

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 March 14, 2007 at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Kathy George, Mary P. Stern, and Leslie Lewis being present.

Also present was John Krawczyk, Administrative Services Director; John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; Martin Chroust-Masin, Associate Planner; Sheriff Jack Crabtree; Tonya Saunders, Transit Coordinator; Laura Tschabold, Projects Coordinator; Henry Reeves, 22250 Boulder Crest Lane SE, Amity; Merylyn Reeves, PO Box 1083, McMinnville; Carrie Richter, 121 SW Morrison Street #1100, Portland; Ron Fowler, 6940 SW Dale Avenue, Beaverton; Douglas Evans, 1500 NE Irving Street, Portland; Eleanor Huff, 9380 NE Powell Hill Road, Dundee; Rick and Barbara Lipinski, PO Box 221, Dundee; Jerry and Elizabeth Seeberger, 18145 NE Fairview Drive, Dundee; Danny Ross, 408 Mylar Circle, Irving, Texas; Linda Foley, 18600 NE Buena Vista, Dundee; Janet Rinard, 18265 NE Fairview Drive, Dundee; Bruce Dickson and Kathleen Horgan, 18035 NE Fairview Drive, Dundee; Marc Dochez, 17001 Fairview Drive, Dundee; Christl and Frank Stohr and Diane Letteer, 17995 NE Fairview Drive, Dundee; Mary Weil, PO Box 515, Dundee; Liss Robertson, 2955 NE Hembree Street #220, McMinnville; and Peter Shultz, 9771 Highway 47, Carlton.

Commissioner George 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.

Henry Reeves pointed out that the Measure 37 claims being considered today would affect over 2000 acres in Yamhill County, although Commissioners George and Lewis had assured the public after Measure 37 passed that it would primarily deal with requests for single dwellings. He stated that he is still waiting for an explanation of what went wrong and said that either the commissioners were deceived or they had deceived the public.

B. **AGENDA:**

Personnel

1. **B. O. 07-725** - Consideration of approval of the employment of Phillip Shadden, Carlton, as Deputy Sheriff in the Sheriff’s Office Patrol, regular full-time, Range 12, Step 1, \$3089/month, retroactive to March 9, 2007.
2. **B. O. 07-726** - Consideration of approval of the employment of Elma Cantu, McMinnville, as Extra Help in the Jail, regular part-time, \$11.91/hour, retroactive to March 9, 2007.

3. **B. O. 07-727** - Consideration of approval of the change of status of Woody Little to Corrections Officer in the Jail, regular full-time, \$3089/month, retroactive to March 9, 2007.
4. **B. O. 07-728** - Consideration of approving a shift schedule change for the Road and Fleet Department to four ten-hour days per week, effective March 19, 2007.
5. **B. O. 07-729** - Consideration of approval of a contract employee agreement between the Assessor's Office and Ruthella Hughes for consulting services, \$30/hour, effective March 14, 2007.
6. **B. O. 07-730** - Consideration of approval of the reclassification of Ken Summers and Ron Huber from Lieutenants to Captains in the Sheriff's Office, maintaining current anniversary dates, Range 20, Step 7, effective March 14, 2007.

Ms. Stern stated that she supports the Sheriff's plan to restructure his department in a way that would work best. She pointed out that the City of McMinnville has also recently reclassified its lieutenants to captains. Ms. Lewis added that the long-term impact on the Sheriff's budget would not be very large.

Ms. Stern moved approval of items B(1) through B(6). The motion passed, Commissioners George, Stern, and Lewis voting aye.

Contracts

7. **B. O. 07-731** - Consideration of approval of Amendment #2 to Intergovernmental Agreement YAMH0507 between the Commission on Children & Families and Oregon Commission on Children & Families to increase the maximum medicaid earnings for the Healthy Start Program from \$158,500 to \$170,000, effective March 14, 2007.
8. **B. O. 07-732** - Consideration of approval of Contract #4600006521 between HHS Public Health and Multnomah County for federal Ryan White CARE Act funds to provide case management, mental health, and transportation services for persons living with HIV/AIDS, not to exceed \$34,200, retroactive to March 1, 2007 through February 20, 2008.
9. **B. O. 07-733** - Consideration of authorization of Service Element Prior Authorization (SEPA) Approval Unit #165082 for the 2005-07 Financing Agreement #113020 between Health & Human Services and Oregon Department of Human Services.
10. **B. O. 07-734** - Consideration of approval of Amendment #41 to the 2005-07 Financing Agreement #113020 between Health & Human Services and Oregon Department of Human Services to increase case management and local administration funding.
11. **B. O. 07-735** - Consideration of approval of Amendment #1 to Agreement #10084 between the Juvenile Department and Oregon Youth Authority to add Gang Intervention Funds, \$42,124.

Ms. Lewis moved approval of items B(7) through B(11). The motion passed, Commissioners George, Stern, and Lewis voting aye.

Policy

12. **B. O. 07-736** - Consideration of adoption of a Policy on Execution and Approval of County Contracts.

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

Discretionary Spending

13. Declaration of a \$175 discretionary expenditure by Commissioner Stern to Rice Furniture, McMinnville to pay 50% of the cost of a new TV set for the Reflections House in McMinnville, correcting a scrivener error in the amount declared on February 14, 2007.

Economic Development

14. **B. O. 07-737** - Consideration of authorizing the payment of \$3400 from the Economic Development Fund to Chehalem Valley Transit to assist with the implementation of expanded services.

Ms. Lewis moved to authorize the payment, noting that this is similar to what the county did for the YCAP expansion. The motion passed, Commissioners George, Stern, and Lewis voting aye.

Resolutions

15. **B. O. 07-738** - Consideration of adoption of Resolution 07-3-14-1 in support of the formation of a Regional Micro Enterprise Assistance Program and a grant application to Lane MicroBusiness, replacing Resolution 07-2-14-2.

Laura Tschabold explained that Resolution 07-2-14-2 had designated the City of Cottage Grove as lead applicant for the grant, but the City of Veneta has since been identified as a better choice. Ms. George moved to adopt the resolution. The motion passed, Commissioners George, Stern, and Lewis voting aye.

16. **B. O. 07-739** - Consideration of adoption of Resolution 07-3-14-2 in support of a March 20, 2007 legislative event to advocate for the funding of the Newberg-Dundee Bypass.

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

Committees

17. Acknowledge the resignation of Clifford Rosenbohm from the Commission on Children & Families.

Housing

18. **Tabled** - Consideration of a letter of support to Pacific Retirement Services for a project to bring affordable housing for seniors to Newberg.

Water Line

19. **Tabled** - Follow up discussion on a request from Pioneer Trust Bank for permission to attach

a water line to a county bridge to serve another house after the land is partitioned.

Measure 37

20. **B. O. 07-740** - Consideration of M37-127-06, a Measure 37 claim authorizing J. Clifton Jensen to make application to divide 52.3 acres into seven lots and to establish a dwelling on each vacant lot.

Following the public hearings, the Board considered the Measure 37 claims on the agenda. John Gray read the operative part of the order for M37-127-06. Ms. Lewis moved approval of the claim. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no. Ms. Stern explained that this would constitute a subdivision and she does not believe it was the legislative intent of the voters to approve rural subdivisions.

21. **B. O. 07-741** - Consideration of M37-136-06, a Measure 37 claim authorizing John and Richard Kirsch to make application to divide 41.43 acres into seven lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-136-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

22. **B. O. 07-742** - Consideration of M37-137-06, a Measure 37 claim authorizing the John Kirsch Revocable Living Trust to make application to divide 152.46 acres into thirteen lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-137-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

23. **B. O. 07-743** - Consideration of M37-155-06, a Measure 37 claim authorizing Paul Hoskins to make application to divide 14.32 acres into three lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-155-06, noting that the subject property was zoned agricultural at the time of purchase and the Board will be making a determination as to what would be allowed under that zoning. The motion passed, Commissioners George, Stern, and Lewis voting aye.

24. **B. O. 07-744** - Consideration of M37-162-06, a Measure 37 claim authorizing Bernards family members to make application to divide 117 acres into two or three lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-162-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

25. **B. O. 07-745** - Consideration of M37-163-06, a Measure 37 claim authorizing Edna Long

to make application to divide 109.2 acres into six or seven lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-163-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

26. **B. O. 07-746** - Consideration of M37-170-06, a Measure 37 claim authorizing Roy Aebi to make application to divide 232.73 acres into 23 lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-170-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

27. **B. O. 07-747** - Consideration of the denial of M37-173-06, a Measure 37 claim authorizing Frank Buck to make application to divide 16.95 acres into three lots and to establish a dwelling on each vacant lot.

Mr. Gray explained that no land use regulations have been enacted since the time of acquisition which would reduce the property value. Ms. Stern moved to deny M37-173-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

28. **B. O. 07-748** - Consideration of M37-174-06, a Measure 37 claim authorizing William Schmidt to make application to divide 83.83 acres into forty lots and to establish a dwelling and/or commercial development on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-174-06, stating for the record that the fact that Mr. Schmidt is her neighbor had no impact on her decision. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

29. **B. O. 07-749** - Consideration of M37-175-06, a Measure 37 claim authorizing Marvel Pendergraft to make application to divide 32.65 acres into fifteen lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-175-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

30. **B. O. 07-750** - Consideration of M37-176-06, a Measure 37 claim authorizing the Faye Bell Smith Trust to make application to divide 20.2 acres into three lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-176-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

31. **B. O. 07-751** - Consideration of M37-177-06, a Measure 37 claim authorizing the Nellie Jinings Family Trust to make application to divide 39.3 acres into four lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-177-06. The motion passed, Commissioners George, Stern, and Lewis voting aye. Ms. Stern noted that although the property was not zoned at the time of purchase, the first zoning was rural residential.

32. **B. O. 07-752** - Consideration of M37-178-06, a Measure 37 claim authorizing the Doris Haverman Revocable Living Trust to make application to recognize 19+ platted lots, to establish a dwelling on fifteen of the vacant lots, and to establish commercial or light industrial development on the remaining vacant lots.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-178-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

33. **B. O. 07-753** - Consideration of M37-179-06, a Measure 37 claim authorizing Richard and Judith Jinings to make application to divide 4.8 acres into two lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-179-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

34. **B. O. 07-754** - Consideration of M37-180-06, a Measure 37 claim authorizing Vivian Moe to make application to divide five acres into five lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-180-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

35. **B. O. 07-755** - Consideration of M37-181-06, a Measure 37 claim authorizing William and Martha Goodman to make application to establish a dwelling on each of five existing tax lots.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-181-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

36. **B. O. 07-756** - Consideration of M37-182-06, a Measure 37 claim authorizing Bryce and Barbara Mitchell to make application to establish a residential resort subdivision and a commercial shopping center on 160.34 acres.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-182-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

37. **B. O. 07-757** - Consideration of M37-183-06, a Measure 37 claim authorizing the Thompson Family Trust to make application to divide 22.6 acres into four lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-183-06, noting that the property was zoned agricultural at the time of purchase. The motion passed, Commissioners George, Stern, and Lewis voting aye.

38. **B. O. 07-758** - Consideration of M37-184-06, a Measure 37 claim authorizing Gordon and Carolyn Dromgoole to make application to divide 28.7 acres into three lots and to establish a dwelling on each vacant lot, one lot to be used as a commercial/residential lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-184-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

39. **B. O. 07-759** - Consideration of M37-185-06, a Measure 37 claim authorizing Gordon and Carolyn Dromgoole to make application to divide 68.17 acres into two lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-185-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

40. **B. O. 07-760** - Consideration of M37-186-06, a Measure 37 claim authorizing Gordon and Carolyn Dromgoole to make application to divide 58.8 acres into sixteen lots, to use eight lots for commercial/light industrial development, and to establish a dwelling on each of the remaining vacant lots.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-186-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

41. **B. O. 07-761** - Consideration of M37-188-06, a Measure 37 claim authorizing Alan and Marjorie Ehry to make application to divide 33.2 acres into three lots and to establish a dwelling and/or commercial uses on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-188-06. The motion passed, Commissioners George, Stern, and Lewis voting aye .

42. **B. O. 07-762** - Consideration of M37-189-06, a Measure 37 claim authorizing the Joan Silvers Revocable Trust to make application to divide 6.05 acres into twelve lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-189-06, expressing frustration that the property has been in Newberg's Urban Reserve Area for a long time and should clearly be brought into the city. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

43. **B. O. 07-763** - Consideration of M37-191-06, a Measure 37 claim authorizing Gary and Diana Muir to make application to divide 29.16 acres into two lots and to establish a dwelling on the vacant lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-191-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

44. **B. O. 07-764** - Consideration of M37-193-06, a Measure 37 claim authorizing Burden, Varuska, and Gubser to make application to divide 65.43 acres into thirteen lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-193-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

45. **B. O. 07-765** - Consideration of M37-194-06, a Measure 37 claim authorizing Margaret and Gilbert Arendt to make application to divide 9.78 acres into five lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-194-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

46. **B. O. 07-766** - Consideration of the denial of M37-195-06, a Measure 37 claim authorizing Zim Lar Tree Farms, LLC to make application to divide 571 acres into 110 lots and to establish a dwelling on each vacant lot.

Mr. Gray explained that no land use regulations have been enacted since the time of acquisition which would reduce the property value. Ms. Stern moved to deny M37-195-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

47. **B. O. 07-767** - Consideration of M37-196-06, a Measure 37 claim authorizing the Carson Trust to make application to divide 33.29 acres into three lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-196-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

48. **B. O. 07-768** - Consideration of the denial of M37-197-06, a Measure 37 claim authorizing Merritt and Grace Johnson to make application to divide 3.56 acres into three lots and to establish a dwelling on each vacant lot.

Mr. Gray explained that no land use regulations have been enacted since the time of acquisition which would reduce the property value. Ms. Stern moved to deny M37-197-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

49. **B. O. 07-769** - Consideration of M37-198-06, a Measure 37 claim authorizing the Vermulm Living Trust to make application to divide 7.2 acres into seven lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-198-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

50. **B. O. 07-770** - Consideration of the denial of M37-199-06, a Measure 37 claim authorizing the Hutchens Living Trust to make application to divide 21.2 acres into 21 lots and to establish a dwelling on each vacant lot.

Mr. Gray explained that no land use regulations have been enacted since the time of acquisition which would reduce the property value. Ms. Stern moved to deny M37-199-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

C. OLD BUSINESS:

1. **B. O. 07-771** - Consideration of adoption of an order in support of M37-132-06, a Measure 37 claim authorizing George Steele to make application to divide 22.65 acres into 22 lots and to establish a dwelling on each lot, as tentatively approved March 7, 2007.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-132-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

D. OTHER BUSINESS (Add-ons and non-consent items): None.

E. PUBLIC HEARINGS:

1. Consideration of Planning Docket SDR-22-06, an appeal of the Planning Director's approval of a site design review for a 120-foot communications monopole antenna and associated equipment, applicant Douglas P. Evans for T-Mobile USA, appellants Jerry Seeberger et al, as continued from February 21, 2007. *[Continued to April 11, 2007 at the point of Staff Recommendation; record left open for submission of written information by either party until 5:00 p.m. March 28, 2007, for written rebuttal by either party until 5:00 p.m. April 4, 2007, and for written rebuttal by the applicant until 5:00 p.m. April 9, 2007.]*

Ms. George opened the public hearing. There were no abstentions or objections to jurisdiction. She noted that the commissioners had each taken a site visit. Rick Sanai read the statement required for land use hearings relating to the requirement that parties must raise all issues at the hearing or waive their right to raise the issues on appeal.

Staff Report - Martin Chroust-Masin described the subject property and the proposal to construct a 120-foot communications antenna.

Proponents - Douglas Evans, representing T-Mobile, stated that after studying the traffic patterns, cell phone coverage, and cell phone usage in the area, T-Mobile has determined that there is a need to provide additional service along Highway 240 and Worden Hill Road, which currently

have no coverage. He reviewed the criteria for approval and explained that only one of the criteria needs to be met. He stated that he would address the technical and engineering feasibility criteria.

He stated that analysis by an independent telecommunications engineering company indicates that the proposed site is an optimum location to meet T-Mobile's coverage objectives. He explained that this tower would link to two other towers planned by T-Mobile in the general area. He said that 120 feet is the height necessary to provide coverage and will also offer co-location opportunities for other providers, reducing the need for multiple towers in the area. He added that the only non-resource zone in the area is not a feasible location because it slopes away from the target coverage area. He noted that locating towers on flat land in the valley to avoid tree issues would result in a substantial increase in the number of towers needed.

He stated that the proposed facility meets all applicable codes imposed by the state for noise levels and lighting would not be required on the tower. He pointed out that because 40% of emergency calls in the U.S. are made from cell phones, this tower would provide an extension of the county's public safety network at no additional cost. He concluded that the applicant has complied with all applicable county and state code and he urged the Board to uphold the Planning Director's decision to approve the application.

Questions of Proponents - Mr. Evans stated that he does not have specific information with him about the location of the other two proposed towers. In response to a question about the soil type, he stated that geotechnical studies would be conducted and the results would be presented to building officials. He stated that the proposed tower very adequately clears the existing tree canopy and if it were to become non-functional in the future, the structure would be removed. He said that he is not aware of any code provisions which would allow the applicant to require the removal of trees on someone else's property.

Ron Fowler explained that the existing pole on the subject property is a wooden utility pole approximately 35 feet tall which was put up by an unknown local person for some sort of wi-fi service, but it would not support the needs of the applicant. He discussed the land that was considered for location of the proposed cell tower and listed the property owners who were contacted. He stated that the subject property was the only candidate which met the applicant's objectives.

Carrie Richter stated that the applicant would be willing to leave the record open in order to provide additional information regarding alternate locations and property owners contacted, but the applicant has no obligation to do so. She urged the Board to stick to the required criteria listed in the statute.

Opponents - Rick Lipinski stated that because the subject property is forty to sixty feet below the top of a ridge, the tower would have to be much taller than it would be if it were located on the north side of the ridge. He said that the decision made by the Land Use Board of Appeals in Case #2001-043 makes it clear that an alternative search analysis is required when attempting to site on Exclusive Farm Use (EFU) land and the applicants must provide a thorough accounting of sites searched and the reasons for rejection. He added that future technology is unknown at this point and neighbors have no protection against situations such as a 100-foot-wide dish being installed on the

proposed tower several years from now.

Marc Dochez stated that neighbors were not previously aware of the plans for two additional towers in the area, whose locations would be locked in by this proposed tower. He read the county statute describing the purpose of EF-20 land and stated that the applicant has not fully explored other locations which would be more suitable for a non-conforming use. He pointed out that there are numerous potential sites located in exception land along Highway 240 and submitted a map for the record. He stated that T-Mobile needs to address all of the approval criteria.

Danny Ross stated that the goal of the neighbors is not to prevent T-Mobile from improving its service, but to help the applicant find a better solution more in harmony with the community. He reviewed the coverage objectives as stated by the applicant and pointed out the co-locating its equipment on existing Bonneville Power towers in the area would meet the majority of the coverage objectives. He suggested that the applicant compromise on some of the objectives in order to be a more welcome neighbor. He answered questions about his qualifications as a radio frequency engineer.

Elizabeth Seeberger stated that she had spoken with Tim Murray, Equipment Manager for Bonneville Power Administration, who had informed her that co-locating T-Mobile equipment on BPA towers is a common practice and would be welcome in this area as well. She stated that when she had entered her own address as a potential customer on the T-Mobile website, it stated that she would have cell phone coverage on Highway 240, which contradicts Mr. Evans' statement that there is no coverage in that area. She said that Buena Vista Drive and the other roads mentioned by the applicant are in an area comprised of parcels of five to twenty acres each and that area will not become any more populated than it already is. She added that the subject property is a prime area for a future vineyard, which would eliminate the existing trees as a disguise for the tower.

Bruce Dickson encouraged the Board to preserve the inherent pastoral beauty of Yamhill County farmland by ensuring that the applicant has thoroughly investigated other, less-intrusive locations. He submitted a simulated photo of the proposed tower and its visual impact on the area. He noted that the owner of the subject property would be willing to release T-Mobile from its contract if a better location were found.

Ms. Stern stated for the record that she has a working relationship with Mr. and Mrs. Dickson as well as with Mr. Dochez, but this will not impact her decision.

Janet Rinard stated that by using their own T-Mobile cell phones to test existing coverage in the target area, she and her husband have confirmed that adequate coverage already exists.

Linda Foley read a quote from the March 4, 2007 edition of the Oregonian regarding the worldwide acclaim for Yamhill County wine country and stated that the proposed tower would detract from the rural beauty of the area.

