

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 April 15, 2004 at 10:00 a.m. in Room 32 of the Courthouse, Commissioners Kathy George, Mary P. Stern, and Leslie Lewis being present.

Also present were John Krawczyk, Director of Administrative Services; John M. Gray, Jr., County Counsel; Dan Linscheid, Surveyor; Bill Gille, Director of Public Works; Jan Coleman, County Clerk; David Bates, News-Register, Joel Myers, 11950 SE Loop Road, Dayton; Roxanne Acuff, 26790 SW Mayette Drive, Sheridan; Jerilee Merkle, Henderson House Board Chair, PO Box 26, McMinnville; Kate Smith, Henderson House, PO Box 26, McMinnville; Steve Abel, 900 SW 5th Ave #2600, Portland; Peter and Emily Gladhart, 5075 Winters Hill Road, Dayton; and Donald Gappa, 26215 SW Mayette Drive, Sheridan.

Commissioner Stern called the meeting to order at 10:02.

A. **PUBLIC COMMENT PERIOD:** This fifteen-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.

Jerilee Merkle and Kate Smith from the Henderson House announced that April is Sexual Assault Awareness Month. They mentioned two upcoming events: Power Within, a self-defense educational event on April 17, 2004; and Take Back the Night, a vigil starting at 5:30 p.m. on April 20, 2004.

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

Personnel

1. **B. O. 04-204** - Ratify the approval of emergency employment of Daphne Bach, Dallas, as Probation Officer 2 in Community Corrections, Step 4, \$2984/month, retroactive to April 5, 2004.
2. **B. O. 04-205** - Ratify the approval of emergency change of status of Tyler Tooley, to Correction Officer in the Jail, Range 12, Step 1, retroactive to April 5, 2004.
3. **B. O. 04-206** - Approve a change in status of Claudia Godinez to Office Specialist 2 in Adult Mental Health, temporary full-time, retroactive to April 13, 2004 until July 30, 2004.

4. **B. O. 04-207** - Approve employment of James Clark, Amity, as Extra Help in the Marine Patrol, temporary part-time, \$10/hour, effective May 20, 2004 until August 31, 2004.
5. **B. O. 04-208** - Approve employment of Robert Bernal, Lafayette, as Extra Help in the Marine Patrol, temporary part-time, \$10/hour, effective May 20, 2004 until August 31, 2004.
6. **B. O. 04-209** - Approve employment of Brandon Marsh, Hillsboro, as on-call Extra Help in the Juvenile Department, effective April 15, 2004.

Contracts

7. **B. O. 04-210** - Approve a contract between the Planning Department and Timothy Codiga for building inspection services, effective April 15, 2004 through June 30, 2004.
8. **B. O. 04-211** - Approve a contract between the Planning Department and Brooks Bateman for building inspection services, effective April 15, 2004 through June 30, 2004.
9. Approve three grant agreements between HHS and the following recipients:
 - a. **B. O. 04-212** - McMinnville Schools for implementation of the WEB project at Duniway and Patton Middle Schools, \$265, effective April 15, 2004.
 - b. **B. O. 04-213** - Sheridan Schools for drug prevention activities, \$950, effective April 15, 2004.
 - c. **B. O. 04-214** - Linfield College for Teen Maze materials, \$418, effective April 15, 2004.
10. **B. O. 04-215** - Approve Amendment #15 to the 2003-2005 County Financial Assistance Contract, effective April 15, 2004.
11. **B. O. 04-216** - Approve a purchase and sale agreement to buy the Housing Authority Building, 414 NE Evans Street, McMinnville, \$560,000.
12. **B. O. 04-217** - Approve a second extension of the lease agreement between Yamhill County and Lewis and Stark Company for the Stark Building, 4th and Evans Streets, McMinnville.

Committee

13. **B. O. 04-218** - Approve the re-constitution of the Food Service Advisory Committee.

Assessment and Taxation Grant Program

14. **B. O. 04-219** - Approve a resolution authorizing participation in the Assessment and Taxation Grant Program administered by the Oregon Department of Revenue.

