

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 August 16, 2012, at 10:00 a.m. in Room 32 of the Courthouse, Commissioners Leslie Lewis, Kathy George, and Mary P. Stern being present.

Also present were Laura Tschabold, County Administrator; Christian Boenisch, Deputy County Counsel; Pat Anderson, Human Resources; Bill Anderson, Public Works; Stephanie Armstrong, Associate Planner; Jack Crabtree, Sheriff; representatives from the Sheriff’s Office; Nathalie Hardy, News-Register; John & Lynn Albin, 19495 SW Vista Hill Dr, Hillsboro; Richard Gustafson, 26260 NW Pihl Rd, Banks; Larry Derr, 9400 SW Beaverton-Hillsdale Hwy, Ste 131A, Beaverton; and Kelly Amador, Oregon Department of Transportation.

Commissioner Lewis called the meeting to order at 10:00 a.m.

SPECIAL RECOGNITION: Presentation of a Certificate of Merit by Sheriff Crabtree to Deputy Becky Mayer for her life-saving efforts on July 20, 2012.

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. **AGENDA:**

Minutes

1. Consideration of adoption of the following minutes:
 - a. **B. O. 12-452** - June 21, 2012, formal session;
 - b. **B. O. 12-453** - July 12, 2012, formal session;
 - c. **B. O. 12-454** - July 16, 2012, informal session.

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

Personnel

2. **B. O. 12-455** - Consideration of modifying the Health & Human Services position management roster to add a new HHS Clerical Relief position for temporary on-call staff working between one and 40 hours per week.

3. **B. O. 12-456** - Consideration of ratifying the emergency employment of Mireya Alba as Office Specialist 2 in HHS Adult Mental Health, temporary full-time, Range 7, Step 1, retroactive to August 13, 2012, through June 30, 2013.
4. **B. O. 12-457** - Consideration of the change of status of Thomas Park to regular full-time employment in HHS Adult Mental Health, effective August 24, 2012.

Ms. George moved approval of items B(2) through B(4). The motion passed, Commissioners Lewis, George, and Stern voting aye.

Contracts/Grants

5. **B. O. 12-458** - Consideration of approval of an agreement between HHS Adult Mental Health and Virginia Garcia Memorial Health Center, provider, for counseling and treatment services to Oregon Health Plan members, \$46,300, retroactive to July 1, 2012, through June 30, 2013.

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

Road Signs

6. **B. O. 12-459** - Consideration of authorizing the placement of a stop sign on Fulquartz Landing Road at its intersection with Parks Road.

Bill Anderson presented the request and reviewed traffic counts, which he said are considerably higher on weekends. Ms. Lewis moved approval of item B(6). The motion passed, Commissioners Lewis, George, and Stern voting aye.

Committees

7. **B. O. 12-460** - Consideration of the reappointment of Chris McLaran to the Budget Committee for a three-year term to expire June 30, 2015.

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

Resolutions

8. **B. O. 12-461** - Consideration of approval of Resolution 12-8-16-1 in the matter of the FFY 2012 election to receive National Forest-related safety-net payments.
9. **B. O. 12-462** - Consideration of approval of Resolution 12-8-16-2 in the matter of the FFY 2012 election to receive O&C Land-related safety-net payments.

Ms. Stern moved approval of items B(8) and B(9). Laura Tschabold stated that the county would be publishing the required notice of its intentions for the Title III funding. The motion passed, Commissioners Lewis, George, and Stern voting aye.

C. **OLD BUSINESS:**

1. **B. O. 12-463** - Consideration of adoption of Ordinance 875 in support of Planning Docket PA-01-12, request for modification of previously approved corridor for the Newberg-Dundee Bypass, to add a new Interim South Dundee Connection just south of Dundee, as tentatively approved August 2, 2012.

Ms. Lewis noted the presence of Kelly Amador, the Oregon Department of Transportation representative for the bypass project. Christian Boenisch provided the first and second readings of Ordinance 875 by title only, declaring an emergency. Ms. Lewis moved approval of the ordinance. The motion passed, Commissioners Lewis, George, and Stern voting aye. Ms. Lewis expressed thanks to everyone involved for their many years of work on the project.

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

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket FT-02-12(SA), request to allow a change in access for a previously-approved forest template dwelling, applicant Larry Derr representing George Rose, Planning Director's approval appealed by John Albin. *[Continued to September 13, 2012, at the point of Staff Recommendation; record left open until 5:00 p.m. on August 23, 2012, for the submission of written testimony by any party, until 5:00 p.m. on August 30, 2012, for the submission of written rebuttal by any party; and until 5:00 p.m. on September 11, 2012, for the submission of final written rebuttal by the applicants.]*

Ms. Lewis opened the public hearing. There were no abstentions or objections to jurisdiction. Ms. Lewis stated that she and Ms. George had taken a site visit with Stephanie Armstrong the previous week. Ms. Stern stated that she was unable to go, but had reviewed several related files from the Planning Department and had visited the site in 2003. Mr. Boenisch 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.

Ms. Lewis stated that the Board has received a request from Mr. Albin to have the hearing continued. Ms. Stern said that she prefers to continue with the hearing today and allow additional time for submission of material in writing.

Staff Report - Ms. Armstrong described the subject property, the access previously approved in Planning Docket FT-07-10, and the approval criteria for the request. She stated that the county would not be mandating any easement or bypassing the Susan Estates CC&Rs, and the applicant is aware that he would still have to obtain permission from members of the Susan Estates Homeowners' Association.

Proponents - Larry Derr stated that he agrees with the staff report and the Planning Director's decision that Vista Hill Drive is an alternative access, and that there are not to be two accesses concurrently approved. He said that that was his intent, and he may not have made that as clear he should have, but his desire is to explore opportunities for easements to get the alternative access, which has definite advantages. He said that if access rights from Vista Hill

Drive cannot be acquired, it is not his intent to waive the prior approval for access from Holly Hill Road.

He stated that timber has been harvested over the entire parcel, and the property has been fully and extensively replanted as required. He said that a letter and memo have been submitted into the record that cover the concerns raised by opponents. He submitted three additional documents related to the homeowners' association for reference purposes.

In response to a question from Richard Gustafson about other legal means of gaining access to Vista Hill Drive if the association votes to deny access, Mr. Derr stated that if the application is approved by the Board, he would approach Mr. Gustafson again about an easement, and if Mr. Gustafson were unwilling to consider an easement, there would be no point in going to the other property owners. He said that in that case, the only recourse left to Mr. Rose would be to initiate a "way of necessity" proceeding through the courts, which is a statutory procedure available to landlocked properties.

Opponents - John Albin submitted and reviewed packets of information for the record. He stated that he and his wife had previously agreed to set aside their appeal of FT-07-10 with the understanding that the proposed dwelling would be moved further east and access would be from Holly Hill Road. He said that this new request for access from Vista Hill Drive negates that agreement. He stated that increased traffic on Vista Hill Drive would negatively impact the established vineyard on Lot 706, removing trees on Lot 700 for the roadway would impact forest land, and abandoning the existing logging road would eliminate a firebreak as it reverts back to forest. He requested that the record be left open for submission of additional testimony.

Richard Gustafson stated that he and his wife intend to build a house on their property in the next year or two and live in it. He said that the upper part of his property is heavily forested, and the flattest part is below in the same area as the proposed driveway. He said that he isn't exactly sure where the easement would go, but it could impact him. He submitted a drawing map of the area. He said that he had initially told Mr. Rose that he wasn't willing to give an easement, but after receiving what he perceived to be a threatening letter from Mr. Derr, told him that he could be in favor of it if enough money were involved. He stated that he wouldn't give approval without first getting approval from the homeowners' association, and he would want to arrange for the tree removal himself. He said that he is concerned about how many houses may eventually be serviced by this access road in the future, and he would prefer access to be from Holly Hill Road. Ms. Stern explained that if the Board approves the application and Mr. Rose can't resolve the issues with the property owners, access would have to be from Holly Hill Road.

Public Agency Reports - Ms. Armstrong stated that no public agency reports were solicited since this is a Type A application, but she did speak with Newberg Fire Department and they have no preference between the two access roads as long as it meets the standards. She said that the standards would have to be met prior to a building permit being issued, anyway.

Rebuttal - Mr. Derr stated that his view of the settlement is different than Mr. Albin's. He said that he had indicated interest in Vista Hill Drive, and the discussion with Mr. Albin prior to the handshake agreement was solely regarding the location of the proposed dwelling. He said

