

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 October 1, 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 Krawczyk, Budget Officer; Rick Sanai, Assistant County Counsel; Ken Friday, Planning Division Manager; Jack Crabtree, Ron Huber, Ken Summers, Kellye Fetters, Chris Schlegel, Steve Smith, and Carol Hays, Sheriff’s Office; Kris Bledsoe, candidate for commissioner, Ilsa Perse, 5765 Mineral Springs Road, Carlton; and Dorothy Cofield, 9755 SW Barnes Rd, Portland, 97225.

Commissioner Stern called the meeting to order.

**SPECIAL PRESENTATION:** Recognition of Mary Sanderson, Sabrina Remington, Chayse Beaudry, and Alex Tombleson for their heroic, life-saving acts of service.

**PROCLAMATION: B. O. 08-648** - Consideration of approval of Resolution 08-10-1-1 proclaiming October 8, 2008 as Oregon’s first statewide “Day of Culture” in Yamhill County.

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

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

Personnel

1. **B. O. 08-649** - Approve the employment of Christa Brandenburg, McMinnville, as HS Specialist 2 in HHS Chemical Dependency, temporary part-time, Range 20, Step 3, effective October 27, 2008, through December 31, 2008.

2. **B. O. 08-650** - Approve the employment of Lisa Orback, McMinnville, as HS Specialist 1 in HHS Chemical Dependency, regular full-time, Range 17, Step 1, effective October 6, 2008.

3. **B. O. 08-651** - Approve a revised fund mapping for employee retirement accounts being transferred from Diversified Investment Advisors to ICMA.

4. **B. O. 08-652** - Approve a renewal of the county's workers' compensation plan with Liberty Northwest, retroactive to October 1, 2008, through September 30, 2009.

#### Contracts

5. **B. O. 08-653** - Approve an agreement between the Juvenile Department, provider, and Polk County for housing of juvenile offenders, \$246,740, retroactive to July 1, 2008, through June 30, 2009.

6. **B. O. 08-654** - Approve contract renewals between Yamhill County and SimplexGrinnell LP, provider, for inspection of the following safety systems during the 2009 budget year, total cost \$5811:

- a. Contract #222450, Abacus sprinkler and fire alarm system;
- b. Contract #181210, Correctional facility fire alarm system;
- c. Contract #222449, Courthouse fire alarm system.

7. **B. O. 08-655** - Approve Amendment #2 to the 2008-09 Public Health Financial Assistance Agreement #124853 between HHS Public Health, provider, and Oregon Department of Human Services for STD case management services.

8. Ratify the approval of the following amendments to the 2007-09 Financial Assistance Agreement #119951 between Health & Human Services, provider, and Oregon Department of Human Services:

- a. **B. O. 08-656** - Amendment #49, retroactive to September 9, 2008;
- b. **B. O. 08-657** - Amendment #50, retroactive to September 24, 2008;
- c. **B. O. 08-658** - Amendment #51, retroactive to September 24, 2008.

9. **B. O. 08-659** - Approve Modification #7 to Attachment K of the agreement between Health & Human Services, provider, and Mid-Valley Behavioral Care Network for the EAST program, \$212,440, retroactive to July 1, 2008 through June 30, 2009.

10. **B. O. 08-660** - Approve the 8<sup>th</sup> Extension of a lease agreement between Health & Human Services, lessee, and Lewis and Stark Company for office space in the Stark Building, \$2060/month.

#### Surplus Property

11. **B. O. 08-661** - Authorize a change fund in the amount of \$100 for a garage sale of surplus office furniture, retroactive to September 27, 2008.

#### Roads

12. **B. O. 08-662** - Authorize the placement of a stop sign on Albertson Road at its intersection with Bald Peak Road.

C. **OLD BUSINESS:** None.

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

Personnel

1. **B. O. 08-663** - Consideration of the employment of Judith Packard, McMinnville, as Registered Nurse 2 in HHS Public Health, temporary part-time, Range 19, Step 7, effective October 1, 2008, through December 31, 2008.

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

Contracts/Grants

2. **B. O. 08-664** - Consideration of approval of an agreement between the Sheriff's Office, provider, and Oregon State Marine Board for boating safety and law enforcement services, \$70,694, retroactive to July 1, 2008, through June 30, 2009.

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

3. **B. O. 08-665** - Consideration of approval of a modification of agreement between the Commission on Children & Families and Yamhelas Community Resource Center, provider, for Community Progress Team services for the community of Yamhill, \$6000, retroactive to July 1, 2008, through June 30, 2009.

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

Committees

4. **B. O. 08-666** - Consideration of the appointment of Bob White to the McMinnville Urban Area Management Commission.

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

Discretionary Spending

5. Declaration of a \$255 discretionary expenditure by Commissioner Mary P. Stern to Copperfork Catering Co. for boxed lunches for the LNG pipelines tour.

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket FT-12-08(SA), an appeal of the Planning Director's approval of a forest template dwelling, applicant Charma Vaage, appellants Friends of Yamhill County. *[Tentatively approved, findings to be adopted October 15, 2008.]*

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

jurisdiction. She stated that the commissioners had not taken a site visit this time, but had been out to the location previously. 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 - Ken Friday described the subject property and surrounding zoning and reviewed the history of previous actions related to this request. He stated that the Oregon Supreme Court had ruled in May of 1983 that the Eagle Point Ranch Subdivision had been created as an unauthorized subdivision. He provided copies to the Board of three letters that had been received by his office the previous day.

Proponents - Dorothy Cofield, representing the applicant, stated that she had submitted a memo to the Board outlining the evidence and arguments in support of the request. She stated that in order to appeal this case to the Oregon Court of Appeals, Friends of Yamhill County would have to show on the record that they have a stake in the outcome, which they have not done.

She stated that although the Land Use Board of Appeals (LUBA) looked at this lot in 2006, this is a new application and there is additional information and law to be taken into consideration, including the legislative history for how the definition of a parcel got into ORS 215 and the Maxwell citizens case, which admonished Lane County for inserting the requirement of lawfulness into the statute when it wasn't placed there by the legislature. She said that if LUBA looked at this case again with the new information now in the record, it would find that there is no requirement for predetermination of lawful creation.

Questions of Proponents - None.

Opponents - Ilsa Perse, representing Friends of Yamhill County (FYC), stated that nothing of any legal significance pertaining to the facts of this case have changed since 2006. She said that the subject lot was created unlawfully and the county cannot approve forest template dwellings for such lots. She stated that the applicant is relying on the court ruling for a case involving a firearms facility and that ruling does not extend to forest template dwellings. She said that this case has already been denied by LUBA and it is a waste of taxpayer money to take it on again. She urged the Board to deny the request.

She stated that Judge Collins had previously determined that FYC has standing in this matter and said she is confident that they would be given standing again. She added that Mr. Ludwick would undoubtedly have standing and would be a party to the appeal, if there is one.

Questions of Opponents - Ms. Cofield stated that the Court of Appeals would require an affidavit showing how the appellant has a stake in the outcome and if FYC is not able to supply such an affidavit now, this appeal would be a waste of taxpayer money. Ms. Perse stated that FYC has been given standing locally and she didn't know that an affidavit would be required at this point. She requested that the record be left open so the documentation can be provided.

Ms. Lewis stated that she would like to give Ms. Perse the opportunity to provide the documentation, since the intent of the appellants is to get this case resolved by the Court of Appeals. Ms. Cofield pointed out that this argument was in the applicant's materials submitted for the record and FYC has had the opportunity to submit an affidavit. She requested that the record be closed, noting that FYC will be given the opportunity to submit the affidavit at the appellate level. Ms. Stern stated that she would prefer to get it in the record now.

Ms. Perse withdrew her request to keep the record open.

Public Agency Reports - None.

Rebuttal - Ms. Cofield stated that the Court of Appeals has said to look at the relevant and applicable legislation. She said that what is applicable in this case are the provisions of HB 3661 and the McKay Creek case, which says not to look at the underlying legality unless there is an express requirement to do so.

Staff Recommendation - Mr. Friday explained that his office had denied the original application in 2006 because they felt that the HB 3661 reference to lots or parcels meant those that were lawfully created, but *PGE vs. BOLI* concluded that a requirement cannot be inserted into the statute that wasn't put there by the legislature. He stated that HB 3661 passed the standards for both a lot of record and a forest template dwelling and although the lot of record standard expressly requires the lot or parcel to be lawfully established, that is not required of the forest template dwelling standard. He recommended approval of the application with the eleven conditions of approval listed in the staff report.

Close of Public Hearing / Deliberation - Ms. Lewis moved tentative approval of FT-12-08 with findings to be adopted October 15, 2008. She stated that the information provided by Mr. Friday about *PGE vs. BOLI* is different than what the Board had when it first considered this request, as is the legislative history provided by Ms. Cofield regarding the 1993 bill. She said that it is important to get a final ruling on this case from the Court of Appeals because the issue affects numerous people in the Eagle Point Ranch Subdivision who believed they were purchasing buildable lots.

Ms. George stated that there is great merit in the arguments that have been presented and the Board must be careful in wording the findings so as not to insert unintended meaning. She said that the fact that LUBA has previously made a determination on this issue does not necessarily mean that's the final word.

Ms. Stern referred to the September 30 letter from Mr. Ludwick, stating that laws change and case law changes and the Board has an obligation to take all of that into account when making decisions. She agreed with Ms. Lewis that it is important to get a final ruling on this issue.

The motion for tentative approval 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, two full members and three alternate members;
  - b. Parks & Recreation Board, two 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](mailto:Sally.Lawson@state.or.us).

The meeting adjourned at 10:10 a.m.

Anne Britt  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair	MARY P. STERN
Commissioner	LESLIE LEWIS
Commissioner	KATHY GEORGE