Bylaws

15. **B. O. 04-220** - Approve a modification to the bylaws of the Commission on Children and Families to reflect youth members.

Capital Improvements

16. **B. O. 04-221** - Rescind Board Order 04-196, an amendment to the Yamhill County Fairgrounds Capital Improvements Plan.

C. OLD BUSINESS:

1. Consideration of adoption of findings in support of Planning Docket PAZ-02-03, a request for a Comprehensive Plan amendment from EF-20 to AF-10, applicant Matthew Powell, as tentatively approved March 18, 2004. *[Continued to April 22, 2004 at 10:00 a.m.]*

D. OTHER BUSINESS (Add-ons and non-consent items): John Gray requested to consider the following business after the conclusion of the public hearings.

1. **B. O. 04-222** - Consideration of action to repeal Board Order 03-926A to remove the weight limit on Baker Creek Road Bridge #11540-A.

John Gray stated that emergency repairs have been completed on the Baker Creek Road Bridge and he requested that the temporary weight limit be removed. Bill noted that the bridge will undergo monthly inspections for new cracks.

Commissioner Lewis moved to repeal Board Order 03-926A, repealing the weight limit on Baker Creek Road Bridge #11540-A. The motion passed, Commissioners George, Stern, and Lewis voting aye.

E. PUBLIC HEARINGS:

1. Consideration of Public Works Docket RV-02-03, a request to vacate portions of Mayette Drive near Sheridan, as described in Exhibit A of Board Order 04-92. *[Continued to May 13, 2004 at 10:00 a.m.]*

Commissioner George opened the public hearing.

Dan Linscheid stated that although the county has traditionally reserved easements for public utilities, he believes that the county does not hold the right to do so. He said that if the proposed vacation is granted, some property owners on Mayette Drive would be giving up 100 feet of property along the road, while others would retain their full property, and he continues to recommend denial of the request based on this inequity.

Mr. Gray stated that in talking with colleagues, he has found the majority of opinion to be in line with Mr. Linscheid's position against granting easements for public utilities, and would feel uncomfortable continuing to do so at this point. He explained that many counties now grant conditional property vacations subject to the road official's certification that easement has been conveyed to public utilities by property owners. He stated he would work on obtaining a legal opinion on the matter and determine his office's official position. He said if the Board is still inclined to consider the vacation, he would recommend accepting public comment at this point but waiting to make a final decision.

Roxanne Acuff, Mayette Drive, stated her opposition to the vacation request based on

inequity. She said property owners on the south of Mayette Drive have fences within ten feet of the road, but property owners on the north side can't put up fences because of the utilities. Bill Gille stated that fencing would not be forbidden on the north side, as long as there was access for the utilities.

Don Gappa, Mayette Drive, stated that he was previously in favor of the vacation and probably still is. He pointed out that Mayette Drive is a public access road, not a county or state road or highway, and a 60-foot right-of-way seems excessive. He said the utility poles are within a 40-foot width. He compared Mayette Drive to Cherry Hill Road, which he believes to have a right-of-way less than 60 feet. He said that every time he comes to a meeting, everything changes, and he would like to put up fencing but doesn't want to have to move it later.

Commissioner George closed the public hearing.

Ms. Lewis stated that Mayette Drive has been a difficult situation for many years. She agreed with Mr. Gappa that many county roads have a much narrower right-of-way and 60 feet is ludicrous for this road, which the county never intends to maintain. She also concurred with Ms. Acuff about the inequity to owners on the north side. She said the Acuffs have lost 20 feet and have more right-of-way on their property than anyone else does, but she doesn't know how to make the situation fair.

Ms. Stern stated she is against the vacation. She said the Board needs to address the issue of right-of-way widths, and should have had that discussion before this hearing.

Ms. George stated that giving the Acuffs back some of their property would be better than nothing, and she would like to continue the hearing. Ms. Lewis agreed that she would like to continue the hearing to give Mr. Gray time to obtain a legal opinion about granting utility easements, and to try to find a way to make the situation more equitable.

