

BOARD ORDERS AND MINUTES

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY (“the Board”) sat for the transaction of county business in formal session on January 16, 2008 at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George being present.

Also present was John Krawczyk, Administrative Services Director; Laura Tschabold, Administrative Services Assistant Director; Ken Friday, Planning Division Manager; David Bates, News-Register; Richard & Barbara Lipinski, PO Box 221, Dundee; Amanda Newman, Newberg Graphic; Gil & Janet Rinard, 18265 NE Fairview Dr, Dundee; Jerry Seeberger, 18145 NE Fairview Dr, Dundee; Carrie Richter, 121 SW Morrison St #1100, Portland, 97204; Reynaldo Balthazar, 1500 NE Irving St, Portland, 97232; and Linda Foley, 18600 NE Buenda Vista, Dundee.

Commissioner Stern called the meeting to order.

A. **PUBLIC COMMENT:** This thirty-minute time period is reserved for public comment on any topic other than a quasi-judicial land use matter or other topic scheduled for public hearing. Unless extended or restricted by the Chair or majority of the Board, public comment will be limited to three minutes per person. None offered.

B. **CONSENT AGENDA:** Ms. George moved approval of the consent agenda. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Personnel

1. **B. O. 08-33** - Approve the change of status of Michael Petrasek to Registered Nurse in the Jail, regular full-time, Range 14, Step 7, effective January 24, 2008.

2. **B. O. 08-34** - Approve the change of status of Sarah Bates from .6 FTE to .8 FTE in HHS Public Health, effective January 24, 2008.

3. **B. O. 08-35** - Approve the lateral transfer of LouAnn Schenk to Administrative Office Specialist in Public Works, effective January 22, 2008.

Contracts/Grants

4. Ratify the approval of the following Homeland Security Grant agreements between Yamhill County and Oregon Office of Emergency Management, retroactive to November 1, 2007 through May 31, 2010, as authorized by Board Order 07-1072:

- a. **B. O. 08-36** - Grant #07-113, Yamhill County Citizen Corps Council, \$20,510;
- b. **B. O. 08-37** - Grant #07-174, Eola Hills Communications Project, \$140,232;
- c. **B. O. 08-38** - Grant #07-243, Mt. Hebo Communications Project, \$61,732.

5. **B. O. 08-39** - Approve a collective bargaining agreement between Yamhill County and Yamhill County Employees Association (YCEA), retroactive to July 1, 2007 through June 30, 2010.
6. **B. O. 08-40** - Approve a HIPAA Business Associate Agreement between HHS Public Health and the Yakima Valley Farm Workers Clinic, effective January 16, 2008.
7. Approve the following amendments to the 2007-09 Financial Assistance Agreement #119951 between Health & Human Services and Oregon Department of Human Services:
 - a. **B. O. 08-41** - Amendment #19;
 - b. **B. O. 08-42** - Amendment #20;
 - c. **B. O. 08-43** - Amendment #21.
8. **B. O. 08-44** - Approve Amendment #7 to a Professional Services Contract between HHS Adult Mental Health and Mid-Valley Behavioral Care Network, retroactive to January 1, 2008.
9. **B. O. 08-45** - Ratify a Consulting and Administrative Support Services Agreement between the District Attorney's Office and American Corrective Counseling Services, Inc., provider, for a Diversion Program, retroactive to January 10, 2008.
10. **B. O. 08-46** - Approve Intergovernmental Agreement #09-DA-07 between the District Attorney's Office, provider, and Oregon Department of Justice for increased involvement in juvenile dependency proceedings, not to exceed \$48,798, effective through June 30, 2009.

Refunds

11. **B. O. 08-47** - Authorize refunds from the Surveyor's Office to the following people for unused deposit funds received for checking partitions:
 - a. Jack Vining, \$698;
 - b. Jack Temple, \$705;
 - c. Kurt Feero, \$705.
12. **B. O. 08-48** - Declare five Optec IVC ballot counters and accessories as surplus county property to be sold by the Clerk's Office.
13. **B. O. 08-49** - Declare a GPS unit as surplus county property to be sold on eBay to the highest bidder.

Committees

14. **B. O. 08-50** - Approve the reappointment of Shannon Carefoot to the Commission on Children & Families for a four-year term to expire November 1, 2011.

C. **OLD BUSINESS:** None.

D. **OTHER BUSINESS** (Add-ons and non-consent items):

1. **B. O. 08-51** - Consideration of the change of status of Donald Stackpole II to Deputy Sheriff in the Jail, regular full-time, Range 12, Step 1, \$3172/month, effective January 16, 2008.

Ms. Stern moved approval of the change of status of Donald Stackpole II. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. **B. O. 08-52** - Consideration of adoption of findings in support of Planning Docket Z-06-07, a request for zone change from Heavy Industrial to Light Industrial on 7.5 acres, applicant Washington Roofing, as tentatively approved by the Planning Commission on November 1, 2007.

Ms. Stern moved to adopt the findings. The motion passed, Commissioners Stern, Lewis, and George voting aye.

