

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 28, 2004 at 10:00 a.m. in Room 32 of the Courthouse, Commissioners Kathy George, Mary P. Stern, and Leslie Lewis being present.

Also present were John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; John Krawczyk, Director of Administrative Services; Ken Friday, Planning Division Manager; Jack Crabtree, Sheriff; State Representative Donna Nelson, 2150 St. Andrews Drive, McMinnville; David Seward, 14001 NW Ford Road, Gaston; and Larry Bohnsack.

Commissioner George called the meeting to order.

A. **PUBLIC COMMENT:** This fifteen-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. None offered.

B. **CONSENT AGENDA:** Ms. George removed item #3 from the consent agenda, to be discussed during Other Business. Ms. Stern moved approval of the consent agenda, with the exception of item #3. The motion passed, Commissioners George, Stern, and Lewis voting aye.

Personnel

1. **B. O. 04-760** - Approve the employment of Kelly Mills, Newberg, as HS Associate in HHS, temporary on-call, Range 14, Step 1, effective December 15, 2004 until June 30, 2005.

2. **B. O. 04-761** - Approve the change of status of Christina Anderson to Mental Health Specialist 1 in Family & Youth, Range 17, Step 1, effective November 9, 2004.

3. **See Other Business** - Approve extension of benefits in Teamsters settlement to Sheriff’s Office non-bargaining employees.

Contracts

4. **B. O. 04-762** - Approve a letter of agreement between HHS and Mid-Valley Behavioral Care Network regarding expenditure of Champion Team grant funds for a consumer case aide and relief person, \$11,203.

5. **B. O. 04-763** - Approve the renewal of an agreement between Family & Youth and Willamina School District for mental health services to students and families, not to exceed \$31,212, retroactive to September 1, 2004 until August 30, 2005.

6. **B. O. 04-764** - Approve an amendment to a Sub-Recipient Agreement between Yamhill County and Yamhill County Affordable Housing Corporation to accommodate a new Regional Housing Center grant.

7. **B. O. 04-765** - Approve Amendment #1 to Intergovernmental Agreement #03-131 between

Community Corrections and Oregon Employment Department for employment services, not to exceed \$24,560, effective November 1, 2004 until October 31, 2006.

#### Refunds

8. **B. O. 04-766** - Approve a blanket refund order authorizing the Tax Collector to issue lawful refunds to taxpayers.

#### Health Savings Plan

9. **B. O. 04-767** - Approve the adoption of the VantageCare Retirement Health Savings Plan for county employees.

C. **OLD BUSINESS:** None.

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

1. **B. O. 04-768** - Consideration of extending benefits in Teamsters settlement to Sheriff's Office non-bargaining employees.

John Gray outlined certification and performance requirements which would be attached to longevity pay for non-bargaining employees. He addressed a question by Ms. George about administrative staff who cannot get certification, and the consensus was to require those employees to pass a quarterly performance evaluation.

Ms. George moved to extend benefits in the Teamsters settlement to Sheriff's Office non-bargaining employees, as amended per today's discussion. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. **B. O. 04-769** - Consideration of a request for \$1500 from economic development funds for the Lambert Bend project, contingent upon receipt of request letter.

Ms. George moved approval of the request, contingent upon receipt of a formal request letter. The motion passed, Commissioners George, Stern, and Lewis voting aye.

3. **B. O. 04-770** - Consideration of adoption of the revised Capital Improvement Plan for expenditure of Parks System Development Charges at the Fairgrounds.

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

4. **B. O. 04-771** - Consideration of a request for \$3400 from economic development funds for YCAP's eastside bus route.

Ms. Stern provided background on the project and moved approval of the request. The motion passed, Commissioners George, Stern, and Lewis voting aye.

5. **B. O. 04-772** - Consideration of authorizing Richard Sly to execute an agreement between Community Corrections and Oregon Housing and Community Services Department and Department of Corrections regarding a transitional housing grant for the Morgan Lane property, subject to approval by County Counsel.

Ms. George moved approval of the agreement, subject to approval by County Counsel. Ms. Stern

made a friendly amendment to authorize Richard Sly to sign the agreement. The motion passed, Commissioners George, Stern, and Lewis voting aye.

**E. PUBLIC HEARINGS:**

5. Consideration of Planning Docket CTS-07-04, a request for a hardship dwelling, applicant David Seward. [*Tentatively denied; findings to be adopted November 4, 2004 at 10:00 a.m. in Room 32.*]

Commissioner George opened the public hearing. There were no abstentions or objections to jurisdiction. Ms. Lewis noted that she and Ms. George had visited the site on Monday, and Ms. Stern noted that she had seen the site on the map and had received a report of the site visit from Ken Friday.

Rick Sanai read the statement required for land use hearings related to the requirement that parties must raise all issues at the hearing or waive their right to raise the issues on appeal.

Staff Report - Mr. Friday entered the staff report into the record and reviewed the size and zoning of the parcel, location of the existing dwelling, and the request for a hardship dwelling. He suggested that Sheriff Crabtree address the issue of whether or not a previous neighbor, Frances Albert Davis, should be considered dangerous.

Sheriff Crabtree stated that he had found no information on a Frances Albert Davis, but he did find a record of Frances Elmer Davis. Mr. Seward viewed the photo and confirmed the identity of his former neighbor. Sheriff Crabtree stated that he is limited as to what information he can release, but there are currently two felony warrants out for Mr. Davis' arrest and any information regarding his whereabouts would be welcome. Mr. Seward stated that Mr. Davis is currently in Lincoln City and he will try to get more information.

Sheriff Crabtree said that his staff has been very responsive to issues on Ford Road and they are not afraid of Mr. Davis. He stated that Mr. Seward has made no calls to the drug team in the last several years. Ms. Lewis pointed out that Mr. Davis' mobile home burned down in 1998, so any calls would have been prior to that.

Proponents - Mr. Seward reviewed the history of criminal and drug activity on his former neighbor's property. He stated that the mobile home had been there legally since 1974, and after it burned down, he used his life savings to buy the property in order to clean it up and prevent other drug dealers from moving in.

He reviewed medical testimony presented to the Planning Commission regarding the degeneration of his neck and back and his inability to maintain a complete separate residence. He expressed concern and discouragement with derogatory comments made by Planning Commissioners but not included in the record, and with the fact that expert medical testimony was completely disregarded.

He said he was told by Planning staff that a hardship dwelling can be on a separate septic system from the main residence, and he stated that this is the case in many other hardship dwellings in the county. He stated that his current septic system would be inadequate to handle two dwellings. He said his son, who would be the one helping him maintain his residence and land, is currently 21 years old but at some point may have a family and need up to three bedrooms.

He stated that there are no requirements given for distance between the main residence and the hardship dwelling, and the main reason he wants to use the burned homesite is because that site already has a certified well, power, road, and septic. He explained that the site is only 30 seconds away by car, which

is adequate for his needs. He requested that the record be left open for seven days for the submission of additional information.

Questions of Proponents - Mr. Seward discussed the replanting of timber on his 80-acre property, concerns with the way he was treated by Ken Friday regarding property inspections, his current medical practice, and the money he has already spent on application and permit fees. He stated that he has met every condition outlined for a hardship dwelling.

State Representative Donna Nelson spoke on behalf of Mr. Seward, emphasizing the importance of property rights for all citizens and requesting the Board to approve the application since all conditions have been met. She thanked Mr. Seward for cleaning up the property and making the county safer.

Opponents - None.

Public Agency Reports - Mr. Friday reviewed the reports in the record.

Staff Recommendation - Mr. Friday stated that staff recommends approval of the request with the four conditions listed at the Planning Commission hearing. He responded to Mr. Seward's statement about the way he was treated, explaining that he had notified Mr. Seward before visiting the property because permission had previously been given in the application. He said he had not been rude intentionally and apologized if it came across that way.

Mr. Seward withdrew his request to keep the record open.

Close of public hearing / deliberation - Ms. Lewis stated her support of the application. She said the required letter from a medical professional has been provided and the Board should not substitute its judgment for that of medical professionals. She stated that she would prefer the hardship dwelling to be closer to Mr. Seward's residence, but requiring the expense of a new septic system would not be right when the parcel already has an existing system.

Ms. Lewis moved tentative approval of Planning Docket CTS-07-04.

Ms. Stern echoed Ms. Nelson's appreciation to Mr. Seward for cleaning up the property and replanting trees. She stated that it would not be right to consider the third medical letter in the record since it is unsigned. She said that of the remaining two letters, one does state that Mr. Seward is unable to maintain a complete separate residence, but considering the fact that he is able to maintain a business, she doesn't believe this qualifies for a hardship dwelling. She stated that the Planning staff reflects well on the Board and on the county.

Ms. George stated that when Mr. Seward purchased the property, he had the right to have another dwelling, and Measure 37 is attempting to give property owners back those rights. She said that while she is sympathetic to his physical suffering and angry about the current land use laws, she doesn't believe his condition meets the criteria for a hardship dwelling because he is able to be employed, drive, and conduct his life without anyone else living there now.

Ms. Lewis stated that the Board would be setting a dangerous precedent by not accepting medical testimony which has been accepted on every hardship dwelling application since the process began. Ms. George urged Mr. Seward to go to the legislature and try to get the land use restrictions changed.

The motion failed, Commissioner Lewis voting aye and Commissioners George and Stern voting no.

Ms. Stern moved tentative denial of Planning Docket CTS-07-04, with findings to be adopted on November 4, 2004 at 10:00 a.m. in Room 32. The motion carried, Commissioners George and Stern voting aye, and Commissioner Lewis voting no.

**F. ANNOUNCEMENTS:**

1. Two positions are available in the Commission on Children and Families. Contact the Commissioners' Office for applications.
2. Two positions are available on the Parks Board. Contact the Commissioners' Office for applications.
3. Six positions are available on the Food Service Advisory Committee in various categories. Contact the Commissioners' Office for applications.

Adjourn: 11:50 a.m.

Anne Britt  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

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Chair KATHY GEORGE

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Commissioner MARY P. STERN

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Commissioner LESLIE LEWIS