

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 18, 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; Samuel Justice, PO Box 480, McMinnville; Cynthia Easterday; Merilyn Reeves, PO Box 1083, McMinnville; John Englebrecht, 1266 NW Augusta Dr, McMinnville; and Amanda Newman, Newberg Graphic.

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.

John Englebrecht stated that he was not able to hear the required land use statement as it was read at the Board’s public hearing last week. He said that the public has a right to hear the statement.

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

Personnel

1. **B. O. 08-386** - Approve the employment of Dawn Miller, Salem, as on-call relief in the Juvenile Department, \$7.90/hour, retroactive to June 11, 2008.
2. **B. O. 08-387** - Approve the employment of Allan Mandell, Salem, as Program Manager 3 in HHS Developmental Disabilities, regular full-time, Range 27, Step 7, \$5831/month, effective July 7, 2008.
3. **B. O. 08-388** - Approve the employment of Roberta Van Dyke, McMinnville, as Registered Nurse 3 in HHS Public Health, regular part-time, Range 24, Step 1, effective June 23, 2008.
4. **B. O. 08-389** - Approve the employment of Angela Newburg, Aloha, as HS Specialist 2 in HHS Adult Mental Health, regular full-time, Range 20, Step 2, \$3631/month, effective July 9,

2008.

5. **B. O. 08-390** - Approve the change of status of Olivia Carson to extend temporary part-time employment in HHS Adult Mental Health, effective July 1, 2008 through August 1, 2008.
6. **B. O. 08-391** - Approve the change of status of Walter Dillman to extend temporary part-time employment in HHS Enhanced Care, Range 14, Step 3, effective July 1, 2008 through June 30, 2009.
7. **B. O. 08-392** - Approve the change of status of Teresa Hart from .5 to .6 FTE in the Assessor's Office, effective July 9, 2008.
8. **B. O. 08-393** - Approve the change of status of Alicia Lisle from Office Specialist to Senior Office Specialist in the Planning Department, Range 10, Step 1, effective July 9, 2008.
9. **B. O. 08-394** - Approve the change of status of Stephanie Armstrong from Assistant Planner to Associate Planner in the Planning Department, Range 18, Step 1, effective July 9, 2008.

Contracts/Grants

10. **B. O. 08-395** - Approve a modification of agreement between the Board of Commissioners and Yamhill County Affordable Housing Corporation to authorize additional grants to be added to the underlying agreement, Board Order 02-075.
11. **B. O. 08-396** - Approve an affiliation agreement between HHS Public Health, provider, and George Fox University for clinical education to nursing students, effective July 1, 2008 through June 30, 2010.
12. **B. O. 08-397** - Approve Intergovernmental Agreement #124853 between HHS Public Health, provider, and Oregon Department of Human Services for the financing of public health services, \$556,210, effective July 1, 2008 through June 30, 2009.
13. **B. O. 08-398** - Approve Amendment G to extend Contract #184 02 between HHS Chemical Dependency and Chemeketa Community College for the JOBS Program, not to exceed \$65,646, effective July 1, 2008 through June 30, 2009.
14. **B. O. 08-399** - Approve a modification of agreement between Public Works and Washburn Contract Services, provider, to add vegetation management services in connection with the 2008 Shoulder Spray Project to the underlying agreement for de-icing services, \$19,457.
15. **B. O. 08-400** - Approve a modification of agreement between the Jail and Brockamp & Jaeger, Inc. to establish a guaranteed maximum price for the Jail construction project, subject to approval by the Jail Commander and County Counsel.

C. **OLD BUSINESS:** None.

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

1. **B. O. 08-401** - Consideration of the employment of Tabitha Bird-Weaver, Newberg, as HS Specialist 2 in HHS Adult Mental Health, regular full-time, Range 20, Step 2, \$3631/month, effective July 9, 2008.

Ms. George moved approval of the employment of Tabitha Bird-Weaver. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. **B. O. 08-402** - Consideration of approval of the following transfer of appropriation authority in Health & Human Services to avoid overexpenditures:

From	16-79-720.11	\$535,000	To	16-70-695.15-H012	\$25,000
				16-71-695.15-P148	\$160,000
				16-72-695.15-P120	\$35,000
				16-73-695.15-P138	\$95,000
				16-75-695.15-P122	\$40,000
				16-76-695.15-P164	\$100,000
				16-172-695.15-P137	\$80,000

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

3. **B. O. 08-403** - Consideration of the appointment of Marc Shelton to the Commission on Children & Families as a lay member for a four-year term to expire June 18, 2012.

After some discussion about the term expiration date, Ms. George moved approval of the appointment of Marc Shelton with the expiration date to be decided. The motion passed, Commissioners Stern, Lewis, and George voting aye. [Note: The date was later determined to be June 18, 2012.]

4. Consideration of requests for letters of support for the following projects [*Consensus*]:
a. Restoring a left turn lane to the designs for a signal on 5th Street and Highway 99W in Dundee;

Ms. Lewis explained that the district wanted the left turn lane, but Oregon Department of Transportation had designed the project without it. She agreed to write the letter of support.

b. A Housing & Urban Development (HUD) project for 45 one-bedroom apartments.

Ms. Lewis stated that she thinks the Board already wrote a letter of support for this, which they could just put a new date on and resend.

E. **PUBLIC HEARINGS:**

1. Receipt of public comment on the proposed county budget for the 2008-09 fiscal year.

[Budget to be adopted on June 25, 2008.]

Ms. Stern opened the public hearing. There being no public comment, the hearing was closed. John Krawczyk noted that the budget would be adopted in one week.

2. 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, as continued from June 11, 2008 at the point of Public Agency Reports. *[Tentatively approved contingent on a decision from the vesting officer; findings to be adopted on July 2, 2008.]*

Ms. Stern opened the public hearing.

Public Agency Reports - Mike Brandt stated that the Department of Land Conservation & Development (DLCD) is not able to get a statement from the Department of Justice, but agreed to send the county a letter. He said that the letter has not been received yet.

Rebuttal - Sam Justice, representing Mr. Kroo, stated that he had listened to the recording of the LUBA hearing and the opponents not only raised the mootness issue, but affirmatively waived it and chose to proceed under Measure 37, so that is the law of this case. He added that the opponents even argued that the Measure 37 order should have been in the record.

He discussed the issue of water quality and quantity, stating that the City of Newberg clearly didn't have any issue with the quality standards and there is no evidence in the record that the subdivision would affect the quality of anybody's water. He stated that there is overwhelming historic data to show that there is adequate supply and the proposed subdivision was reduced to ten lots in order to bring the water usage below the aquifer recharge rate listed by the city's hydrologist. He said that if Water Resources does not approve a community water system, the water would be supplied by individual wells on each lot and those could be curtailed based on seniority if there is a negative impact.

He stated that although the map in the record was not identified as the preliminary plat map, this is strictly a procedural issue and LUBA did not identify a single substantive injury from the issue. He stated that the septic approvals were only remanded because of the map issue and just needed to be renumbered, so that is not a substantive issue, either.

Staff Recommendation - Ms. Stern agreed with Mr. Justice that the opponents had clearly waived the mootness issue and agreed to proceed under Measure 37, and because it was discussed so thoroughly at the LUBA hearing, the county can't bring it up. Mike Brandt agreed, stating that the mootness issue is a decision for LUBA to make and was not one of the issues remanded to the county, so the county is not in a position to make a determination on that issue. Rick Sanai agreed with Mr. Brandt's analysis.

Mr. Brandt reviewed the remand issues, stating that the May 23, 2008 revised plat map satisfies LUBA's requirement. He concurred with Mr. Justice that the plat map and numbering of the septic site evaluations are not substantive issues. He said that the applicants did an

excellent job of showing that direct access is already developed to each lot and have provided the evidence necessary to show sufficient quantity and quality of water and address LUBA's requirements. He stated that Section 2(C) is an exempt regulation, but the other sections are not exempt.

He recommended approval of the application based on the findings submitted by the applicants. He stated that even though he doesn't believe that the Board can consider the mootness issue, it is within the Board's authority to direct Todd Sadlo, the vesting officer, to go ahead and make a vesting decision. He said that he is not recommending this, but is suggesting it as an alternative. He added that it would help Mr. Sadlo if the Board made a decision on the plat map.

Deliberation - Ms. Stern stated that the Board's decision and Mr. Sadlo's vesting decision should be made concurrently. Mr. Sanai stated that if the Board makes a tentative decision today in order to give Mr. Sadlo some direction, he could make his decision before the findings are adopted and any appeals would happen concurrently.

The meeting recessed at 10:09 a.m. and reconvened at 10:33 a.m.

Ms. Lewis stated that if this subdivision proves not to be vested, the entire LUBA remand would be moot, so it would not be a good use of public resources for the Board to make a decision today that could result in another appeal. Mr. Justice stated that nobody can foresee what will happen and it would be better from the applicants' point of view for the Board to make a decision now based on the facts in the record and to direct Mr. Sadlo to do the same. Ms. Stern stated that, although she has great concerns about the water issue, she is convinced that the applicants have met the criteria and she would be fine with a tentative approval at this point.

Ms. Lewis moved tentative approval of Planning Docket S-13-06(MB), contingent upon a decision by the vesting officer, with findings to be adopted on July 2, 2008. 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;
 - 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.

The meeting adjourned at 10:56 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair MARY P. STERN

Commissioner LESLIE LEWIS

Commissioner KATHY GEORGE