

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 May 23, 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; Laura Tschabold, Projects Coordinator; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Ken Huffer, Parks Coordinator; David Bates, News-Register; Marilyn Reeves, PO Box 1083, McMinnville; Karen Christensen, 135 NE Dunn Place, McMinnville; Michael Gunn and Charles Harrell, PO Box 1046, Newberg; Sam Eastman, 10650 Youngberg Hill Road, McMinnville; Gene Gross, PO Box 1489, McMinnville; Dorothy Kreder-Pekkola, 1735 NW Meadows Drive, McMinnville; Jerry Macken, 17010 NE Hillsboro Hwy, Newberg; Greg Hile, 20950 SW Vineyard Lane; Stan Bunn, 301 W Illinois Street, Newberg; Hank Wyman, 3730 SE Locks Road, Dayton; Mark Bortnem, 21650 NE Sunnycrest Road, Newberg; Jim & Carol Marshall, 15450 SE Kreder Road, Dayton; Sally Martin, 3705 SE Locks Road, Dayton; and Sid Friedman, 1000 Friends of Oregon, 189 Liberty Street NE, Salem.

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. None offered.

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

Personnel

1. **B. O. 07-426** - Approve the employment of Karla Chavez, McMinnville, as Office Specialist 2 in HHS Public Health, regular part-time, Range 7, Step 1, \$10.17/hour, effective June 4, 2007.

2. **B. O. 07-427** - Approve the employment of Kara King, McMinnville, as HS Specialist 2 in HHS Family & Youth, temporary part-time, \$45/hour, retroactive to May 22, 2007 through August 30, 2007.

3. **B. O. 07-428** - Approve the employment of Adrienne Miller, McMinnville, as HS Specialist 2 in HHS Family & Youth, Range 20, Step 4:
a. Temporary part-time, effective May 23, 2007 through August 23, 2007;
b. Regular full-time, effective August 24, 2007.

4. **B. O. 07-429** - Approve the employment of Jabari Parker, Amity, as HS Specialist 2 in HHS Adult Mental Health, regular full-time, Range 20, Step 2, \$3534/month, effective June 24, 2007.

5. **B. O. 07-430** - Approve the employment of Tom Radomski, Tualatin, as Corrections Reserve in the Jail, \$10/hour, effective May 24, 2007.
6. **B. O. 07-431** - Approve the employment of Heather Guzman, Cornelius, as Registered Nurse 2 in the Jail, temporary part-time, \$35/hour, effective May 23, 2007 through August 1, 2007.
7. **B. O. 07-432** - Approve the change of status of Ronald Roach to temporary part-time employment in Community Corrections, \$20/hour, effective May 24, 2007 through November 15, 2007.

Contracts

8. **B. O. 07-433** - Approve Amendment #9 to the 2006-07 Financing Agreement #117553 between HHS Public Health and Oregon Department of Human Services for \$2809 additional funding for Bioterrorism Preparedness.
9. **B. O. 07-434** - Approve an agreement between Yamhill County and ADCOMM Engineering Company for engineering services relating to the Yamhill County Phase 1 Radio Improvement Project, \$75,900.
10. **B. O. 07-435** - Approve a Participation Addendum to the Central Purchasing System Program Agreement between Oregon Department of Administrative Services and U.S. Bank to authorize Yamhill County to be a participant in the Central Travel System program.

Refund

11. **B. O. 07-436** - Deny a request by Hugh Norby for a refund of all fees paid to process Measure 37 claim M37-114-05, approved by Board Order 06-93 on February 8, 2006.

Property Tax

12. **B. O. 07-437** - Authorize the cancellation of uncollectible personal property taxes listed in a memo from the Assessor dated May 16, 2007, pursuant to ORS 311.790, total amount \$31,562.

Committees

13. **B. O. 07-438** - Approve the appointment of Dundee Mayor Don Sundeen to the Yamhill County Parkway Committee for a three-year term to expire September 22, 2010.

C. OLD BUSINESS:

1. **B. O. 07-439** - Consideration of adoption of Ordinance 807 in support of Planning Docket Z-01-07, a request for zone change from EF-80 to F-80 on 121.2 acres, applicants Kathryn and James Nelson, as tentatively approved by the Planning Commission on April 5, 2007.

Rick Sanai provided the first and second readings of Ordinance 807 by title only, declaring an emergency. Ms. Stern moved to adopt the ordinance. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. **B. O. 07-440** - Consideration of adoption of Ordinance 808 in support of Planning Docket Z-02-07, a request for zone change from Heavy Industrial to Light Industrial on 1.9 acres, applicant Gene Belt, as

tentatively approved by the Planning Commission on May 3, 2007.

Mr. Sanai provided the first and second readings of Ordinance 808 by title only, declaring an emergency. Ms. Lewis moved to adopt the ordinance. The motion passed, Commissioners George, Stern, and Lewis voting aye.

3. **B. O. 07-441** - Consideration of adoption of Ordinance 809 in support of Planning Docket Z-03-07, a request for zone change from EF-20 to AF-40 on 24.8 acres, applicant Marcel van der Sluys, as tentatively approved by the Planning Commission on May 3, 2007.

Mr. Sanai provided the first and second readings of Ordinance 809 by title only, declaring an emergency. Ms. Stern moved to adopt the ordinance. The motion passed, Commissioners George, Stern, and Lewis voting aye.

4. **B. O. 07-442** - Consideration of adoption of findings in support of Planning Docket S-13-06, a request for a twelve-lot subdivision on 31 acres (Measure 37), applicant John Kroo, appellant Karol Susan Welch, as tentatively approved May 9, 2007.

Ms. Lewis moved to adopt the findings. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

5. Consideration of adoption of findings in support of M37-203-06, a Measure 37 claim authorizing Stan Bunn to make application to establish a commercial office and a separate advertising sign on a .05-acre property, with additional proposed and alternative uses, as tentatively approved May 9, 2007. *[Continued to May 30, 2007.]*

At the request of County Counsel, Ms. Lewis moved to continue items C(5) through C(7) to May 30, 2007. The motion passed, Commissioners George, Stern, and Lewis voting aye.

6. Consideration of adoption of findings in support of M37-211-06, a Measure 37 claim authorizing Herbert and Barbara Anderson to make application to divide 133 acres into 20 to 100 lots and to establish a dwelling, commercial uses, and other non-farm uses on each vacant lot., as tentatively approved May 9, 2007. *[Continued to May 30, 2007.]*

7. Consideration of adoption of findings in support of M37-224-06, a Measure 37 claim authorizing Shirley McDaniel to make application to divide 16.77 acres into fourteen lots and to establish a dwelling on each lot, as tentatively approved May 9, 2007. *[Continued to May 30, 2007.]*

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

1. **B. O. 07-443** - Consideration of amending the 2007-08 HHS position management roster to change a full-time Senior Accounting Clerk position to a full-time Accounting Clerk Technician position.

Ms. George moved approval of amending the HHS position management roster. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. **B. O. 07-444** - Consideration of approval of a \$800 change fund for the Parks Division.

John Krawczyk explained that the change fund is necessary for the operation of the Rogers Landing Fee Station. He stated that although the machine only holds \$200, Treasurer Nancy Reed recommended an \$800 fund because of the time it takes to order rolls of coins. Ms. George moved approval of the change fund. The motion passed, Commissioners George, Stern, and Lewis voting aye.

3. **B. O. 07-445** - Consideration of establishing a maximum \$35 fee for lost vendor checks, to be administered at the discretion of the Treasurer.

Mr. Krawczyk recommended a maximum fee of \$35 to cover the \$30 bank fee for issuing a stop payment and \$5 for the Treasurer's administrative fee. Ms. George moved approval of establishing the \$35 maximum fee.

E. PUBLIC HEARINGS:

1. Receipt of public comment regarding the 2007-08 Community Development Block Grant application by the Housing Authority of Yamhill County (HAYC) for the Yamhill Regional Housing Resource Center in McMinnville. *[No formal action necessary.]*

Ms. George opened the public hearing.

Karen Christensen, HAYC, provided background information and explained that the Yamhill Regional Housing Resource Center helps county residents with home ownership. She noted that about 93% of the residents served are below 80% of the median income level in the county.

There being no public comment, the hearing was closed.

2. Consideration of Planning Docket S-14-06, an appeal of the Planning Director's approval for a sixteen-lot subdivision on 41.9 acres (Measure 37), applicants Samuel & Mildred Eastman, appellant Mark Bortnem, as continued from May 9, 2007 at the point of Staff Recommendation. *[Tentatively approved, findings to be adopted June 6, 2007.]*

Ken Friday stated that a letter had been received from Sid Friedman on May 21, 2007, after the open record period deadline, and has not been placed into the record. He added that the applicants had objected to the late submission being accepted and had also submitted a response to the information, which was received after the rebuttal period deadline. He said that both letters are in sealed envelopes.

He then read a letter from Sid Friedman, dated May 16, 2007, requesting that the record be reopened pursuant to ORS 197.763(6) to allow him to respond to the new information submitted during the open record period. Mr. Sanai stated that the Board is not required to reopen the record because the statute applies to information submitted by the opposite party and there was no new information submitted by the applicant during the open record period.

Based on Mr. Sanai's statement, Ms. Lewis moved to deny the request to reopen the record. Ms. Stern pointed out that the information submitted by Mr. Bortnem during the open record period could qualify as new information because the statute does not specify that it must be from the opposite party.

Michael Gunn, representing the applicants, stated that the purpose of the statute is to allow a party

to request the record to be held open in order to respond to new information submitted by the opposing party. He stated that allowing the opponents to keep the record open to respond to information submitted by other opponents would not be fair and would serve no purpose.

Sid Friedman, representing 1000 Friends of Oregon, stated that he wishes to respond to the information submitted by Mr. Bortnem because it does not fit neatly with the information previously submitted by 1000 Friends of Oregon. He assured the Board that the response in the sealed envelope would be the final submittal and he suggested that to avoid this situation in the future, the Board allow a rebuttal period for all parties, not just for the applicant.

Ms. Lewis withdrew her motion to deny the request. Ms. Stern suggested that the record be reopened to allow the two sealed envelopes to be entered into the record, then closed so the hearing could proceed today. Mr. Bortnem, Mr. Friedman, and Marilyn Reeves agreed to the request. While Mr. Gunn conferred with staff, the Board moved on to item E(3) on the agenda. Following that item, the hearing resumed. Mr. Gunn stated that the applicant would also agree to the request.

The meeting recessed at 9:46 a.m. for the Board to review the two new documents and reconvened at 9:57 a.m.

Staff Recommendation - Mr. Friday stated that the application has been modified to a sixteen-lot subdivision instead of nineteen, with 2.5-acre minimum lot size, and the applicant has applied for a conditional use permit. He recommended approval of the request with the eleven conditions listed in the staff report, modified as follows: instead of requiring a traffic impact study, Condition #5 would require a traffic report/study that is acceptable to the Public Works Director; and Condition #6 would require the applicant to submit an engineered drainage plan that maintains natural drainage to the maximum extent possible. He stated that the county sanitarian is aware of the wetness conditions and will take that into consideration when making requirements for drainfields.

Close of Public Hearing / Deliberation - Ms. Lewis stated that she believes the applicant has provided all necessary information and the Planning Department will continue to work on public health and safety issues and make a final determination on septic approval. She moved tentative approval of Planning Docket S-14-06 with findings to be adopted June 6, 2007.

Ms. Stern agreed and pointed out that the facts in this case are different than those in the Marla Robison case. She also noted that, unlike the Kroo application, which would affect the city's water supply, this application would affect individual wells, which are regulated by Water Resources Division. She stated that the Board was not required to hold a public hearing to interpret Ordinance 29 and she believes that the Board's interpretation was very fair.

Ms. George concurred with the staff report and stated that she trusts the advice of County Counsel regarding Ordinance 29 and the Marla Robison case.

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

3. Consideration of M37-209-06, a Measure 37 claim authorizing Gerald and Kathleen Macken to make application to divide seventeen acres into one-acre lots and to establish a dwelling on each vacant lot.

[Tentatively approved, findings to be adopted May 30, 2007.]

Mr. Gray reviewed the procedure for Measure 37 hearings. Ms. George opened the public hearing. Mr. Gray reviewed the claim and stated that the Planning Director had recommended modifying, removing, or not applying land use regulations back to the date of ownership. There being no testimony by the claimant or the public, the hearing was closed.

Ms. Lewis moved tentative approval of M37-209-06 with findings to be adopted May 30, 2007. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no. Ms. Stern stated that she does not believe it was the legislative intent of the voters to approve rural subdivisions.

4. Consideration of M37-256-06, a Measure 37 claim authorizing Earl Gross to make application to divide 38.14 acres into one-acre lots and to establish a dwelling on each vacant lot. *[Tentatively approved for Tax Lot 5517-400 and denied for Tax Lot 5517-500, findings to be adopted May 30, 2007.]*

Ms. George opened the public hearing.

Staff Report - Mr. Brandt reviewed the claim and recommended denying the claim for Tax Lot 5517-500 (five acres) and modifying, removing, or not applying the land use regulations for Tax Lot 5517-400 back to April 20, 1970.

Public Testimony - Greg Hile stated that his property is adjacent to the Gross property and he had been notified several years ago of a foreclosure on the subject property. He said that he is concerned about whether or not the applicant has had continuous ownership since 1970. He stated that Mr. Gross does not currently live on the property and has already received permission from the county for a hardship dwelling on the five-acre lot.

Summation by Claimant - Charles Harrell, representing the claimant, stated that there was no foreclosure on the property and documentation has already been submitted showing continuous ownership since 1970. He explained that the ownership dates on the initial claim were filled out based on the applicant's recollection and he is not challenging the county's 1979 date on the five-acre lot. Mr. Gray confirmed that tax information in the file shows Mr. Gross to be the owner of record.

Close of Public Hearing / Deliberation - Ms. Lewis expressed her concern about the routine practice of Mr. Harrell's law office in filing for one-acre lots and stated that she would have liked to hear from the applicant about his actual plans for the property.

She moved tentative approval of the claim for Tax Lot 5517-400 and denial for Tax Lot 5517-500 with findings to be adopted May 30, 2007. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no. Ms. Stern explained that she does not believe that it was the legislative intent of the voters to approve rural subdivisions. Ms. George noted that any development issues will be brought back to the county, at which time public health and safety issues will be considered.

5. Consideration of M37-257-06, a Measure 37 claim authorizing Landmark Ventures Oregon, Ltd. to make application to divide 9.93 acres into one-acre lots and to establish a dwelling on each vacant lot,

including commercial, industrial, and agricultural uses. *[Tentatively approved, findings to be adopted May 30, 2007.]*

Ms. George opened the public hearing.

Staff Report - Mr. Brandt reviewed the claim and recommended modifying, removing, or not applying the land use regulations back to the various dates of ownership for the different tax lots. Ms. Lewis noted that Tax Lot 980 (two acres) was in the Ag A zone at the time of purchase and the applicants would be able to do a number of things with conditional use approval, based on Ordinance 29.

Claimant - Stan Bunn, representing the claimant, described the subject property and stated that he plans to use it for light industrial uses that take advantage of the bordering railroad and highways. He said that there are compelling reasons to seek rezoning of the two-acre lot, such as fire protection.

Close of Public Hearing / Deliberation - Ms. Lewis moved tentative approval of M37-257-06 with findings to be adopted May 30, 2007. Ms. Stern noted that because there are four different tax lots, this would not constitute a subdivision. The motion passed, Commissioners George, Stern, and Lewis voting aye.

6. Consideration of M37-264-06, a Measure 37 claim authorizing Dorothy Kreder-Pekkola to make application to divide 273.87 acres into lots of one to five acres each and to establish a dwelling on some vacant lots, to establish industrial uses on other lots, and to construct docks along the Yamhill River. *[Tentatively approved, findings to be adopted May 30, 2007.]*

Ms. George opened the public hearing.

Staff Report - Mr. Brandt reviewed the claim and recommended modifying, removing, or not applying the land use regulations back to the respective dates of ownership.

Claimant - Dorothy Kreder-Pekkola stated that she wants to preserve her future rights to use her land for other than agricultural uses, but has no plans for one-acre lots.

Public Testimony - Carol Marshall expressed her support of the claimant's attempt to maximize the value of her property as well her sorrow over the death of agriculture in a primarily agricultural county. She discussed her concerns about the potential impact on Kreder Road and the water quality of neighboring wells. She submitted a copy of her testimony for the record.

Jim Marshall discussed the potential impact on Kreder Road of the Newberg-Dundee Bypass and urged the Board to consider both traffic safety and the impact on wildlife habitat. He responded to a question by Ms. Lewis about the diminishing bee population.

Close of Public Hearing / Deliberation - Ms. Lewis moved tentative approval of M37-264-06 with findings to be adopted May 30, 2007, stating her belief that Ms. Kreder-Pekkola is a good steward of the land and will do things with her property that will be of benefit to the neighborhood. Ms. Stern stated that although this constitutes a subdivision, she is glad to know that the claimant has good intentions for the land. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

7. Consideration of M37-271-06, a Measure 37 claim authorizing the Henry and Christie Wyman Trust to make application to divide 37.5 acres into 23 lots and to establish a dwelling on each vacant lot. *[Tentatively approved, findings to be adopted May 30, 2007.]*

Ms. George opened the public hearing.

Staff Report - Mr. Brandt reviewed the claim and recommended modifying, removing, or not applying the land use regulations back to November 2, 1965. He noted that the name on the warranty deed is Shank and explained that the claimant had his name legally changed in 1974.

Claimant - Hank Wyman reviewed the history of family ownership of the subject property and stated that the area has become one of rural housing, with lots of one to five acres each. He said that no farmers are interested in leasing the small acreage and a Measure 37 claim is necessary to build even a single home without tearing down the existing family cabin. He explained that he decided to file for the full potential on the property, although he doesn't have plans to develop it to that extent.

Public Testimony - Sally Martin expressed her appreciation for the improvements made to the property by the Wymans and discussed her concerns about the capability of the property to support one-acre lots and the potential for substandard housing. She said that the neighbors already have problems getting sufficient water from their wells.

Summation by Claimant - Mr. Wyman stated that he understands the concerns of his neighbors and wants to assure them that he would still have to go through the Planning Department to get a permit to build even one house. He said that it is important to preserve his property rights.

Close of Public Hearing / Deliberation - Ms. Lewis moved tentative approval of M37-271-06 with findings to be adopted May 30, 2007. Ms. Stern stated that she will be voting no based on the application, but she thinks the Wymans' plans are great and she appreciates their efforts to talk to the neighbors ahead of time. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

8. Consideration of M37-273-06, a Measure 37 claim authorizing Margaret Hasslen to make application to divide 126 acres into one-acre lots and to establish a dwelling on each vacant lot. *[Tentatively denied, findings to be adopted May 30, 2007.]*

Ms. George opened the public hearing.

Mr. Brandt reviewed the claim and stated that Margaret Hasslen recently passed away. He recommended denying the claim because no land use regulations have been enacted to reduce the property value since the executor of the estate took ownership of the property. There being no public testimony, the hearing was closed.

Ms. Stern moved to deny M37-273-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

9. Consideration of M37-275-06, a Measure 37 claim authorizing William and Gloria Bartels to make

application to divide 131.65 acres into one-acre lots and to establish a dwelling on each vacant lot. *[Continued to May 30, 2007.]*

Mr. Brandt stated that Ms. Bartels, who has been the sole owner since her husband passed away in March, is out of town this week. Ms. Stern moved to continue the hearing to May 30, 2007. The motion passed, Commissioners George, Stern, and Lewis voting aye.

F. ANNOUNCEMENTS:

- 1. The following positions are open to the public. Contact the Commissioners' Office for applications.
 - a. Commission on Children & Families, three lay alternate position and one youth position;
 - b. Local Alcohol and Drug Planning Committee, three positions;
 - c. Road Improvement Advisory Committee, 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.

The meeting adjourned at 11:01 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair	KATHY GEORGE
Commissioner	MARY P. STERN
Commissioner	LESLIE LEWIS