



Lynn Peterson
Chair

Commissioners
Bob Austin
Jim Bernard
Charlotte Lehan
Ann Lininger

BOARD OF COUNTY COMMISSIONERS

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

AGENDA

THURSDAY, DECEMBER 16, 2010 - 10:00 AM **BOARD OF COUNTY COMMISSIONERS**

Beginning Board Order No. 2010-139

I. HOUSING AUTHORITY CONSENT AGENDA

1. In the Matter of Writing Off Uncollectible Accounts for the Second Quarter of Fiscal Year 2010-11
2. Approval of the Revised Housing Authority Procurement Policy
3. Approval of Classifications and New Salary Grades for Housing Authority of Clackamas County (HACC) Development Manager within the Non-represented Group 2 and HACC Development Coordinator within the Employees' Association

II. CITIZEN COMMUNICATION *(The Chair of the Board will call for statements from citizens regarding issues relating to County government. It is the intention that this portion of the agenda shall be limited to items of County business which are properly the object of Board consideration and may not be of a personal nature. Persons wishing to speak shall be allowed to do so after registering on the blue card provided on the table outside of the hearing room prior to the beginning of the hearing. Testimony is limited to three (3) minutes. Comments shall be respectful and courteous to all.)*

III. PUBLIC HEARINGS *(The following items will be individually presented by County staff or other appropriate individuals. Persons appearing shall clearly identify themselves and the organization they represent. In addition, a synopsis of each item, together with a brief statement of the action being requested shall be made by those appearing on behalf of an agenda item.)*

1. First & Second Reading of Ordinance No. _____ Amending Chapter 8.0, Liquor License Criteria – of the Clackamas County Code and Declaring an Emergency (Agnes Sowle)
2. Board Order No. _____ Forming a 5 Lot Assessment Area within Clackamas County Service District No. 5, Assessment Area 64-07, Tulip Subdivision (Kevin Noreen)
3. Board Order No. _____ Forming a 4 Lot Subdivision Assessment Area within Clackamas County Service District No. 5, Assessment Area 01-10, Oaks Subdivision (Kevin Noreen)
4. Board Order No. _____ Forming an Assessment Area within Clackamas County Service District No. 5, Assessment Area 17-10, RS Davis Recycling (Kevin Noreen)

IV. DISCUSSION ITEMS *(The following items will be individually presented by County staff or other appropriate individuals. Citizens who want to comment on a discussion item may do so when called on by the Chair.)*

Elected Officials

1. Resolution No. _____ Clarifying Federal Jurisdiction for Protecting Surface Water Under the Clean Water Act (Commissioner Bob Austin)

WATER ENVIRONMENT SERVICES

1. Approval of a Construction Services Agreement for Clackamas County Service District No. 1 North Clackamas Revitalization Area Phase II Sanitary Sewer Project (Doug Waugh, Kathy Frasier)

V. CONSENT AGENDA *(The following items are considered to be routine, and therefore will not be allotted individual discussion time on the agenda. Many of these items have been discussed by the Board in Study Session. The items on the Consent Agenda will be approved in one motion unless a Board member requests, before the vote on the motion, to have an item considered at its regular place on the agenda.)*

A. Health, Housing & Human Services

1. Approval of the 2011 Oregon Health Plan Provider Services Contract for Mental Health Organizations with the State of Oregon Department of Human Services, Addictions and Mental Health Division - *Behavioral Health*
2. Approval of a Professional, Technical and Consultant Service Contract with Applied Behavioral Concepts, LLC for Mental Health Service - *Behavioral Health*

B. Department of Transportation & Development

1. Approval of a Contract with Northwest Solar Solutions for the Solar System at the Development Services Building

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – BCC

VI. COMMISSIONERS COMMUNICATION

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.

<http://www.clackamas.us/bcc/business/>

COPY

Cindy Becker
Director

December 16, 2010

Board of Commissioners of the
Housing Authority of Clackamas County

Members of the Board:

**In The Matter of Writing Off Uncollectible Accounts for the
Second Quarter of Fiscal Year 2011**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing and Human Services, requests the approval to write off uncollectible rents, late charges and maintenance expenses for the second quarter of fiscal year 2011 (October 1, 2010 – December 31, 2010). The uncollectible amounts are detailed on the attached worksheets.

Uncollectible amounts for the second quarter of fiscal year 2011 will be \$9,301.91 for Low Rent Public Housing and \$1,121.89 for Jannsen Road Apts. Of the total second quarter write offs, \$8,469.62 was for uncollected rents and \$1,954.18 was for maintenance repairs charged to tenants for repairs required to units before HACC could lease them to a new tenant.

The total amount proposed for transfer from Accounts Receivable to Collection Loss for the second quarter of fiscal year 2011 will be \$10,423.80. Total collection losses for fiscal year 2010 were \$26,836.67.

Recommendation

HACC recommends the approval to write off uncollectible rents, late charges and maintenance expenses and for the Executive Director to be authorized to approve the transfer of these accounts from Accounts Receivable to Collection Loss.

Respectfully submitted,



Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Mary-Rain O'Meara at (503) 655-8279

Healthy Families. Strong Communities.

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Cindy Becker
Director

December 16, 2010

Board of Commissioners of the
Housing Authority of Clackamas County

Members of the Board:

Approval of Revised Housing Authority Procurement Policy

The Housing Authority of Clackamas County (HACC), a Division of the Department of Health, Housing and Human Services, requests the approval of its revised Procurement Policy. The Procurement Policy was last revised in February 2010.

HACC has added the following language under Section II, Procurement Classifications:

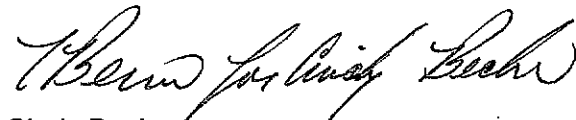
5. Exemption. As set forth in ORS 456.122, no Oregon law with respect to the acquisition, operation or disposition of property by other public bodies applies to the Housing Authority, unless specifically provided. Contracts for such activities are not subject to Housing Authority Procurement Policies based upon Oregon law, and this exemption prevails over any other conflicting provision of this Procurement Policy.

The revised Procurement Policy language has been reviewed and approved by County Counsel. A copy of the Policy is provided for Board review.

Recommendation

HACC recommends the approval of the adoption of the new Procurement Language and approval of the Procurement Policy.

Respectfully submitted,



Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Mary-Rain O'Meara at (503) 655-8279

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Cindy Becker
Director

December 16, 2010

Board of Commissioners of the
Housing Authority of Clackamas County

Members of the Board:

**Approval of Classifications and New Salary Grades for
HACC Development Manager
Within the Non-Represented Group 2
and
HACC Development Coordinator
Within The Employees' Association – Housing Authority**

The Housing Authority of Clackamas County (HACC), a Division of the Health, Housing & Human Services, requests approval of two new job classifications titled Development Manager and Development Coordinator. The HACC DEVELOPMENT MANAGER will have a salary grade NRP 29 within the NONREPRESENTED GROUP 2. The new classification specification for HACC DEVELOPMENT COORDINATOR will have the salary grade HAC 27 within the EMPLOYEES' ASSOCIATION – HOUSING AUTHORITY.

The HACC Development Manager and the HACC Development Coordinator positions will have responsibilities regarding the implementation and management of development and redevelopment activities for the HACC, particularly related to the Ten Year Strategic Directive.

These classifications are recommended by DES as documented in the attached report.

Recommendation

Staff recommends that the Board approve the new classifications and salary ranges for the Development Manager and Development Coordinator, effective January, 1, 2011 as outlined in the attached supporting documents.

Respectfully submitted,


Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Mary-Rain O'Meara at (503)-655-8279



OFFICE OF COUNTY COUNSEL

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

December 16, 2010

Board of Commissioners
Clackamas County

Agnes Sowle
INTERIM COUNTY COUNSEL

David W. Anderson
Kimberley A. Ybarra-Cole
Kathleen Rastetter
Scot A. Sideras
Chris Storey
Scott C. Ciecko
D. Daniel Chandler
ASSISTANTS

Members of the Board:

**First and second reading of an ordinance amending Chapter 8.01 - Liquor License
Criteria - of the Clackamas County Code and declaring an emergency**

ORS 471.166 and the corresponding Oregon Administrative Rules allow the OLCC to consider information and recommendations from local governments as to whether a liquor license should be granted to an applicant. Chapter 8.01 of the County Code provides the process by which the County can provide recommendations to the OLCC regarding an applicant for a liquor license. In summary, Chapter 8.01 currently grants the County authority to make 'unfavorable recommendations' to the OLCC only after affording the applicant full hearing before the Board of County Commissioners (the BCC). The current provisions, as well as the changes proposed, were discussed in detail at the December 7, 2010 BCC study session.

Although the current code allows the County to make recommendations regarding applicants for liquor licenses, it appears that this practice is rarely if ever utilized. In order to increase County involvement in the decision to issue or deny liquor licenses, and to increase the frequency with which the County provides information or recommendations to the OLCC, a number of changes have been proposed for this Board's consideration.

First, it is suggested that the County Code is amended so that applicants for liquor licenses are no longer provided a hearing before the BCC prior to the County making an unfavorable recommendation. This type of hearing at the county level does not appear to be necessary because the OLCC conducts its own independent investigation and allows applicants an opportunity for a formal hearing at the state level. Also, the County is not responsible for taking any final action on a liquor license application, instead that responsibility rests solely with the OLCC.

Second, it may be beneficial for the BCC to clarify in the Code that the County may simply provide information about an applicant or a location to the OLCC, rather than being

required to provide a 'recommendation.' This option is preferred by the Sheriff's Office and will be an acceptable way for the County to participate in a liquor license application decision. In addition it will allow the County to remain objective in a licensing decision while at the same time ensuring that the OLCC is provided all relevant information about an applicant that may impact the ultimate decision.

The proposed ordinance amending Chapter 8.01 was previously considered at the December 7th study session and is attached to this staff report. An emergency clause is included to allow the County to immediately begin providing information and/or making recommendations to the OLCC.

Recommendation

Staff respectfully recommends that the Board approve the attached ordinance by a unanimous vote after a first and second reading by title only, so that it can be adopted at this single meeting and become effective immediately in light of the emergency declared. [Procedure authorized by ORS 203.045].

Respectfully submitted,



Scott Ciecko
Assistant County Counsel

For information on this issue please contact Scott Ciecko 503-655-8362

ORDINANCE NO. 07-2010

**An Ordinance Amending Chapter 8.01 of the Clackamas County Code,
Liquor Licensing Criteria, and Declaring an Emergency**

WHEREAS, Chapter 8.01 of the Clackamas County Code relates to liquor licensing criteria and provides the procedures by which the Board of County Commissioners (the "BCC") and its designees can make recommendations to the Oregon Liquor Control Commission (the "OLCC") regarding applicants for liquor licenses; and

WHEREAS, Some of the procedures existing in Chapter 8.01 appear to be inefficient and have acted as obstacles to the BCC's and its designees' ability to make recommendations to the OLCC and to participate in decisions on whether liquor licenses within the County should be issued or denied; and

WHEREAS, At a study session on December 7th, 2010 the BCC considered the options available to amend Chapter 8.01 of the County Code and allow for the increased provision of information to the OLCC regarding applicants for liquor licenses within the County; and

WHEREAS, The BCC finds that it is in the public's best interest for the County to immediately begin sharing relevant local information with the OLCC regarding applicants for liquor licenses; now, therefore;

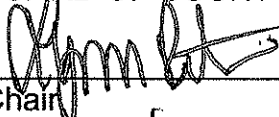
The Board of Commissioners of Clackamas County ordains as follows:

Section 1: Chapter 8.01 of the Clackamas County Code is hereby amended as shown on Exhibit "A", attached hereto and incorporated herein by this reference.


Section 2: Emergency Clause – The Board of Commissioners hereby finds and declares that an emergency exists inasmuch as the immediate passage and effect of this ordinance is necessary for the peace, health and welfare of the residents of the County. Accordingly, this ordinance shall be effective upon its adoption.

ADOPTED this 16th day of December, 2010.

BOARD OF COUNTY COMMISSIONERS



Chair



Recording Secretary

Ordinance No. 07-2010

Chapter 8.01

8.01 LIQUOR LICENSE CRITERIA

8.01.010 Policy and Purpose

The purpose of this chapter is to establish criteria to be considered by the Board of County Commissioners or its designees, the County Clerk, the Clackamas County Sheriff's Office, and the Environmental Health Division, in providing information or making recommendations to the Oregon Liquor Control Commission concerning the granting, denying, or renewing of liquor licenses for premises within the unincorporated area of the County. In addition, this chapter will establish procedures to be used to investigate license applicants in order to provide accurate local information or make fair, effective, and efficient recommendations. This chapter is necessary to assist the Oregon Liquor Control Commission in ensuring that premises licensed to sell or dispense liquor within the County conduct business in a lawful, peaceful, safe, and sanitary manner.

[Codified by Ord. 05-2000, 7/13/00]

8.01.020 Definitions

- A. OLCC means Oregon Liquor Control Commission.
- B. BOARD means Clackamas County Board of County Commissioners.
- C. COMMISSIONER means Clackamas County Commissioner.
- D. CLERK means Clackamas County Clerk.
- E. SHERIFF means Clackamas County Sheriff's Office.
- F. ENVIRONMENTAL HEALTH means Environmental Health Section of the Public Health Division of the Clackamas County Department of Human Services.

[Codified by Ord. 05-2000, 7/13/00]

8.01.030 Application Procedure

- A. **New Licenses.** Any applicant for a liquor license, other than a license renewal, who is required by the OLCC to provide Clackamas County with notice of the filing of the application, shall present properly completed application forms prescribed by the OLCC, to the Clerk along with the appropriate processing fee.
 - B. **Renewal Licenses.** The Clerk will receive from the OLCC a list of all liquor licenses that are due to expire and are subject to a license renewal. Any applicant for renewal of a liquor license shall mail or deliver the County license renewal processing fee to the County Clerk at 2051 Kaen Rd, 2nd Floor, Oregon City, OR 97045. No application form is required by the County for license renewals. Applicants for license renewal must certify to the OLCC that they have paid the County fee. OLCC will provide the Clerk with a list of license renewal applicants who certify they have paid the County fee.
 - C. If the County does not provide information or a written recommendation regarding an applicant, as provided below, to the OLCC within the time allowed by ORS 471.166, OLCC will proceed as if the County had made a favorable recommendation. The County may request additional time as provided by statute or administrative rule.
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- D. Liquor license processing fees are nonrefundable.

8.01.040 Investigation of License Applicants

- A. The Clerk shall forward the liquor license application, or list of license renewals, for investigation by the Sheriff and Environmental Health. Each such County agency after investigation may send the Clerk copies of police reports or other informational documents regarding an applicant or a location, or may provide the Clerk with summaries of relevant information and a written recommendation. This information or recommendation should be provided to the Clerk within 15 days after receipt of the application or list of renewals unless the agency receives permission from the Clerk for an extension of said time.
- B. At the end of the investigation time described above, the Clerk shall forward any and all documentation it has received from County agencies to the OLCC for their use in determining whether to issue or renew a liquor license.

[Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2001, 12/13/01]

8.01.50 Criteria for Investigations

County agency investigations shall be focused on finding information related to an applicant or location that indicates that one or more of the following has occurred:

- A. The application is incomplete;
- B. The applicant fails to provide the Clerk or any County agency with reasonably requested information in a timely manner;
- C. The applicant provides the County with false or misleading information;
- D. The applicant has been convicted of, or pled guilty to, one or more of the following local, State, or Federal offenses within the last five years--
1. Driving while under the influence of intoxicants;
 2. Drinking alcoholic liquor in a motor vehicle upon a highway;
 3. Possession of a controlled substance;
 4. Delivery of a controlled substance;
 5. Manufacture of a controlled substance;
 6. Furnishing alcohol to a minor; or
 7. Any other offense involving moral turpitude;
- E. The applicant has been under the influence of alcoholic liquor or controlled substances while on duty in a liquor establishment;
- F. The applicant's record shows, through convictions, guilty pleas, civil compromises, administrative rulings, or other means, violation(s) of law(s), or code(s), or ordinance(s), connected in time, place and manner with a liquor establishment, including State alcoholic liquor and gambling laws;
- G. The applicant has maintained, or allowed to exist, an establishment that creates or is a public nuisance under state law or County code or ordinance;
- H. The applicant has maintained, or allowed to exist, an establishment in which any violation of Federal, State or County law regarding minors, gambling, alcoholic beverages, controlled substances, obscenity, or prostitution, or violations of Oregon Revised Statutes Chapters 163, 164, 165, or 166, by anyone has occurred;
- I. The applicant has maintained, or allowed to exist, an establishment that creates an increase in disorderly or violent acts, litter, noise, vandalism, or vehicular or
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- pedestrian traffic congestion, in reasonable proximity to the premises;
 - J. The applicant's premises put an unreasonable and excessive demand on County services, including law enforcement;
 - K. There are sufficient licensed premises in the locality, and public interest or convenience does not demand a new license or increase in selling or dispensing privilege;
 - L. There is a history of illegal activities, altercations, noisy conduct, or other disturbances in or around these particular premises; or
 - M. The applicant has demonstrated an unwillingness or inability to cooperate with County agencies and/or neighbors in resolving community disputes related to a liquor-licensed establishment.
 - N. The applicant has made false statements to the OLCC regarding payment of license renewal fees to the County.
 - O. There are present any conditions listed in ORS 471.313, OAR 845-005-0320, OAR 845-005-0325, OAR 845-005-0326, or OAR 845-005-0355
- [Codified by Ord. 05-2000, 7/13/00; Amended by Ord. 10-2001, 12/13/01]
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Campbell M. Gilmour
Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

December 16, 2010

Board of County Commissioners
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a 5 Lot Assessment Area
Within Clackamas County Service District No. 5,
Assessment Area 64-07, Tulip Subdivision

This Board Order is to create a new assessment area in Clackamas County Service District No. 5. This process is necessary to allow for the installation of new street lights. Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this subdivision. The affected property owners were notified of the time and place of the hearing by first class mail to the mailing address as listed by the Assessor for Clackamas County and a public hearing was scheduled for December 16, 2010, to hear objections to the above street lighting district. The requirement for stopping the project is the receipt of objections from more than 50% of the property owners.

The cost of street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule B; the current rate for this schedule is \$47.48 per tax lot per year. Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.

RECOMMENDATION

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

For additional information, please contact Wendi Coryell at 503-742-4657.

Sincerely,

Wendi Coryell, CCSD No. 5 Program Specialist

WC/sc



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Campbell M. Gilmour
Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

December 16, 2010

Board of County Commissioners
Clackamas County

Members of the Board:

**Board Order and Public Hearing Forming a 4 Lot Assessment Area
Within Clackamas County Service District No. 5,
Assessment Area 01-10, Oakes Subdivision**

This Board Order is to create a new assessment area in Clackamas County Service District No. 5. This process is necessary to allow for the installation of new street lights. Street lighting is a condition of approval for new developments within Service District No. 5. As such, it has been included as a condition of approval for this subdivision. The affected property owners were notified of the time and place of the hearing by first class mail to the mailing address as listed by the Assessor for Clackamas County and a public hearing was scheduled for December 16, 2010, to hear objections to the above street lighting district. The requirement for stopping the project is the receipt of objections from more than 50% of the property owners.

The cost of street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This area falls under rate schedule B; the current rate for this schedule is \$47.48 per tax lot per year. Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.

RECOMMENDATION

If remonstrances from more than 50% of the property owners in the proposed assessment area for street lighting *are not* received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

For additional information, please contact Wendi Coryell at 503-742-4657.

Sincerely,

A handwritten signature in black ink, appearing to read "Wendi Coryell".

Wendi Coryell, CCSD No. 5 Program Specialist

WC/sc



COPY

Campbell M. Gilmour
Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING

150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

December 16, 2010

Board of County Commissioners
Clackamas County

Members of the Board:

Board Order and Public Hearing Forming a 1 Lot Assessment
Area Within Clackamas County Service District No. 5
Assessment Area 17-10, RS Davis Recycling

This Board Order is to create a new assessment area in Clackamas County Service District No. 5. This process is necessary to allow for the installation of new street lights. Street lighting is a condition of approval for new developments within Clackamas County and Service District No. 5. As such, it has been included as a condition of approval for this development. Even though commercial/multi-family assessment areas may be comprised of only one to several tax lots, they frequently encompass significant stretches of road frontage in areas that will benefit significantly from street lighting. The affected property owners were notified of the time and place of the hearing by first class mail to the mailing address as listed by the assessor for Clackamas County and a public hearing was scheduled for December 16, 2010, to hear objections to the above street lighting district. As a result of this action, street lights will be installed on SE Mather Road. The requirement for stopping the project is the receipt of objections from more than 50% of the property owners.

The cost of street lighting is paid by direct assessment against benefited property. As a result of the signing of this Board Order, Clackamas County Service District No. 5 will add the attached area to the assessment rolls for the District. This development comes under Rate Schedule D for commercial, industrial and multi-family properties, and the assessment will be \$1.19 per frontage foot per tax lot per year. Assessments for street lighting will be levied against the properties within this area effective on the installation date furnished to the district by Portland General Electric Company as the official date that the properties within this area began receiving service.

RECOMMENDATION

If remonstrance's from more than 50% of the property owners in the proposed assessment area for street lighting are not received by the end of the public hearing, it is recommended that the Board of County Commissioners, acting in the capacity of governing board for Clackamas County Service District No. 5, approve this Order which will allow Clackamas County Service District No. 5 to proceed with the formation of a new assessment area for street lighting.

For additional information, please contact Wendi Coryell at 503-742-4657.

Sincerely,

Wendi Coryell, CCSD No. 5 Program Specialist

WC/sc



This item was discussed and it was decided by the Board to continue this until the Dec. 22, 2010 Business Meeting for further review.

Lynn Peterson
Chair

Commissioners
Bob Austin
Jim Bernard
Charlotte Lehan
Ann Lininger

BOARD OF COUNTY COMMISSIONERS

PUBLIC SERVICES BUILDING
2051 KAEN ROAD | OREGON CITY, OR 97045

December 16, 2010

Board of County Commissioners
Clackamas County

Members of the Board:

**Resolution Clarifying Federal Jurisdiction for Protecting Surface Water
Under the Clean Water Act**

In 1972, Congress passed the Clean Water Act to protect all "Waters of the United States." For almost 30 years, both the courts and the agencies responsible for administering the Clean Water Act interpreted it broadly to protect our nation's waters.

However, in two recent decisions, *Solid Waste Agency of Northern Cook County v. U.S. Army Corps of Engineers* in 2001 and *Rapanos v. United States* in 2006, the Supreme Court ignored Federal Congressional intent and narrowly interpreted the scope of waters covered by the Clean Water Act, placing in doubt pollution safeguards for many vital wetlands, lakes and streams. Without Congressional intervention to restore the Clean Water Act protection for waters that were protected prior to 2001, these valuable waters will continue to be polluted and destroyed.

The Environmental Protection Agency estimates that over 50% of the streams in Oregon are intermittently flowing and/or headwater streams. These smaller streams are critical components of watersheds in Clackamas County and provide important drinking water, flood control, recreational opportunities, and aquatic habitat functions and are among those at risk of losing Clean Water Act protections based upon recent Supreme Court decisions. Although Clackamas County is not a provider of municipal drinking water, we share a vital role in ensuring the long term protection of this important natural resource for all of our citizens.

RECOMMENDATION:

I respectfully recommend the Board adopt the attached resolution clarifying Federal Jurisdiction for Protecting Surface Water under the Clean Water Act to encourage Congress to take action to re-expand the Environmental Protection Agency's Clean Water Act jurisdiction. There are no costs associated with the enactment of this resolution; County Counsel has reviewed this resolution. Your favorable consideration is requested.

Sincerely,

Robert Austin
Clackamas County Commissioner

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

**Resolution Clarifying Federal
Jurisdiction for Protecting Surface
Water Under the Clean Water Act**



**Resolution No.
Page 1 of 2**

Whereas, all Americans need clean water and healthy watersheds to ensure clean and safe drinking water supplies and outdoor recreation, and to protect bridges, roads, hospitals, treatment plants, and other critical infrastructure; and

Whereas, county officials are on the front lines in protecting the health, safety, and welfare of our citizens; and

Whereas, for nearly 30 years, virtually all natural surface waters were "waters of the United States" and protected by the Clean Water Act; and

Whereas, counties across the nation are facing increased flooding, surface water pollution, toxic blue-green algae outbreaks, and problems caused by jurisdictional determinations—all related to the lack of enforcement of the original Clean Water Act of 1972; and

Whereas, the Environmental Protection Agency estimates that over 117 million people in 5,646 public drinking water supply systems rely on surface water protection areas within headwater and seasonal streams; and

Whereas, water flows downhill and across county and state lines; and

Whereas, nearly 20 million Americans fall ill every year from drinking water contaminated with parasites, bacteria or viruses; and

Whereas, wetlands are among the most productive ecosystems in the world, providing habitats for many kinds of plants and animals, including more than one-third of the United States' threatened and endangered species; and

Whereas, wetlands play an important role in providing a number of ecological services, including flood protection and control; erosion and sedimentation prevention and control; surface water filtration; groundwater recharge; and support for economic activity that depends on healthy populations of fish and wildlife; and

Whereas, wetlands provide opportunities for recreation, education, and research as well as measurable economic contributions; and

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

**Resolution Clarifying Federal
Jurisdiction for Protecting Surface
Water Under the Clean Water Act**



**Resolution No.
Page 2 of 2**

Whereas, the Clean Water Act's jurisdiction over wetlands and all waters of the United States has been made uncertain by U.S. Supreme Court decisions in *Solid Waste Agency of Northern Cook County (SWANCC) v. United States Army Corps of Engineers* and related cases *Rapanos v. United States* and *Carabell V. United States*; and an estimated 20 million acres of wetlands and 59% of all stream miles in the lower 48 states are jeopardized by the Supreme Court decisions; and

Whereas, with the issuance by the U.S. Corps of Engineers and the U.S. Environmental Protection Agency of supplementary guidance concerning Clean Water Act jurisdiction, confusion over federal jurisdiction under the Clean Water Act persists, adding substantial delays to valid permit actions and otherwise undermining the ability of the federal government and the states (whose wetland programs are legally intertwined with the Clean Water Act) to protect intermittent streams and isolated wetlands, placing many wetlands and streams at risk of pollution and destruction; and

Now therefore, be it Resolved that the Clackamas County Board of Commissioners supports clarifying Federal jurisdiction of protecting surface water under the Clean Water Act, and we encourage the U.S. Congress to take action to re-expand the Environmental Protection Agency's Clean Water Act jurisdiction.

Dated this 16th day of December, 2010.

CLACKAMAS COUNTY BOARD OF COMMISSIONERS

Chair

Recording Secretary



Water Quality Protection
Surface Water Management
Wastewater Collection & Treatment

Michael S. Kuenzi, P.E.
Director

December 16, 2010

Board of County Commissioners
Clackamas County

Members of the Board:

**APPROVAL OF CONSTRUCTION SERVICES AGREEMENT
FOR CLACKAMAS COUNTY SERVICE DISTRICT NO. 1 ("CCSD#1")
NORTH CLACKAMAS REVITALIZATION AREA PHASE II
SANITARY SEWER PROJECT**

The North Clackamas Revitalization Area Sanitary Sewer Project ("NCRA Project") will provide a public sanitary sewer system to properties within the CCSD#1 service area of this urban renewal area formed by the Board of County Commissioners in 2006. The NCRA Project will be completed in three phases over a three-year period; Phase 1 construction was recently completed and the sewer system will soon be available to property owners within that area. Phase II of the NCRA Project has now been designed and publicly advertised for construction bids. Fourteen bids were received, publicly opened and read on November 16, 2010, with Rotschy Inc. being the lowest responsive bidder. Responsive bids ranged from \$3,199,958 to \$6,287,742, with a bid average of \$4,300,000. The engineer's estimate was \$4,982,295.

District staff has reviewed all bids and recommends proceeding with construction of Phase II of the NCRA Project utilizing the construction services of the lowest responsive and responsible bidder, Rotschy Inc.

The NCRA Project is being funded through a loan from the Oregon Department of Environmental Quality's Clean Water State Revolving Fund (CWSRF). The NCRA Project was also awarded \$4 million in funding from the American Recovery and Reinvestment Act of 2009 (ARRA). ARRA funds were utilized for Phase 1 construction, but will benefit the entire project by lowering total project costs. CWSRF funds are available to the District over a three year period, and the Project is phased accordingly. In order to recoup the District's costs, the Board of County Commissioners formed Assessment District 2009-1 on March 19, 2009. Assessments on the benefited properties will be levied after construction of all phases has been completed and final costs are known.

District Counsel has reviewed the Construction Services Agreement as to form.

RECOMMENDATION:

Staff recommends that the Board of County Commissioners of Clackamas County, Oregon, acting as the governing body of the Clackamas County Service District No. 1, a county service district ("District"), and as the Local Contract Review Board, make a finding that:

- A. The District award the construction contract to Rotschy Inc. for the construction of the North Clackamas Revitalization Area Phase II Sanitary Sewer Project for their bid of \$3,199,958.
- B. The Director of Water Environment Services be authorized to sign the contract for construction with Rotschy Inc. after proper insurance and bonds are posted and all contract documents are properly executed.

Sincerely,



Michael S. Kuenzi
Director

For information on this issue or copies of attachments, please contact Kathy Frasier at 503-742-4566.

COPY

December 16, 2010

Board of Commissioners
Clackamas County

Members of the Board:

**Approval of the 2011 Oregon Health Plan Provider Services Contract
for Mental Health Organizations with the State of Oregon,
Department of Human Services, Addictions and Mental Health Division**

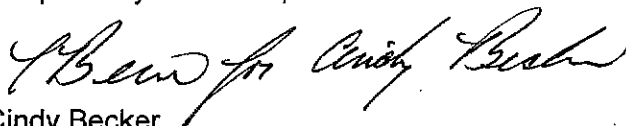
The Clackamas County Behavioral Health Division (CCBHD) of the Health, Housing and Human Services Department requests the approval of the 2011 Oregon Health Plan Provider Services Contract for Mental Health Organizations with the State of Oregon, acting by and through its Department of Human Services, Addictions and Mental Health (AMH) Division to continue provision of mental health services to enrollees of the Oregon Health Plan Medicaid Demonstration Project (OHP) and State Children's Health Insurance Program (SCHIP).

This is a revenue contract. The compensation mechanism is structured on a per member, per month (capitation) basis for each OHP/SCHIP eligible individual enrolled in Clackamas, Hood River, Sherman, and Wasco Counties. Calculation of payments and rates are set forth in Exhibit C. This contract has been reviewed and approved by County Counsel on December 6, 2010. No County General funds are involved. It commences on January 1, 2011 and continues through December 31, 2011.

Recommendation

We recommend the approval of this contract and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,



Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Emily M. Zwetzig/Office of Business Services at (503) 742-5318.

Healthy Families. Strong Communities.

COPY

Cindy Becker
Director

December 16, 2010

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a Professional, Technical, and Consultant Service Contract with Applied Behavioral Concepts, LLC for Mental Health Services

The Clackamas County Behavioral Health Division of the Health, Housing and Human Services Department (H3S) requests the approval of a Professional, Technical, and Consultant Service Contract with Applied Behavioral Concepts, LLC for mental health evaluation and assessment services to Oregon Health Plan (OHP) members capitated to the County.

The agreement does not contain an upper limit. Expenditures are controlled by Clackamas Mental Health Organization staff that pre-authorize and monitor services on an on-going basis. Payment is based on current Medicaid rates.

The agreement is funded with Oregon Department of Human Services, Addiction and Mental Health Division funds. No County General Funds are involved. County Counsel has reviewed and approved this contract as part of the H3S contract standardization project. It is effective upon signature and terminates December 31, 2011.

Recommendation

We recommend the approval of this agreement and that Cindy Becker be authorized to sign on behalf of the Board of County Commissioners.

Respectfully submitted,


Cindy Becker
Director

For information on this issue or copies of attachments
Please contact Emily M. Zwetzig/Office of Business Services at (503) 742-5318.

Healthy Families. Strong Communities.

2051 Kaen Road #239, Oregon City, OR 97045 • Phone: 503-650-5697 • Fax: 503-655-8677 • www.clackamas.us



CAMPBELL M. GILMOUR
DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of a contract with Northwest Solar Solutions for the Solar System at the Development Services Building

The Development Services Building Solar PV Project will construct a 65.52 kW capacity solar array on the building's roof in the first half of 2011. The array will be owned by the county, connected to the Portland General Electric grid, and will produce an estimated 67,252 kWh of clean electricity annually, enough to meet 5 percent of annual electricity consumption at the DSB and avoid over 28 metric tons of CO₂ emissions per year. The project is funded by the county's Energy Efficiency and Conservation Block Grant (EECBG), administered by the US Department of Energy under the American Recovery and Reinvestment Act (ARRA).

To design and install the array, the County requires a solar contractor. A Request for Proposals (RFP) was issued July 19, 2010. In the first phase of the selection process, the County requested qualifications, to which seven vendors responded. Responses were evaluated on criteria described in the RFP; based upon that criteria, the four highest scoring proposers were selected to participate in Phase Two. Three proposers submitted responses by the closing deadline of September 1, 2010. Based upon the RFP's evaluation criteria, the proposal from Northwest Solar Solutions best meets the needs of the County for this project.

The total cost for the project is \$349,800. The County has successfully enrolled the project in Portland General Electric's pilot solar program, which provides a 15-year production incentive of 49.5 cents per kWh generated, estimated at \$464,000 over 15 years. As program revenue leveraged by ARRA funds, the incentives must be reinvested in EECBG activities. The County's intent is to use the incentives to seed additional solar and energy efficiency projects. As part of this project, the County also anticipates adding a to-be-designed real-time display of the system's performance in the lobby of the DSB, which would be included through a contract amendment for no more than \$10,000.

The contract will be paid from Energy Efficiency and Conservation Block Grant (EECBG) funds beginning in this fiscal year. Funds are budgeted in FY 2010/2011 in account line 217 2471 07012 450001 44091. Construction may conclude in April 2011, if weather conditions cooperate.

County Counsel has reviewed this contract.

RECOMMENDATION:

Staff respectfully recommends that the Board approve the contract with Northwest Solar Solutions for the Solar System at the Development Services Building.

Sincerely,

R. Scott Pemble
Division of Strategic Planning and Sustainability, Planning Manager

For more information on this issue or copies of attachments contact Eben Polk (503) 742-4470

Placed on the Agenda of Dec. 16, 2010 by the Purchasing Division

BOARD OF COUNTY COMMISSIONERS BUSINESS MEETING MINUTES

A complete video copy and packet including staff reports, of this meeting can be viewed at <http://www.clackamas.us/bcc/business/>

Thursday, October 14, 2010 – 10:00 AM

Public Services Building - 2051 Kaen Road, Oregon City, OR 97045

PRESENT: Commissioner Bob Austin
Commissioner Jim Bernard
Commissioner Ann Lininger
EXCUSED: Commissioner Charlotte Lehan
Commissioner Lynn Peterson, Chair

~Pledge of Allegiance~

Commissioner Lininger announced that Commissioners Peterson and Lehan are out of the office and will not be in attendance today – Commissioner Lininger will serve as Chair for today's Business Meeting.

I. PRESENTATION

1. Update on the Clackamas County Special Grants Program
Gary Schmidt, Public & Government Affairs stated the Board of Commissioners allocated \$200,000 in the 2010/2011 budget to go toward the Special Grants Program. This program received 46 applications requesting a total amount of \$686,687. There are a wide variety of proposed projects that will serve different areas of Clackamas County. This is the second annual Special Grants Program and there will be a ceremony on Oct. 25th to award the recipients.

The Commissioners discussed the importance of these grant awards and thanked staff, especially Caroline Hill for their work on the important project.

II. CITIZEN COMMUNICATION - NONE

III. DISCUSSION ITEMS

~NO DISCUSSION ITEMS SCHEDULED

IV. CONSENT AGENDA

Chair Lininger announced there are two changes on the Consent agenda – item B.1. has been removed for further review, and item F.1. was added: *Approval of a Contract with Ken's Floatation Services Inc. for the Design, Construction and Moorage of a Boathouse for the Clackamas County Sheriff's Marine Unit.* She then asked for a motion to approve the Consent agenda as amended.

MOTION:

Commissioner Austin: I move we approve the Consent Agenda as amended.

Commissioner Bernard: Second.

Chair Lininger – all those in favor:

Commissioner Bernard: Aye.

Commissioner Austin: Aye.

Chair Lininger: Aye.

Chair Lininger – all those opposed: - The Ayes have it and the motion is approved.

A. Health, Housing & Human Services

1. Approval of an Intergovernmental Agreement with the City of Portland for the Homeless Management Information System - CD
2. Approval of an Intergovernmental Agreement with the City of Lake Oswego for Diversion Panel Services – CYF
3. Approval of the Clackamas County Commission on Children and Families Self Assessment and Approval of the 2009-2011 Partnership Agreement with the Oregon Commission on Children and Families - CYF

B. Department of Transportation & Development

1. **REMOVED** - Board Order No. _____ Declaring the Necessity and Purpose for Acquisition of Rights-of-Way and Easements – Group 1 for the Hwy 212/Connection Phase II Project and Authorizing Negotiations and Eminent Domain Actions
2. Approval of Supplement No. 3 for the Cooperative Improvement Agreement between Clackamas County, Clackamas County Development Agency and Oregon Department of Transportation regarding Roles and Responsibilities for the Monterey Avenue Overcrossing
3. Approval of the Intergovernmental Agreement with Metro to Implement the Year 21 Metro and Local Government Annual Waste Reduction Plan and the Recycle at Work Program

C. Elected Officials

1. Approval of Previous Business Meeting Minutes – BCC
2. Approval to Transfer Abandoned Property (Boat) to the Sea Scouts' Cascade Pacific Council – CCSO
3. Board Order No. **2010-119** for Cancellation of Manufactured Structure Personal Property Taxes - ASSESSOR
4. Board Order No. **2010-120** for Cancellation of Delinquent Personal Property Accounts - ASSESSOR

D. Juvenile Department

1. Approval of a Grant Award from the US Department of Justice, Methamphetamine Initiative (COPS)

E. Family Court Services

1. Board Order No. **2010-121** for Approval of Family Court Services to be the Grant Recipient of 2009-2011 Community Dispute Resolution Funds from the Oregon Office of Community Dispute Resolution

***F. Department of Finance**

- *1. Approval of a Contract with Ken's Floatation Services Inc. for the Design, Construction and Moorage of a Boathouse for the Clackamas County Sheriff's Marine Unit

V. WATER ENVIRONMENT SERVICES

- 1. Approval of an Intergovernmental Agreement between Clackamas County Department of Transportation and Development and Clackamas County Service District No. 1 for Pilot Street Sweeping Services

VI. COMMISSIONERS COMMUNICATION

MEETING ADJOURNED – 10:20 AM

NOTE: Regularly scheduled Business Meetings are televised and broadcast on the Clackamas County Government Channel. These programs are also accessible through the County's Internet site. DVD copies of regularly scheduled BCC Thursday Business Meetings are available for checkout at the Clackamas County Library in Oak Grove by the following Saturday. You may also order copies from any library in Clackamas County or the Clackamas County Government Channel.

<http://www.clackamas.us/bcc/business/>