

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 9, 2005 at 9:00 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; Rick Sanai, Assistant County Counsel; Ken Friday, Planning Division Manager; David Bates, News-Register; Marilyn Reeves, P.O. Box 1083, McMinnville; Henry Reeves, 22250 Boulder Crest Lane SE, Amity; Wallace Lien, 1775 32<sup>nd</sup> Place NE, Salem; Mike Gerig, PO Box 258, Mt. Angel; David Doyle, 140 SE Mill Street, Dallas; Duane Sharer, 3200 NE Lone Oak Road North, McMinnville; Dean Klaus, 450 NW 7<sup>th</sup> Street, McMinnville; Phil Darling, 13600 South Hwy 99W, McMinnville; and Ilsa Perse, 5765 Mineral Springs Road, Carlton.

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.

Henry Reeves pointed out some minor changes that need to be made on the public comment card and then discussed Measure 37, listing what he termed “the big lies” about its impact:

1. Most applications would be for a dwelling or two and would have little impact;
2. Only a few applications were anticipated;
3. Oregon’s land use planning system wouldn’t be hurt; and
4. Implementation of the measure wouldn’t cost anything.

He submitted copies of two newspaper articles for the record (see attachments).

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

Personnel

1. **B. O. 05-75** - Approve the employment of Ronald Lang, McMinnville, as Corrections Reserve in the Jail, part-time on-call, \$10/hour, effective February 9, 2005.

2. **B. O. 05-76** - Approve the change of status of Kenneth Jackson and Phillip Carter to Corrections Officers in the Jail, temporary full-time, Range 12, Step 1, effective February 9, 2005 until June 30, 2005.

3. **B. O. 05-77** - Approve the change of status of Jessica Aldridge to Corrections Reserve in the Sheriff’s Office, temporary part-time, \$10/hour, retroactive to February 5, 2005 until June 30, 2005.

4. **B. O. 05-78** - Approve the change of status of Robert Eubanks to regular full-time employment in the Sheriff's Office, effective February 9, 2005.

5. **B. O. 05-79** - Approve the change of status of Catharine Ost to increase regular part-time hours in Public Health, retroactive to February 4, 2005 until April 30, 2005.

#### Contracts

6. **B. O. 05-80** - Approve a professional services agreement between Adult Mental Health and Karen Peters PMHNP dba Northwest Behavioral Health LLC for nurse practitioner services, \$75/hour, effective February 9, 2005.

7. **B. O. 05-81** - Approve an agreement between the Sheriff's Office and Maximus, Inc. for consulting services for the State Criminal Alien Assistance Program (SCAAP), 10% of the grant award, effective February 9, 2005.

8. **B. O. 05-82** - Approve a professional services agreement between the Juvenile Department and Eric Mitchell Johnson, Ph.D. for forensic evaluation services, \$3500 plus \$150/hour for court appearances and \$90 for travel time, retroactive to January 28, 2005.

9. **B. O. 05-83** - Approve a memorandum of agreement between the Sheriff's Office, Board of Commissioners, and Teamsters Local 223 for settlement of the Richard Geist grievance, effective February 9, 2005.

#### Road Legalization

10. **B. O. 05-84** - Initiate legalization proceedings for a portion of Grand Ronde Road and set a public hearing for March 16, 2005 at 9:00 a.m. in Room 32 of the Courthouse.

#### Audit

11. **B. O. 05-85** - Accept the Comprehensive Annual Financial Report for fiscal year 2003-04 prepared by Financial Services Manager Julia Staigers.

#### Refund

12. **B. O. 05-86** - Approve a refund request for \$396 to Dolores Molina from Public Health.

#### Committees

13. **B. O. 05-87** - Reappoint Linda Countryman to the Yamhill County Foundation for a two-year term to expire December 31, 2007.

#### Memorial Weekend Boat Races

14. **B. O. 05-88** - Set a public hearing date of March 16, 2005 at 9:00 a.m. for outdoor mass gathering permit and park exceptions relating to the Memorial Weekend Boat Races, applicants Newberg Boat Club/Columbia Outboard Racing Association, and setting a permit fee of \$250.

C. **OLD BUSINESS:**

1. **B. O. 05-89** - Consideration of adoption of findings in support of Planning Docket PAZ-07-04, a request for zone change from EF-80 to PAI for 76 acres, applicant Evergreen Memorial Park, as tentatively approved January 20, 2005. [*Ordinance 758*]

Rick Sanai provided the first and second readings of Ordinance 758 by title only, declaring an emergency. Ms. Lewis noted that she had read through the staff report and listened to the audio recording of the public hearing. She pointed out an error on the first page of the findings, stating that the vote should read 2-0 instead of 3-0. Mr. Sanai made the correction.

Ms. Lewis moved approval of Ordinance 758 with the above correction. The motion passed, Commissioners Stern, Lewis, and George voting aye.

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

1. **B. O. 05-90** - Reconsideration of Board Order #05-71 approving Docket M37-05-04, applicants Leonhart and Irene Jensen.

John Gray provided background on the Measure 37 claim and recommended that the Board take action to reconsider and rescind the order and remand it to the Planning Director to obtain an estimated reduction of value from the applicant before bringing it back to the Board.

Ms. Lewis moved to reconsider Board Order #05-71. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. **B. O. 05-91** - Consideration of rescinding Board Order #05-71 and remanding Docket M37-05-04 to the Planning Director to correct a defect in the original application.

Ms. Lewis moved to rescind Board Order #05-71 and remand it to the Planning Director. The motion passed, Commissioners Stern, Lewis, and George voting aye.

The meeting recessed at 9:19 a.m. and reconvened at 10:02 for the public hearings.

3. **B. O. 05-92** - Consideration of adoption of a letter from Commissioner George to John Krawczyk dated February 8, 2005 regarding the facilitation of a county-wide task force to pursue solutions to long-term water needs and identify potential funding mechanisms.

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

E. **PUBLIC HEARINGS:**

15. Consideration of Planning Docket PAZ-04-03, a request for plan amendment/zone change from VLDR 2.5 to Light Industrial, applicant Duane Sharer, voluntary remand. [*Continued to February 16, 2005 at 9:00 a.m. at the point of deliberations.*]

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction. Mr. 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.

Staff Report - Ken Friday stated that this case was remanded to the Board by the Land Use Board of Appeals (LUBA) on two specific issues and the applicant has proposed additional language to address those two issues.

Proponents - David Doyle, representing Duane Sharer, stated that this is an extremely limited remand on two very technical issues which can be addressed by additional language in the findings. He explained that LUBA's first issue is that the findings didn't show that the proposed use is compliant with Goal 14. He discussed the availability of resources, lack of traffic impacts, and compatibility with adjacent uses, pointing out that this is an expansion of an existing home storage facility which hasn't caused any problems since it was started over eight years ago. He stated that the findings also need to specifically impose a maximum building size of 40,000 square feet.

He stated that LUBA's second issue is that the findings failed to articulate that the Board was following zoning code and policies when it supported the need for additional industrial land. He said the findings need to clarify that industrial areas outside of the urban growth boundary (UGB) are appropriate where there is a demonstrated need, and that the area of inquiry would not include city UGB areas because the county doesn't have jurisdiction over those lands. He referenced a study in the record which identified all available property zoned appropriately for this type of use and noted that the Board had concluded in June 2004 that there was a need for additional industrial land.

Opponents - Merilyn Reeves handed out copies of a statement from Friends of Yamhill County and reviewed it. In discussing the first assignment of error, she read excerpts from the county's Comprehensive Plan policies regarding the location of industrial areas and stated that it would be very difficult for this application to meet those goals and policies. She added that compliance with Goal 14 cannot be determined by the size of the facility alone since the entire property would be rezoned.

In discussing the second assignment of error, she stated that there has been no information submitted to refute the availability of industrial land currently within the city, nor any evidence that the proposed use is a rural use rather than an urban use.

Dean Klaus, owner of a storage facility in McMinnville, stated that industrial use should be located within the city's UGB to the greatest extent possible. He pointed out that there at least six suitable locations within the UGB which are already properly zoned and have had for sale signs and plans drawn up showing storage facilities. He submitted for the record a letter from Mr. Davis, an adjoining property owner, which mentioned some of the undesirable aspects of living next to a storage facility, and stated that those problems will be increased when the facility size is expanded.

Public Agency Reports - None.

Rebuttal - Mr. Doyle stated that Mr. Davis' letter is probably not relevant because he is no longer a neighbor. He said that there is a demonstrated market need to expand the storage facility, which is consistent with adjacent uses. He restated the need for a building size limitation to be included in the findings to show compliance with Goal 14 since the entire acreage would not be used for storage.

Staff Recommendation - Mr. Friday recommended approval of the applicant's request. He stated that the limited use overlay zone follows direction given by LUBA to impose conditions which ensure consistency with Goal 14. He also read a statement from LUBA about the need for a sustainable explanation for not considering other available properties.

Close of Public Hearing / Deliberations - Ms. Lewis stated that the initial record was good and the findings had a lot of information, but the responsibility of the Board is to make things more clear to LUBA. She said she would like to continue the hearing for a week to allow time to look at the information in the record and consider how to potentially strengthen the language provided by Mr. Doyle. She apologized to both the proponents and opponents for the delay, but said it is important to consider all the information provided.

Ms. Lewis moved to continue Docket PAZ-04-03 to February 16, 2005 at the point of deliberations. The motion passed, Commissioners Stern, Lewis, and George voting aye.

16. Consideration of Planning Docket PAZ-03-04, a request for plan amendment/zone change from EF-80 to Heavy Industrial for an existing seed-cleaning plant, applicant Wilco Farmers. *[Tentatively approved; findings to be adopted February 23, 2005.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction. The Commissioners each noted their familiarity with the area. Mr. 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.

Staff Report - Ken Friday described the location, size, and zoning of the subject parcel and surrounding areas, and the applicant's request for zone change. He noted that the Planning Commission voted 7 to 0 (with one abstention) to approve the request with a limited use overlay zone which limits the use to a seed cleaning plant and related facilities. He stated that after discussions with the applicant, his staff recommends a minor modification to note that other permitted uses in the Heavy Industrial zone would be allowed as conditional uses.

Proponents - Wallace Lien, representing Wilco Farmers, stated that this Amity facility had run into financing problems because the facility is a non-conforming use and the easiest way to clean up the issue would be to do a zone change so that the seed-cleaning plant would be an outright permitted use. He stated that the applicants are agreeable to the proposed modification to the limited use overlay zone and he urged the Board to adopt the recommendation of the Planning Director and staff.

Public Agency Reports - Mr. Friday entered the public agency reports into the record. Mike

Gerig, a Wilco employee, estimated that the facility uses less than 5000 gallons of water per year.

Staff Recommendation - Mr. Friday recommended approval of the request with a limited use overlay zone which limits the use to a seed-cleaning plant and related facilities, and other permitted uses in the Heavy Industrial zone to be allowed as conditional uses.

Close of Public Hearing / Deliberations - Ms. Lewis agreed that this is a good opportunity to clean up a non-conforming use. She moved tentative approval of Docket PAZ-03-04 with the modified limited use overlay zone, with findings to be adopted February 23, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

**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);
  - f. Local Alcohol and Drug Planning Council, one position.

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