3. **B. O. 08-53** - Consideration of the approval of the following appointments to Northwest Senior & Disabilities Services (NWSDS):
a. Kathy George, liaison commissioner to NWSDS;
b. Leslie Lewis, NWSDS Budget Committee.

Ms. George moved approval of the appointments. The motion passed, Commissioners Stern, Lewis, and George voting aye.

E. PUBLIC HEARINGS:

1. Consideration of SDR-22-06(KF), a remand from the Land Use Board of Appeals (LUBA) regarding a request from T-Mobile for a 120-foot cell tower, as continued from January 9, 2008 at the point of Rebuttal. *[Tentatively approved, findings to be adopted January 22, 2008 at 10:00 a.m. in Room 32 of the Courthouse.]*

Carrie Richter, representing T-Mobile, stated that the past week has been spent researching the proposed Allman site as an alternate location for the cell tower. Reynaldo Balthazar reviewed the predicted coverage maps for the existing site candidate and the Allman site, based on the assumption that the Allman site would contain a 200-foot tower located on the top of the hill. He concluded that although the Allman site would provide very good indoor coverage west of the site, the main coverage objective north of Highway 240 would be poorly covered. He added that portions of Worden Hill and Fairview Roads would also not be covered as well by the Allman site as they would by the proposed site.

At the request of Ms. Lewis, Ms. Richter explained that the definition of “necessary” in the context of ORS 215.275 is not the same as the definition in the dictionary. She stated that if any of the factors in Subsection (2) can be satisfied, the proposed use is necessary by definition. She reiterated the fact that T-Mobile has the right to define its service objectives and, since none of the non-EFU parcels meet those objectives, it is not required to exhaust all alternative EFU locations.

She stated that T-Mobile can’t make public the terms of the lease with the owner of the proposed site. She added that nothing would be served by doing so because the Allman site would not work for T-Mobile. She said that T-Mobile has done more than is required by

considering five different sites and responding to every alternative site with propagation maps showing that they would not meet the objectives. She stated that T-Mobile has shown conclusively that no non-resource lands are available that would meet its needs.

She responded to a question from Ms. Stern about T-Mobile's overall plan for three towers in the general area, stating that the benefit to the west side from the Allman site was considered in the overall scheme, but that would not provide coverage north of Highway 240. Ms. George suggested using existing towers on the other side of Chehalem Valley to meet the service needs north of Highway 240 and the Allman site to provide for a real need on the west side. Ms. Richter stated that the west side hasn't been identified by T-Mobile as a service objective.

Staff Recommendation - Ken Friday stated that the evidence in the record shows that two of the tests for locating in an EFU zone have been satisfied. He recommended approval of the request with the three conditions listed in the staff report. Ms. Stern suggested an additional condition requiring the applicant to maintain the trees around the site to a height that doesn't interfere with the signal.

The meeting recessed at 9:45 a.m. and reconvened at 9:55 a.m.

Close of Public Hearing / Deliberation - Mr. Friday recommended not placing a condition related to the trees because they are aesthetic and conditions must relate to the mitigation and preservation of farm or forest practices.

Ms. George moved tentative approval of SDR-22-06(KF) with findings to be adopted on January 22, 2008 at 10:00 a.m., noting that she does so with great reluctance because there are better sites, but the law guarantees this right to the applicant and denying the application would put the county at great risk of liability. She stated that there should be something in the law to allow the Board local control when something is not in the best interest of the community, but the state has gone too far in trying to protect the rights of utilities.

Ms. Lewis stated that in many land use applications, the Board is allowed to determine whether a proposed use is necessary and that caused some of the confusion when the Board first voted to deny the application. She said that T-Mobile has identified its service needs and met the required criteria for approval and the commissioners have sworn to uphold the law.

Ms. Stern agreed with the statements made by Commissioners George and Lewis, adding that unfortunately the law has not kept up with the changing definition of farm practices, which now include wineries. She expressed her appreciation to T-Mobile for looking at the Allman site and encouraged them to review the overall plan for three tower sites in the area and to work with the community in mitigating impacts.

The motion for tentative approval passed, Commissioners Stern, Lewis, and George voting aye.

F. **ANNOUNCEMENTS:**

1. The following positions are open to the public. Contact the Commissioners' Office for applications.

- a. Commission on Children & Families, four lay positions, two lay alternate positions, one youth position, and two professional alternate positions;
- b. Local Alcohol and Drug Planning Committee, two positions;
- c. Road Improvement Advisory Committee, one position;
- d. Special Transportation Advisory Commission, one position.

2. Northwest Senior & Disability Services has openings for Yamhill County residents on the following regional councils:

- a. Senior Advisory Council, one position;
- b. Disability Services Advisory Council, one position.

For more information, contact Sally Lawson at (503)304-3473 or by e-mail at Sally.Lawson@state.or.us.

3. The Board will hold a combined formal/informal session on January 22, 2008 at 10:00 a.m. in Room 32 of the Courthouse. The regular formal session on January 23, 2008 will be for the purposes of a scheduled public hearing only.

The meeting adjourned at 10:12 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair MARY P. STERN

Commissioner LESLIE LEWIS

Commissioner KATHY GEORGE