Ms. George moved to continue the hearing to May 13, 2004 at 10:00 a.m. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. Consideration of Public Works Docket RV-01-04, a request to vacate portions of public roads in the Breyman Orchards Subdivision. ***[Tentatively approved; findings to be adopted April 22, 2004.]***

Commissioner George opened the public hearing.

Staff Report - Mr. Linscheid stated that based on the known facts, he recommends approval of the proposed vacation. He said he is unsure if any public utilities exist, but that can easily be determined and a conditional approval could be granted.

Proponents - Steve Abel, representing Domaine Serene Winery, stated that there has been some debate about whether the dedication ever really existed for the public access roads in question. He said the owners want the property to remain vineyard land and it will never be subdivided, so

there won't ever be a need to develop those roads. He said he believes there may be some electrical lines in the area, but he would be happy with a condition of easement to continue those lines.

Joel Meyers, Vineyard Manager, stated that he has worked with Domaine Serene Winery since 1990. He stated that the county should consider abandoning the road dedications because of the tremendous liability they represent. He pointed out that this application was spurred because somebody inside the Breyman Orchards Subdivision has already used these plot lines to gain access outside of the subdivision.

Mr. Linscheid noted that the roads appear on an old 1909 map, but they don't even show up on the county's plat map.

Opponents - Peter and Emily Gladhart, Dayton, submitted written testimony (see attachment). Peter stated that he sees the platted roads as a potential future connection between Breyman Orchard Road and Worden Hill Road, as well as a valuable community asset for hiking, biking, and horseback riding. He suggested approving the vacation subject to a requirement for the applicants to dedicate an alternate roadway along the east property boundary, which would prevent the development of roads through their vineyard.

Ms. Lewis stated that she didn't see how the vacation request would affect the preservation of a potential road connection, since other platted roads through neighboring property to the east will continue to exist.

Rebuttal - Mr. Meyers stated that the Timmons sold a portion of their land in 1991 to the Evenstads, owners of Domaine Serene Winery. He said that the Evenstads worked with their neighbors in the development of an alternate public access road from Hilltop Lane to lessen the impact on their bed-and-breakfast, since the platted lines ran through the neighbor's property. He stated that it is not the obligation of private landowners to provide public access for hiking and other recreational activities.

Mr. Abel stated that the platted road dedications have never been developed or used in 95 years. He said they are not being used as a trail system and such use would create substantial liability for the property owners. He stated that the property is farmland, not Disneyland. He also pointed out that alternate connectivity exists for the public roadways, and the request for vacation is a very clear and rational one.

Mr. Linscheid explained that the question of legality of these road dedications is due to vague language in the legal property description, which does not contain expressed dedications. He confirmed that access through the Timmons property would still be available for a potential connection to Worden Hill Road.

Close of public hearing / Deliberations - Ms. Lewis stated that she doesn't believe the road vacation would have any bearing on a future connection to Worden Hill Road, nor would it deny any property owners access. She said that not many farmers would want the liability of walking trails through their farm after putting considerable expense into planting and fencing, and the county will

probably never have the funds to build and maintain trails. She stated that she is agreeable to the requested vacation.

Ms. Stern stated that she understands the Gladharts' vision of connectivity, but it will be up to property owners to work together to make it happen and it may never happen along these platted roads.

Ms. Stern moved to tentatively approve the request for vacation of portions of public roads in the Breyman Orchards Subdivision, with findings to be adopted on April 22, 2004.

Ms. George stated that there have been many changes in farm use and platted land since 1909, and forcing a public right-of-way access from 1909 would take away farmers' ability to keep people away from chemicals being sprayed and other normal farming activities and would be to nobody's benefit. She said she hopes future land use considerations will maintain a connectivity to Worden Hill Road.

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

Recess at 11:51; reconvene at 11:54.

F. ANNOUNCEMENTS:

1. Three positions are available on the Road Improvement Advisory Committee. Contact the Commissioners' Office for applications.

Ms. Lewis moved to accept the resignation of Sam Hawkins from the Road Improvement Advisory Committee. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. Two positions are available in the Commission on Children and Families. Contact the Commissioners' Office for applications.

3. April is Child Abuse Prevention Month.

Adjourn: 12:10 p.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS