

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 June 11, 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 were John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; John Krawczyk, Administrative Services Director; Laura Tschabold, Administrative Services Assistant Director; Mike Brandt, Planning Director; Kris Bledsoe, candidate for commissioner; Samuel Justice, PO Box 480, McMinnville; Milt Reeves, 22250 SE Boulder Crest Ln, Amity; Bev Davis, Newberg; Karol Susan Welch, 18201 NE Bald Peak Rd, Newberg; and Marilyn Reeves, PO Box 1083, McMinnville.

Commissioner Stern called the meeting to order.

John Gray discussed a procedural issue resulting from an error on the agenda that listed the starting time of the meeting as 2:00 p.m. He recommended proceeding with any discussions, voting on the consent agenda, holding the public hearing, and continuing the meeting to 2:00 p.m. for a final vote.

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. Lewis moved approval of the consent agenda with a change to the wording of item B(19). The motion passed, Commissioners Stern, Lewis, and George voting aye.

Personnel

1. **B. O. 08-357** - Approve the employment of Joseph Barker, Brandon Danley, Yoel Guerra, Johnathon Harper, Steven Helzer, Jr., Kyle Kratzer, Alfredo Mejia, Justice Selmer, and James Shea as Corps Members in the Juvenile Department, temporary full-time, \$7.90/hour, effective June 18, 2008 through September 1, 2008.
2. **B. O. 08-358** - Approve the employment of Rebecca Mayer, Dayton, as Marine Reserve Deputy in the Sheriff's Office Marine Patrol, temporary part-time, \$10/hour, effective June 11, 2008 through October 8, 2008.
3. **B. O. 08-359** - Approve the employment of Richard Holt, Tigard, as Corrections Reserve in the Jail, part-time on-call, \$10/hour, effective June 11, 2008.
4. **B. O. 08-360** - Approve the change of status of Eric Clowser to Corrections Officer in the Jail,

temporary full-time, Range 12, Step 1, \$3172/month, effective June 18, 2008 through September 18, 2008.

5. **B. O. 08-361** - Approve the employment of the following individuals in HHS Chemical Dependency, temporary part-time, \$8.50/hour, retroactive to June 9, 2008 through December 31, 2008:
  - a. Kira Goodkin, McMinnville, Extra Help;
  - b. Libby Hart, Newberg, Extra Help;
  - c. Adrian Murdock, Cloverdale, Facilities Maintenance Specialist.
6. **B. O. 08-362** - Approve the employment of Rosa Cerda, McMinnville, as Office Specialist 2 in HHS Public Health, regular full-time, Range 7, Step 1, retroactive to June 9, 2008.
7. **B. O. 08-363** - Approve the change of status of Jennifer Beecroft from 1.0 FTE to .8 FTE in HHS Public Health, retroactive to June 9, 2008 through December 1, 2008.
8. **B. O. 08-364** - Approve the change of status of Rae Parlier from .6 FTE to .8 FTE in HHS Public Health, retroactive to June 9, 2008 through October 1, 2008.
9. **B. O. 08-365** - Approve the change of status of Carole Hansen to temporary part-time employment in HHS Public Health, retroactive to June 2, 2008 through June 30, 2008.
10. **B. O. 08-366** - Approve the employment of Katherine Yonker, Silverton, as HS Specialist 2 in HHS Enhanced Care Programs, regular full-time, Range 20, Step 1, effective July 1, 2008.
11. **B. O. 08-367** - Approve the change of status of Tamera Vasili to extend temporary part-time employment in HHS Adult Mental Health, effective July 1, 2008 through June 30, 2009.
12. **B. O. 08-368** - Approve the employment of Teri Watson, McMinnville, as Program Coordinator in the Commission on Children & Families, regular part-time, Range 16, Step 2, \$3025/month, retroactive to June 9, 2008.

#### Contracts/Grants

13. Approve agreement renewals between HHS Developmental Disabilities and the following providers for services provided to the county, effective July 1, 2008 through June 30, 2009:
  - a. **B. O. 08-369** - SCVP, Inc., \$206,608;
  - b. **B. O. 08-370** - Oregon Mennonite Residential Services, \$2,224,184;
  - c. **B. O. 08-371** - Oregon Technical Assistance Corporation, \$69,988.
14. **B. O. 08-372** - Approve Amendment #2 to extend Agreement #110106 between HHS Public Health and Oregon Department of Human Services, effective through July 31, 2010.
15. **B. O. 08-373** - Accept a bid from Professional Minority Group, Inc. for encapsulation of asbestos-containing materials in the courthouse, \$7400.
16. **B. O. 08-374** - Approve an intergovernmental agreement between Community Corrections and the City of McMinnville for use of the city's firing range, \$1500/year.

17. **B. O. 08-375** - Approve an intergovernmental agreement between the Juvenile Department, the City of McMinnville, and the City of Newberg for transfer of the Juvenile Peer Court program from the City of McMinnville to Yamhill County, effective July 1, 2008.
18. Accept proposals from A&E Security and Electronic Solutions for the following projects:
  - a. **B. O. 08-376** - Fire alarm expansion in the Ticor Building, \$8120;
  - b. **B. O. 08-377** - Card lock system in the Ticor Building, \$6818;
  - c. **B. O. 08-378** - Card lock system in the Romaine Building, \$10,466;
  - d. **B. O. 08-379** - Fire alarm expansion in the Romaine Building, \$7969;
  - e. **B. O. 08-380** - Card lock system in the Moore Building, \$12,106.
19. **B. O. 08-381** - Designate Laura Tschabold as the county's manager for Homeland Security Grants.

Roads

20. **B. O. 08-382** - Approve Public Works Docket RV-2-2008, a petition to vacate portions of Sherman and Yamhill Streets in Sheridan, no public hearing necessary under ORS 368.351.

Committees

21. **B. O. 08-383** - Approve the appointment of Lessie Dale to the Ambulance Service Area Committee to fill the unexpired term of Randy Williamson through December 31, 2009.

C. **OLD BUSINESS:** None.

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

1. **B. O. 08-384** - Consideration of the reappointment of David Polite to the Planning Commission for a four-year term to expire July 1, 2012.

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

2. **B. O. 08-385** - Consideration of the appointment of Michael French, Frank Sheridan, and Paul Timmer, to the Special Transportation Advisory Commission for three-year terms to expire December 31, 2011.

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

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket S-13-06(MB), a remand of the Board's preliminary approval of a ten-lot subdivision on 31.03 acres subsequent to a Measure 37 claim, applicant John Kroo.

*[Continued to June 18, 2008 at the point of Public Agency Reports.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction.

She stated that the commissioners had taken a site visit before the initial hearing. 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 - Mike Brandt distributed copies of a letter received from Karol Susan Welch, Beverly Davis, and Michelle Michelsen and a letter received from Isa Anne Taylor, attorney for Friends of Yamhill County.

He reviewed the history of the application and stated that a vesting application has also been submitted, but is on hold. He read the five issues raised by the Land Use Board of Appeals (LUBA) in the remand notice. He said that the Department of Land Conservation & Development (DLCD) and the two letters received had also brought up the issue of whether this review is moot because Measure 37 is no longer in effect. The Board discussed this issue and the question of whether to make a determination based on the law in effect at the time the original ruling was made or the current law. Rick Sanai stated that both parties would have the opportunity to address the mootness issue before LUBA if this decision is appealed.

Proponents - Sam Justice, representing Mr. Kroo, submitted to Mr. Brandt a hearing memorandum that addresses the mootness issue. He stated that supplemental information in the record addresses the first and fifth remand issues, with a new plat map clearly showing all proposed lots and substantial evidence showing that each of the lots has an approved site evaluation and some lots have approved and installed septic systems.

He stated that the second remand issue, legal access for emergency vehicles, was overlooked by the county originally, but a memo and pictures in the record show that each lot has adequate access for emergency vehicles.

He addressed water issues, stating that there is substantial evidence in the record to satisfy the requirement for adequate quantity and quality of water as well as the policy criteria for conservation of water resources. He noted that the Water Resources Department may or may not allow those water rights to be transferred.

He suggested that the Board find the regulations for fire access (6.020) and water (6.090) to be safety and health exempt regulations, with the exception of the policy regarding expenses incurred for services near an urban area, which he said is a cost criteria rather than a safety and health criteria.

He stated that the opponents had raised the Measure 49 issue to LUBA, but withdrew it when they realized that the end result would be a dismissal of their appeal. He referred to the *Corey v. Department of Land Conservation & Development* ruling, which came after the effective date of Measure 49 and was not appealed. He said that the court recognized that Measure 49 does not make M37 moot when there are vested rights and Mr. Kroo has a pending vested rights application before the county. He said that LUBA applied Measure 37 law to this case and he believes the Board has to do the same.

Ms. Stern stated that the argument could be made that this proposed development could

substantially impact the water supply serving Newberg. Mr. Justice stated there has been adequate time for the city or concerned citizens to submit information suggesting that. He added that there is a substantial source of water on the site, the hydrologist's report in the record says that there would be no impact on the Skeleton Springs area, and the number of proposed houses was reduced to address the amount of water used on the property.

Questions of Proponents - None.

Opponents - Ms. Stern noted that cards were submitted from Beverly Davis and Karol Susan Welch in opposition to the application.

Merilyn Reeves, representing Friends of Yamhill County, submitted copies of her testimony for the record. She stated that she believes the Board has the authority to accept information relating to Measure 49, even though that issue was not listed on the hearing notice. She said that this subdivision is no longer valid and she supports the state's position that Measure 37 waivers have no further force and effect. She noted that she had submitted a complete copy of Measure 49 for the record and would provide the applicants with the rules now in effect as well as options for how they can further their development.

She read a newspaper article dated January 26, 2008 regarding the retroactive application of Measure 49 to dismiss pending Measure 37 cases and submitted a copy for the record. She said that there is enough information in the record to deny this application. Ms. Stern noted that the vesting section of Measure 49 clearly applies to those who moved forward with their Measure 37 approval, which is a very different situation than the case in the article, in which the Measure 37 claim had been denied.

Questions of Opponents - Ms. Reeves stated that she did not recall LUBA asking the applicants during the January 2008 hearing if they believed Measure 37 to be moot because of Measure 49. Mr. Justice stated that this was a big issue during the hearing and should be in the record. Ms. Stern suggested getting a transcript of the LUBA hearing.

Public Agency Reports - None.

Ms. Stern stated that, in addition to the LUBA transcript, she would also like to formally request a legal opinion on the mootness issue from DLCD before making a decision. She said that Todd Sadlo, the county's independent vesting officer, should go ahead with his determination on the vesting application in the meantime. Ms. Lewis agreed, stating that the issue of mootness depends on the vesting determination.

Mr. Brandt stated that the remand needs to be resolved regardless of the vesting determination and the 90-day deadline is next week. He explained that Mr. Sadlo has delayed the vesting application because he believes he needs preliminary plat approval in order to make a decision and that could now be taken away because of the remand. Mr. Sanai stated that Mr. Kroo still has preliminary plat approval because the Board's approval was remanded, not reversed.

Ms. Lewis moved to continue the hearing to June 18, 2008 at the point of Public Agency Reports. The motion 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, one lay position, two lay alternate positions, one youth position, and one professional alternate position;
  - b. Parks & Recreation Board, two positions;
  - c. Planning Commission, one position;
  - d. 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](mailto:Sally.Lawson@state.or.us).

Ms. Lewis moved to allow Ms. George to participate telephonically when the session reconvenes at 2:00 p.m. The motion passed, Commissioners Stern, Lewis, and George voting aye.

The meeting recessed at 10:36 a.m. and reconvened at 2:00 p.m. Present for this portion of the meeting were Commissioners Stern and Lewis, John Krawczyk, Laura Tschabold, Rick Sanai, and Commissioner George participating via telephone.

Ms. Lewis moved to ratify the Board's earlier vote on the consent agenda. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Ms. Lewis moved to ratify the Board's earlier vote on items D(1) and D(2). The motion passed, Commissioners Stern, Lewis, and George voting aye.

The meeting adjourned at 2:03 p.m.

Anne Britt  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

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Chair MARY P. STERN

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Commissioner LESLIE LEWIS

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Commissioner KATHY GEORGE