

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, OREGON (“the Board”) sat for the transaction of County business in formal /informal session on February 13, 2014 at 10:00 a.m. in Room 32 of the courthouse, Commissioners Allen Springer and Kathy George being present; Commissioner Mary P. Stern being excused.

Also present were Laura Tschabold, County Administrator; Todd Sadlo, Assistant County Counsel; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Bill Gille, County Engineer; Catherine Wright, Attorney, Post Office Box 625, McMinnville; J. Scott and Melody Gibson, P O Box 821, McMinnville; Steve Morasch, Attorney, 1211 SW Fifth Avenue, Ste 1600, Portland, OR 97204; and interested parties as listed on the attached attendance record.

Commissioner Springer called the meeting to order.

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. No comment was offered.

B. **AGENDA:**

Personnel

1. **B.O. 14-77** - Approval of the employment of Camille Tanaka as Senior Accounting Clerk, HHS Administration, Range 12, Step 1, effective February 24, 2014.
2. **B.O. 14-78** - Approval of the employment of Laura Ingram as part-time, on-call Juvenile Corrections Technician, .2 FTE, Range 12, Step 1, \$14.90/hr, retroactive to January 24, 2014.
3. **B.O. 14-79** - Approval of the employment of Maira Lopez and Michelle Martinez as temporary part-time on-call HHS Clerical Relief workers, Range 7, step 1, \$11.73/hour plus \$.30/hour bilingual adjustment.
4. **B.O. 14-80** - Approval of the employment of Cherie Young as Human Services Technician in Community Support Services, regular part-time, 19/hour/week, Range 11, Step 1, \$14.16/hr., effective February 24, 2014.

5. **B. O. 14-81** - Ratification of the emergency employment of Adam Kurtz and Harold McAllister as extra help to assist Public Works during the snow event, \$25/hour, effective February 7 through February 28, 2014.

Commissioner George moved approval of personnel action requests 1 through 5 above. The motion to approve carried, Commissioners Springer and George voting aye.

Grant

6. **B. O. 14-82** - Authorization of the HHS Public Health Program to apply for \$30,000 in funds under the State Homeland Security Grant, as a pass-through grant to Willamette Valley Medical Center (“WVMC”) for the purchase of supplies and equipment for the purpose of citizen emergency preparedness.

Ms. Tschabold stated that the \$30,000 are left-over funds from a previous grant, out of the usual cycle, and that although the request does not require the usual process of prioritization, WVMC will be unable to apply for the funds without government sponsorship.

Commissioner George moved approval of the application as listed above. The motion carried, Commissioners Springer and George voting aye.

C. **OLD BUSINESS:**

B.O. 14-83 - Adoption of Ordinance 887 in support of Planning Docket PAZ-02-13 (KF/MB), a request by Riverbend Landfill to rezone property from RC Recreational Commercial and PWS Public Works/Safety to EF-80 Exclusive Farm Use, as continued from January 16, 2014.

Mike Brandt stated that this request was tentatively approved on January 16th and that in the interim since then, he met individually with Commissioners Springer and George to develop the more stringent conditions of approval that each had requested. Mr. Brandt reviewed proposed Conditions 6 and 7 for Ordinance 887. Mr. Brandt confirmed that the Board has the authority to close the landfill if the conditions in the ordinance are not met.

Mr. Sadlo provided the first & second readings of the Ordinance by title only.

Commissioner George moved to approve adoption of Ordinance 887. The motion to adopt Ordinance 887 carried, Commissioners Springer and George voting aye.

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

1. **B. O. 14-84** - Approval of a contract between Public Works and Baker Rock Resources for the 2014 Worden Hill Road Paving Project, in the amount of \$294,986.00, effective February 13, 2014, as initially authorized by the notice of intent to award adopted January 30, 2014, Board Order 14-49.

Commissioner George moved approval of the contract as presented. The motion carried, Commissioners Springer and George voting aye.

2. **B. O. 14-85** - Adoption of Resolution 14-2-13-1, initiating the vacation of a portion of Bayou Drive near McMinnville, Oregon; and scheduling a public hearing for March 27, 2014 at 10:00 a.m. in Room 32 of the courthouse.

Bill Gille presented a survey, legal description, maps and aerial photos and stated that the proposed action will be a two-part process: first, to vacate a portion of Bayou Drive and second, to dedicate appropriate right-of-way to replace the vacated portion. He stated these actions are the result of negotiation done by Commissioner Springer in discussions with residents and a business owner along Bayou Drive. Mr. Gille recommended scheduling the hearing at least six weeks ahead to allow time to provide adequate notice both by letter and publication to the property owners along Bayou Drive.

Commissioner George moved to schedule a public hearing for March 27, 2014, at 10:00 a.m. in Room 32 of the courthouse. The motion carried, Commissioners Springer and George voting aye.

3. **B. O. 14-86** - Discussion of medical marijuana dispensaries (initial discussion and comment received at the public hearing on February 6, 2014).

Following discussion, Commissioner George moved to direct County Counsel to draft an ordinance banning medical marijuana dispensaries in the unincorporated areas of Yamhill County for a period of one year from the date of ordinance adoption. The motion carried, Commissioners Springer and George voting aye.

E. **PUBLIC HEARINGS:**

Consideration of Planning Docket C-09-13 (KF), a request for a conditional use approval for a seven-bedroom bed and breakfast, denied by the Planning Commission; appealed to the Board by applicants Scott and Melody Gibson. *[Continued to March 13, 2014, in Room 32 of the courthouse at the point of Staff Recommendation; record left open until 5:00 p.m. on February 20, 2014 for submission of written testimony by any party; until 5:00 p.m. on February 27, 2014 for submission of written rebuttal by any party; and until 5:00 p.m. on March 6, 2014 for submission of written rebuttal by the applicant.]*

Commissioner Springer opened the public hearing. There were no abstentions or objections to jurisdiction.

Mr. Sadlo read the land use statement regarding the requirement that parties must raise all issues at the public hearing or waive their right to raise the issues on appeal.

Staff Report - Ken Friday described the parcel and stated that it currently contains a single family dwelling and barn, is zoned EF-40, and is located in the Eola Hills Groundwater Limited

Area. Mr. Friday stated the Planning Commission reviewed the docket on October 13, 2013 and voted 7:1 to deny.

Proponents - Catherine Wright, attorney representing Scott & Melody Gibson, stated that the application is simply for approval of a B&B, with no additional events included in the request. She stated that the focus for the Board is to consider the conditional use criteria and whether there might be substantial impact on surrounding property. She stated the B&B will not cause substantial impact nor will there be activities that will cause significant change or cost increases for farming practices or for property owners.

Ms. Wright stated that while Mr. Leppin's farm to the east does have a long-standing erosion problem, the problem is not of the proponent's making, and B&B activities will not significantly impact the on-going erosion. She stated there has been conflicting testimony regarding the level of traffic that would be generated by a B&B, with some testimony offered to compare the B&B traffic to that of motels and hotels, which is neither an accurate nor appropriate comparison for a B&B. She stated that very little noise is generated by activities at a B&B, certainly nothing that would impact surrounding farms, or which would even compare with the noise generated by accepted farming practices. Regarding fire concerns, Ms. Wright stated there will be no outdoor burning permitted on the property.

Ms. Wright stated that water regulation is a State function and the applicant must demonstrate compliance with State regulations. She referenced an email submitted by the State Water Resources Board which indicated no adverse effects.

Scott Gibson stated that a water meter will be installed so that usage by the B&B will be completely transparent. He stated he has a strong commitment to keeping water usage low, and the building plans include high conservation standards for plumbing and waterheads. He stated the extravagant water consumption predicted by the hydrologist's report is inaccurate. He stated that following consultation with the watermaster, the consumption has stayed well under 5000 gallons per day.

Mr. Gibson stated that a B&B is a reasonable use of the land, particularly given the fact that Amity is the only winegrowing community in the County with no lodging in the area and a B&B would be of economic value to local businesses.

Mr. Gibson stated that his family had hosted weddings on the property for family and friends in the past, but steps have been taken to insure that the level of noise from family events will no longer bother the neighbors. He stated there will be no outdoor amplified music and no commercial events will be held. Mr. Gibson stated that the upper road driveway proposed for the B&B is along a border between two neighbors and will likely generate only 14 round trips a day even at peak occupancy which will not be year-round.

Chuck Gregory located the site on a map and stated that he visited the site after several days of rain to assess the drainage onto Mr. Leppin's property. He stated the majority of the runoff does

not generate from the Gibson property and the B&B will be located outside of the primary drainage basin which is more to the south and west. He stated Mr. Gibson's property is a pass-through for a 69-acre drainage and that the existing culverts are inadequate for the amount of water draining through.

Phil Olson stated that he lives on a bordering farm and has never been disturbed by noise from the Gibson property. He stated that a neighbor's previous clear-cut activities on a full stand of timber from property to the east has been a primary cause of runoff.

Geoffrey Crowther stated he lives less than a mile to the north and farms a vineyard in the area. He stated he believes it will be very beneficial to have an additional B&B in the area, that a B&B has less impact on neighbors than if the land were farmed, and that the proposal is a great idea for agritourism.

David Beck stated he owns a vineyard to the east of Amity and that wine tourism is a key component of economic activity in the area. He stated that in the south county there are fewer than 10-12 rooms available for visitors, and that a B&B is the best solution for providing more rooms with negligible disruption for vineyards. He stated the AVA at a recent meeting agreed to support the proposal, believing it will increase familiarity with the local vineyards to the benefit of the wineries, and will be a significant boon to the area.

Opponents - Steve Morasch, attorney, referenced his written submittal already in the record. He stated the Planning Commission, after giving careful consideration to the proposal, voted 7:1 to deny. He stated there has been a lack of expert testimony, particularly regarding traffic impact. He stated the size of the proposed B&B is out of scale for a home occupation and that the proponent should have to build a home and actually establish residency before applying for a home occupation. He stated that the application as submitted inverts the land use process.

Mr. Morasch stated that water shortage is a continuing problem in the area and although the County may not regulate construction of wells, the statute does not prohibit the County from regulating water uses. He stated the proposal includes big plans for dramatic landscaping with beautiful outdoor areas that will require a substantial impact on water use, and are not appropriate to a home occupation.

Lana Drew stated she has lived in the area for 19 years and does not object to use of the land for agriculture; however, this proposal is for a hotel-type business rather than a winery or a functioning farm. She stated that although she does not want to squelch another person's dreams for his property, this proposal is not appropriate for the area. She stated there is already a great deal of vehicle and bike traffic in the summer on the narrow road and increasing the amount will be a significant problem.

Robert Long stated that he is a geologist for the State of Oregon and has considered the groundwater impact in the area and submitted written testimony for the record. He stated that additional groundwater use in the area will affect all residents.

Fee Stubblefield stated he has lived in the area since 1999 and at one time had experienced two weeks with a dry well before running a water line for ½ mile from the City of Amity. He stated he agrees there is need for more rooms, but if conditional use permits for B&Bs are allowed, interest in siting hotels in appropriate zones will diminish.

Garold Leppin stated that his property will be the most extensively affected with a loss of crops and loss of soil. He stated that soil is very shallow toward the edge of his farm that abuts the Gibson property. He stated his property contains pioneer-dedicated springs that must be protected. He stated he is very careful with sprays used for his crops; nevertheless, a B&B is not compatible with farm uses.

Thomas Scheble (sp) stated that he lives on property located directly south of the Gibson property. He read a prepared statement which is also in the record. He stated that the Board should deny a home occupation for property on which there is no home.

Gayle Wendell stated she lives above the Gibson property and the B&B will be built directly below her house. She referenced two newspapers articles regarding the water issues in the Eola Hills area. She stated that traffic estimates must also include B&B employees who will travel to and from the property daily.

Paul Leppin identified tile lines that dump water onto the Leppin farm and stated that current runoff has been a severe detriment to crops and must not be allowed to continue. He stated there is no possible way to adequately inspect the culverts because they are covered by brush and bushes. He stated the blacktop road built by the Gibsons has placed a scar on the land.

Craig Wilson stated his home abuts the access road to the B&B and from a livability perspective, the traffic will be a regular disruption to rural living. He stated he has invested substantial expense in sump systems on his property to resolve water issues. He stated that the existing zoning restrictions were in place when the Gibsons purchased the property and that to allow a small hotel to be built will negatively affect the investments other owners have made on their properties.

Bill Cottrell stated that his day-to-day vineyard operation requires driving farm equipment on Eola Hills Road and that access to the B&B from the upper portion of the road will affect the safe movement of his farm equipment. He stated it is true that the vineyard AVA members are happy to have more and more people visit the area; however, the primary concern today should be that the property is EF-40 and the Gibsons are not farming. He stated that if the zoning regulations do not allow a home occupation in the EF zone without farming, then the Board should not approve the B&B.

Reed Prince stated that when he moved to the area in 2006, there was a spring south of the well and in front of his mailbox, but last year there was no water in the spring. He stated the Gibsons' website obviously appears to include plans for future events. He stated today's hearing should be about issuing a 'cease and desist' order, as the property has never been farmed. He stated

that wildfire is also an issue to be considered.

Rebuttal - Ms. Wright stated that the focus of the conditional use criteria is the impact on farm use. She stated the erosion problem already existed and is not a problem the Gibsons have made. She stated the water concerns are a State issue, not County, and that the scale of this proposal is not huge.

Mr. Gibson stated that no events have been planned for this summer and commercial events will not be a part of the B&B. He stated a plan has been developed for very careful monitoring of water use. He stated eight local B&Bs had been polled to ascertain the traffic volumes experienced by those businesses, and he believes the estimates are accurate. He stated that when the B&B is built, it will not be visible to others, it won't create noise, and is certainly not a hotel or out of scale for a home occupation. He stated that he does plan to build a private residence with a pond and gazebo for personal enjoyment, and any family events hosted will be conducted with great care so as not to disturb neighbors.

Public Agency Reports - Mr. Friday stated that the reports already submitted are included in the packets given to the commissioners, except for Soil & Water Conservation District. He stated the SWCD director apologized for not responding previously and will submit comments in writing.

Commissioner Springer stated he would like the record left open.

Mr. Friday outlined a schedule for the open record period as follows: the hearing will be continued to March 13, 2014, in Room 32 of the courthouse at the point of Staff Recommendation; the record will be left open until 5:00 p.m. on February 20th for submission of written testimony by any party; until 5:00 p.m. on February 27th for submission of written rebuttal by any party; and until 5:00 p.m. on March 6th for submission of written rebuttal by the applicant.

Commissioner George moved to accept the schedule as suggested; the motion carried, Commissioners Springer and George voting aye.

The meeting adjourned at 12:20 p.m.

Carol Ann White
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair MARY P. STERN

Commissioner ALLEN SPRINGER

Commissioner KATHY GEORGE