

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 30, 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; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Steve Mikami, Personnel Officer; Bill Gille, Public Works Director; David Bates, News-Register; Todd Sadlo, 1532 SE 36<sup>th</sup> Avenue, Portland; Dave Bernert, 4131 Imperial, West Linn; Eric Lemelson, 12020 NE Stag Hollow Road, Carlton; Donald Alexander, 1112 N. Klimek Lane, Newberg; Orville Bernards, 10350 NW Donnelly Lane, McMinnville; Don Wiley, 874 Howard Jordan Loop, Dayton; John Englebrecht, 1266 NW Augusta Drive, McMinnville; Dennis Brutke, 9200 SE Eola Hills Road, Amity; Charlie Hancock, 225 SW Walnut, Dundee; Dan Armstrong, 7000 Krono Road, Yamhill; Renee Callanan, 14316 Gopher Valley Road, Sheridan; Ken Finnicum, 21847 SE Grand Island Loop, Dayton; Linda Lamb, 2323 Latona Drive NE, Keizer; Alice Schindler, 21760 SE Grand Island Loop, Dayton; Marna Porath, 21420 Tallman Lane, Amity; George Duvendack, 1746 SW Goucher Court, McMinnville; Edwin Sharer, P.O. Box 506, Newberg; Vicki Hehr, 21428 Grand Island Loop, Dayton; Frances O’Brien, 335 NE Fircrest Place, McMinnville; James Parker, 14350 SW Hidden Hills Road, McMinnville; Dahe Good, 21000 NE Cove Orchard Road, Yamhill; and Emily Gladhart, P.O. Box 160, Dayton.

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. 04-819** - Consideration of approval of the employment of Jered Lutu as Juvenile On-Call Relief, Range 12, Step 1, \$12.46/hour, retroactive to November 25, 2004.
2. **B. O. 04-820** - Consideration of approval of the employment of Leonardo Ceja Hidalgo, McMinnville, as HS Associate in Family & Youth, regular full-time, Range 14, Step 2, effective December 27, 2004.
3. **B. O. 04-821** - Consideration of approval of the employment of Shawn Markuson, Dayton, as Corrections Reserve in the Jail, part-time on-call, \$10/hour, retroactive to November 23, 2004.
4. **B. O. 04-822** - Consideration of approval of the employment of John Cosmo, McMinnville, as Building Inspector 3 in the Planning Department, regular full-time, Range 23, Step 3, effective November 29, 2004.
5. **B. O. 04-823** - Consideration of approval of the change of status of Betty Fousfos to HS Specialist

2 in Adult Mental Health, regular full-time, Range 20, Step 1, effective December 6, 2004.

6. **B. O. 04-824** - Consideration of approval of the change of status of Becky Blanchard to temporary part-time in Community Corrections, \$18.30/hour, effective November 30, 2004 until May 28, 2005.

7. **B. O. 04-825** - Consideration of approval of the change of status of Roma Fuerst to increase regular part-time hours in Developmental Disabilities, retroactive to October 25, 2004.

Ms. Stern moved approval of agenda items #1-7. The motion passed, Commissioners George, Stern, and Lewis voting aye.

8. **Tabled** - Discussion of potential impacts of the trust acquisition of the Eastman/Meyer property in Grande Ronde by the United States Department of the Interior, Bureau of Indian Affairs.

C. **OLD BUSINESS:**

1. **Tabled** - Consideration of the appointment of Allen Stevens to the Parks Board for a four-year term to expire January 24, 2009.

2. **B. O. 04-826** - Consideration of modifications to the current policy for sell-back of earned vacation time for Sheriff's Office employees.

John Gray noted that the modifications have been clarified to state that eligible employees will still be able to do a regular vacation sell-back if desired.

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

D. **PUBLIC HEARINGS:**

2. Consideration of Planning Docket PAZ-02-04, Grand Island sand and gravel operation, applicant Joe Bernert Towing, as continued from November 4, 2004 at the point of public agency reports. *[Continued to December 2, 2004 at 10:00 in Room 32 at the point of deliberation.]*

Commissioner George opened the public hearing.

Public Agency Reports - Ken Friday stated that the report on the Lambert Slough Bridge has been completed. He referenced a memo from Oregon Department of Transportation (ODOT) received this morning, which stated that the cracks in the bridge are not severe enough to warrant restricting the bridge from legal loads.

Bill Gille explained that because the bridge was overbuilt, it was given a high load rating in 1994, which allowed it to carry 1.6 times the legal load limit without any problems. He stated that the result of changing the condition rating to "Poor" would be an approximate 10% reduction of the load factor, which would not impact legal loads.

He stated that there would be no problems with loads approaching 105,000 gross vehicle weight, which would be the probable load configuration used by the applicants. He added that the probable length of trucks to be used by the applicants would be 75 feet, which is longer than any bridge portions experiencing cracks, and therefore the whole weight would not be on the cracked portions at one time.

He stated that the last exhaustive load rating review was conducted in 1994. He said that exhaustive reviews are usually triggered and paid for by ODOT, so if the county wanted a review done, it would have

to pay the estimated \$5000-\$10,000 bill.

Rebuttal - Todd Sadlo, representing the applicants, thanked the Board for their careful consideration of the application throughout the long process. He stated that the applicants have worked hard to minimize impact on the community and environment, and although they aren't responsible for the cracks in the bridge, they will continue to advocate for a safe and secure bridge without weight limits. He assured the Board that if ODOT's evaluation of the bridge's capacity changes, the applicants will contribute monetarily to help keep the bridge safe for legal limits. He agreed to a suggestion by Ms. Lewis to reword the condition of approval to reflect the applicants' commitment.

Staff Recommendation - Mr. Friday stated that based on sufficient information in the record, staff recommends approval of the application, with the exception of the last sentence in condition #13, as outlined in the applicants' rebuttal letter dated September 22, 2004. He explained that the self-imposed condition limiting the average number of truck trips to no more than 74 per day would be difficult and costly to enforce, which the Planning Department would have to do if included as a condition of approval.

Rick Sanai concurred with Mr. Friday's view, stating that the Board has not previously set conditions that are unenforceable, and court cases over this issue would not be successful. Mr. Sadlo stated that the applicants will have records of the number of trucks coming and going from the site each day, and he agreed to reword the condition to set a voluntary limit that won't cause enforcement problems for the county.

Commissioner George continued the public hearing to December 2, 2004 at 10:00 a.m. at the point of deliberation.

3. Consideration of the transfer of jurisdiction over a portion of Fernwood Road to the City of Newberg. *[Continued to January 6, 2005 at 10:00 in Room 32.]*

Mr. Gray stated that because of a defect in the public notice, the public hearing will need to be continued. Ms. Lewis moved to continue the public hearing to January 6, 2005 at 10:00 a.m. The motion passed, Commissioners George, Stern, and Lewis voting aye.

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

1. Consideration of adoption of Measure 37 claims processing ordinance. *[Continued to December 2, 2004 at 10:00 in Room 32.]*

Ms. George opened the record for public comment regarding the specifics of a proposed county ordinance for implementation of Measure 37.

John Gray noted that a letter from 1000 Friends of Oregon is in the record. Ms. Stern added that email comments from Patricia Farrell have also been turned over to Planning to be added to the record.

Public Comment - Orville Bernards stated that he was a county commissioner when Yamhill County's first comprehensive land use plan was adopted in 1974 and used as a model for the rest of Oregon's counties. He stated that the current land use system is no longer working the way it was intended and he urged the Board to reread the original plan before adopting this ordinance.

Frances O'Brien submitted written testimony for the record.

Dennis Brutke commended Commissioner Lewis for her position on private property rights and accepting what neighbors do on their own property. He stated that the original land use laws included

compensation to property owners for reduced property value due to land use regulations.

Marna Porath requested that the Board hold public hearings for proposed waivers in order to promote the greatest good for the greatest number of people, promote peace by giving everyone a voice, and take into consideration the personal freedom of those harmed by granting the waiver.

John Englebrecht stated that the wording in Section 5 should be reversed to require public hearings or public comment unless the majority of the Board votes otherwise.

Emily Gladhart discussed potential negative impacts of waivers on the agricultural and tourism industries and stated that notice needs to be given and input accepted from the public in order to consider these impacts in the application process.

Dahe Good addressed the issue of estimating compensation, urging the Board to consider property value gained by keeping a regulation in place, not just value lost. She stated that public notice and hearings should be a part of the process for both compensation and waivers because of the impact on county taxpayers as well as individuals. She stated that a public hearing should have been held and more notice given regarding the implementation of this ordinance.

Donnald Alexander expressed his support of Sid Friedman's written statement and urged the Board to include a public hearings requirement in the ordinance.

James Parker stated that a process which doesn't involve the public would invite a backlash and lead to a rash of possible civil hearings between neighbors.

Eric Lemelson also requested that public hearings be held for Measure 37 waivers. As a business owner in the winegrowers industry, he shared concerns about potential aquifer depletion as a result of new subdivisions in the hills and stated that he would like to have the opportunity up front to get his concerns on record.

Renee Callanan expressed her support of Commissioner Lewis' statement regarding private property rights. She stated that public hearings are not necessary for waivers and that county tax revenue would be increased by allowing property owners to build on little pieces of land.

Vicki Hehr stated that although not all rezoning is necessarily bad, the public deserves to have their voice heard. She asked the Board to remember that the best interest of many neighbors may outweigh one supposed victim.

Frances O'Brien discussed the need to compare the loss of neighboring property values to that of the claimant before granting waivers.

Deliberation - After some discussion with John Gray regarding whether or not the Planning Director should have the authority to issue claim denials, Ms. George stated that the Board needs to take responsibility for making all decisions.

Ms. Lewis stated that since the majority of claims will probably be for single family dwellings, it makes sense to default to having no public hearing unless voted for by a majority of the Board. Ms. George agreed, stating that other than public nuisances, which are already prohibited in Measure 37, property owners should not be automatically put through a public hearing in order to exercise their property rights.

Ms. Stern disagreed, stating that she would prefer to have a public hearing unless voted against by a majority of the Board. She stated that the loss of value to neighboring property needs to be considered by the Board.

Ms. George discussed the issue of requiring appraisals in order to determine compensation, and stated that claimants should not be submitted to the cost of an appraisal if the county plans to waive the regulation rather than pay compensation. Mr. Gray stated that the standard of proof will vary for different applications, at the discretion of the Planning Director, and if the Board is not satisfied with the evidence, it can ask for more at a public hearing. Mr. Brandt added that he believes the ordinance is clear as written.

Following further discussion and directions from the Board for minor wording changes to be made to the ordinance, the matter was continued to September 2, 2004 at 10:00 a.m. in Room 32.

**F. ANNOUNCEMENTS:**

1. The following positions are open to the public. Contact the Commissioners' Office for applications.
  - a. Commission on Children and Families, two positions;
  - b. Parks Board, one position;
  - c. Food Service Advisory Committee, six positions in various categories;
  - d. Housing Authority Board, one position, accepting applications through November 30, 2004.

Adjourn: 12:00 p.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