Barbara Lipinski expressed concern that the current owners of the subject property are trying to sell the property by marketing its great view and its vineyard potential. She stated that a six-foot vineyard would not mitigate a 120-foot tower and she urged the Board to use its discretion in where

it allows a tower to be constructed.

Jerry Seeberger discussed the potential loss of property value in the area because of the visual impact of the proposed tower, which would have very little mitigation. He stated that there are alternative sites available which are not on EFU land.

Eleanor Huff stated that John Knight is strongly opposed to the application because he intends to build a house on top of the hill when the land between his two lots becomes available and the proposed tower would practically be in his back yard.

Public Agency Reports - Mr. Chroust-Masin stated that Yamhill County Public Works, the City of Dundee, and Oregon Department of Aviation have no conflicts with the application.

Rebuttal - Mr. Evans responded to a suggestion to locate the tower on Bald Peak Road or Mountain Top Road, pointing out that although T-Mobile intends to locate towers in both of those locations eventually, that does not eliminate the need for the current application. He stated that the need for additional coverage was determined by exhaustive engineering studies and professional testing using calibrated equipment, not by an anecdotal test using a single cell phone. He added that marketing materials are not always consistent with engineering data. He submitted simulated photographic exhibits showing considerable mitigation from the existing tree canopy and said that no economic diminution of property value has resulted from other T-Mobile towers located in wine country. He stated that the Board does not have unlimited discretion in this case, as suggested by the opponents, but has limited discretion within the regulations of the statute.

Mr. Fowler stated that the applicant had looked for co-location opportunities first, but the BPA towers weren't given serious consideration because their lower elevation would not provide coverage of the Worden Hill Road area. He added that because BPA does not own the land underneath its towers, leases and easements are required which make co-locating more expensive for T-Mobile than building its own tower. Ms. Lewis stated that she would like to see engineering information showing that BPA towers would not provide adequate coverage.

Ms. Richter stated that the applicant would do its best to provide the requested information during the open record period, but she re-emphasized that cell towers are an allowed use in EFU land if one of the criteria is met. She referred to Sprint PCS v. Washington County, which makes it clear that the applicant has the ability to present evidence showing where the coverage shortfall is and how to fill it. She stated that the applicant has considered various alternatives, including alternate sites and heights for the tower, and noted that potential loss of value is not one of the approval criteria.

A summary was made of the information requested of the applicant during the open record period, which includes: propagation maps showing BPA tower locations; studies to prove or disprove feasibility on exception lands; electronic copies of the simulated photos submitted by the applicant today; plans for visual buffer continuation; proof of the need for additional cell phone coverage; the projected growth of trees uphill from the tower site and its impact on coverage; propagation maps of Bald Peak and Mountain Top Road sites, including both existing and proposed towers; a map of existing T-Mobile towers in wine country; and simulated photos taken from four

locations to be determined jointly with the opponents.

Ms. Lewis moved to continue the hearing to April 11, 2007 at the point of Staff Recommendation, with the record left open for submission of written information by either party until 5:00 p.m. March 28, 2007, for written rebuttal by either party until 5:00 p.m. April 4, 2007, and for written rebuttal by the applicant until 5:00 p.m. April 9, 2007. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. **B. O. 07-772** - Final hearing for formation of the Yamhill County Transit Area, a county service district; adoption of an order forming the district; and notice of the first YCTA Board of Directors meeting at 8:45 a.m. on March 21, 2007 in Room 32 of the Courthouse.

Ms. George opened the public hearing. Ms. Lewis and Ms. Saunders provided background information. There being no public comment, the hearing was closed.

Ms. Lewis moved to approve the formation of the YCTA, expressing her appreciation to all those who have worked for many years on this project. The motion passed, Commissioners George, Stern, and Lewis voting aye.

The meeting recessed at 12:28 p.m. and reconvened at 1:22 p.m. to consider the Measure 37 claims on the agenda, beginning with item B(20).

F. **ANNOUNCEMENTS:**

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

- a. Commission on Children & Families, one lay alternate position and one youth position;
- b. Local Alcohol and Drug Planning Committee, three positions;
- c. Parks Board, one position;
- d. Road Improvement Advisory Committee, one position;
- e. 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's regular informal session on March 19, 2007 will begin at 1:30 p.m. instead of 2:00 p.m.

The meeting adjourned at 1:57 p.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS