

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 November 9, 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; Dave Lawson, Assessor; Ruthella Hughes, Assessor’s Office Manager; Bill Gille, Public Works Director; Russ Heath, Public Works Shop Supervisor; Becky Blanchard, Parks Coordinator; Laura Tschabold, Grant Writer; David Bates, News-Register; Carrie Richter, 121 SW Morrison Street, Suite 1100, Portland; Arie Sleger, 18345 SE Nichols Road, Dayton; Robert Dorsey, 12915 SE Kimsey Road, Dayton; Paul Hribernick, 1900 Fox Tower, 805 SW Broadway, Portland; Lloyd Town, PO Box 208, McMinnville; and David Horner, 15345 SE Woodland Heights Road, Amity.

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. **AGENDA:**

Personnel

1. **B. O. 04-783** - Consideration of approval of the employment of Walter Dillman, Dallas, as HS Associate in Adult Mental Health, temporary on-call, Range 14, Step 2, effective December 1, 2004.
2. **B. O. 04-784** - Consideration of approval of the change of status of Maria Nava to regular full-time in Public Health, effective November 9, 2004.
3. **B. O. 04-785** - Consideration of approval of the change of status of Mike Hailey to extend temporary full-time employment in Maintenance, effective November 10, 2004 until March 31, 2005.

Ms. Stern moved approval of items #1-3. The motion passed, Commissioners George, Stern, and Lewis voting aye.

Contracts

4. **B. O. 04-786** - Consideration of approval of Intergovernmental Agreement #111144 between Public Health and Oregon Department of Human Services for a hand hygiene project, \$2000, effective until December 31, 2004.

5. **B. O. 04-787** - Consideration of approval of a contract between Yamhill County and DND Electrical Contractors, Inc. for electrical work at the Moore Building, effective November 9, 2004.

Ms. Stern moved approval of items #4-5. The motion passed, Commissioners George, Stern, and Lewis voting aye.

Grants

6. **B. O. 04-788** - Consideration of authorizing HHS to apply for a grant from the State Office of Mental Health & Addiction Services to expand YCAP's Street Outreach Program, \$50,000/year.

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

Fees

7. Consideration of adoption of a boat launch fee for Rogers Landing Park, \$3/day or \$30/year. *[No action taken at this time.]*

Becky Blanchard presented a proposal for a boat launch fee at Rogers Landing Park (see attachment). She stated that even with a reduction in Maintenance Assistance Program (MAP) funds, the \$3 daily fee would be more cost effective than a \$2 fee, based on usage estimates from the State Marine Board. She recommended an implementation date following the Memorial Day Boat Races next spring. Ms. George suggested setting a public hearing date after the first of the year.

Road Legalization

8. **B. O. 04-789** - Consideration of initialization of legalization proceedings for a portion of Baker Creek Road and a portion of Hill Road, setting a public hearing for January 6, 2005.

Bill Gille explained that because the current roadway doesn't coincide well with the actual dedicated right-of-way, this legalization process is necessary as part of a project to replace Baker Creek Road Bridge.

9. **B. O. 04-790** - Consideration of initialization of legalization proceedings for a portion of Willamina Creek Road, setting a public hearing for January 6, 2005.

Ms. Lewis moved approval of items #8-9. The motion passed, Commissioners George, Stern, and Lewis voting aye.

Committees

10. **B. O. 04-791** - Consideration of approval of the following changes to the Mental Health

Advisory Board:

- a. Resignations: Yanira Vera and Donna Millar;
- b. Appointment: Leon Ramos for a term ending May 2007.

Ms. Stern described the functions of the Mental Health Advisory Board and moved approval of the above changes. The motion passed, Commissioners George, Stern, and Lewis voting aye.

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

1. **B. O. 04-793** - Consideration of the purchase of a 2005 Ford E-450 21-passenger bus from Schetky Northwest of Portland for Jail transport, \$40,950, and selling unit P-162 on e-Bay to the highest bidder.

Russ Heath presented the request and stated that the old Jail transport van, unit P-110, will be assigned as the Jail cook van to replace unit P-162. John Krawczyk added that funding will come from an intrafund loan, which requires no Board action.

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

2. **B. O. 04-794** - Consideration of the approval of an engagement letter between Yamhill County and Isler & Co., LLC for audit services for fiscal year 2003-04, not to exceed \$26,900.

Mr. Krawczyk stated that this cost is significantly less than what the county was paying to the previous auditors. Ms. George moved approval of the engagement letter. The motion passed, Commissioners George, Stern, and Lewis voting aye.

3. Consideration of approval of the following minutes:
 - a. **B. O. 04-795** - Informal Work Session, August 10, 2004;
 - b. **B. O. 04-796** - Informal Session, August 24, 2004;
 - c. **B. O. 04-797** - Formal Session, September 2, 2004.

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

D. **OLD BUSINESS:**

1. Consideration of adoption of additional findings in support of Planning Docket PAZ-05-03, request for a Comprehensive Plan amendment from AFLH to Quarry; a zone change from EF-80 to MR-2 for approximately 169 acres, applicant C.C. Meisel, as previously approved on August 19, 2004 by B.O. #04-574, Ordinance 745. *[Tentatively approved; new findings to be adopted November 23, 2004.]*

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

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 - Ken Friday stated that after the adoption of Ordinance 745, he compared the findings to those of previous sand and gravel applications and determined that they should be better tied to the limited use overlay zone and should include maps to identify the appropriate zones. He stated that after agreement by legal counsel and the applicant's attorney, the county's legal counsel requested a voluntary remand to make the adjustments. He explained that according to the public notice, only testimony related to these specific issues will be accepted. He distributed modified findings which included several minor adjustments suggested by Ms. Stern.

Opponents - Carrie Richter stated that the maps attached to Exhibits B and C do not adequately identify the impact area to include 1500 feet on all sides, and do not include the "cherry stem" area which was included in the original impact area. She questioned the purpose and effectiveness of the proposed warning to those who wish to develop new wells, and suggested limitations to surrounding mining operations which may also contribute to the dewatering issue. She stated that enforcement concerns are raised by the incorporation of conditions of approval which may not have been properly incorporated before. She concluded by stating that the issues included in the amended findings do not address the opponents' concerns raised previously, and that limiting new uses to other properties in this way may give property owners the potential to file Measure 37 claims.

Rebuttal- Paul Hribernick stated his support of county staff's modifications to the findings and added that it would be appropriate to amend the map to include the "cherry stem". He stated that there is no issue with Measure 37 since it doesn't take effect until December 2.

Staff Recommendation - Mr. Friday recommended approval of the new findings with the suggested modification to the map.

Commissioner George closed the public hearing. Following a brief recess, the meeting reconvened at 10:51 a.m.

Ms. Lewis moved tentative approval of additional findings in support of Planning Docket PAZ-05-03 as recommended by Mr. Friday, including the map amendment, with findings to be adopted November 23, 2004 at 10:00 a.m. in Room 32 of the Courthouse.

Ms. Stern stated that the proposed changes still do not address her concerns regarding transportation and agriculture.

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

2. **B. O. 04-792** - Consideration of adoption of findings in denial of Planning Docket CTS-07-04, a request for a hardship dwelling, applicant David Seward, as tentatively denied October 28, 2004 and continued from November 4, 2004.

Ms. Lewis stated that although the findings have been rewritten in response to concerns she had previously raised, they are still not as complete as they could be and do not adequately reflect

the record. She referenced the letter from Dr. George, which clearly states that the applicant is unable to maintain a complete and separate residence, and a physician's certificate signed by Dr. Rohr, which makes the same statement.

Ms. George stated that these facts will remain in the record and were not ignored in deliberations, but the findings should clearly explain the reasons for denial. John Gray stated that although there was a split vote on the case, the findings should reflect the position of the majority.

Commissioners George and Stern agreed that the only change necessary to the findings would be the removal of section A(8). Rick Sanai left to make the change. Following the public hearing on the EPA grant, he returned with the amended findings.

Ms. Stern moved to adopt the findings in denial of Planning Docket CTS-07-04.

Ms. Lewis stated that she has been greatly troubled by the Board's decision in this case. She said that she has a fundamental belief in private property rights, and that those rights do not come from government. She shared a list of eight policies which she applies in making land use decisions.

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

Ms. Lewis stated that the next time staff makes changes to county land use ordinances, she will ask that they be brought into conformity with state land use laws, which have no requirement that an applicant proves inability to maintain a complete and separate residence in order to be approved for a hardship dwelling.

E. PUBLIC HEARINGS:

1. Receipt of public comment on EPA grant.
 - a. **B. O. 04-798** - Consideration of authorizing the chair to sign a grant application to EPA for cleanup of the Martin-Wright property, \$89,400; and authorizing staff to submit the application.

Commissioner George opened the public hearing.

Mr. Gray provided background information on the cleanup and future plans of the Martin-Wright property and stated that a public hearing is required for EPA Brownfields Cleanup grant applications. He stated that although Yamhill County will be the sole applicant, the 20% local match requirement will be reimbursed by McMinnville School District before the property title is conveyed to them.

Laura Tschabold thanked David Horner from McMinnville School District for all his help. She stated that the application will be ready to submit on Wednesday if approved by the Board today. She noted that Linfield College has submitted a letter of support.

Public Comment - David Horner stated that the school district has purchased twelve acres adjacent to this property and has done extensive cleanup, so they are excited to see this process

continue. He said he doesn't anticipate any problems from the school district in making it happen.

Ms. Lewis thanked Mr. Horner and expressed appreciation for his help with the Fair overflow parking.

Commissioner George closed the public hearing.

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

F. ANNOUNCEMENTS:

1. Two positions are available in the Commission on Children and Families. Contact the Commissioners' Office for applications.
2. A position is 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.
4. A position is available on the Housing Authority Board. Contact the Commissioners' Office for applications. Applications will be accepted through November 30, 2004.

Adjourn: 11:35 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS