

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 February 3, 2005 at 10:00 a.m. in Room 32 of the Courthouse, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George 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 and Wanda McCallister, News-Register; Gene Allison, 17680 Fitch Drive; Marilyn Reeves, P.O. Box 1083, McMinnville; Henry Reeves, 22250 Boulder Crest Lane SE, Amity; John Englebrecht, 1266 NW Augusta Drive, McMinnville; Sid Friedman, 189 Liberty Street NE, Salem; Richard Pierson, 34725 NE Kramien Road; Robert Moffitt, 34125 NE Kramien Road; Byron Dooley, 14200 NW Fircrest Road, McMinnville; Frances O’Brien, 335 NE Fircrest Place, McMinnville; Nancy Wills, 442 NW Pyndea Court, McMinnville; Larry DeBates, 20630 SE Poco Lane, Amity; Linda Lindsay, 22470 SW Bennette Road, McMinnville; Renee Callanan, 14376 Gopher Valley Road, Sheridan; Ilsa Perse, 5765 Mineral Springs Road; Hank Franzoni, 20855 Deer Creek Flats Road, McMinnville; and William Neuhauser, 19075 NE Woodland Loop Road, Yamhill.

Commissioner Stern 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.

Marilyn Reeves, representing Friends of Yamhill County, requested that the Board postpone today’s decisions on Measure 37 claims due to the lack of public hearings and neighbor notification. She stated that it is inherently unfair to waive public hearings for some applicants and not for others. She stated that the right to be informed is one of the most important rights in democracy and she urged the Board to amend Ordinance 749 to provide public notification and the opportunity for public hearings for all Measure 37 claims. She submitted a written statement for the record.

Frances O’Brien concurred with Ms. Reeves’ testimony and added that Measure 37 is a poorly-written law without foresight of consequences. She gave several examples of Oregon laws which were subsequently overturned and suggested that Measure 37 might be a candidate for overturning because of its fairness issues. She stated that public involvement and the opportunity to speak should be allowed for all Measure 37 claims.

Sid Friedman, representing 1000 Friends of Oregon, urged the Board to consider these claims carefully and not rush to a decision just 72 hours after the release of staff reports. He pointed out that in each case, the Planning Director recommended modifying, removing, or not applying the land

use regulations, but these are three different actions with distinct consequences. He stated that the Board's position on public involvement suggests an arrogant disdain that some elected officials feel toward their constituents. He submitted written material for the record.

Linda Lindsay expressed her displeasure with the Fair Board's last-minute decision to not allow the animals seized last Friday by the Sheriff's Office to be housed at the Fairgrounds. She said there isn't much difference between this and past situations in which evidence animals were kept on the Fairgrounds under the care of the Sheriff's Office until they could be released. She pointed out that the fear of disease being spread to boarded animals onsite was unfounded because although the seized animals were weak and hungry, they were not sick and the boarded animals are required to be current on vaccinations. She asked that the issue be examined and a plan put in place so that this situation doesn't happen again.

Hank Franzoni stated that the Board's decision to not require public hearings for all Measure 37 claims creates a privileged class of people with special rights and discriminates against more recent landowners. He said that a property owner's use of his land should not interfere with his neighbor's use, and denying the people a voice is denying a fundamental right.

John Englebrecht stated that it is the duty of the Board to protect property rights of all county residents, not just a select few. He discussed potential financial impacts from the large Abrams claim and said that the Board should never have restricted systems development charges on county property.

B. **CONSENT AGENDA:** Ms. Stern asked that items #13 and #14 be moved to the non-consent portion of the agenda. Ms. George moved approval of the consent agenda with the exception of those two items. The motion passed, Commissioners Stern, Lewis, and George voting aye.

#### Personnel

1. **B. O. 05-53** - Approve a change of status to extend temporary part-time status of the following Community Corrections employees:
  - a. Ronald Roach and Richard McKenna, retroactive to November 12, 2004 until May 11, 2005;
  - b. David Weise, effective February 18, 2005 until August 17, 2005.
2. **B. O. 05-54** - Approve a change of status of Robert Ferring to unpaid status in Community Corrections, effective February 22, 2005.

#### Contracts

3. **B. O. 05-55** - Approve the five-year renewal of a lease agreement between HHS and Donna Holden for a portion of the commercial building located at 2251 E. Hancock Street, Suite 104, Newberg, retroactive to January 1, 2005 until December 31, 2009.
4. **B. O. 05-56** - Approve Amendment #34 to the 2003-05 Financial Assistance Contract #36-001 between HHS and Oregon Department of Human Services.

5. **B. O. 05-57** - Approve an agreement between Public Works and Soil Nail Launcher, Inc. for landslide repairs on Old Railroad Grade Road, not to exceed \$107,400, effective February 3, 2005 until April 30, 2005.
6. **B. O. 05-58** - Approve an agreement between Information Systems and Primisys for on-site consulting services, \$50/hour, effective February 3, 2005.
7. **B. O. 05-59** - Ratify the authorization of a settlement agreement in Waterford Construction, Inc. vs. Lauzon, et al, Case No. CV 04-0216.

#### Traffic Signal

8. **B. O. 05-60** - Authorize the use of a temporary traffic signal on Meadow Lake Road in Carlton during bridge construction.

#### Committees

9. **B. O. 05-61** - Reappoint the following individuals to the Employee Safety Advisory Committee:
  - a. Russ Heath and Tim Svenson for two-year terms to expire March 18, 2007;
  - b. Chris Schlegel, Randy Webb, and Gary Van Der Veen for three-year terms to expire March 18, 2008.
10. **B. O. 05-62** - Make the following changes to the Classification Committee:
  - a. Reappoint Steve Rodewald and Keith Urban for three-year terms to expire February 3, 2008;
  - b. Appoint Barb Paladeni for a three-year term to expire February 3, 2008.
11. **B. O. 05-63** - Reappoint Jennifer Redmond-Noble to the Solid Waste Advisory Committee for a three-year term to expire March 21, 2008.
12. **B. O. 05-64** - Reappoint Hugh Sowers to the Health Board for a three-year term to expire February 1, 2008.

#### Measure 37 Claims

13. **See Other Business** - Approve M37-06-04, a Measure 37/Ordinance 749 claim, authorizing uses on the subject property allowed when the current owner acquired the property, applicant Gregg and Patricia Hottmann.
14. **See Other Business** - Approve M37-07-04, a Measure 37/Ordinance 749 claim, authorizing uses on the subject property allowed when the current owner acquired the property, applicant JD and Edith Pierce.
15. **B. O. 05-65** - Set a hearing date of March 9, 2005 at 9:00 a.m. to consider Planning Docket M37-01-04, a Measure 37/Ordinance 749 claim, applicant Maralynn Abrams.

The Board agreed to do a public notice in the newspaper to clarify the hearing time.

C. **OLD BUSINESS:**

1. **B. O. 05-66** - Consideration of adoption of findings in support of the legalization of portions of Willamina Creek Road, as tentatively approved January 6, 2005 and continued from January 27, 2005.

Ms. Lewis moved to adopt the findings. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. **B. O. 05-67** - Consideration of adoption of findings in support of the legalization of portions of Baker Creek Road and Hill Road, as tentatively approved January 6, 2005 and continued from January 27, 2005.

Ms. Lewis moved to adopt the findings. The motion passed, Commissioners Stern, Lewis, and George voting aye.

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

Ms. Stern read a statement about her disagreement with the Board's decision to not require public notice and hearings for Measure 37 claims, pointing out that these waivers are essentially the same as zone changes, which require public notice. She stated that because the quality of life for all residents is a function of how well the Board balances private property rights with the community's greater good, there is an obligation to notify and listen to the public. She added that in order to adhere to the requirements of Ordinance 749, a professional appraisal should be required in cases where no value was provided or where a huge discrepancy exists between the values stated by the applicant and the Planning Director.

Ms. George expressed her displeasure over the way land use laws have abused many private citizens for many years, showing arrogant disdain by taking away property rights with little or no notice and few public hearings. She stated that Measure 37, which passed with a landslide, is a long-past-due effort to stop this treatment and the current fallout is the result of poorly-written sections of land use law. She stated that the measure's opponents have not shown any interest in addressing the problems that the measure was attempting to repair, nor called for public discourse to find out if the current laws are even working. She said that Mr. Franzoni's attempt to invoke class warfare appalls her and explained that more recent landowners are not being discriminated against because they knew the current laws when purchasing their property.

Ms. Lewis responded to Mr. Franzoni's comment about creating a privileged class of people by stating that it was actually the state's original land use laws that created the inequity. She explained that if two people had bought land and one had waited to build, that person could no longer do so unless they were wealthy enough to hire land use consultants and attorneys and could meet the \$80,000 income requirement. She stated that property owners should not expect to be able to control what their neighbors do on their own property.

Ms. Stern stated that people didn't vote for Measure 37 to give up their voice in government.

Ms. Stern moved to postpone items #1-6 in order to allow time to review the information just submitted by Mr. Friedman. Ms. Lewis suggested a ten-minute recess instead.

The meeting recessed at 10:42 a.m. and reconvened at 10:55 a.m. Ms. Stern withdrew her motion, stating that she'd had adequate time to review the new information.

1. **B. O. 05-68** - Consideration of approval of M37-02-04, a Measure 37/Ordinance 749 claim, authorizing uses on the subject property allowed when the current owner acquired the property, applicant Renee Callanan.

Ms. Lewis moved approval of M37-02-04.

John Gray reviewed the general structure of the findings and the process for approving and filing the orders. He discussed with the Board the differences between modifying, removing, and not applying a land use regulation and the potential impact of each. He stated that although the current language stating all three options is not specific, he believes it is the best way to go for these first Board Orders. He noted that all of today's applicants except the Pierces will have to file Measure 37 claims with the state as well.

Ms. Lewis stated her approval of including with the findings an affidavit from the Assessor, who is the chief appraiser for the county. She stated that since the county doesn't have the financial means to compensate these claims anyway, the Assessor's estimate of value reduction should be sufficient to eliminate the need for a professional appraisal.

Ms. Lewis' motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no.

2. **B. O. 05-69** - Consideration of approval of M37-03-04, a Measure 37/Ordinance 749 claim, authorizing uses on the subject property allowed when the current owner acquired the property, applicant Argene Allison.

Ms. Lewis moved approval of M37-03-04.

Ms. Stern stated that although there is a great discrepancy in the reduction values stated by the applicant and the Planning Director, she has discussed the issue with Mike Brandt and understands that his stated value is acceptable to the applicant.

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

3. **B. O. 05-70** - Consideration of approval of M37-04-04, a Measure 37/Ordinance 749 claim, authorizing uses on the subject property allowed when the current owner acquired the property, applicant James Wilcox.

Ms. Lewis moved approval of M37-04-04. The motion passed, Commissioners Stern, Lewis, and George voting aye.

4. **B. O. 05-71** - Consideration of approval of M37-05-04, a Measure 37/Ordinance 749 claim, authorizing uses on the subject property allowed when the current owner acquired the property, applicant Leonhart and Irene Jensen.

Ms. Lewis moved approval of M37-05-04. Ms. Stern noted that the applicants did not include a compensation value. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no.

5. **B. O. 05-72** - Approve M37-06-04, a Measure 37/Ordinance 749 claim, authorizing uses on the subject property allowed when the current owner acquired the property, applicant Gregg and Patricia Hottmann.

Ms. Lewis moved approval of M37-06-04.

Mr. Gray explained that the land use regulations changed right after the applicants bought their property and they have already been issued a denial of use. He stated that if this order is approved, the Hottmanns will be authorized to seek land use approval to establish one dwelling under the land use regulations in effect at the time of purchase.

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

6. **B. O. 05-73** - Approve M37-07-04, a Measure 37/Ordinance 749 claim, authorizing uses on the subject property allowed when the current owner acquired the property, applicant JD and Edith Pierce.

Ms. Lewis moved approval of M37-07-04. The motion passed, Commissioners Stern, Lewis, and George voting aye.

7. **B. O. 05-74** - Consideration of the appointment of Joe Cook to the Solid Waste Advisory Committee for a three-year term to expire March 22, 2008.

Ms. George moved approval of the appointment. Ms. Stern said she would abstain from voting because of a potential conflict of interest, since her husband works for the same company as Mr. Cook. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern abstaining.

E. **PUBLIC HEARINGS:** None.

F. **ANNOUNCEMENTS:**

1. The following positions are open to the public. Contact the Commissioners' Office for applications.

- a. Commission on Children and Families, three positions;
- b. Parks Board, two positions;
- c. Food Service Advisory Committee, six positions in various categories;
- d. Special Transportation Commission, two positions;

e. Dog Control Advisory Committee, one position (candidates must be directly connected with dogs).

Adjourn: 11:15 a.m.

Anne Britt  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

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Chair MARY P. STERN

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Commissioner LESLIE LEWIS

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Commissioner KATHY GEORGE