

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 15, 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 Laura Tschabold, Administrative Services Director; John Krawczyk, Budget Officer; John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; Ken Friday, Planning Division Manager; Stephanie Armstrong, Associate Planner; David Bates, News-Register; Kris Bledsoe, 3500 SW Redmond Hill Rd, McMinnville; Michael Connors, 1300 SW Fifth Ave, Suite 2300, Portland, 97201; Joseph & Barbara Arnold, 14700 NW Willis Road, McMinnville; Denny Elmer, 310 NE Oregon St, McMinnville; Heather Campbell, John Dassan, and Greg Scott, 5430 NE 122nd Ave, Portland, 97230; and Robert Dant, 711 NW 94th Terrace, Portland, 97229.

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. None offered.

B. **AGENDA:**

Personnel

1. **B. O. 08-687** - Consideration of approval of the employment of Heather Dixon, McMinnville, as HS Associate in HHS Enhanced Care Programs, temporary part-time, Range 14, Step 1, effective October 17, 2008, through June 30, 2009.

2. **B. O. 08-688** - Consideration of approval of the employment of Robert Graper, Grants Pass, as Supervising Appraiser in the Assessor’s Office, regular full-time, Range 23, Step 5, effective November 1, 2008.

Ms. George moved approval of items B(1) and B(2). The motion passed, Commissioners Stern, Lewis, and George voting aye.

Contracts

3. **B. O. 08-689** - Consideration of approval of an agreement between the Commission on Children & Families and Mid-Willamette Valley Community Action Agency, provider, for Child Care Training program services, \$38,000, retroactive to July 1, 2008, through June 30, 2009.

4. **B. O. 08-690** - Consideration of approval of a professional services agreement between

HHS Adult Mental Health, provider, and Mid-Valley Behavioral Care Network for Champion Team staffing, \$21,631, retroactive to October 1, 2008, through September 30, 2009.

5. **B. O. 08-691** - Consideration of approval of an order establishing a process for the Juvenile Department to expend funds from the local Commission on Children & Families for Functional Family Therapy services, \$19,100, retroactive to July 1, 2008, through June 30, 2009.

Ms. George moved approval of items B(3) through B(5). The motion passed, Commissioners Stern, Lewis, and George voting aye.

Committees

6. **B. O. 08-692** - Consideration of the appointment of Douglass Pugsley to the Parkway Committee for a three-year term to expire September 22, 2011.

7. **B. O. 08-693** - Consideration of the following changes to the Local Investment Advisory Committee:

- a. Reappoint Scott Chambers and Kathy Tri for two-year terms to expire October 15, 2010;
- b. Increase membership to 7 and appoint Laura Tschabold.

Ms. Lewis moved approval of items B(6) and B(7). The motion passed, Commissioners Stern, Lewis, and George voting aye.

Budget

8. **B. O. 08-694** - Authorize a \$500 change fund for the Assessor's Office during the tax collection period, effective October 20, 2008, through December 15, 2008.

Ms. Lewis moved to authorize the change fund. The motion passed, Commissioners Stern, Lewis, and George voting aye.

9. Authorize a \$655 payment to Herndon Recognition for Yamhill County pins. *[Continued to informal session on October 20, 2008.]*

Refund

10. **B. O. 08-695** - Authorize a \$1249 refund from the Planning Department to Randy Burdick.

Ms. Stern moved to authorize the refund. The motion passed, Commissioners Stern, Lewis, and George voting aye.

C. OLD BUSINESS:

1. **B. O. 08-696** - Consideration of adoption of findings in support of Planning Docket FT-12-08(SA), a request for a forest template dwelling, applicant Charma Vaage, appellants Friends of Yamhill County, as tentatively approved October 1, 2008.

Ms. Lewis moved to adopt the findings, stating that she hopes this approval will help resolve a legal issue that wasn't resolved with the previous applications because of missed appeal deadlines. The motion passed, Commissioners Stern, Lewis, and George voting aye.

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

1. **B. O. 08-697** - Consideration of the employment of Claudia Cisneros, McMinnville, as Office Specialist 2 in the District Attorney's Office, regular full-time, Range 7, Step 2, effective October 27, 2008.

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

2. Consideration of proposals for the evaluation and recommendation of alternative disposal options for Yamhill County Solid Waste. *[Continued to informal session on October 20, 2008.]*

Following the public hearings, Mr. Gray reviewed the three responsive proposals and recommended accepting the low proposal from J.R. Miller, subject to the negotiation of a contract. Ms. Stern suggested waiting until after the county makes a decision on Riverbend's expansion application, as that may have an impact on the study. Mr. Gray stated that it might be better to go ahead with the study rather than holding it up for four months. The item was continued to October 20, 2008.

E. PUBLIC HEARINGS:

1. Consideration of Planning Docket SDR-08-08(KF/SA), a request for a 170-foot cell tower and associated equipment, applicant/appellant Emily Buck of Verizon Wireless. *[Tentatively approved, findings to be adopted October 29, 2008.]*

Ms. Stern opened the public hearing and noted that the commissioners had taken a site visit the previous week. There were no abstentions or objections to jurisdiction. 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, surrounding properties, and zoning. He stated that since the time of the appeal, the applicant has submitted better information to address the siting requirements, so his office now plans to recommend approval of the request.

Proponents - Michael Connors, representing Verizon Wireless, stated that the Planning Director's denial was based on a lack of information regarding alternative site analysis and he has been working closely with Planning staff to provide the necessary information and address the issues.

He explained that the original plan had been to co-locate the new equipment on an existing 158-foot tower, but it would take a minimum of 170 feet to meet the coverage objectives

and it isn't structurally possible to extend the existing tower. He stated that the next best option is to locate a new tower on the property next to the existing tower, where buffering is already in place. He said that Verizon had overlooked the necessity of providing information on alternative sites, but has now provided that and additional information about why the existing tower would not meet the company's needs.

Opponents - None.

Public Agency Reports - Mr. Friday stated that Yamhill County Public Works and the City of Dayton found no conflicts with their interests and the Soil & Water Conservation District replied that they had no comments.

Staff Recommendation - Mr. Friday recommended approval of the request based on the new information submitted, with the condition that the applicants obtain any required building permits. He noted that Yamhill County had a 1991 case regarding height limitations in the PWS zone and LUBA had agreed with the county's interpretation that those limitations do not apply to cell towers in the PWS zone.

Close of Public Hearing / Deliberation - Ms. Lewis moved tentative approval of Planning Docket SDR-08-08 with findings to be adopted October 29, 2008. Ms. Lewis and Ms. George agreed that the best location would be next to the existing tower. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. Consideration of Planning Docket FT-06-08(SA), a request for a forest template dwelling, applicant Denny Elmer representing Willis Road, LLC, appellant Joe Arnold. *[Tentatively approved, findings to be adopted October 29, 2008.]*

Ms. Stern opened the public hearing and noted that the commissioners had taken a site visit the previous week. There were no abstentions or objections to jurisdiction. She noted that everyone in the audience had been present when the required statement had been read for the previous hearing and there was no request to have it reread.

Staff Report - Stephanie Armstrong described the subject property, the surrounding property and zoning, and the approval criteria. She stated that the request had been approved with conditions by the Planning Director, but had been appealed. She said that after joint meetings with the applicant and appellant, all issues had been resolved except the condition of the road.

Proponents - Denny Elmer stated that Mr. Arnold had requested a fully engineered road with a drainage plan to be approved the county and the neighbors and potentially an erosion plan from the Department of Environmental Quality. He said that the expense of such a request is excessive for this project. He stated that he has met with three construction contractors and has been assured that the road can be built to meet county and fire department requirements and address drainage issues. He read a statement from a local forester who had inspected the property and found no signs of erosion and no sign of any protected resource in the vicinity.

Questions of Proponents - None.

Opponents - Joseph Arnold stated that the issue is more complex than what the Board has heard. He submitted a packet of documents for the record and provided copies to Mr. Elmer. He referred to a drawing of a map on the white board and provided background information on the plans for the access road. He discussed concerns about the significant seasonal drainage in the area, much of which is subsurface, and the potential threat to the home and property as a result of the road changing the drainage patterns, especially in the area of the curtain drain.

He stated that an engineering study should be done beforehand to protect the home and property. He added that he should not be required to bear any part of the cost of this study, since he is not the one building the house or the road.

Public Agency Reports - Ms. Armstrong stated that referrals were sent to Yamhill County Public Works and the McMinnville Fire Department, but no responses have been received.

Rebuttal - Mr. Elmer stated that he has never seen a slide in the area discussed by Mr. Arnold and an existing logging road would be used in that area. He said that the road would be developed to meet or exceed county standards. He added that three qualified people have looked at the area and have said that there are no issues that can't be dealt with. He said that he had offered to do the engineering study if Mr. Arnold would pay for it, but it is an excessive cost for putting in a fairly simple driveway. He assured the Board that the current owners have no plans to remove any of the trees.

In response to a question by Ms. George, Mr. Arnold explained that when he had hired a contractor to put in the curtain drains years ago, he had read books on the subject and dug test holes, but did not have a hydrologist or other professionals involved in the design, so he has no reports to submit. He added that he did not completely understand all the issues at the time. He suggested that a geological engineer might be the best person to do a study.

Ms. Stern stated that because the slope is less than 40%, the Board cannot require any reports of the applicant, nor does it have the capacity to review or evaluate reports. She said that she is concerned, as would be any homeowner, but the Board can only require that the road be developed to county standards.

Staff Recommendation - Ms. Armstrong recommended approval of the request with the conditions listed in the staff report, but with Condition #1 modified to state that the dwelling shall be located on the building site identified as "New Site" on the map received by the Planning Department on August 13, 2008.

Close of Public Hearing / Deliberation - Ms. George moved tentative approval of Planning Docket SDR-08-08 with findings to be adopted October 29, 2008. She stated that she appreciates Mr. Arnold's concerns, which are valid, and Mr. Elmer's efforts to accommodate those. She said that she believes the concerns have been addressed so that there will be no impact on Mr. Arnold's home or other homes in the area. She suggested that the applicant

consider planting more deep-rooted trees to help stabilize the area, like Mr. Arnold has done.

Ms. Lewis stated that she is convinced that a driveway can be properly constructed. She pointed out that the county's road department will be inspecting it as it is built and can make recommendations to the contractors if there are any concerns about drainage. She agreed with Ms. George's suggestion for reforestation along the property line.

Ms. Stern expressed appreciation for Mr. Arnold's desire to protect his home and property and stated that Mr. Elmer has attempted to accommodate those concerns in a financially reasonable way. She stated that the Board cannot impose any requirements on the applicant other than those allowed, but at least the property owners are now aware of Mr. Arnold's concerns and will hopefully share that information with those constructing the driveway.

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.

G. EXECUTIVE SESSION:

1. Recess to executive session to discuss real property transactions. *[Continued to October 16, 2008, at 1:00 p.m. in the Oval Office.]*

The meeting recessed at 10:59 a.m. and reconvened at 11:12 a.m. in the Oval Office of the Fenton House. Present for this portion of the meeting were Commissioners Stern, Lewis, and George; John Gray; John Krawczyk; Laura Tschabold; and Sherrie Mathison, Solid Waste Coordinator.

After discussion of item D(2), the meeting recessed to executive session at 11:25 a.m. pursuant to ORS 192.660(2)(e) for the purpose of discussing a lease of the hunting cabin on the Rice property, adjacent to the Whiteson Landfill. The meeting reconvened at 11:42 a.m. with no final decisions made and Laura Tschabold having been delegated authority to discuss real estate transactions. The Board agreed to continue the meeting to October 16, 2008, at 1:00 p.m. to hear from Sherrie Mathison about the well test results.

The meeting recessed at 11:49 a.m.

The meeting reconvened at 1:03 p.m. on October 16, 2008, in the Oval Office of the Fenton House. Present were Commissioners Stern, Lewis, and George; Laura Tschabold; John Gray; and Sherrie Mathison.

2. **B. O. 08-698** - Consideration of approval of a license agreement between Yamhill County and Steve Rice for the use of a hunting cabin located on county property adjacent to the closed Whiteson Landfill.

Ms. Mathison distributed copies of the test results from the well at the cabin (see Exhibit A). She stated that the arsenic level is below the EPA standard for drinking water and above the DEQ standard, which is exceptionally low. She noted that Rob Eade of Hawn & Associates said that all drinking water in Oregon is above the DEQ standards for arsenic. She said that the only test reading that showed high lead levels was taken in 1988 from the well closest to the road, which was close to an area where baghouse dust containing lead was dumped. Ms. Stern stated that she would make sure that information is sent to Tim Stieber of the Soil & Water Conservation District, if it hasn't already been.

Mr. Gray distributed copies of a draft license agreement for the cabin and discussed the proposed terms. After some discussion, he agreed to add to the recitals the reasons for renewing the license and to add a requirement that Mr. Rice's belongings be out of the cabin by February 15, 2009.

Ms. George moved approval of the license agreement as modified. Ms. Lewis recused herself from the vote because Mr. Rice has been a contributor to her campaign. The motion passed, Commissioners Stern and George voting aye and Commissioner Lewis abstaining.

The meeting adjourned at 1:29 p.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair MARY P. STERN

Commissioner LESLIE LEWIS

Commissioner KATHY GEORGE

