

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 December 2, 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; John Krawczyk, Director of Administrative Services; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; David Bates, News-Register; Todd Sadlo, 1532 SE 36th Avenue, Portland; John Englebrecht, 1266 NW Augusta Drive, McMinnville; and Renee Callanan, 14316 Gopher Valley Road, Sheridan.

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. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket PAZ-02-04, Grand Island sand and gravel operation, applicant Joe Bernert Towing, as continued from November 30, 2004 at the point of deliberation. *[Tentatively approved, findings to be adopted December 16, 2004.]*

Commissioner George opened the public hearing.

Ken Friday reviewed changes made by the applicants to the wording of Conditions #5 and #15, regarding the limitation of average truck trips per day and the obligation to pay a fair share of any future bridge study. He stated that the wording is greatly improved and he commended the applicants for their efforts.

Commissioner George closed the public hearing.

Deliberation - Ms. Lewis expressed her appreciation to the applicants for the changes to the two conditions and for their willingness to contribute to a future bridge study if necessary. She stated that this application is one of the most complete the Board has seen in terms of what will be done on-site during processing and reclamation. She stated that the applicants have met the required burden of proof.

Ms. Lewis moved tentative approval of Docket PAZ-02-04, comprehensive plan amendment,

zone change, and related land use applications for a sand and gravel operation on Grand Island, including the placement of the site on the Goal 5 inventory list.

Ms. Stern commended the applicants for their efforts in making this such a neighbor-friendly and earth-friendly application. She stated that water concerns are more easily mitigated in this case than with previous quarry applications, and that the applicants' willingness to work on the roads and contribute to future studies has alleviated her transportation concerns.

She expressed concern about the new Goal 5 process, stating that higher protection should be given to class 1 and class 2 soils and that the Board should be allowed to consider the overall impact of quarry operations on the county. She stated that although she will support this application, she will work to change Goal 5 to become more fair to the agricultural industry.

Ms. George thanked the applicants for their efforts to involve the community on a continuing basis. She stated that the applicants have met all requirements and she looks forward to this being a significant asset to the community in the future.

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

C. **AGENDA:**

1. **B. O. 04-827** - Consideration of adoption of Measure 37 claims processing Ordinance 749.

John Englebrecht reiterated his concerns about allowing public hearings only if voted for by a majority of the Board. He stated that this sets a bad precedent and sends the message that citizens can only be involved in county government with the Board's permission.

Ms. George stated that this is not a county government issue, but is simply granting personal property rights in accordance with the law as passed by citizens. She noted that public hearings are not required for other lawful uses of private property.

The Board discussed the wording of Section 5 (1) and directed John Gray to delete the second portion of the first sentence. Ms. Lewis also noted a change to be made on the first page regarding her presence at this meeting.

Mr. Gray provided the first and second readings of Ordinance 749 by title only, declaring an emergency. Ms. Lewis moved approval of Ordinance 749, Draft #5 with the two modifications mentioned above.

Ms. Stern stated that she supports Oregonians' private property rights, but she is extremely concerned about the lack of public process in this matter because the Board needs to give every affected taxpayer the opportunity to be heard. She said she is reluctantly supporting this ordinance because of the need to have the procedures in place today in order to prevent increased county liability.

Ms. Lewis stated that with controversial applications, the Board would certainly vote to

accept public input. She stated that since most Measure 37 inquiries have been regarding single family dwellings, she doesn't want to put people through the ordeal of a public hearing, which is an adversarial process between neighbors. She suggested that the Board take this opportunity to develop a less adversarial, more constructive approach, such as facilitative meetings between the property owner and neighbors, mediation, or alternative dispute resolution.

Ms. George voiced her disapproval of scare tactics intended to alarm the public over what are already allowed uses. She said that by voting for Measure 37, the public was trying to bring fairness to the laws. She commended staff for helping to create a streamlined, user-friendly ordinance.

Ms. Stern agreed that this ordinance is probably one of the easiest in the state and is a very good ordinance except for the issue of public hearings. Ms. Lewis thanked Mr. Gray for all his work in trying to balance the diverse interests of the Board and staff.

The motion passed, Commissioners George, Stern, and Lewis voting aye. Mr. Gray noted that the ordinance will go into effect today once it has been signed and filed in the Clerk's Office.

2. **B. O. 04-828** - Consideration of approval of a \$250 processing fee for Measure 37 claims, granting discretion to the Planning Director to apply up to 50% of the fee to future land use applications by the claimant related to approval of the Measure 37 claim.

Ms. Lewis stated that after reviewing the processing time required of Planning staff, she has concerns that \$250 may be higher than necessary. She suggested applying a portion of the fee towards the claimant's future land use applications relating to the Measure 37 claim, if any. Mr. Brandt agreed that the idea makes sense, depending on how much staff time is needed in each case.

Ms. George stated that \$250 seems adequate and she is in favor of Ms. Lewis' suggestion. Ms. Stern stated that she is not in favor of setting punitive fees in reaction to Measure 37, but she wants to make sure the Planning Department has the fees they need to operate.

Ms. George moved approval of a \$250 processing fee for Measure 37 claims, granting discretion to the Planning Director to apply up to 50% of the fee to future land use applications by the claimant related to approval of the Measure 37 claim. The motion passed, Commissioners George, Stern, and Lewis voting aye.

Ms. Lewis stated that during the last two budget sessions, general fund dollars have been taken from Planning, which is disturbing because the Planning Department puts in staff time for many things which affect the entire public rather than a single applicant. She said that it is not right for those costs to be absorbed by Planning fees. She suggested contributing some funds to Planning now to hire extra staffing help, and discussing workload and staffing needs during the next budget cycle. Commissioners George and Stern agreed.

John Krawczyk asked Mr. Brandt to provide a cost estimate for an Associate Planner or Assistant Planner for the balance of the fiscal year. He said he would present some

recommendations for funding at informal session next week.

Adjourn: 11:14 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS