria to an SEC application, particularly criteria for an "accessory use". They are applicable. It is implicit in SEC regulations that an SEC permit is available only for a use allowed in the zoning district. 11.15.6408(A) indicates an SEC permit is "for a Permitted Use, an Accessory Use, or Use Under Prescribed Conditions ...". There could be no issuance of an SEC permit unless it's for one of those uses allowed in the zone. The principle is accepted land use law: In *Marquam Farms v. Multnomah County*, \_\_ Or LUBA \_\_ (LUBA No. 95-254 12/5/96), LUBA said concerning an argument about a design review application:

---

<sup>1</sup> The design of the parking lot/sports court does not inspire confidence that it is not the original parking lot to be disguised with baskets. It is located entirely on the original parking lot pavement. Even on the latest plans, the driveway to the parking lot abuts both the sports court and the parking lot for nearly their whole length, without any barrier between the driveway and the sports court. In fact the driveway plainly leads into the sports court. Even under the rejected proposal, the "parking lot" part is still 72' by 60', hardly a customary domestic facility, and certainly more than the two off-street parking places allowed by the code.

“Whether the applicant has established the county's authority to review an application is a threshold determination, relevant to all land use applications. Necessarily, before a hearings body can determine the merits of a design review application, that body must first determine whether the applicant has established the legal use upon which the design review is based.”

Here, if the proposed accessory use is not lawful, neither is an ancillary permit. It is not only permissible to apply CFU regulations to determine what is a lawful use in the CFU zone, it is mandatory.

H. *The Hearings Officer erred by finding that the Director did not err in applying Statewide Planning Goals 4 and 5 to the Decision.*

This is another example that finely illustrates the frivolous character of the appeal. The following is the Director's statement:

“Land uses for the subject property are strictly regulated by Multnomah County to ensure compliance with two Statewide Planning Goals, Goal 4 to conserve forestlands for forest uses, and Goal 5 to conserve and protect scenic and natural resources, the resource in this case being wildlife habitat. The [SEC] permit has been required to demonstrate compliance with Goal 5.” Director's Decision, p.5.

The decision goes on to address the MCC SEC criteria, and not Goals 4 and 5. The paragraph is nothing more than a statement of the background and purpose of the county regulations. Neither of Goals 4 or 5 was ever applied as a criterion and the applicant has never even tried to identify an instance where it was.

I. *“The Hearings Officer erred by finding that the Director did not err in treating the 1995 Significant Environmental Concern Permit [SEC], Findings of Fact, and its Conditions of Approval as applicable approval criteria.” And,*

P. *“The Hearings Officer erred by applying the 1995 GEC permit as an approval criterion for this application. The Hearings Officer erred by finding the Bowens could not modify that approval through this application, since both Ms Estrin and Mr. Tokos suggested that modification and the county's enforcement section expressly provides for this remedy.*

The Director did not treat the 1995 Grading and Erosion Control permit or the findings in that permit as criteria. He did, however, in this case, correctly conclude that he could not approve a violation of the conditions of approval of a still effective permit, one for which there has been no request for amendment. The conditions at issue require revegetation of all but one acre of open area with native plants and limits the cultivated area about the house to 1 acre, a very liberal standard. The proposal would violate the conditions. The hearings officer and Director correctly held that those conditions can only be reconsidered in the context of a new application to amend the prior permits for the whole development, including the dwelling, which the applicant will not put into issue.

The conditions were previously found necessary in consideration of the impact of the dwelling, driveway, swimming pool and non-native plantings. They cannot be removed in consideration of only an additional proposal for a parking lot.

The applicant argues the contrary, saying the regulations are different now. They are (likely more strict). But that doesn't mean the old conditions can be removed without the state and county mandated land use decision process. Otherwise, conditions that the Board or a hearings officer impose one day, could be removed by the Planning Director on the next, without even a notice to the neighbors and public.

It is obvious that what the county staff told the applicant was that the 1995 conditions were violated, and there are only two ways to correct a violation. One is to remove the unlawful development. The second is to get it approved. But the applicant filed an application that would not suffice. Instead of proposing amendment of the 1995 GEC permit, it proposed development in violation of it. The staff did not, and could not guarantee approval of such an application. The appellant has absurdly argued that the right to file an application to legalize a violation is meaningless if there is no assurance it will be approved. In effect, he argued that the county must make its regulations comply with the application, rather than require the application to comply with the regulations.

Regarding specific compliance with the 1995 conditions, the applicant says there is no violation because all development was in a cleared area. But that ignores the condition requiring replanting almost all of the open area, including the parking lot location. The county has every right to treat it as if it were planted, since the applicant was, and still is, required to restore the native vegetation.

J. *"The Hearings Officer erred by finding that the Director did not err in finding that MCC 11.15.6426(B)(1) and (C)(1) are not satisfied."* There is a complaint that the Hearings Officer didn't consider that 90% of the forty acre parcel is preserved. *"With respect to 11.15.6420(M), that provision relates to protection of fragile or endangered plant habitat to the maximum extent possible. The Oregon Natural Heritage Database contains no record of sensitive or fragile native plants species or habitat in the immediate vicinity of the applicants' property. And,*

Q. *"The Hearings Office erred by finding that the applicant did not raise in the Notice of Appeal of the director's Decision MCC 11.15.6426(B)(1) and (C)(1). This issue involves how much notice is required."* *"The Hearings Officer has misread the MCC provision requiring the notice of review as reason; a reason can be that the Director erred and additional argument and evidence is allowed in a de novo hearing. For purposes of this appeal, the appellants herein incorporate by reference arguments and evidence submitted to the Director and the Hearings Officer on these MCC provisions."*

Concerning .6420(M), the appellant's argument rests entirely on giving the Board only half of the regulation. The full text is:

“An area generally recognized as fragile or endangered plant habitat or which is valued for specific vegetative features, or which has an identified need for protection of the natural vegetation, shall be retained in a natural state to the maximum extent possible.” (Emphasis added.)

The SECh (habitat) designation identifies the need for protection.

I agree with the appellant, that the hearings officer was too strict in her interpretation and application of the MCC requirements that grounds for appeal be specified in the notice of appeal or notice of review and that the issues reviewed be limited to those raised in the notices. I believe the Board should so rule, and address the issue on its merits.

The Director's decision addresses both .6426(B)(1) and (C)(1) in a 1/2 page discussion on page 5. On checking the discussion of (B)(1) against the code, it appears that staff meant to refer to .6426(C)(3)(b), which limits development in a newly cleared area to 1 acre. (The area can be considered newly cleared because it was required to be restored over 4 years ago.) This seems sufficiently apparent to allow the hearings officer, staff and parties to defend the Director's decision. Concerning .6426(C)(1), staff correctly identifies the requirement that the applicant's wildlife conservation plan must show minimum departure from the objective standards of section (B) that cannot be met. But staff makes no finding of compliance or non-compliance. The record does not have sufficient evidence to find compliance, and the Board should find this an additional reason for denial. Alternatively, the applicant could show that the conservation plan better serves the purpose of the objective standards of section (B). But the evidence certainly doesn't support that conclusion.

Even if it were true that 90% of the property were preserved, that has nothing to do with any of the grounds for denial. It's the applicant's duty to preserve all of land that is not necessary for the dwelling use. The entire property is designated forest land. The 1995 approval went too far. And staff and the hearings officer properly do not allow the former errors to be compounded.

The attempt to incorporate arguments and materials that were before the prior decision makers should be rejected. The purpose of requiring designation with specificity of the grounds for appeal, is to enable others to understand the scope of appeal and to respond. Here, reference to unspecified documents at unspecified locations is too broad to serve the purpose. Neither a decision maker nor party should have to search the record and decide what is, and what is not, included in the applicant's grounds for appeal.

K and L. (Letters skipped by the Appellant.)

R. *"The Hearings Officer erred for the same reasons above by finding that the appellants did not raise MCC 11.15.6420(C). The appellants herein incorporate by reference arguments and evidence submitted to the director and Hearings Officer on this criterion."*

For "the same reasons above" the incorporation by reference is so unspecific as to defeat the purpose of requiring specification of grounds for appeal, and limitation of issues on review to those grounds. The Board should reject the incorporation attempt and address only the stated grounds for appeal.

Otherwise, I agree with the appellant that the hearings officer was overly strict on this issue. The grounds given in the notice of appeal to the hearings officer were: "The Director erred in finding that MCC 11.15.6420(C) is not met (Director's decision at pages 6 and 7)." The criterion requires:

"A building, structure, or use shall be located on a lot in a manner which will balance functional considerations and costs with the need to preserve and protect areas of environmental significance."

I believe the applicant's discussion at page 6 and the staff discussion at page 7 of the Director's decision are adequate to indicate the grounds for appeal. However, consideration of those pages makes clear that the applicant's purported grounds are groundless.

S. *"The Hearings Officer erred by finding that the 1995 permit is relevant to this application when the CFU zoning district and requirements for an SEC permit have changed since then." The appellant raises a hodge-podge of alleged procedural errors.*

The procedural error claims need no reply. If, for the sake of argument only, any occurred, they will be cured by adequate process in this review.

The applicant iterates and reiterates his complaint about applying the 1995 land use permit to this application. The 1995 permit concerned development allowed and restricted on the whole 40 acres. The decision makers cannot ignore its terms. Unless and until the applicant seeks and obtains appropriate amendment of the earlier decision, its conditions are equivalent to the law that must be applied to subsequent related development. *Townsend v. City of Newport*, 21 Or LUBA 286, 293, *Aff'd without opinion*, 108 Or App 575, 815 P2d 723 (1991)

*Arnold Rocklin*

Multnomah County  
Land Use Hearings Officer

Arnold Rochlin  
P.O. Box 83645  
Portland, OR 97283

**SEC 39-98 STANDING TO APPEAR—8/18/99** (resubmitted for 12/9/99)

This argument is in anticipation of a possible challenge to standing to appear as a party.

“Party” is defined in MCC .8225 only for the purpose of “Action Proceedings”. An appeal of an administrative decision is processed according to MCC .8290 and .8295., which make only .8230 and subsequent applicable.

If, for the sake of argument, party status in an appeal hearing requires some form of prior participation, the county precluded such participation by giving no notice or opportunity to participate in the administrative decision to anyone but the applicant. It would be contrary to the public hearing requirements of ORS 215.215.416(3), (5) and (11)(a) and 197.763 to exclude a concerned person from the first public hearing on the subject application. The error is compounded when the excluded person (having his own concerns) is also a representative of the neighborhood association within the boundaries of which the development is proposed.

The following is offered if the hearings officer nevertheless requires demonstration of personal concern as provided by MCC .8225.

I would be aggrieved if a dwelling were approved in a farm or forest zone without correct application of the land use policies and regulations.

I have been concerned with correct interpretation and application of land use laws and regulations in this region and have expended considerable effort in furthering that interest over the last several years. I chair the Forest Park Neighborhood Association Land Use Committee and am active in land use affairs of the Friends of Forest Park, of which I am a director. In furtherance of my concerns, I am a member of 1000 Friends of Oregon, Audubon Society of Portland and the Oregon Natural Resources Council. I own property on the west side of the county near farm and forest zones. An incorrect decision would adversely affect enjoyment of my property. I have an interest in preserving farm and forest land as provided by state and county laws, regulations, goals and policies.

I am not here merely to offer information, such as would be offered by an expert witness. I have a philosophical and practical interest in the outcome and am here in hope of avoiding aggrievement by a decision harmful to those interests.

*League of Women Voters v. Coos County*, 15 LUBA 447 (1987) supports the contention that my dissatisfaction with an adverse decision would constitute aggrievement. “Aggrievement” in the MCC is a term intended to correspond in meaning to the language of former and current provisions of ORS Chapters 197 and 215 and must be interpreted to mean the same as it does in the statutes. *Joseph v. Lane County*, 18 Or LUBA 41, 51 (1989).

Subject: Neighborhood organization recognition - Forest Park  
Date: Fri, 3 Sep 1999 10:27:49 -0700  
From: LEGRY John P <john.p.legry@co.multnomah.or.us>  
To: "'kayer@teleport.com'" <kayer@teleport.com>  
CC: WARD Carol L <carol.l.ward@co.multnomah.or.us>, DINGLER Lynn  
<lynn.dingler@co.multnomah.or.us>

Dear Mr. Rochlin:

Multnomah County Citizen Involvement Committee grants reciprocal recognition to any not-for-profit neighborhood organization formally recognized by a local government within Multnomah County.

In the specific case of Forest Park, the county officially recognizes and includes that association within its constituent base of 120 such organizations countywide.

Forest Park is entitled to the benefits stipulated within the CIC's recognition process, CIC Bylaws: Article 9. Neighborhood Association/Community Group Recognition.

The CIC's recognition process is an adaptation of that used by the Portland Office of Neighborhood Involvement (which is the older program). The county also recognizes the associations formally accepted in Gresham (the newest program).

Should you need further information, please let us know.

Best regards,

John Legry  
Executive Director  
Office of Citizen Involvement  
Multnomah County, Oregon

CC: FYI



*FOREST PARK NEIGHBORHOOD ASSOCIATION*  
*1819 NW Everett Room #205*  
*Portland, Oregon 97209*

## **Forest Park Neighborhood Association Bylaws**

Amended February 4, 1991  
Amended November 2, 1992  
Amended October 4, 1993  
Amended January 6, 1998

### **ARTICLE I. NAME**

The name of this organization shall be the Forest Park Neighborhood Association.

### **ARTICLE II. PURPOSE**

This corporation is a public benefit corporation. (Amended 2/4/91 ) Consistent with its purposes set forth in Article II of its Articles of Incorporation, the purpose of the Association shall be to provide a forum for the discussion of community, environmental, demographic and economic issues of concern to the area described by Article III hereof, to formulate policies which represent the views of the residents of the area with regard to such issues, and to promote such policies by appropriate action.

### **ARTICLE III. ASSOCIATION BOUNDARIES**

The Association shall be composed of members meeting the criteria set forth in Article IV hereof located within the geographic area described as follows:

Starting at a point at NW Newberry Road and the intersection with the northeast boundary of Forest Park, proceeding southeasterly along the northeast Forest Park boundary line to the junction with the NWDA boundary at NW Aspen, then south along NW Aspen to the Macleay Park boundary, then northeast to NW Thurman and south along the Forest Park boundary to the intersection of NW Cornell Road, then southwesterly along NW Cornell Road to a point due north of the northeast corner of Multnomah County, then south to and along the easternmost line of Multnomah County to the intersection of NW Hilltop Drive, then south west along NW Hilltop Drive to the junction with West Burnside, then west on West Burnside to the Washington County line, then north on the Multnomah County/Washington County line to the intersection of the Multnomah County/Washington County line with NW Cornell Road, then east along the centerline of NW Cornell Road to the center of the intersection of NW Skyline Blvd and NW Cornell Road, proceeding in a northwesterly direction along the centerline of NW Skyline Blvd, to the intersection of NW Skyline Blvd and the southern boundary of Pana Vista Subdivision ("Pana Vista"), along the southern, western, and northwestern boundaries of Pana Vista to the intersection of NW Skyline Blvd, continuing northwesterly along the centerline of NW Skyline Blvd to the boundary between Alder Ridge Subdivision ("Alder Ridge") and Skyline Memorial Gardens Cemetery, following the common boundary across to the northernmost point of Alder Ridge proposed lot 79, then proceeding southwesterly along the northwest boundary of Alder Ridge proposed lots 77, 78, and 79, to the City of Portland city limits, then south along the City of Portland city limits and western boundary of Alder Ridge proposed lots 75, 76, and 77, then southeasterly along the southwest boundaries of Alder Ridge proposed lots 69 through 75 inclusive, then south along the western boundary of Alder Ridge, continuing south along the western boundary of Forest Heights PUD ("Forest Heights") to the Multnomah County/Washington County line, then south to the southwesternmost corner of Forest Heights at NW Laidlaw Road, then east and south following the meandering Forest Heights boundary to the intersection of the Forest Heights boundary to the Multnomah County/Washington County line near NW McDaniel Road, then north along the

## Forest Park Neighborhood Association Bylaws

January 6, 1998

Multnomah County/Washington County line to the southwesternmost corner of Forest Heights at NW Laidlaw Road (intersecting this boundary at a single point), then west and north along the Multnomah County/Washington County line to the northwest corner of Section 6, then easterly along the northern boundaries of Section 6, Section 5 and Section 4 to the junction with NW Newberry Road, then northwesterly along NW Newberry Road to the junction of NW Newberry Road and northeast Boundary of Forest Park, the place of beginning. (Amended 2/4/91, 1/6/98)

**ARTICLE IV. MEMBERSHIP**

Section 4.1 Powers. The membership of the Association shall determine the policies and direct the actions of the Association. All questions shall be decided by the majority vote of members in attendance at meeting.

Section 4.2 No Exclusions. No one shall be excluded from participation in the Association because of race, religion, national origin, sex, sexual orientation, handicap, income, age, political party or citizenship. (Amended 2/4/91)

Section 4.3 Eligibility. Any individual who resides! owns property, has a business or represents a nonprofit organization within the areas described in Article III shall be eligible for membership in the Association.

Section 4.4 Application. Any eligible individual may become a member by submitting to the secretary of the Association a written application setting forth the individual's name, address, and the basis of eligibility for membership.

Section 4.5 Voting. Any member shall be entitled to vote at all membership meetings attended by such member. Voting by proxy shall be prohibited.(Amended 2/4/91)

Section 4.6 Meetings.

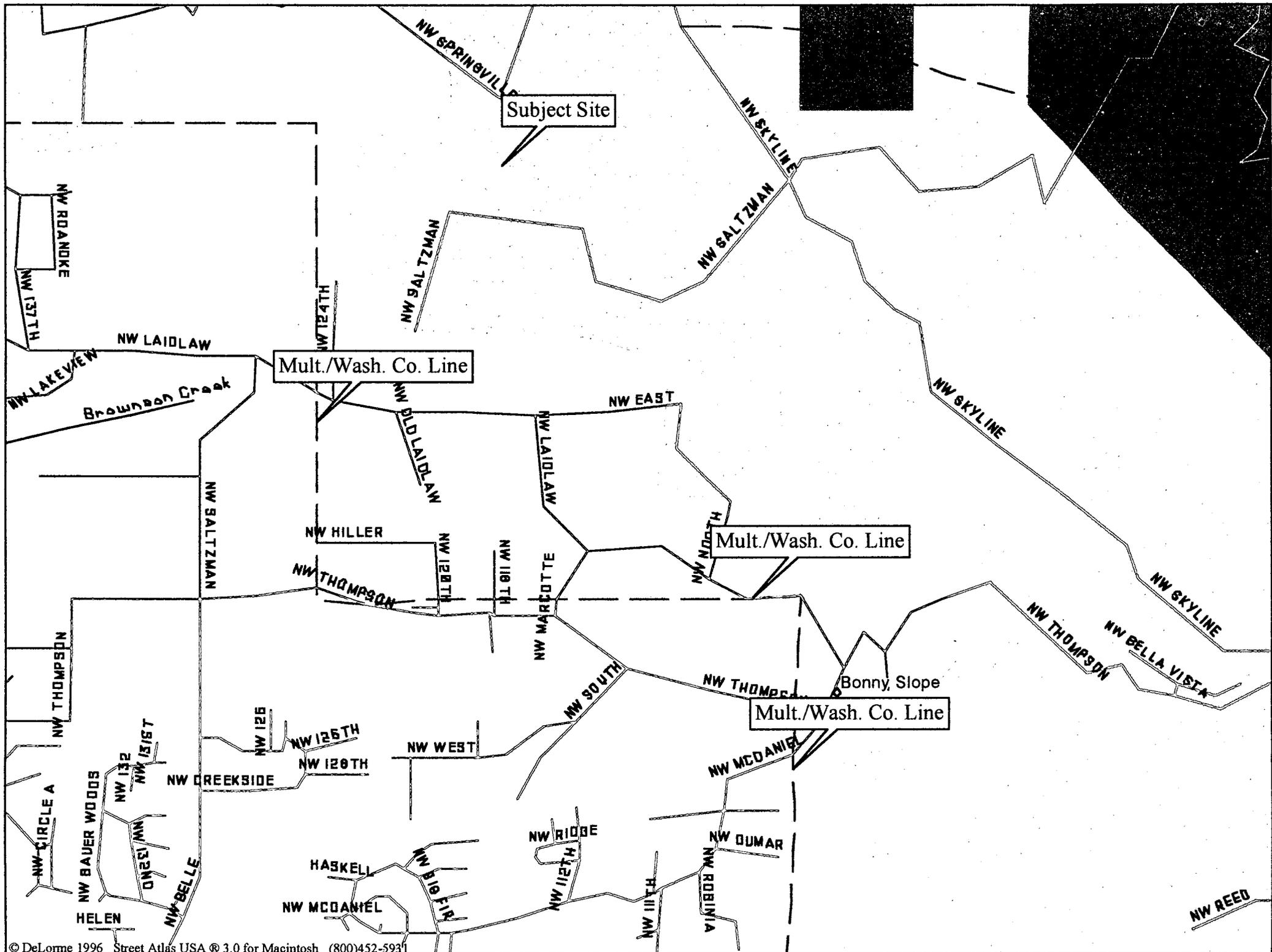
- A. Annual Meeting. The annual meeting of the membership shall be held in October of each year on a date to be fixed by the board of directors. (Amended 2/4/91)
- B. Special Meetings. Special meetings of the membership may be called by the president of the Association, any four directors, or any 25 members.
- C. Notices. The secretary of the Association shall mail a notice of each meeting to all members not less than seven days nor more than 50 days in advance of the meeting date.
- D. Quorum. No called meeting shall be held unless a quorum is in attendance. A quorum shall be 25 members. If a quorum is not in attendance at an annual meeting, the annual meeting shall be re-scheduled by the president on a date not more than 60 days following the original date.

**ARTICLE V. BOARD OF DIRECTORS**

Section 5.1 General Powers. The board of directors shall be responsible for conducting the affairs of the Association in accordance with general policies adopted by the membership. The board of directors shall make recommendations to the membership regarding policies and projects. The board of directors may create committees for any appropriate purpose.

Section 5.2 Composition. The board of directors shall be composed of not fewer than five nor more than 13 members. All officers of the Association shall be ex officio members of the board and shall be in addition to the elected officers.(Amended 10/93)

Section 5.3 Vacancies.



Subject Site

Mult./Wash. Co. Line

Mult./Wash. Co. Line

Mult./Wash. Co. Line

Bonny Slope



1           **6. Statement establishing status of the parties seeking review as a party**  
2 **pursuant to MCC 11.15.8260(B):**

3           The appellants are the applicants below and appear personally in writing and orally and  
4 through their legal representatives before the Hearings Officer.

5           **7. The grounds relied upon for review (why the decision should be reversed):**

6           A. The Hearings Officer erred in affirming the Planning Director's decision by  
7 misapplying the applicable law and misinterpreting relevant facts.

8           B. Mr. Rochlin does not have standing to appear because there is no evidence that  
9 the Forest Park Neighborhood Association is recognized by the Multnomah County Board of  
10 Commissioners.

11          C. The Hearings Officer erred by refusing to allow new facts and changes to the  
12 site plan. The Hearings Officer's basis for doing so is her determination that the hearing  
13 before her was limited to the specific grounds relied upon the notice of appeal but she herself  
14 concluded during the hearing that this is a notice provision and does not limit new issues nor  
15 new evidence. Further, with respect to appeal issues relating to the pond, it was impossible  
16 for the applicants to appeal with any specificity the Director's decision on the pond because the  
17 Director's decision contained no findings on the pond.

18          D. The Hearings Officer erred by finding that ORS 197.763(3)(a) prohibited the  
19 applicant from requesting changes to the proposed plan. Furthermore, on several occasions,  
20 the applicants' representatives requested that Mr. Tokos meet to discuss proposed changes to  
21 the plan prior to the issuance of the Director's decision. However, no meeting with the  
22 applicants' representatives was scheduled until after the issuance of the Director's decision.  
23 The Multnomah County Code expressly allows the Hearings Officer and the Board of  
24 Commissioners to impose conditions; the proposed changes to the site plan reviewed by  
25 Director, that is, changing the originally proposed parking area into a sports court and smaller  
26 parking lot is an action clearly within the authority of the Hearings Officer and Board to

1 consider and grant. Finally, the Hearings Officer erred by finding that the applicant presented  
2 arguments not within the bounds of the issues raised in the Notice of Appeal. The Notice of  
3 Appeal filed by applicants was broad enough to include all issues raised before the Hearings  
4 Officer.

5 E. The Hearings Officer erred by finding that the Director did not err by  
6 concluding that the proposed parking lot is not a permitted use.

7 F. The Hearings Officer erred by finding that the Director did not err in applying  
8 the purpose statement in the CFU zoning district.

9 G. The Hearings Officer erred by finding that the Director did not err in denying  
10 the application by applying minimum parking requirements.

11 H. The Hearings Officer erred by finding that the Director did not err in applying  
12 Statewide Planning Goals 4 and 5 to the decision.

13 I. The Hearings Officer erred by finding that the Director did not err in treating  
14 the 1995 Significant Environmental Concern Permit, Findings of Fact, and its Conditions of  
15 Approval as applicable approval criteria.

16 J. The Hearings Officer erred by finding that the Director did not err in finding  
17 that MCC 11.15.6426(B)(1) and (C)(1) are not satisfied. Specifically, MCC 11.15.6426(C)(1)  
18 confines development to non-forested "cleared" areas except as necessary to provide access  
19 and to meet minimum clearance standards for fire safety. The Director and Hearings Officer  
20 erred in not finding this criterion had been met because unrefuted evidence in the record  
21 incorporated herein by reference demonstrates that the applicants entire development was  
22 conducted entirely within a previously cleared non-forested area. Hence, this criterion is met.  
23 MCC 11.15.6426(C)(1) relates to a wildlife conservation plan required where physical  
24 characteristics unique to the property prevent compliance with section (B) development  
25 standards. The Director and the Hearings Officer erred in not considering information relating  
26 to the habitat value of the applicants' landscape and planting plan provided to the Hearings

1 Officer and incorporated herein by reference. As documented in the record, the applicant has  
2 planted over 4,500 trees and shrubs including species native to Oregon. The applicants'  
3 landscape plan provides a high degree of plant diversity and increases horizontal structure in  
4 the vegetation of the area. The planting and landscaping will provide cover, food sources and  
5 nesting opportunities for birds and mammals. The applicants' landscape and plant plan  
6 effectively constitutes a conservation plan meeting the requirements of this provision and the  
7 Director and Hearings Officer erred in not so finding.

8 K. The Hearings Officer erred in finding that the Director did not err in finding  
9 that MCC 11.15.6426(B)(1) limits development to one (1) acre. For purposes of this notice,  
10 all of the applicants' reasons for appeal of the Director's decision including written and oral  
11 testimony submitted during the Hearings Officer's proceeding are incorporated herein by  
12 reference.

13 L. The Hearings Officer erred in finding that the Director did not err in finding  
14 that MCC 11.15.6420(C), MCC 11.15.6420(F), and MCC 11.15.6420(M) were not met.  
15 With respect to MCC 11.15.6420(C), that provision speaks of balancing fundamental  
16 considerations and cost with the need to preserve and protect areas of environmental  
17 significance. As is demonstrated in the record incorporated by reference, over 90 percent of  
18 the property is protected and preserved to maintain a wildlife corridor between the Coastal  
19 Range and Forest Park. Testimony was also provided demonstrating that the area at issue is  
20 not necessary to maintain that wildlife corridor. In addition, some portions of that protected  
21 property are being enhanced to benefit wildlife. All development on this site has been  
22 restricted to previously cleared, disturbed areas with lower environmental values and as exhibit  
23 in the forested areas. The developed area does not contain wetlands or streams. The Hearings  
24 Officer erred in not finding that, on balance, allowing the requested use is consistent with  
25 preservation and protection of significant resources. With respect to MCC 11.15.6420(F), that  
26 provision relates to protection of significant fish and wildlife habitat. Again, as demonstrated

1 by testimony in the record incorporated by reference, over 90 percent of the forty acre parcel  
2 is being protected and preserved, including all of the property's forested areas. Development  
3 has been restricted to previously disturbed, cleared areas. Within the context of the County  
4 Code and the West Hills Reconciliation report, both of which recognize the need for  
5 development and consideration of property owners right to use of their property, habitat that is  
6 environmentally significant is being protected and the Hearing Officer erred in not making  
7 such a determination. With respect to MCC 11.15.6420(M), that provision relates to  
8 protection of fragile or endangered plant habitat to the maximum extent possible. The Oregon  
9 Natural Heritage Database contains no record of sensitive or fragile native plants species or  
10 habitat in the immediate vicinity of the applicants' property. The record incorporated by  
11 reference includes testimony to that effect. The residential development, including those  
12 activities subject to this permit application, occurred in non-forested, disturbed areas that do  
13 not possess unique functions or characteristics requiring protection under the provisions of  
14 MCC 11.15.6420(M). Consequently, the Hearing Officer erred in not finding that the  
15 Director had erred in not finding that this criterion was met.

16 M. The Hearings Officer erred by finding that the proposed parking area is not  
17 either a permitted use or a use permitted subject to review or an accessory use in the CFU  
18 zoning district. Further, the Hearings Officer erred by finding that the applicant did not raise  
19 the issue of whether the parking area was too large to be customarily accessory to a residential  
20 dwelling. The Hearings Officer has exceeded her authority by so narrowly defining the scope  
21 of the argument as to deny the applicant a reasonable opportunity for de novo hearing as  
22 provided for in ORS chapter 215. Further, the Hearings Officer erred in footnote 3 by  
23 attempting to distinguish between "a parking lot" and the "Bowen parking lot." It is clear that  
24 only the Bowen parking lot was before the Hearings Officer in this matter. Further, the  
25 Hearings Officer erred on page 6 by asserting that the applicant had proposed 37 to 43 parking  
26 spaces. Nowhere in the applicants' proposal is such a number of parking spaces requested.

1 The applicants' testimony and argument are clear that the revised parking lot plan relates to  
2 about ten parking spaces that are intended to replace 10 parking spaces previously authorized  
3 by the County in a different location. Further, the Hearings Officer erred by finding that the  
4 appeal did not include a site plan for the proposed use. Had the Hearings Officer reviewed the  
5 site plan, she would have found that the proposal requested parking only in the parking lot  
6 adjacent to the sport court (in addition to that already approved in the garage, the garage  
7 apron, but as a substitute for parking spots adjacent to circular driveway). The Hearings  
8 Officer also erred by concluding that no evidence regarding the amount, location, or type of  
9 parking arrangement for other single family residences was presented. In fact, the record is  
10 replete with evidence relating to the amount of parking on two adjacent single family lots.  
11 Further, the Hearings Officer erred on page 7 of her decision by implying that the applicant  
12 could not submit evidence regarding the correctness of the Director's decision to the Hearings  
13 Officer. The applicant has a right to a de novo hearing at which new evidence may be  
14 presented and the Hearings Officer's disregard for this evidence violates that right established  
15 in ORS 215.416(11)(a). The Notice of Intent to appeal contained sufficient information to  
16 alert the County to the criteria and issues being appealed by the applicants. Argument and  
17 evidence supporting and relating to the challenged issues and criteria are then to be presented  
18 at the de novo hearing guaranteed as a matter of right by ORS 215.416(11)(a). The Oregon  
19 Court of Appeals recently confirmed that right in Dept. of Transportation v. City of Mosier,  
20 161 Or App 252, 1999 WL 459796 (Or. App.) In that case, the court states:

21 "Although there are some provisions in ORS 197.763, ORS  
22 215.402 et seq., and ORS 227.160 et seq. that confer certain  
23 implementing options on cities, counties or both, the overriding purpose  
24 of the statutes generally and of the quasi-judicial hearing provisions they  
25 contain in particular is to impose requirements on the local governments.

26 \* \* \* The statutory provisions establishing quasi-judicial procedures in

1 connection with applications for permits and other applications that [the  
2 petitioner] describes are not a statutory conferral of authority on cities or  
3 counties but a state legislative mandate with which they are required to  
4 comply.”

5 Hence, the court recognized that quasi-judicial procedures such as the one conducted by the  
6 County in this instance are subject to ORS 215.416(11)(a) and a de novo hearing is required.  
7 The Hearings Officer erred in not considering evidence and argument supporting the issues  
8 raised in the Notice of Appeal. The Hearings Officer’s decision also violates ORS 215.416(8)  
9 by affirming the Director’s decision which relied on standards and criteria outside of the  
10 zoning ordinance for this application.

11 N. The Hearings Officer erred by finding that the purpose statement of the  
12 commercial forestry zoning district is an approval criterion. The Hearings Officer erred in  
13 finding that ORS 197.829(1) is applicable because this section applies only to interpretation  
14 and no interpretation was offered in the Director’s decision. The Hearings Officer erred in  
15 finding that the use restrictions are relevant approval criteria where they are not listed in the  
16 approval criteria.

17 O. The Hearings Officer erred by finding that the Director did not apply minimum  
18 parking standards of the approval criterion. The Director erred and the Hearings Officer  
19 perpetuated the error by finding that exceeding the minimum number of parking spaces is a  
20 violation or a reason to deny a request for additional parking spaces. The Multnomah County  
21 Code establishes only minimum parking spaces; it does not establish a maximum number of  
22 parking spaces. Further, the Hearings Officer ignored substantial evidence that the requested  
23 number of parking spaces was accessory and customarily incidental to the use of the single  
24 family residence.

25 P. The Hearings Officer erred by applying the 1995 GEC permit as an approval  
26 criterion for this application. The Hearings Officer erred by finding that the Bowens could not

1 modify that approval through this application since both Ms. Estrin and Mr. Tokos suggested  
2 that modification and the county's enforcement section expressly provides for this remedy.  
3 Further, there is no need to directly amend the conditions of the 1995 GEC permit where a  
4 subsequent permit amends by operation elements of that approval. Further, the Hearings  
5 Officer erred by applying the 1995 GEC permit conditions as approval criteria or by finding  
6 that they may not be modified in this application. The Hearings Officer also erred by ignoring  
7 substantial evidence that wildlife on the property are not adversely impacted by this application  
8 since Ms. Bowen testified that wildlife walked across the parking lot and there was no  
9 substantial evidence to the contrary. Further, the Hearings Officer erred by finding that the  
10 applicants are "bound to honor their legal obligation to revegetate the area that is proposed for  
11 development in the pending SEC application." This application seeks to modify that 1995  
12 approval through a subsequent approval and would relieve the Bowens of this obligation  
13 which, in fact, is not now required under the relevant MCC provisions. Further, the Hearings  
14 Officer ignored all of the argument and substantial evidence regarding whether this area is a  
15 non-cleared area, whether more than one acre may be cleared, and whether these uses are  
16 permitted in a non-cleared area. Further, the Hearings Officer erred in her analysis of MCC  
17 11.15.905(2)(B) because she incorrectly found that the permit requested did not correct the  
18 land use violation. Further the Hearings Officer erred by finding that the December 2, 1998  
19 letter from Mr. Tokos did not state that the applicants could correct the violation through a  
20 significant environmental concern application. The Director's analysis and the Hearings  
21 Officer's decision are in error because it clearly provided these options to the Bowens in  
22 writing and these options are provided in the MCC.

23 Q. The Hearings Officer erred by finding that the applicant did not raise in the  
24 Notice of Appeal of the Director's Decision MCC 11.15.6426(B)(1) and (C)(1). This issue  
25 involves how much notice is required. As the Hearings Officer herself said at the hearing, the  
26 notice of review requirement is merely a notice issue. The Hearings Officer has misread the

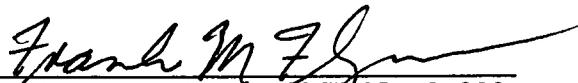
1 MCC provision requiring the notice of review as reason; a reason can be that the Director  
2 erred and additional argument and evidence is allowed in a de novo hearing. For purposes of  
3 this appeal, the appellants herein incorporate by reference arguments and evidence submitted to  
4 the Director and the Hearings Officer on these MCC provisions.

5 R. The Hearings Officer erred for the same reasons above by finding that the  
6 appellants did not raise MCC 11.15.6420(C). The appellants herein incorporate by reference  
7 the argument and evidence submitted to the Director and the Hearings Officer on this criterion.

8 S. The Hearings Officer erred by finding that the 1995 permit is relevant to this  
9 application when the CFU zoning district and requirements for an SEC permit have changed  
10 since then. Finally, the Hearings Officer erred by failing to consider all of the argument in  
11 evidence before her as is required by ORS 215.416(4) (imposing conditions authorized by  
12 county legislation and applying only the county comprehensive plan and applicable land use  
13 regulations), ORS 215.416(5) (failing to conduct the hearing in conformance with the  
14 provisions of ORS 197.763 by failing to consider issues raised with sufficient specificity),  
15 ORS 215.416(8) (considering criteria other than those contained in the applicable land use  
16 regulations), and ORS 215.416(11)(a) (failing to conduct her hearing as a de novo hearing and  
17 excluding relevant argument and evidence thereby prejudicing the appellants' substantial rights  
18 to a full and fair hearing and an opportunity to make their case in a de novo hearing).

19 Submitted this 1st of October, 1999.

20 STOEL RIVES LLP

21  
22 By:   
23 Michael C. Robinson, OSB No. 91090  
24 Frank M. Flynn, OSB No. 92306  
25 Of Attorneys for Appellants Walter and  
26 Janet Bowen

**MULTNOMAH COUNTY, OREGON**

**APPEAL TO LAND USE HEARINGS OFFICER**

**APPLICANTS/OWNERS:** Walter and Janet Bowen  
**APPELLANTS:** Walter and Janet Bowen  
**FILE NUMBER:** SEC 39-98  
**APPLICATION:** Request for Approval of SEC Permit for Property in  
CCU Zoning District  
**OTHER PARTIES:** Arnold Rochlin

**DECISION OF HEARINGS OFFICER**

**Prior Land Use Approval History**

In September of 1995, Multnomah County issued a GEC permit to allow construction of the Bowen residence on a forty-acre parcel of land near Forest Park in West Portland. This approval involved a review of wildlife protection standards similar to those now found in the County's SEC ordinance. The standards reviewed were found in the 1994 version of the West Hills Reconciliation Report and in the then unadopted SEC ordinance. The Report imposed a one acre limit on the "cultivated area" of a residential property (lawns and gardens) and required that the rest of the parcel should be left in native vegetation, to be altered only in conjunction with approved forest management practices. This Report requirement became Wildlife Habitat Condition 3 of the GEC permit.

The County's SEC standards required development to either comply with County home siting standards or adopt and implement a Wildlife Conservation Plan. The Bowens' asked for approval of a Wildlife Conservation Plan because their home site did not meet County siting rules. The County's 1995 wildlife review required the Wildlife Conservation Plan to fully mitigate any adverse impacts to wildlife habitat caused by the development of the Bowen property or to provide for wildlife enhancement measures to compensate for the loss of habitat values. In the Bowen plan, this mitigation and enhancement was to be accomplished by the Bowens' commitment to replant all "cleared portions" of the property with native vegetation. That commitment was included as Wildlife Habitat Condition 4 of the 1995 GEC permit.

Despite their clear commitment to revegetate the cleared portions of the property, the Bowens proceeded to develop these areas. In the current proceeding, the Bowens have argued that

because these areas of their property are cleared they are suitable for development under SEC rules. The Bowens ask the County to issue new SEC permits for activities that will preclude the Bowens from complying with the 1995 permit and from revegetating the cleared areas for wildlife habitat enhancement.

### **Procedural Background**

On June 18, 1998, the County notified the Bowens of their violation of their 1995 GEC land use permit approval. The Bowens contested this notice of violation. On September 29, 1998, the Bowens were found to have developed their property in violation of their land use permit and the County's land use code.

On November 2, 1998, the Bowens filed an application for approval of an SEC permit to authorize the construction of a pond, parking area and new access road on their property. This application was filed in an effort to obtain County approval of the improvements that were the subject of the enforcement action. The Bowens' application is, however, limited in scope to the new improvements proposed by the applicants. The permits filed do not ask the County to reconsider the decision or conditions imposed in GEC 19-95, the 1995 grading and erosion control and wildlife permit.

The Bowens' SEC permit application was incomplete when submitted. The Bowens' attorney, Michael Robinson, was advised of this fact and was provided a list of the specific deficiencies in the application. On April 29, 1999, Mr. Robinson filed a letter and other materials with the County and claimed that the new information completed the land use application. The new material proposed changes to the pond to be more "natural" and to plant native vegetation. No new site plan was, however, submitted. A list of native vegetation was provided but no commitment was made to use some or all of this vegetation in the pond.

On June 29, 1999, Multnomah County Planner Derrick I. Tokos, AICP issued a decision denying approval of the applicant's request for an SEC permit for the parking lot and pond. On July 11, 1999, the Bowens filed an appeal of the County's decision of denial.

After filing the Notice of Appeal, Mr. Robinson met with County Planners Phil Bourquin and Derrick Tokos to discuss the appeal. On August 16, 1999, Michael Robinson wrote a letter to Mr. Bourquin and Mr. Tokos. In that letter, Mr. Robinson stated that his clients were willing to make changes to their SEC application. One of the changes was to reduce the parking area so it would accommodate 13 parking spaces and to use the rest of the parking area as a "sport court."

On August 18, 1999, a hearing was held regarding the appeal. At the hearing, Michael Robinson granted the County a four-week extension of the 150-day period from August 18, 1999 through September 15, 1999. The Hearings Officer allowed the parties two weeks to

submit post-hearing evidence (September 1, 1999 deadline), one week to submit rebuttal evidence to materials submitted during the two-week period (September 8, 1999 deadline) and one week to the applicant to provide final written argument (September 15, 1999 deadline).

### **Standing of Arnold Rochlin**

The hearings officer finds that Arnold Rochlin has standing to appear and be heard in this matter. Mr. Rochlin has submitted evidence to show that he is a representative of the Forest Park Neighborhood Association. The Association is a neighborhood group that is recognized by the County as entitled to receive notice of use decisions for a geographic area that includes the Bowen property.

### **Scope of Review on Appeal**

The County's land use procedures ordinance requires that the specific grounds for reversal or modification of an administrative decision be specified in the Notice of Appeal. MCC 11.15.8290. The hearing is to be limited to the specific grounds relied upon in Notice of Appeal. MCC 11.15.8295(A). The hearings officer's decision must specifically address the relationships between the grounds listed in the Notice of Appeal and the relevant approval criteria for the SEC permit application. MCC 11.15.8295(C).

The applicants have attempted, after filing the Notice of Appeal, to change the use proposed in their application from a parking lot to a parking lot and sports court. A sports court is a new use. Different provisions of the CFU zoning district, therefore, are relevant approval criteria. It is a fundamental aspect of the Oregon land use system that persons affected by a land use application are entitled to notice of the matter being proposed and reviewed by the County and to receive notice of the applicable criteria that apply to review of the application. Proceeding now, without providing such notice would violate ORS 197.763. Specifically, ORS 197.763(3)(a) requires that the County provide notice of the nature of the application and the uses that could be authorized and the applicable criteria. Furthermore, this change in use is made after the filing of the Notice of Appeal. Since the appeal was filed before this new proposal was made, the grounds in the Notice of Appeal could not possibly raise issues regarding the new proposal. It would be purely speculative to say what the Director's decision might have been if a sports court and a thirteen-space parking lot had been proposed in the first instance.<sup>1</sup> As a result, this decision addresses the land uses reviewed and denied by the Director.

Arnold Rochlin has also attempted to expand the scope of review on appeal based upon

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<sup>1</sup>The applicants' offer to reduce the size of their parking lot was made in conjunction with the sports court proposal, not as a stand-alone proposal.

statutes that assure him the right to appeal the County's administrative decision. ORS 215.416. The County's procedures ordinance gave Mr. Rochlin that right, a right Mr. Rochlin chose not to exercise. The County's procedures ordinance clearly limits a review on appeal to issues identified in the Notice of Appeal. The hearings officer finds that such a limitation does not violate ORS 215.416 merely because Mr. Rochlin saw no reason to appeal a decision with an outcome that was favorable to his interests.

None of the cases cited by Mr. Rochlin hold that it is impermissible to limit the scope of appeals from administrative decisions. In fact, the case of Murray v. City of Beaverton, 17 Or LUBA 723 (1990) holds that a local government may limit the scope of review of an appeal of administrative decision.

The applicants strenuously objected to any enlargement of the scope of appeal to allow Mr. Rochlin to present new arguments. Interestingly enough, the applicants presented arguments that strayed beyond the bounds of the issues raised in the Notice of Appeal. For the most part, the hearings officer has addressed just the issues raised by the Notice of Appeal. All other issues raised by the applicants' arguments are rejected as beyond the scope of the notice. Where matters beyond the scope are discussed, they are provided as *dicta* for the benefit of the Board of County Commissioners on appeal.

#### Grounds for Review In Notice of Appeal

The following are the grounds for appeal:

1. The Planning Director erred by describing the application as an "after-the-fact" Significant Environmental Concern permit.
2. The Director erred in finding that the proposed parking lot is not a permitted use because a parking lot is accessory to a permitted use and the Director's finding is unsupported by substantial evidence.
3. The Director erred in applying the purpose statement of the Commercial Forest Use zoning district because the purpose statement is not an applicable approval criterion. MCC 11.15.6420 and .6426 do not list MCC 11.15.2042. The purpose statement is an aspirational statement and is not a mandatory approval criterion.
4. The Director erred in denying the application by applying minimum parking requirements.
5. The Director erred in denying Statewide Planning Goals 4 and 5 to the decision because they are not applicable approval criteria.
6. The Director erred in treating the 1995 Significant Environmental Concern permit, findings of fact and its conditions of approval as applicable approval criteria.
7. The Director erred in finding that MCC 11.15.6426(B)(1) and (C)(1) are not satisfied.
8. The Director erred in finding that MCC 11.15.6426(B)(1) limits development to one (1) acre. The Director's interpretation is not entitled to deference, is indefensible and clearly wrong and is inconsistent with the plain language of the land use regulation.

9. The Director erred in finding that MCC 11.15.6420(C) is not met.<sup>2</sup>
10. The Director erred in finding that MCC 11.15.6420(F) is not met by applying the 1995 SEC permit condition of approval.
11. The Director erred in finding that MCC 11.15.6420(M) is not met by applying the 1995 SBC permit findings of fact.

#### Hearings Officer's Findings Regarding Grounds for Appeal

1. *The Planning Director erred by describing the application as an "after-the-fact" Significant Environmental Concern permit.*

**Findings:** The County's description of the application as "after-the fact" is accurate. The applicants have not explained how the use of this description relates to the approval criteria. The hearings officer has found no such connection. As such, this ground for appeal is meritless.

2. *The Director erred in finding that the proposed parking lot is not a permitted use because a parking lot is accessory to a permitted use and the Director's finding is unsupported by substantial evidence.*

**Findings:** The Director found that "[a] parking lot is not a use permitted outright, or permitted subject to review in a Commercial Forest Use zone district (MCC .2048, .2049 & .2050)." The Director's finding is legally correct. A parking lot is not listed as a permitted use in MCC 11.15.2048, the code section that lists uses permitted outright in the CFU district. Off-street parking and loading "as required by MCC .6100 through .6148" is an accessory use and is allowed if it meets the requirements of MCC 11.15.2054(B). MCC 11.15.2054 categorizes parking as an "accessory use," a different use category than a use permitted outright. The Director's finding that the lot is not a permitted use is a conclusion of law that is amply supported by law.

Mr. Robinson's written argument asserts that the Director erred in finding that the size of the parking area proposed by the applicant is too large to be "customarily" accessory to a residential dwelling. This claim was not, however, plainly stated in this assignment of error. In the light most favorable to the appellant, the word "permitted" might be read to mean "allowed." In that light, the claim would be that the Director made a mistake by finding that the Bowen's parking lot was not allowed because (1) a parking lot is an

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<sup>2</sup>The applicant's Notice of Appeal contains no Item 9. The hearings officer has not perpetuated this error. As a result, Items 9 -11 are not numbered as shown in this Decision.

accessory use;<sup>3</sup> and (2) because the conclusion that the use is not allowed is not based on substantial evidence.

The fact that parking is classified as an accessory use by the CFU zoning district does not mean that any parking whatsoever is allowed. The accessory use provisions of the CFU district clearly state that parking "as required by MCC .6100 through .6148" is only allowed if it is "customarily accessory or incidental" to a permitted use.

The Directors' decision to find that the parking lot is not an accessory use was based on a number of legal and factual conclusions. The Director "did not concur" with the applicant's assertion that the spaces proposed (a total of 37 to 43 parking spaces with the 1995 approved spaces and the new spaces) is accessory to a single family residence.<sup>4</sup> This refusal to "concur" is not erroneous where, as here, the evidence presented to the Director on the "customarily accessory or incidental" issue consisted solely of statements of legal conclusions.

In a quasi-judicial land use proceeding, the burden of proof is on the applicant, not the County. This means that the County is not required to present any evidence, much less "substantial evidence" before it concludes that an applicant has not demonstrated compliance with an approval requirement.<sup>5</sup> The application and supplemental materials provided to the Director simply stated a legal conclusion – that "[s]uch a parking area is customary as an

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<sup>3</sup>The hearings officer notes that Mr. Robinson said "a parking lot" rather than "the Bowen parking lot" in this ground for appeal. The language chosen by Mr. Robinson presents a legal claim the Bowen parking lot is allowed because a parking lot is permitted in the CFU zone. This argument is consistent with the approach taken in the application, which is that the amount of parking proposed is irrelevant because parking, without any limits, is allowed by the CFU zoning district.

<sup>4</sup>The 1995 GEC permit authorizes 13 parking spaces around the entrance to the building and, presumably, in the Bowen's garage. All of the approved parking areas were not built as shown on the approved 1995 site plan, however, no aspect of the new approval would remove the Bowen's ability to develop all of the 13 approved spaces. It is obvious that some parking occurs in the approved parking area but the total number of current spaces in the approved area is not clear.

<sup>5</sup>The record may more reasonably be said to have lacked "substantial evidence" supplied by the applicants upon which the County could have concluded that the second, new parking area was customarily accessory or incidental to the single-family residence.

accessory use for like dwellings in the area"<sup>6</sup> and that "[t]he parking area is an accessory use to the dwelling."<sup>7</sup> No evidence regarding the amount, location or type of parking arrangements for other single family residents was presented. On that record, the Director's conclusion was proper.

The applicants presented some very general evidence regarding parking on other properties at the land use hearing. This evidence does not bear on the question whether the Director's decision was based on substantial evidence as it was presented long after the Director's decision was published. The same is true for evidence presented in response to the hearings officer's questions regarding the Bowens' needs for parking.

In post-hearing comments, the applicants' attorney Frank Flynn argued that the County's 1995 approval of "approximately ten spaces" in conjunction with the dwelling shows that ten spaces are accessory to an approved use. The flaw with this argument is, however, that approval of the new application will allow the construction of a second parking area, in addition to the thirteen spaces approved in 1995. The approval of a large number of parking spaces in the first proceeding does not logically support the approval of the same or a greater number of spaces in addition to the previously approved parking. This argument is also outside of the scope of the issues raised in the appeal and, therefore, does not support reversal of the Director's decision.

3. *The Director erred in applying the purpose statement of the Commercial Forest Use zoning district because the purpose statement is not an applicable approval criterion. MCC 11.15.6420 and .6426 do not list MCC 11.15.2042. The purpose statement is an aspirational statement and is not a mandatory approval criterion.*

**Findings:** The Director listed the purpose section of the CFU District as an applicable approval criterion. The Director did not, however, treat the purpose section itself as an approval criterion for the SEC permit. Rather, the Director properly considered the purpose section of the CFU zoning district as an aid in interpreting the meaning of the CFU zone's accessory use provisions regarding parking. This is a reasonable and appropriate use of the purpose statement.<sup>8</sup> This use is consistent with ORS 197.829(1) that requires local

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<sup>6</sup>October 30, 1998 Application, p. 2.

<sup>7</sup>April 29, 1999 letter to Derrick Tokos from Mike Robinson, p. 5.

<sup>8</sup>It is remarkable that applicants make this argument when they rely upon the purpose of the County's parking district to support their arguments in opposition to imposing parking restrictions.

interpretations of land use laws to be consistent with the purpose or underlying policy of the law.

It is also fundamental that the applicants must establish that the use proposed is allowed by the applicable, underlying zoning district before an SEC permit may be approved. Marquam Farms v. Multnomah County, \_\_\_ Or LUBA \_\_\_ (LUBA No. 95-254, 12/5/96); *aff'd* 147 Or App 368, 936 P2d 990 (1997). As a result, the use restrictions of the CFU zoning district are relevant approval criteria for an SEC permit and need not be set forth in MCC 11.15.6420 and .6426 to be applicable to the review of an SEC permit for land located in the CFU zoning district.

4. *The Director erred in denying the application by applying minimum parking requirements.*

**Finding:** The Director did not deny the application by applying minimum parking standards as an approval criterion. The Director denied the application because the applicants failed to establish that the amount of parking proposed was customarily accessory or incidental to a dwelling. The hearings officer finds that the Director's decision was proper, based on the evidence before the Director, because the record lacked any facts, as opposed to statements of legal conclusions to support a finding that the parking was customarily accessory or incidental to the use of the Bowen residence.

The Director found the County's parking code minimum is 2 stalls and said that this "requirement" of a minimum of two spaces was exceeded in 1995. This conclusion was stated to support the Director's finding that the Bowens' parking lot was not customarily accessory or incidental to a single-family residence in a CFU zoning district. Nothing in the language of the Decision, however, indicates that the 2 stall minimum was, itself, applied as a maximum parking limit or a mandatory approval criterion. In fact, staff recognized that 13 parking spaces are authorized for the property by the 1995 permit.

In the event it is determined that the Director erroneously "applied" a two stall limit in making this decision, the hearings officer finds that the Director's conclusion that the applicants had not proven that the large amount of parking proposed was not customarily accessory or incidental was correct. This was due to the fact that the applicants chose to argue that the "customarily accessory or incidental" test did not apply.<sup>9</sup>

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<sup>9</sup>This conclusion is based upon the evidence presented to the Director as the allegations of error in the Notice of Appeal are keyed to the propriety of the Director's

5. *The Director erred in denying Statewide Planning Goals 4 and 5 to the decision because they are not applicable approval criteria.*

**Finding:** Goals 4 and 5 are not applicable approval criteria in the County's review of this application. The Director did not, however, deny the application on the basis of the requirements of either goal. This is plain from the language of the Director's decision. The Decision states "[l]and uses are strictly regulated by Multnomah County to ensure compliance with two Statewide Planning Goals, Goal 4 . . . and Goal 5. . . This . . . SEC permit has been required to demonstrate compliance with Goal 5." The SEC permit process and the County's strict regulations are the tools that provide compliance with Goal 5. No provisions of the Goal 4 or Goal 5 rules themselves were addressed or considered by the Director.

6. *The Director erred in treating the 1995 Significant Environmental Concern permit, findings of fact and its conditions of approval as applicable approval criteria.*

**Findings:** It is clear in the law that the conditions of the 1995 GEC/Wildlife permit application are binding on the Bowens. As a general rule, the conditions of a land use approval are binding as an intrinsic part of the approved use until such time as a land use applicant files an application to modify the conditions of approval of the permit, obtains approval of a new land use permit or discontinues the approved use.<sup>10</sup> The Bowens have not taken any action to directly amend the conditions of the 1995 GEC permit. Instead, they have applied for an SEC permit to develop a portion of their property in a way that will violate the conditions of approval of the 1995 permit. In particular, they plan to place a parking lot, driveway and pool in an area that Wildlife Habitat Condition 4 requires be revegetated with native vegetation.

The conditions of approval of the 1995 GEC permit are key to the legality of the existing residence. They were developed to mitigate the negative impacts caused to the area's wildlife resource by the development of the Bowen home on a portion of the property where the County's clear and objective home

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conclusions. As it is not logically possible for those actions to have been made based on subsequently filed evidence, such evidence is not relevant to a determination of whether the Director erred.

<sup>10</sup>The hearings officer's discussion of other possible approaches is not a finding that Multnomah County's zoning ordinances authorize these approaches as this is question is purely academic at this time. Many Oregon jurisdictions have specific provisions to authorize one or more of these means of changing a prior decision.

siting regulations prohibited development. In return, the Wildlife Conservation Plan was adopted and was to have been followed by the Bowens. That Plan clearly states that areas outside of the cultivated area would be restored to native vegetation by planting species indigenous to the site and surrounding wildlife areas. In order to relieve the Bowens of this legal obligation that is created by the issuance of the 1995 permit, one must find explicit code authorization for such action or grant a new permit for the activity previously sanctioned.

Additionally, as the applicants wish to retain their residence, they are bound to honor their legal obligation to revegetate the area that is proposed for development in the pending SEC applications. It is a long-settled rule of law that it is not permissible for persons to agree to commit an illegal act. In the context of this proceeding, it is clearly not appropriate for the County and the applicants to agree to proceed with land use activities that will violate a lawfully issued, valid land use permit. Most critically, the conditions of the initial permit were imposed to assure compliance with relevant approval criterion. Without said conditions, the permit would have been denied. It would be unthinkable for the County to claim it could remove conditions of approval it was legally required to include in the 1995 decision by applicable approval criteria without first determining that the criteria applicable to the use will still be met. In this context, it was not error for the Director to treat these obligations as approval criteria.

It is also clear that the conditions of the 1995 decision must be met as a precondition of parking lot development. The parking use requested is an accessory use. A single family residence must exist on the property for the parking lot use to be allowed by the County. The Bowens' right to maintain their residence on their property is conditioned upon their compliance with the conditions of the permit approval, conditions they have unquestionably violated. At present, therefore, there is no legally authorized single-family dwelling on the property to which the proposed parking can be considered "accessory." Until such a lawful dwelling is established, no "accessory" parking areas may be approved on the property.

The hearings officer's analysis of this issue is consistent with MCC 11.15.9052(B). That section prohibits the hearings officer from granting any land use approval for the Bowen property because the property is subject to a County enforcement action unless the permit requested by the applicants will "correct" the land use violation. In this case, the requested permit will not correct the violation – it will simply grant approval to a use that will violate the 1995 permit. MCC 11.15.9052(B) does not make an otherwise unlawful activity lawful. It merely gives the hearings officer the right to approve a

permit if all other conditions precedent to its approval are satisfied, notwithstanding the fact that violation proceedings have been instituted.

The applicants claim they were told by County staff that they could correct their violation of the 1995 GEC permit by applying for a GEC and SEC permit. What is very clear in the record, however, is that Mr. Tokos told the applicants that he did not see how the application that was filed by applicants could satisfy the Significant Environmental Concern criteria. Mr. Tokos then discussed other options that were available to the applicants. The applicants chose not to pursue those more promising alternative approaches. See Exhibit B2, 12/2/99 Letter from Derrick Tokos to Walter & Janet Bowen.

The applicants claim that the pool, home and driveway are "not implicated" by the activities prompting the County's enforcement action is clearly wrong. The new activities will make it impossible for the Bowens to comply with the conditions of the 1995 Plan and permit, conditions that are essential to the continued conduct of the 1995 approved uses on the Bowen property. The 1995 approved structures and facilities are allowed on the property upon the clear condition that the entire property be maintained as required by the 1995 approved Wildlife Conservation Plan. As a result, the permit application, at a minimum, should have addressed the entire property."<sup>11</sup>

7. *The Director erred in finding that MCC 11.15.6426(B)(1) and (C)(1) are not satisfied.*

**Findings:** MCC 11.15.8290 (B)(3) requires that the "specific grounds" relied upon for reversal must be stated in the Notice of Appeal. This assignment of error does not provide any explanation what error occurred. As the hearings officer's scope of review is limited to specific grounds raised in the Notice of Appeal, the applicant's 7<sup>th</sup> ground for appeal furnishes no basis for reversal of the Director's findings.

8. *The Director erred in finding that MCC 11.15.6426(B)(1) limits development to one (1) acre. The Director's interpretation is not entitled to deference, is indefensible and clearly wrong and is inconsistent with the plain language of the land use regulation.*

**Findings:** The Hearings Officer agrees with appellants that MCC 11.15.6426(B)(1) does not limit development of the subject property to one acre. The area of the proposed development was a non-forested clear area in 1995 when the GEC permit was approved. After GEC approval, this area became a non-forested

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<sup>11</sup>Whether the County's zoning code authorizes or prohibits the use of this approach is not an issue that was raised by the appeal or decided by the hearings officer.

clear area that was burdened by an obligation to be planted with native vegetation. See Condition 4 of Wildlife Habitat Review, GBC 19-95.<sup>12</sup> This fact, however, is not material to a decision of this case as the Bowens have elected to proceed under MCC 11.15.6426(C) rather than .6426(B). As a result, MCC .6426 (B) is not a relevant approval criterion for this application.<sup>13</sup> The Director's error, however, does not warrant reversal of the Director's decision as other valid grounds for denial remain.

9. *The Director erred in finding that MCC 11.15.6420(C) is not met.*<sup>14</sup>

**Findings:** MCC 11.15.8290 (B)(3) requires that the "specific grounds" relied upon for reversal must be stated in the Notice of Appeal. MCC 11.15.8295(A). This assignment of error does not provide any explanation of the reason an error is alleged to have occurred. Without this information, this ground for appeal does not provide a basis for reversal of the Director's decision.

10. *The Director erred in finding that MCC 11.15.6420(F) is not met by applying the 1995 SEC permit condition of approval.*

**Findings:** The decision does not apply the 1995 SEC permit as a condition of approval in its findings regarding MCC .6420(F). Instead, the Director finds fault with the applicants' failure to explain how development of an area that the applicants agreed to commit to wildlife habitat rehabilitation will "protect" significant wildlife habitats." The 1995 permit is clearly relevant to a consideration of the nature of the area in question and the removal of that area from a wildlife rehabilitation obligation logically affects area wildlife. The Director did not err in considering the impact that the 1995 permit has upon the status of the Bowen property.

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<sup>12</sup>Condition 4 requires: "Cleared portions of the subject site should be replanted with native vegetation in conformance with all applicable Multnomah County codes (MCC 11.15.2074, .6426, et. al.) to enhance the wildlife habitat resource."

<sup>13</sup>It appears the Director meant to refer to MCC 11.15.6426(C)(3)(b) which limits the newly cleared area associated with development to an area of no more than one acre, "excluding from this total the area of the minimum necessary required for fire safety purposes." That section does apply to review of the Bowen's land use application. The hearings officer's decision addresses .6426(B), however, as that is the section cited in the decision and Notice of Appeal regarding the cleared area issue.

<sup>14</sup>The applicant's Notice of Appeal contains no Item 9. The hearings officer has not perpetuated this error. As a result, Items 9 -11 are not numbered as shown in this Decision.

It is less clear to the hearings officer that the area, in question, would be "significant habitat" and that if "significant," that County codes would support a no development condition.<sup>15</sup> This issue is raised in applicants' legal arguments and application but was not raised in the Notice of Appeal. As such, it is not a basis for reversal of the Director's decision. See discussions of this issue, above.

11. *The Director erred in finding that MCC 11.15.6420(M) is not met by applying the 1995 SEC permit findings of fact.*

**Findings:** MCC .6420(M) requires that any area "which has an identified need for protection of the natural vegetation" must be retained in a natural state to the maximum extent possible. The Director treats the 1995 decision as having identified a need to protect natural vegetation in the new development area. This approach is reasonable and correct. The 1995 decision is binding on the applicants and identifies a need to protect natural vegetation by reestablishing natural vegetation in the areas that would developed if the 1998 SEC application is approved.

The applicants argue that MCC .6420(M) does not apply to their development as no natural vegetation exists in this area nor has it ever existed in this location.<sup>16</sup> This grounds for reversal is not raised in the Notice of Appeal and, therefore, does not furnish a basis for reversing the Director's determination that the applicants had not demonstrated compliance with MCC .6420(M).

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<sup>15</sup>If all land designated SEC Wildlife is significant, the protection requirement of MCC .6420(F) cannot be read to require preservation of all areas of the Bowen property as other provisions of the County code plainly allow some development. MCC 11. 15.6404(A); .6409(E).

<sup>16</sup>While the applicants' argument is factually correct, it ignores the fact that native vegetation should be and would be growing on this area of the Bowen property if the Bowens had honored their promise and legal obligation to revegetate this area of their property.

Based on the foregoing findings of fact, the Hearings Officer finds that none of the Bowens' Notice of Appeal does not provide grounds to merit reversal of the Director's decision to deny the Bowens' request for approval of an SEC Wildlife Permit. The Director's decision of denial, therefore, is **AFFIRMED**.<sup>17</sup>

Dated this 19<sup>th</sup> day of September 1999.



Liz Fancher  
Multnomah County Land Use Hearings Officer

Attachment: Exhibit List

### NOTICE OF APPEAL RIGHTS

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The Hearings Officer's Decision may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the Transportation and Land Use Planning division within ten days after the Hearings Officer decision is submitted to the Clerk of the Board. An appeal must comply with all procedural requirements prescribed by the Multnomah County Code, including completion of a Notice of Review and payment of a fee of \$500.00 plus a \$3.50 per-minute charge for a transcript of the initial hearing(s). [ref. MCC 11.15.8260(A)(1) and MCC 11.15.9020(B)] Instructions and forms are available at the Planning Office at 1600 SE 190<sup>TH</sup> Avenue, Portland, Oregon, or you may call 503-248-3043 for additional instructions.

**THIS NOTICE IS PROVIDED AS A COURTESY TO THE PARTIES. PLEASE, HOWEVER, CONSULT THE APPLICABLE PROVISIONS OF THE MULTNOMAH COUNTY LAND USE CODE, DULY ADOPTED COUNTY FEE SCHEDULES AND STATE LAW TO ASSIST YOU IN COMPLYING WITH ALL FILING REQUIREMENTS. IN THE CASE OF A CONFLICT BETWEEN THIS NOTICE AND THE LAW, THE PROVISIONS OF THE LAW CONTROL.**

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<sup>17</sup>Mr. Tokos stated that a plan for a "natural pond" could be approved by the County. As the pond was not approved and no issue cited in the Notice of Appeal warrants a change in the Decision or clearly raises the issues about the pond that could support reversal of the decision (e.g. the pond is allowed by the 1995 permit approval as natural vegetation and habitat enhancement), the hearings officer did not change the Director's decision.