

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/informal session on March 17, 2011, at 10:00 a.m. in Room 32 of the Courthouse, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George being present.

Also present were Laura Tschabold, County Administrator; Rick Sanai, County Counsel; John Phelan, Public Works Director; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Hannah Hoffman and Alex Slater, News-Register; and others as listed on the attached attendance roll.

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.

Joseph Gall requested thirty minutes to present his grievances about the rule of law and the oath that all county employees have to take. Ms. Stern stated that the Board does not have time today. She suggested that Mr. Gall submit his comments in written form. Mr. Gall stated that he prefers speaking face-to-face when accusing someone of criminal conduct, so he would come back another time to present his comments both verbally and in writing.

B. **AGENDA:**

Minutes

1. **B. O. 11-137** - Consideration of approval of minutes from the February 15, 2011, joint session with the Planning Commission.

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

Personnel

2. **B. O. 11-138** - Consideration of ratifying the emergency hire of Pamela Bonar as Office Specialist 2 in HHS Public Health, temporary part-time, Range 7, Step 3, retroactive to March 9, 2011, through June 30, 2011.

3. **B. O. 11-139** - Consideration of the change of status of Monique Cordoba-Duran to .375 FTE in HHS Public Health, \$15.98/hour, retroactive to February 9, 2011.

Ms. George moved approval of items B(2) and B(3). The motion passed, Commissioners Stern, Lewis, and George voting aye.

Contracts/Grants

4. **B. O. 11-140** - Consideration of approval of Amendment #5 to the 2010-11 Financial Assistance Agreement #132036 between HHS Public Health and Oregon Department of Human Services.

Ms. George moved approval of item B(4). The motion passed, Commissioners Stern, Lewis, and George voting aye.

5. **B. O. 11-141** - Consideration of approval of Amendment #2 to Intergovernmental Agreement #3977 between Community Corrections and Oregon Department of Corrections to adopt a reduced budget summary.

Ms. Stern moved approval of item B(5). The motion passed, Commissioners Stern, Lewis, and George voting aye.

6. **B. O. 11-142** - Consideration of approval of Amendment #1 to the 2009-11 Intergovernmental Agreement #YAM0911-MAC between the Commission on Children & Families and Oregon Commission on Children & Families to increase the Medicaid earnings cap to \$165,000 for the remainder of the fiscal year.

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

Dispute Resolution

7. **B. O. 11-143** - Consideration of opting out of participation in the expenditure of funds for community dispute resolution programs funded under ORS 36.155 for the 2011-13 grant cycle.

Laura Tschabold stated that the county has gone through this process every biennium, but this is the first time the University of Oregon has asked the county to conduct a request for proposals. She recommended that the Board opt out of the process and allow the university to conduct the RFP process and administrative work on the county's behalf. She said that it is her understanding that the university's program administrator will notify the county of the applicants and request input.

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

C. **OLD BUSINESS:** None.

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

1. **B. O. 11-144** - Consideration of denying a Step 2 labor grievance with Yamhill County Employees Association regarding Saturday work hours in Public Works.

Ms. Lewis moved approval of item D(1), stating that the Board is willing to talk with YCEA about this matter.

2. **B. O. 11-145** - Consideration of approval of an agreement between Yamhill County and Robert Lloyd Sheet Metal, provider, for the Courthouse HVAC Controls Remodel Project, \$360,000.

Ms. Stern moved approval of the agreement with Robert Lloyd Sheet Metal. The motion passed, Commissioners Stern, Lewis, and George voting aye. After some clarification about the purpose of the agreement, Ms. Stern moved to rescind the approval. The motion passed, Commissioners Stern, Lewis, and George voting aye. Following the public hearings, Ms. Tschabold explained that the agreement is for the HVAC controls project, not for the asbestos project, as was the understanding of the Board when it was approved. Ms. Stern moved approval of item D(2). The motion passed, Commissioners Stern, Lewis, and George voting aye.

3. **B. O. 11-146** - Consideration of approval of Amendment #1 to an agreement between Yamhill County and Global Pacific Environmental, Inc., provider, to include additional asbestos abatement services in the courthouse around the boiler, \$21,280.

Ms. Stern moved approval of item D(3). The motion passed, Commissioners Stern, Lewis, and George voting aye.

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket FT-07-10(SA), a request for a forest template dwelling, applicant Frank Walker & Associates representing George Rose, appellant John Albin, as continued from February 10, 2011. *[Continued to April 14, 2011.]*

Ms. Stern moved to continue the hearing to April 14, 2011, at the request of both parties. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. Consideration of Planning Docket PAZ-01-10/WRG-01-10(KF), a request for plan amendment/zone change from EF-80 Exclusive Farm Use to MR-2 Mineral Resource on approximately 224 acres, applicant Baker Rock Resources, as continued from February 17, 2011, at the point of Staff Recommendation. *[Determination of significant aggregate resource tentatively approved, findings to be adopted March 31, 2011. Zone change request continued to May 12, 2011, at the point of Staff Recommendation.]*

Staff Recommendation - Mike Brandt thanked the participants for their patience and civility throughout the hearing process. He stated that in addition to his law school training and land use experience, other life-shaping experiences also come into play when making land use recommendations, especially in controversial and personal matters such as this. He said that he

has been conflicted because of his family background in farming and because of family friendships both with farmers and with people in the road construction and rock extraction industries.

Ken Friday reviewed in detail the applicable criteria and the process for a Goal 5 aggregate resource application. He read a portion of the Land Use Board of Appeals (LUBA) decision in a Molalla River case. He stated that the Planning Department spent a significant amount of time consulting with the state agencies that wrote the applicable rules to ensure that they were being interpreted correctly by the county.

Mike Brandt stated that the first determination to be made is the significance of the aggregate resource. He noted that the Planning Commission had voted 6-1 in approval of this issue, but evidence submitted is conflicting due to differences in the definition of the term “aggregate layer,” specifically whether or not the intervening clay layer ends the aggregate layer. He said that this issue may have to be resolved by LUBA. He recommended that the Board bifurcate the application and first make a determination on the significance of the resource, leaving the zone change portion of the application to be continued to a later date if the resource is indeed determined to be significant.

He stated that there is a finite amount of high value soils, especially with irrigation availability and within the floodplain, and continuing to permanently remove prime farmland from production is distressing. He recommended that the Board petition the Land Conservation & Development Commission (LCDC) to evaluate the Goal 5 rule with regard to the measure of significance of an aggregate site and to explain why the rule requires the average thickness of the aggregate layer to be 25 feet on Class 1 and 2 soils in Yamhill County, but 60 feet on the other side of the river in Marion County.

Close of Public Hearing / Deliberation - Ms. Stern moved to bifurcate the application and first address the issue of whether the aggregate resource is significant. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Ms. George moved to determine the subject property to be a significant aggregate resource and to place the property on the county’s Goal 5 inventory.

Ms. Stern stated that bifurcating the application would hopefully resolve questions for future applications. She said that she doesn’t believe the significance of the intervening layer can be determined without comparing the bottom aggregate layer to the top aggregate layer. She agreed with Mr. Brandt’s suggestion to request clarification of the thickness rule, but stated that until the rule is changed, the Board must follow the current written language, which refers to “aggregate layer,” not “aggregate layers.” She said that the top aggregate layer does not meet the thickness requirements, so she would vote no.

Ms. Lewis stated that the significance issue hinges on whether the thickness exceeds 25 feet. She said that she has weighed the expert testimony presented on both sides of the issue and will vote to approve the significant resource determination, with the hope that the decision will

be appealed and decided by LUBA.

Ms. George stated that the county is blessed to have wonderful farmland, but there is also a need for good aggregate and she wants to help people doing business here to get the resource they need in a cost-effective and timely manner. She said that it is very important to get a clear understanding of what the state land use laws really mean.

The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no.

Ms. Stern moved to have the Board petition LCDC to evaluate and explain the differences in OAR 660-023-0180, particularly as it relates to Yamhill and Marion Counties. She said that she would work with the Planning Department to draft a letter. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Ms. George moved to continue the zone change portion of PAZ-01-10/WRG-01-10 to May 12, 2011, at the point of Staff Recommendation, with the record to remain closed. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Ms. George discussed the need for the entire community to urge lawmakers to address the issue of the river filling up with gravel and the laws prohibiting gravel mining in the river, which cause mining companies to look at prime farmland. She mentioned Senate Bill 501, which addresses improvements to river access, safety, and tourism and transportation, and said that the bill could be amended to include the ability to mine gravel from the river as long as it would have no negative impacts on wildlife or marine life.

Ms. George moved to direct legal counsel to draft a letter from the Board to federal and state representatives requesting that they look at legislation that would allow the removal of some rock from the river, where appropriate. Ms. Stern agreed with the concept, but said it may not be the best use of Mr. Sanai's time. She suggested that Ms. George write down some ideas for the Board to work on, after which Mr. Sanai could review the letter. She also mentioned the new Regional Community Solutions Team as another option to look at. Ms. Lewis agreed, suggesting that the Board also work with the National Association of Counties at the federal level. She said that it is clearly not in everyone's best interest to let gravel pile up in the river, which has previously stopped the ferry from operating.

Ms. George amended her motion to have the Board draft the letter and county counsel review it. The motion passed, Commissioners Stern, Lewis, and George voting aye.

At Mr. Sanai's recommendation, Ms. George moved to reconsider the Board's previous determination of the subject property as a significant aggregate resource. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Ms. George moved to tentatively determine the subject property to be a significant aggregate resource and to place the property on the county's Goal 5 inventory, with findings to

be adopted March 31, 2011. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no.

F. ANNOUNCEMENTS:

1. The following positions are open to the public. Contact the Commissioners' Office for applications.
 - a. Commission on Children & Families, four full members and three alternate members;
 - b. Parks & Recreation Board, one position.

2. The Board will hold a combined formal/informal session at 2:00 p.m. on Monday, March 21, 2011, in the Commissioners' Office. There will be no session on Thursday, March 24.

The meeting adjourned at 11:11 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair MARY P. STERN

Commissioner LESLIE LEWIS

Commissioner KATHY GEORGE



BOARD OF COUNTY COMMISSIONERS

Attendance Roll for meeting records

Meeting: Informal _____ Formal Work Session _____ Date 3/17/11 _____

PLEASE PRINT
Name

PLEASE PRINT
Complete Address

PLEASE PRINT
Subject

Joseph Gall 1156 SW Westvale St, McMinville "Rule of Law"

Todd Sadlo 1532 SE 36th Ave Portland 97214 PAZ-01-10

Barbara Bell 17695 SE Grand Is. Dayton OR "

Ronald Shields 18001 Walnut Hill Rd. Amity, OR 97101

Judy Bennett 16201 S.E. Fairview Rd. Dayton 97114

Jim Shelburne 17340 SE Wallace R Dayton, OR 97114

Nancy Sweeney 1070 Ferry St Dayton OR 97114

Sam Sweeney 1070 Ferry St. Dayton OR 97114

Larry K. Ewing 1325 S.W. Gison St. McMinville Grand Is.

Kris Bledsoe 18695 SE Upper Island Rd Dayton OR 97114 GI

Courtney Johnson 917 SW Oak Portland OR 97205 PAZ-01-10

Margaret Scoggan 20115 S.E. Upper Island Rd. Dayton, Baker-Pack App.