

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/informal session on December 13, 2012, at 10:00 a.m. in Room 32 of the Courthouse, Commissioners Leslie Lewis and Kathy George being present and Commissioner Mary P. Stern being excused.

Also present were Laura Tschabold, County Administrator; Chuck Vesper, Deputy County Administrator; Rick Sanai, County Counsel; Pat Anderson, Human Resources; Mike Brandt, Planning Director; Stephanie Armstrong, Associate Planner; Kim Aldrich, Sanitarian; Nicole Montesano, News-Register; Tyler Franck, Newberg Graphic; and others as listed on the attached attendance roll.

Commissioner Lewis called the meeting to order at 10:00 a.m.

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:**

Minutes

1. Consideration of approval of the following minutes:
  - a. **B. O. 12-681** - October 1, 2012, informal session;
  - b. **B. O. 12-682** - October 4, 2012, formal session;
  - c. **B. O. 12-683** - November 19, 2012, formal/informal session.

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

Personnel

2. **B. O. 12-684** - Consideration of the employment of Tammy Story as Accounting Clerk 2 in Central Accounting, regular full-time, Range 10, Step 3, effective December 17, 2012.

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

3. **B. O. 12-685** - Consideration of the employment of Claudia Rubio as Bilingual Clerical Relief in Health & Human Services, temporary part-time, \$11.26/hour, effective December 17,

2012, through June 30, 2013.

Ms. George moved approval of item B(3). The motion passed, Commissioners Lewis and George voting aye.

Contracts/Grants

4. **B. O. 12-686** - Consideration of approval of Service Element Prior Authorization (SEPA) Approval Unit #666056 for the 2011-13 Financial Assistance Agreement #134297 between HHS and Oregon Department of Human Services, -\$13,941.

Ms. George moved approval of item B(4). The motion passed, Commissioners Lewis and George voting aye.

5. **B. O. 12-687** - Consideration of approval of a professional services agreement between HHS Chemical Dependency and Herbert & Louis, LLC, provider, for external evaluation services required by the SAMHSA High-Risk Adult Court Enhancement Grant, \$46,105/year for three years, retroactive to October 1, 2012, through September 30, 2015.

Ms. George moved approval of item B(5). The motion passed, Commissioners Lewis and George voting aye.

6. **B. O. 12-688** - Consideration of approval of Amendment #1 to Agreement #BJ/DC-2011-Yamhill CoHHS-00009 between HHS Chemical Dependency and Oregon Criminal Justice Commission for renewal of the Byrne/JAG Family Drug Court Grant, \$51,787, retroactive to October 1, 2012, through June 30, 2013.

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

7. Consideration of authorizing HHS Public Health to apply for the following grants from Oregon Health Authority:

- a. **B. O. 12-689** - Accreditation readiness activities, \$10,000;
- b. **B. O. 12-690** - One AmeriCorps VISTA position to continue work around healthy communities and employee wellness throughout the county for one year.

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

Vehicles/Surplus

8. **B. O. 12-691** - Consideration of authorizing the purchase of two new 2013 Chevrolet Silverado 4x4 pickups from Hubbard Chevrolet for Public Works, \$27,227 each, and declaring Units 98-14 and 99-7 as surplus county property to be sold on e-Bay to the highest bidder.

Ms. Lewis moved approval of item B(8). The motion passed, Commissioners Lewis and George voting aye.

Refunds

9. **B. O. 12-692** - Consideration of approval of a \$1716 refund from the Planning Department to Kirti Mohapatra.

Ms. George moved approval of item B(9). The motion passed, Commissioners Lewis and George voting aye.

C. **OLD BUSINESS:**

1. **B. O. 12-693** - Consideration of adoption of findings in support of the legalization of a portion of Olive Street in Yamhill, as tentatively approved December 6, 2012.

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

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

1. **B. O. 12-694** - Consideration of authorizing a notice of intent to award a contract to Meng-Hannan Construction Co., Inc., for the Yamhill County Public Works Refueling Station Renovation, \$119,328.

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

2. **B. O. 12-695** - Consideration of approval of an agreement between Yamhill County and RSS Architecture, P.C., provider, for professional design consulting services related to energy efficiency, safety, and maintenance projects, \$51,400 for basic services.

Chuck Vesper stated that this includes five separate capital improvement projects, four of which are included in this year's budget and one that is anticipated for the next fiscal year. Ms. Lewis moved approval of item D(2). The motion passed, Commissioners Lewis and George voting aye.

3. **B. O. 12-696** - Consideration of authorizing a TE & OBPAC grant application and letter of support to Oregon Department of Transportation for the Yamhelas Westsider Trail Project, \$2,189,400.

Ms. Lewis provided background information and moved approval of item D(3). The motion passed, Commissioners Lewis and George voting aye.

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket C-12-12(SA), request for a home occupation conditional use approval for a pregnancy and birth retreat center, applicant Jennifer Gallardo, appellants John & Sandra Crosland. *[Continued to December 20, at the point of Staff Recommendation.]*

Ms. Lewis opened the public hearing, noting for the record that she and Commissioner George had taken a site visit the previous day. 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 - Stephanie Armstrong described the subject property and surrounding zoning, the request for conditional use approval, and the approval criteria.

Proponents - Jennifer Gallardo stated that it is not her intention to have a busy birthing center on her property, like the two other centers she has in Tualatin and Portland. She explained that she just needs something closer to home and envisions only one or two births per month, with a minimal footprint, although if the need grew, she would consider moving the center to a more commercial area. She stated that she only serves low-risk clients without diseases. She discussed the average blood loss, water use, and traffic, stating that they are much less than what is already generated in the area from other uses. She said that the proposal fits in a rural setting, and birthing centers have been approved in other rural areas. She discussed operational details, including procedures for safely handling biological material. She stated that she has been licensed in Oregon since 1998 and can provide statistics for the past couple of years, and could request copies of inspection reports from the state.

Patricia Couch stated that she is a midwife and former resident of Hidden Springs Road, and doesn't believe that the proposal would have a significant impact on the neighborhood. She said that Ms. Gallardo is widely respected in the field and is a successful business owner, a humanitarian, and a great parent. She shared her experience working at a rural birth center in Hopewell for four years and stated that midwives make the choice early to transport clients to the hospital if issues arise, so the outcomes are good. She discussed the use of cleaning chemicals and said that the Hopewell center has never had a problem from them. She said that while some women choose to give birth in their own home, some health insurance plans will cover only births at a hospital or birthing center.

Opponents - John and Sandy Crosland expressed concern about the county's ability to enforce the conditions of approval. They stated that their primary concern is the Gallardos' septic system, which was not designed to accommodate a birthing center in addition to regular family use. They said that any overflow would drain through their property, and they are concerned about contamination of their well and property. Ms. Crosland stated that she doesn't want to live next to a commercial business, and she questions whether Ms. Gallardo's desire offsets her family's need to maintain their lifestyle.

Phil Brock stated that the Gallardos are proposing a 24/7 retail operation with clients coming to them, and there is no way to enforce the limit of 24 births per year. He said that if blood flushed into the aquifer were harmless, there would be no reason for biohazard regulations. He expressed concern about the safety of clients and said that he opposes the idea of a high-risk medical facility in a rural area. He added that it would also devalue his property.

Joe Eubanks stated that during the applicants' building permitting process, a letter from the county's code enforcement officer stated that the building was only to be used for personal home use, and he doesn't believe the permit would have been approved if the request had been

for a home occupation rather than a home office. He said that the previous issue with septic effluent on his property has been settled in court and he harbors no ill will, but it has given him insight into how the applicants handle business issues. He expressed concern about the potential for traffic noise and congestion in the area. He noted that Ms. Gallardo may be in jeopardy of losing her midwifery license, and without a license and inspections, there would be less oversight of the business.

Connie Kaiser expressed concerns about the impact of increased traffic on the safety of her children and her ability to safely ride horses on the road. Ms. George stated that she had noticed a lot of new houses in the area, which brings increased traffic, and asked residents to share any suggestions they may have for signage that could improve traffic safety in the area.

Scott Winter expressed concerns about potential contamination of the aquifer that serves his house, and said that he supports the county's sanitarian having oversight of the septic design process. He questioned the economic viability of a birthing center that only has two births per month, and said that he hopes the county would give due diligence to enforcing that limit and not leave it up to the neighbors to govern. Ms. Lewis said that the county could include a condition requiring Ms. Gallardo to submit statistics to the county as well as to the state. Ms. Gallardo added that birth certificates are another way to monitor the number of births.

Matt Moriarty stated that he shares the concerns of the neighbors who signed the letter submitted to the county. He specifically discussed traffic concerns and the safety of small children in the area. He expressed interest in speed bumps. Ms. Lewis stated that the projected traffic increase would be very minimal, so it is not considered beyond the level of normal traffic. She explained that the county's policy is to not put speed bumps on county roads because they would interfere with plowing. Ms. George added that they would also create a safety issue for emergency vehicles.

Janis Timlick reviewed traffic signage in the area, noting that on the S-curve, only one turn has a chevron posted, and only in one direction. She stated that her main concern is the risk of water contamination from medical waste, since she lives downhill from the subject property, as well as the potential impacts on water quality and quantity. She said that most of the proposed conditions of approval seem to be unenforceable. She said that she isn't opposed to home businesses or midwives, but this kind of business would be better suited in a location connected to city water and sewer, where there would be less risk of contamination. She added that there is a disciplinary action currently in process against Ms. Gallardo, so her license is in jeopardy. Ms. George stated that water is regulated by Water Resources, not the county, but the county would definitely look at safety and contamination issues. Ms. Lewis pointed out a proposed condition of approval related to water rights.

Public Agency Reports - Ms. Armstrong reviewed reports in the record from Public Works, Newberg Fire Department, Public Health, and the County Sanitarian. She distributed copies of the sanitarian's letter to audience members. She noted that no response had been received from Oregon Health Licensing Agency, which would be the licensing agency for this business.

Kim Aldrich, County Sanitarian, explained that all septic systems eventually fail, which is why the Department of Environmental Quality (DEQ) requires an additional repair area. She said that when the applicant's system failed in 2009, the new drainfield was sized for a large residential system, not for commercial use. She stated that she cannot make a determination about the appropriate size for a birthing center until she gets the scientific data, and she is less concerned about the impact of biological fluids in the system than about potential chemical reactions in the microbes from whatever cleaning chemicals are used. She explained that microbes in the soil break down organic matter, making it very unlikely that medical waste in the drainfield would get all the way down into the nearby wells.

She suggested that the applicants stop putting fill on the south end of the property for raised beds, or it would eventually be unusable for a potential drainfield. She recommended that grass be planted there for the maximum life of the septic system. She cautioned that heavy watering over the drainfield could decrease the life of the system.

Ms. Lewis stated that Ms. Gallardo would not be able to start operating her business on the property until she gets the required permits, and to get the septic permit she would need to hire a consultant and follow the steps outlined by Ms. Aldrich. Ms. Aldrich stated that if she denies the septic permit because the requirements cannot be met, Ms. Gallardo could seek a Water Pollution Control Facilities (WPCF) permit from DEQ by having a consultant design a modified system that would work for her.

Rebuttal - Ms. Gallardo stated that this would not be a high-risk medical facility because she only does low-risk births. She said that she hopes to make her home more attractive, which would raise surrounding property values, and she wants to limit the number of births to two per month because this is primarily her family's home. She explained that the new, deeper well was dug to get clean water instead of the rusty water they had been getting from the previous well.

She stated that a legislative bill is going forward to require licensing for midwives in Oregon, and she is confident that it will pass. She explained that about 25 of the 60 midwives in Oregon have had complaints turned in against them, most from hospitals or groups pushing for licensing in Oregon, and the complaints are politically motivated. She said that she has an appeal hearing scheduled for her complaint and expects to keep her license, but if she ends up being penalized by losing her license for a year, she would not perform births during that year. She stated that she has been a midwife since 1994 and sees it as her calling and career.

Ms. Gallardo stated that the office building was there when she purchased the property, and she just applied to increase the office size. Ms. Couch stated that Ms. Gallardo wasn't initially planning to do a birthing center there, but the idea was sparked when the office turned out so nicely. Ms. Couch said that more speed limit signs in the area would be helpful. She stated that midwives have an average transport rate of about 10%, and most of those happen by car.

Ms. Lewis stated that the Board would talk to Public Works about getting more speed limit signs and chevrons installed, and would talk to the Sheriff's Office about doing some patrols in the area.





BOARD OF COUNTY COMMISSIONERS

Attendance Roll for meeting records

Meeting: Informal \_\_\_\_\_ Formal  Work Session \_\_\_\_\_ Date 12/13/12

PLEASE PRINT  
Name

PLEASE PRINT  
Complete Address

PLEASE PRINT  
Subject

Kim Eubanks 21905 NE Hidden Springs 97115 Birth Ctr.

JOE EUBANKS // //

Phil Brock 11011 NE Paven Springs Rd 97115 Birth Ctr.

Sandra Crossland 21875 Hidden Springs Birth Ctr.

Zoe Brock 11011 NE Paven Springs Rd 97115 Birth Ctr.

JERRY CROSSLAND 21875 HIDDEN SPRINGS BIRTH CENTER

Connie Kaiser 11011 NE Paven Sp. Rd Birth Center

Scott Winter 22430 NE Hidden Spgs Rd 97115 Birth Ctr.

Matt Monty 22350 NE Hidden Springs Rd 97115 Birth Ctr.

Patricia Couch 408 S Center St Newberg Birth Ctr.

Jennifer Gallardo 21865 Hidden Springs Dando BC

Jernand Gallardo 21865 Hidden Springs Dando P-C

Javis Timlock 10990 NE Paven Springs Rd Birth Center