

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 August 12, 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 Rick Sanai, Assistant County Counsel; John Krawczyk, Director of Administrative Services; Steve Mikami, Personnel Officer; Diane Cilenti, Veterans’ Services Officer; Nancy Reed, Treasurer; Dyke Mace, Solid Waste Supervisor; Janet Jones, Prevention Program Coordinator; Donna Libemday, Prevention Staff; Mike Brandt, Planning Director; Linda Lowe, Planning Secretary; David Bates, News-Register; Richard Nunes, 22750 Dayton Avenue, Dundee; Jack & Diane Trenhaile, 17500 SW Oldsville Road, McMinnville; Van & Glenda Keck, 15820 SW Dusty Drive, McMinnville; Jill Gelineau, 1211 SW 5th Avenue, Suite 1600; Sue Buel, 20625 SW Hwy 18, McMinnville; John Rossner, 18930 SW Bellevue Hwy, McMinnville; Alan Sektnan, 351 N. Bridge Street, Dundee; Pat & Cleo Harding, 17676 SW Oldsville Road, McMinnville; Diane Ragsdale, 1119 SW 1st Street, Dundee; Roger Worrall, 146 NW Dogwood, Dundee; Jodi Boundy, 16845 SW Muddy Valley Road, McMinnville; James & Susan Ruggles, 15500 SW Dusty Drive, McMinnville; Edwin Sharer, P.O. Box 506, Newberg; Ken Milleman, 15651 SW Dusty Drive, McMinnville; Randy Swain; Libby Hart; Nell Dochez; Brandon Thompson; Cheryl Anderson; Christina Amato, Sheridan High School; Sophie Libemday and Nicole Sporer, McMinnville High School.

Commissioner George called the meeting to order.

SPECIAL PRESENTATIONS: Recognition of the following students for their volunteer service to the YES Prevention Program:

Christina Amato, Sheridan High School	Haylie Rice, Sheridan High School
Matt Johnson, McMinnville High School	Lacy Smallwood, McMinnville High School
Sophie Libemday, McMinnville High School	Nicole Sporer, McMinnville High School
Sarah McClure, McMinnville High School	

Diane Cilenti and the Grande Ronde tribe presented county employees with medals and certificates in recognition of the military service of family members.

- 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. **CONSENT AGENDA:** Commissioner Lewis moved approval of the consent agenda. The motion passed, Commissioners George, Stern, and Lewis voting aye.

Minutes

1. Approve minutes from the following formal sessions:
 - a. **B. O. 04-519** - May 25, 2005;
 - b. **B. O. 04-520** - June 17, 2004;
 - c. **B. O. 04-521** - June 24, 2004;
 - d. **B. O. 04-522** - June 29, 2004, 9:45 a.m.;

- e. **B. O. 04-523** - June 29, 2004, 11:30 a.m.;
- f. **B. O. 04-524** - July 8, 2004;
- g. **B. O. 04-525** - July 9, 2004;
- h. **B. O. 04-526** - July 15, 2004.

Personnel

- 2. **B. O. 04-527** - Approve the change of status of Roger Krug to renew his temporary part-time position in Environmental Health, retroactive to July 1, 2004 until June 30, 2005.
- 3. **B. O. 04-528** - Approve the change of status of Kevin Dromgoole to renew his temporary part-time position in Adult Mental Health, retroactive to July 10, 2004 until June 30, 2005.
- 4. **B. O. 04-529** - Approve the change of status of Michelle Pardon to renew her temporary part-time position in Developmentally Disabled Division, retroactive to July 1, 2004 until June 30, 2005.
- 5. **B. O. 04-530** - Approve the change of status of Susan Ottele-Pacheco to Office Specialist Technician in the Clerk's Office, Range 12, Step 2, \$2209/month, retroactive to August 9, 2004.
- 6. **B. O. 04-531** - Approve the change of status of Philip Thiel, Extra Help in Community Corrections, temporary full-time, Range 10, Step 1, \$1952/month, effective August 12, 2004 until February 11, 2005.
- 7. **B. O. 04-532** - Ratify the emergency employment of Loren Martin, McMinnville as Extra Help in Juvenile, on-call, Range 12, Step 1, \$12.11/hour, retroactive to August 4, 2004.
- 8. **B. O. 04-533** - Approve the employment of Robert Johnstone, McMinnville as Extra Help in Juvenile, on-call, \$7.05/hour, effective August 12, 2004.
- 9. **B. O. 04-534** - Approve the employment of Dean Seeberger, McMinnville as Corrections Reserve in the Jail, on-call, \$10/hour, retroactive to August 10, 2004.
- 10. **B. O. 04-535** - Approve the employment of Elizabeth Whalon, Roseburg as HS Specialist 1 in Abacus, regular full-time, Range 17, Step 1, \$2767/month, effective August 30, 2004.
- 11. **B. O. 04-536** - Approve the employment of Jeanette Anderson, McMinnville as HS Specialist 2 in Adult Mental Health, regular full-time, Range 20, Step 1, effective August 16, 2004.
- 12. **B. O. 04-537** - Approve the employment of Cecilia Martinez, McMinnville as Office Specialist 2 in the District Attorney's Office, regular full-time, Range 7, Step 2, \$1755/month, retroactive to August 9, 2004.
- 13. **B. O. 04-538** - Approve the change of status of Carmen Garcia to regular full-time in Adult Mental Health, effective August 25, 2004.

Contracts

- 14. **B. O. 04-539** - Approve a Memorandum of Agreement between IS and Marion County for the mutual sharing of GIS data.
- 15. **B. O. 04-540** - Approve an agreement between CCF and LINC'S for Community Progress Team services in Sheridan, up to \$7660, retroactive to July 1, 2004 until June 30, 2005.

16. **B. O. 04-541** - Approve an agreement between the Sheriff's Office and the City of Willamina for police services, retroactive to July 1, 2004 until June 30, 2005.
17. **B. O. 04-542** - Approve Amendment #1 to the 2004-2005 LPHA Financial Assistance Contract #109355 between Public Health and Oregon Department of Human Services.
18. **B. O. 04-543** - Ratify the approval of Amendment C to Contract #184 02 between HHS and Chemeketa Community College for the JOBS program, retroactive to June 30, 2004.
19. **B. O. 04-544** - Approve the amendment of a lease agreement between Adult Mental Health and Housing Authority, retroactive to July 1, 2004 with the exception of unit 2201 NE Lafayette Street #15, which shall be effective September 1, 2004.
20. **B. O. 04-545** - Approve an agreement between the Sheriff's Office and Chuck Colvin Auto Center for the use of one rotating vehicle, \$100/month.

Bids/Proposals

21. **B. O. 04-546** - Approve a proposal from Unisys Leasing Corporation for the lease/purchase of a server upgrade for Assessment and Taxation and Planning permits systems, five-year term, total price \$292,701.
22. **B. O. 04-547** - Accept the low bid from EC Power Systems for the Courthouse Emergency System upgrade and authorize the Chair to execute a contract, contingent upon approval by the Director of Administrative Services.

Committees

23. **B. O. 04-548** - Approve the extension of the Yamhill Transportation Committee until June 30, 2006.
24. **B. O. 04-549** - Approve the appointment of Daniel Bansen to the Board of Review for Agriculture Land Assessment for a two-year term to expire June 30, 2006.
25. **B. O. 04-550** - Approve the appointment of Preston Hill to the Local Public Safety Coordinating Council for a two-year term to expire July 2006.

Refunds

26. **B. O. 04-551** - Approve the refund of \$60 to Curt Hall from the Public Works Department.
27. Approve the following refunds from the Planning Department:
 - a. **B. O. 04-552** - Kenneth Pickelsimer, \$240;
 - b. **B. O. 04-553** - Coyote Homes, \$450;
 - c. **B. O. 04-554** - Albert Reznicek, \$600.

Public Hearing

28. **B. O. 04-555** - Set public hearing, on Board's own motion, to review the Planning Director's approval of docket CTR-33-04, a hardship dwelling renewal, applicant William Bales. The public hearing will be held August 26, 2004 at 10:00 a.m. in Room 32 of the Yamhill County Courthouse.

Tax Foreclosure List

29. **B. O. 04-556** - Designate the Newberg Graphic as the newspaper for publication of the 2004 Yamhill County Tax Foreclosure List.

Letter of Support

30. **B. O. 04-557** - Approve a resolution and letter in support of Tillamook County's opposition of Ballot Measure 34, known as the 50-50 Plan. *[Approval rescinded below - see B.O. 04-566.]*

C. **OLD BUSINESS:**

1. Consideration of adoption of findings in support of Planning Docket PAZ-05-03, a 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 tentatively approved on July 22, 2004. *[Continued to August 19, 2004 at 10:00 a.m.]*

Ms. Lewis stated that Ken Friday has not had time to review new material submitted in this case. She moved to continue adoption of the findings to August 19, 2004. The motion passed, Commissioners George, Stern, and Lewis voting aye.

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

1. **B. O. 04-558** - Consideration of approval of a lease agreement between Yamhill County and Housing Authority for 6054 square feet of office space, authorizing the Chair to execute a contract, contingent upon the approval of County Counsel.

Ms. Stern moved approval of the lease agreement, authorizing the Chair to execute the contract contingent upon the approval of County Counsel. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. Consideration of approval of three personal services contracts between Public Works and OBEC for the engineering of the replacement of the following county bridges, effective August 12, 2004:

- a. **B. O. 04-559** - Moores Valley Road Bridge #11645, not to exceed \$269,720;
- b. **B. O. 04-560** - West Side Road Bridge #11640, not to exceed \$189,500;
- c. **B. O. 04-561** - Lafayette Hwy Bridge #11493, Phase 1, not to exceed \$264,500.

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

3. **B. O. 04-562** - Consideration of ratification of the YCEA agreement. *[Continued to August 19, 2004 at 10:00 a.m., with the immediate implementation of the 3% cost of living increase retroactive to June 25, 2004 and \$250 bonus in the paycheck of August 31, 2004.]*

John Krawczyk stated that because the county payroll technician, who is also the union president, has been busy trying to get the new salary schedules implemented, she hasn't had time to review the final details of the YCEA agreement.

Ms. Stern moved to continue ratification of the agreement to August 19, 2004, with the immediate implementation of the cost of living increase, retroactive to June 25, 2004, and \$250 bonus in the paycheck of August 31, 2004. The motion passed, Commissioners George, Stern, and Lewis voting aye. Ms. Lewis extended her appreciation to YCEA members for taking a hard freeze last year because of the large PERS rate increase.

4. **B. O. 04-563** - Consideration of approval of extending YCEA agreement benefits to non-bargaining employees, with employees at Range 28 or lower receiving a 3% cost of living increase and Range 29 or above receiving a 2% cost of living increase.

Ms. Lewis moved approval of extending YCEA agreement benefits to non-bargaining employees as described above. The motion passed, Commissioners George, Stern, and Lewis voting aye. Ms. Lewis stated that non-bargaining employees also had a hard freeze last year, and she expressed appreciation for employees working under difficult situations.

5. **B. O. 04-564** - Consideration of designating Goodfellow Bros., Inc. as the apparent lowest responsive bidder for the Old Newberg Landfill 2004 Maintenance Project, \$413,000, and authorizing the Chair to execute an agreement for the project, contingent upon approval by the Director of Planning and Development and by County Counsel.

Ms. George moved approval of designating Goodfellow Bros., Inc. as the apparent lowest responsive bidder, and authorizing the Chair to execute an agreement for the project, contingent upon approval by the Director of Planning and Development and by County Counsel. The motion passed, Commissioners George, Stern, and Lewis voting aye.

6. **B. O. 04-565** - Consideration of sponsoring a Transportation Enhancement Grant application to Oregon Department of Transportation for bike/pedestrian and other improvements on Old Sheridan Road.

Ms. Lewis explained that this will be a joint project with the city of McMinnville. She moved that Yamhill County and its Public Works Department sponsor the grant application. The motion passed, Commissioners George, Stern, and Lewis voting aye.

7. **B. O. 04-566** - Consideration of rescinding the Board's approval of item #30 on today's consent agenda, a resolution and letter in support of Tillamook County's opposition of Ballot Measure 34, known as the 50-50 Plan, and tabling the item until next week.

Ms. Stern moved to rescind the Board's earlier approval of item #30 and continue the item to August 19, 2004. The motion passed, Commissioners George, Stern, and Lewis voting aye.

E. PUBLIC HEARINGS:

1. Consideration of Planning Docket SP-01-04, a billboard request, applicant Media Art, Inc. *[Continued to August 19, 2004 at 10:00 a.m. in Room 32 of the Yamhill County Courthouse, at the point of staff recommendation.]*

Mike Brandt suggested that because of the almost identical nature of the two applications, the public hearings for Dockets SP-01-04 and SP-02-04 be combined. He stated that legal counsel agreed that the action would be appropriate.

Ms. George opened both public hearings. There were no abstentions or objections to jurisdiction. Ms. Lewis and Ms. Stern noted that they had driven by both sites prior to the hearing, and Ms. George stated that she is very familiar with both sites.

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.

Ms. Lewis disclosed a brief ex-parte contact, stating that she had received a message from Diane Ragsdale on her county cell phone asking to talk about the billboards. She said she did not return the call, but asked the Planning Department to call and explain the ex-parte rule. Ms. Stern noted that she had received an email about the Hwy 18 billboard application, which she forwarded to the Planning Department.

Staff Report - Mr. Brandt described the dimensions, locations, and surrounding zones and uses of both billboard applications. He stated that both applications were denied by Planning staff on April 29, 2004, and due to scheduling problems and other issues, the public hearings had been delayed until now. He listed the relevant criteria.

Proponents - Jill Gelineau, representing Media Art, Inc., stated that these two cases differ from most land use appeals because of the constitutional issues involved, and can be resolved simply because of the exemption listed in section 1006.100(f) of the county Zoning Ordinance. She stated that approval of the applications would not open the floodgates to other outdoor advertising signs because of required state permits, which are scarce and involve a complicated procedure. She said that interpreting the sign code any other way would open the county to significant legal exposure for violation of constitutional rights.

She stated that the Zoning Ordinance is unconstitutional because its definition of a sign is full of content distinctions, and she read several examples, stating that if challenged in court, the entire ordinance would have to be struck down, leaving no sign code in place to prohibit the issuing of the permits. She offered her services to the county to assist in rewording the ordinance to resolve the constitutional issues.

She briefly addressed the two main objections raised by neighbors: aesthetics and safety. She stated that although many people don't like billboards, the constitution says they have a right to exist, and there is no expert opinion in the record to suggest that billboards distract drivers any more than other signs or objects along the road.

Questions of Proponents - Ms. Gelineau answered questions from several citizens. She stated that there is no law against placing a billboard at an intersection in a no-passing safety zone, and after a permit is obtained, a billboard may be moved to a different location. She said the billboards would be placed within existing county and state highway setbacks and would follow any applicable building codes.

She stated that she is not sure whether both sides of the signs would be illuminated, but the hours of illumination would be 4:30 p.m. to midnight in the winter and 9:00 p.m. to midnight in the summer. She said that negotiations are underway with property owners to remove two large pine trees from the Highway 18 billboard site.

SP-01-04 Opponents - Richard Nunes, Dundee, stated that the proposed site for the billboard is also the proposed area for the east interchange of the Dundee bypass, and he objected to the application based on safety and aesthetic issues.

Diane Ragsdale, Dundee City Council President, stated that considerable hours and ODOT funds have been spent in creating a plan to beautify the city, and the proposed billboard is a direct obstruction to that plan.

Roger Worrall, Mayor of Dundee, read a resolution passed unanimously by City Council on August 2, 2004 opposing the billboard placement. He stated that the height of the billboard exceeds the city building code for single unit housing by 50%, and compared such a large sign to shouting "Fire!" in a public place.

SP-02-04 Opponents - John Rossner, Bellevue Highway, stated that commercial signs don't fit into the surrounding farm-use zoning. He addressed several safety concerns, including the many signs already located at the proposed site and poor highway conditions, and commented that he sees no benefit from the billboard to people in the community and the county. He stated that he is not allowed to stand in the middle of the highway and yell out whatever he wants, and the same goes for signs. He said he was disturbed by earlier comments from the applicant which seemed like blackmail, and stated that common sense needs to

prevail in this case.

Sue Buel, Highway 18, urged the Board to consider the issues raised by Mr. Rossner, stating that Highway 18 is recognized as one of the most dangerous highways in the state, and she knows of no statutes or laws that provide for any agency endangering citizens. She pointed out that the Board's decision will affect citizens traveling through the area as well as local neighbors.

Van and Glenda Keck, Dusty Drive, spoke against the removal of the two pine trees, the negative effect on surrounding property values, and safety hazards. Ms. Keck stated that although this is a community with varied political beliefs, it is firmly united against the billboard application.

Pat and Cleo Harding, Oldsville Road, discussed safety and aesthetic issues, asking the Board to save the 150-year-old pine trees and to prevent what has happened to many intersections in Polk County along the way to the coast. Mr. Harding also mentioned the presence of underground gas tanks on the property.

Jack and Diane Trenhaile, Oldsville Road, urged the Board to protect the lives and property of citizens by denying the application. Ms. Trenhaile stated that the billboard would diminish the beauty of Erratic Rock State Park. She also addressed the free speech issue, stating that the safety of many overrides the free speech and profit of a few, and that such a large, glaring sign would disturb the peace of many rural residents. She wondered about potential liability issues for the county if the billboard were to contribute to a traffic accident.

Jodi Boundy, Muddy Valley Road, stated that her father has been in an accident at the proposed intersection and she is very concerned for the safety of her two teenage children.

James and Susan Ruggles, Dusty Drive, reviewed concerns addressed in their previous letter. Ms. Ruggles said she believes the state would support the safety of citizens over other issues. Mr. Ruggles stated that the two ponderosa pines are part of the largest stand in Yamhill County, and allowing such billboards would alter the county's scenic views forever.

Ken Milleman, Dusty Drive, agreed with statements made by his neighbors and shared his worries about his 16-year-old daughter pulling out onto a highway where drivers already travel 65-70 miles per hour. He stated that threatening the county with legal action if they don't grant the permits is ridiculous, and there are more important issues at stake than profits to media owners.

Public Agency Reports - Mr. Brandt stated that the public agency reports are as noted in the staff report.

Rebuttal - Ms. Gelineau stated that the will of the majority in the neighborhood should not be a compelling reason for denial because the founding fathers made it clear that the rights of minorities and individuals should not be swept away by the majority. She stated that billboards can be used for political and non-profit communication as well as commercial advertising. She said that studies have shown outdoor advertising to be one of the most efficient and effective ways to communicate, and thus can be a medium of communication for poorer people. She stated that her client has a right to have the permits issued, and she renewed her offer to work with the county in rewording its sign ordinance to avoid future constitutional issues.

Staff Recommendation - Mr. Brandt stated that the county ordinance has several provisions which allow denial of the applications, but since First Amendment rights are not usually addressed by his department, he would like to talk with legal counsel about several issues raised today before making a

recommendation.

Ms. Stern moved to continue the hearings to August 19, 2004 at 10:00 a.m. at the point of staff recommendation. The motion passed, Commissioners George, Stern, and Lewis voting aye. Ms. Lewis thanked everyone for coming and stating their cases well.

2. Consideration of Planning Docket SP-02-04, a billboard request, applicant Media Art, Inc. *[Continued to August 19, 2004 at 10:00 a.m. in Room 32 of the Yamhill County Courthouse, at the point of staff recommendation.]*

Public hearing combined with previous docket - see minutes above.

3. Consideration of Planning Docket G-03-04, amendments and updates to the Yamhill County Zoning Ordinance, as continued from July 15, 2004. *[Tentatively approved; findings to be adopted September 2, 2004.]*

Mr. Brandt stated that the hearing had been closed on July 15, 2004, but the record had been left open for input of comment from Yamhill County Soil and Water Conservation District (YCSWCD). Ms. Lewis stated that YCSWCD had no concerns with the proposed amendments.

The Board considered the following amendments:

1. Update the Yamhill County Zoning Ordinance to incorporate the Administrative Rule Changes.
2. Reinstate the 160-acre "square template" test for forest template dwellings, in addition to the "circular template" test.
3. Remove the restriction on lot reconfiguration prior to applying for a forest template dwelling.
4. Allow community centers as a conditional use in certain rural residential zones.

Ms. Lewis moved approval of items #1-4. The motion passed, Commissioners George, Stern, and Lewis voting aye.

5. Add a category of "Minor Home Occupation".

Ms. Lewis moved approval of item #5, modifying the first sentence and adding permission for up to two employees in addition to members of the immediate family residing on the premises. The motion passed, Commissioners George and Lewis voting aye, and Commissioner Stern voting no.

6. Allow the division of pre-existing houses in the AF-10 Agricultural/Forestry Small Holding rural residential zone.
7. Allow residential facilities as a conditional use in the Very Low Density Residential and AF-10 zones.

Ms. Lewis moved approval of items #6-7. The motion passed, Commissioners George, Stern, and Lewis voting aye.

8. Prohibit the placement of fill dirt within the Flood Hazard overlay zone in the Urban Growth Boundaries of cities that restrict such activity.

No action was taken.

9. Change the definition of "Bed and Breakfast Inn" to allow no more than nine sleeping rooms.

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

Ms. Lewis moved to tentatively approve Planning Docket G-03-04 per the previous motions, with findings to be adopted August 26, 2004. The motion passed, Commissioners George, Stern, and Lewis voting aye.

NOTE: The tape indicates a date of August 26, 2004 for adoption of findings. Due to some confusion as to the actual date, the action list was changed to September 2, 2004 by Barbara Stanley at the request of Mr. Brandt.

F. **ANNOUNCEMENTS:**

1. A position is available on the Yamhill County Budget Committee. Contact the Commissioners' Office for applications.

Adjourn: 12:30 p.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS