

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 June 8, 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; Rick Sanai, Assistant County Counsel; John Krawczyk, Director of Administrative Services; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Grace Schaad, 31525 NE Schaad Road, Newberg; Lewis Schaad, 31655 NE Schaad Road; Mike Gougler, 5421 Windsor Terrace, West Linn; Joe Schiewe, 4386 SW Macadam, Suite 201, Portland; John Pinkstaff, 1727 NW Hoyt Street, Portland; Dean Werth, 4709 E. Fernwood, Newberg; Dorothy Roholt, 31150 NE Schaad Road, Newberg; Don Clark and Elise Hui, PO Box 865, McMinnville; David Beam, PO Box 970, Newberg; Marilyn Reeves, PO Box 1083, McMinnville; Henry Reeves, 22250 Boulder Crest Lane SE, Amity; and David Buswell, PO Box 1177, Willamina.

Commissioner Stern 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.

Henry Reeves stated that the continuing stream of Measure 37 claims involving multiple dwellings is contradictory to the county’s early predictions of what to expect. He disagreed with Ms. Lewis’ statements made at a recent legislative hearing regarding the overall progress of Measure 37.

Marilyn Reeves, Friends of Yamhill County, submitted and discussed material pertaining to the eight Measure 37 claims on today’s agenda, emphasizing the importance of sharing information with the state. She stated that Measure 37 rights cannot be transferred with the sale of the land, nor can public health and safety requirements be exempted. She said that the county can’t determine just compensation in several of these cases because the applicants may not even qualify for the land use for which they wish to apply.

B. **CONSENT AGENDA:** Ms. Lewis moved approval of the consent agenda, excluding item #21. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Personnel

1. **B. O. 05-390** - Approve the employment of the following individuals as HS Associates in Adult Mental Health, regular full-time, effective June 9, 2005:

- a. Barbara Sheehy, McMinnville, Range 14, Step 1, \$2391/month;
  - b. Thomas Konkolewski, McMinnville, Range 14, Step 2, \$2510/month.
2. **B. O. 05-391** - Approve the employment of Tammy Hoyt, Aumsville, as On-Call Relief in the Juvenile Department, Range 12, Step 1, \$12.47/hour, effective June 9, 2005.
  3. **B. O. 05-392** - Approve the employment of Tammy Story as Accounting Clerk 2 in the Commission on Children and Families, temporary part-time, Range 10, Step 1, retroactive to June 7, 2005.
  4. **B. O. 05-393** - Approve the change of status of Jered Lutu and Sara Schneider to regular part-time in the Juvenile Department, effective June 9, 2005.
  5. **B. O. 05-394** - Approve the change of status of Carmen Garcia to regular full-time in Adult Mental Health, effective June 11, 2005.
  6. **B. O. 05-395** - Approve the change of status of Toni Tyree to 10 hours/week in the Commission on Children and Families, retroactive to June 7, 2005.
  7. **B. O. 05-396** - Approve a contract employee agreement between the Planning Department and Bernard McNelly for plumbing inspection services, \$29.78/hour, effective June 8, 2005.
  8. **B. O. 05-397** - Approve a contract employee agreement between Developmental Disabilities and Fred Coopriider for development of a Parents' Transition Manual under the Capacity-Building Grant, not to exceed 60 hours or \$2000, effective through June 30, 2005.

Contracts

9. **B. O. 05-398** - Approve Amendment #1 to extend Agreement #21782 between Yamhill County and ODOT regarding a feasibility study grant for Pupil/Public Transportation Integration possibilities, effective until June 30, 2006.
10. **B. O. 05-399** - Approve a contract renewal between Adult Mental Health, agent for Mid-Willamette Acute Care Region, and Mtn. Retreat Secured Transport for secure transport of mental health clients, effective July 1, 2005 through June 30, 2006.
11. **B. O. 05-400** - Approve selection of the Yamhill County Mediators as the county's contractor for provision of community dispute resolution services, effective July 1, 2005 through June 30, 2007; authorize notice of award to the Oregon office for Community Dispute Resolution.
12. **B. O. 05-401** - Approve the extension of an intergovernmental agreement between Yamhill County and Mid-Willamette Valley Council of Governments for staffing of the Parkway Committee, effective through June 30, 2006.
13. **B. O. 05-402** - Approve Amendment #2 to an agreement between the Commissioners' Office and ABM Janitorial Services to add services for the Romain Building, \$701.25 additional per month, effective June 20, 2005.

14. **B. O. 05-403** - Accept the apparent low bid of North Santiam Paving Company for the Laughlin Road Overlay Project and authorize the contract, subject to approval by County Counsel, \$252,388.

#### Grants

15. **B. O. 05-404** - Accept a Brownfields Clean Up Grant from the Environmental Protection Agency for the Martin & Wright property, \$89,400.

16. **B. O. 05-405** - Approve a letter of support for the second annual Community Development Block Grant application by the Housing Authority for a regional housing center.

#### Refunds

17. **B. O. 05-406** - Approve a refund of \$337.05 to Jerome Electric from the Planning Department.

18. **B. O. 05-407** - Approve a refund of \$540 to Diana Tomkins from the Planning Department.

#### HHS Payments

19. **B. O. 05-408** - Delegate authority to the HHS Director regarding participation in Oregon Department of Human Services' eXPRS payment and reporting system, authorizing the Director to delegate such authority within his department.

#### Fees

20. Approve CPI rate increases for the following solid waste collection companies:  
a. **B. O. 05-409** - Newberg Transfer and Recycling Center;  
b. **B. O. 05-410** - Newberg Garbage Service, Inc.

#### Public Hearing

21. **See Other Business** - Set a hearing date of July 27, 2005 for M37-58-05, a Measure 37 claim authorizing applicant Harold Kuehne to subdivide 94 acres into 62 1.5-acre parcels.

#### **C. OLD BUSINESS:**

1. **B. O. 05-411** - Consideration of adoption of findings in support of M37-23-05, a Measure 37 claim modifying, removing, or not applying land use regulations to the dates of ownership on 173.93 acres, applicants Larry and Karen Waide, as tentatively approved May 18, 2005 and continued from June 1, 2005.

John Gray read the operative part of the order. Ms. Lewis moved approval of M37-23-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. **B. O. 05-412** - Consideration of adoption of findings in support of M37-10-04, a Measure 37 claim modifying, removing, or not applying land use regulations back to November 6, 2002, applicants Jeffrey Magar and Billy Magar, as tentatively approved May 18, 2005 and continued from June 1, 2005.

John Gray read the operative part of the order. Ms. George moved approval of M37-10-04. The motion passed, Commissioners Stern, Lewis, and George voting aye.

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

Public Hearing

1. Set a hearing date of July 27, 2005 for M37-58-05, a Measure 37 claim authorizing applicant Harold Kuehne to make application to subdivide 94 acres into 62 1.5-acre parcels.

Ms. George stated that the applicant has requested to postpone the hearing until after harvest time. The Board tentatively set a date of August 24, 2005, to be confirmed with Mr. Kuehne.

Fees

2. **B. O. 05-413** - Consideration of approval of CPI rate increase for Western Oregon Waste.

Ms. Stern recused herself from this item because her husband is employed by Western Oregon Waste. Ms. Lewis moved approval of the rate increase. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern abstaining.

Measure 37

3. **B. O. 05-414** - Consideration of approval of M37-35-05, a Measure 37 claim authorizing applicant Fred Turek to make application to subdivide 142.2 acres into 20-acre lots and establish dwellings thereon.

Mr. Gray read the operative part of the order. He stated that the Attorney General has written an advisory to the effect that Measure 37 rights are not transferable, but there is much debate as to the accuracy of that view. He said that the applicants clearly have the right to make their claim despite the legal question of transferability and the county has to take action on the claim before the 180-day deadline.

Ms. George moved approval of M37-35-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

4. **B. O. 05-415** - Consideration of approval of M37-36-05, a Measure 37 claim authorizing applicants Gary and Patty Kenner to make application to subdivide 40 acres into four lots and establish dwellings on two of those lots.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-36-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

5. **B. O. 05-416** - Consideration of approval of M37-37-05, a Measure 37 claim authorizing applicants James and Elaine Koester to make application to establish a dwelling on a 29.16-acre property.

Mr. Gray read the operative part of the order. Ms. Lewis stated that she believes it is highly likely that the Koesters will be able to get land use approval for the dwellings on this and the following property. Ms. George moved approval of M37-37-05. The motion passed,

Commissioners Stern, Lewis, and George voting aye.

6. **B. O. 05-417** - Consideration of approval of M37-38-05, a Measure 37 claim authorizing applicants James and Elaine Koester to make application to establish a dwelling on a 48.25-acre property.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-38-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

7. Consideration of approval of M37-39-05, a Measure 37 claim authorizing applicant Bruce Hall to make application to subdivide his property into 12-14 lots and establish dwellings on each vacant parcel. *[Continued to June 15, 2005 at 9:00 a.m. in Room 32.]*

Ms. Stern moved to continue M37-39-05 to June 15, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

8. **B. O. 05-418** - Consideration of approval of M37-40-05, a Measure 37 claim authorizing applicants Barry and Roberta House to make application to divide their property into parcels of 3, 40, and 50 acres and establish dwellings thereon.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-40-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

9. **B. O. 05-419** - Consideration of approval of M37-41-05, a Measure 37 claim authorizing applicants William and Portia Mardock to make application to divide off approximately one-half of their 38.73-acre property with an existing dwelling and to subdivide the remaining 20 acres into lots of 2-3 acres and establish dwellings thereon.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-41-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

10. **B. O. 05-420** - Consideration of approval of M37-42-05, a Measure 37 claim authorizing applicants Leland and Elizabeth Dundas to make application to partition their property into two lots to accommodate two existing dwellings.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-42-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

E. **PUBLIC HEARINGS:**

3. Consideration of the surrender of jurisdiction to the City of Newberg over a portion of Crater Lane. *[Tentatively approved; findings to be adopted June 15, 2005.]*

Ms. Stern opened the public hearing. There being no public comment, the hearing was closed.

Ms. Lewis moved tentative approval of the surrender of jurisdiction with findings to be

adopted June 15, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

4. Receipt of public comment on the second annual Community Development Block Grant application by the Housing Authority for a regional housing center. *[No formal action taken.]*

Don Clark introduced Elise Hui, Director of Housing Services for the Housing Authority of Yamhill County (HAYC). He stated that HAYC received a Community Development Block Grant last year to develop a regional housing center, one of fourteen planned for development in the state. He explained that the grant is a five-year program and if the center operates satisfactorily during the first year, decreasing amounts will be awarded for the next four years, at which point the center should be self-sufficient.

He stated that the center is at an accessible location on Highway 18 and is getting some visitors in. He said that visitors are either provided help at the center or are referred to other agencies who can help them. He added that marketing strategies are in place to make the center more well-known.

Ms. Stern opened the public hearing. There being no public comment, she closed the public hearing. She stated that the Board would provide Mr. Clark with a letter of support for the grant application.

5. Consideration of Planning Docket C-02-05, a request for temporary use of an emergency access road, applicant Mike Gougler, MJG Development. *[Continued to June 29, 2005 at 9:00 a.m. at the point of staff recommendation; record left open for the submission of additional information by all parties until 5:00 p.m. on June 15, 2005, for the submission of written response by all parties until 5:00 p.m. on June 22, 2005, and for the submission of final written arguments by the applicant until 5:00 p.m. on June 27, 2005.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction. The commissioners each noted that they had visited the site on Monday.

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.

Staff Report - Ken Friday identified the subject property on the map and reviewed the parcel size, zoning and soil rating. He stated that the Planning Commission had unanimously approved conditional use for emergency access but had unanimously denied use for construction access, which is the appeal being considered by the Board today. He stated that he had received a number of communications regarding this application and submitted copies to Mr. Sanai.

Proponents - John Pinkstaff, representing the applicant, stated that temporary construction use is an outright allowed use, provided it complies with Oregon Administrative Rules for roads which provide for local travel needs. He said that entitlements to develop have been allowed and the developers have to have some way to get to the construction site. He provided a history of previous temporary construction uses on the subject property. He added that because growth naturally occurs at the edges of cities, commerce would come to a halt if the county road system were closed off to temporary construction access. He referred to a memo from the Public Works Director in support of the application because it would result in fewer miles traveled on county

roads.

Mike Gougler stated that landowners requested more than ten years ago that the county evaluate this location as a potential access road and received a letter from the county in 1991 stating that the location was acceptable. He reviewed past easements granted to the City of Newberg and Northwest Natural Gas and explained that he had made modifications to the road design to accommodate concerns voiced by the public regarding traffic on Fernwood Road. He stated that he has previously offered to help resolve safety issues at the Hwy 99W/Corral Creek Road intersection.

Joe Schiewe submitted copies of a temporary development construction traffic plan for The Greens at Springbrook, June 2005 through June 2007. He estimated that there would be about six truck trips per hour during days of peak truck traffic when rock is delivered for the road base section, so it would be wise to have this second access point to the area. He noted for the record that a reference to Hwy 99 in the plan should be Hwy 99W. Ms. Lewis pointed out some other minor errors.

Mr. Gougler requested that the letters from Bill Gille and Barton Brierly, his memo, and the traffic plan be included in the record. He stated that this plan would eliminate most, if not all, of loaded truck and transfer transport on Fernwood Road.

David Beam, City of Newberg, expressed his support of the application, stating that the current traffic pattern is very disruptive to homes on Corral Creek and Fernwood Roads and would be improved by multiple access points. He stated that the planned emergency access should ultimately become a full access road to this development and there should also be pedestrian and bicycle access which connects to existing routes.

Questions of Proponents - Mr. Gougler answered questions about the current truck traffic pattern, explaining that truck drivers will go out of their way to avoid traffic, stop signs, speed bumps, etc. He stated that the harvesting of hazelnuts and grapes in the area should not have a significant impact on truck traffic. Mr. Beam explained that the traffic plan includes an emergency access, but the city didn't want to make a second full access road until Corral Creek Road is sufficiently improved to support the traffic.

Mr. Friday stated that there is no record that the City of Newberg applied for any land use approval for an emergency access road. Mr. Beam stated that although the city did not apply for it, they did plan for it.

Opponents - Dorothy Roholt read a letter from Greg Haffner and submitted it for the record. She also read an email message from Robert Foster and discussed traffic safety concerns on Corral Creek Road. She stated that residents have to keep presenting the same information over and over at these meetings and asked the Board to deny the application.

Lewis Schaad also discussed traffic safety issues and stated that temporary truck traffic should be expected by those who buy property in a new development. He urged the Board to uphold the Planning Commission's decision to deny the application.

Grace Schaad read a letter about traffic hazards from Carolyn Garwood, a mail delivery driver, and submitted it for the record. She listed several reasons to deny the application, including the fact that construction access to urban development is neither a permitted nor a conditional use of EF-20 zoning and allowing the access road would increase traffic in unsafe intersections and roads. She requested that load limits be placed on Corral Creek Road during development and vehicles be discouraged from using the intersection of Corral Creek Road and Hwy 99W.

Mr. Friday stated that although there is nothing in the county's zoning ordinance to cover temporary roads, he determined that it would be covered as a conditional use by the catch-all section repeated from the state's Transportation Planning Rule.

Public Agency Reports - Mr. Friday stated that Public Works and the City of Newberg have both submitted letters in support of the request and the county sanitarian reported no record of onsite sewage disposal systems. He added that Alan Fox had indicated that ODOT has no severe concerns with the temporary access road.

Rebuttal- Mr. Gougler stated that the City of Newberg had initially asked for access within the city limits to this project, but building a bridge across the stream would be cost prohibitive and would permanently impact the wetlands. He explained that private truck traffic cannot be controlled on public roads, but allowing this access road would be a convenient way to eliminate as much truck traffic as possible on Corral Creek and Fernwood Roads and make them safer.

Mr. Pinkstaff stated this is a reasonable plan which will not increase traffic at the intersection of Hwy 99W and Corral Creek Road and will only be needed for two years at the most. He requested that the application be approved and the record left open for seven days, followed by another seven days to respond.

Ms. Lewis moved to continue the hearing to June 29, 2005 at 9:00 a.m. at the point of staff recommendation, with the record left open for the submission of additional information by all parties until 5:00 p.m. on June 15, 2005, for the submission of written response by all parties until 5:00 p.m. on June 22, 2005, and for the submission of final written arguments by the applicant until 5:00 p.m. on June 27, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

6. Consideration of Planning Docket PAZ-01-05, a request for exchange of zoning between two parcels, applicant David Buswell. *[Tentatively approved; findings to be adopted June 15, 2005.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction. She stated that the Board had not made a site visit due to the remote location, but had looked at aerial photos and maps.

Mr. Sanai noted that Mr. Buswell had been present for the previous reading of the statement required for land use hearings. Mr. Buswell waived the reading of the statement.

Staff Report - Mr. Friday reviewed the descriptions and zoning of the two subject parcels and the applicant's agreement with his neighbor to exchange zoning.

Proponents - Mr. Buswell stated that he had nothing further to add to the record unless the Board had any questions.

Public Agency Reports - Mr. Friday stated that there are no reports in addition to what is in the staff report.

Staff Recommendation - Mr. Friday recommended approval of the application.

Close of Public Hearing / Deliberation - Ms. Lewis moved tentative approval of Planning Docket PAZ-01-05 with findings to be adopted June 15, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

7. Consideration of Planning Docket PAZ-08-04, a request for zone change from AF-20 to AF-10, applicant Benkendorf Associates. *[Continued to June 22, 2005.]*

Ms. Stern stated that the applicant has requested a continuance of the hearing. Ms. Lewis moved to continue Planning Docket PAZ-08-04 to June 22, 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, two positions;
- b. Food Service Advisory Committee, six positions in various categories;
- c. Special Transportation Commission, two positions;
- d. Dog Control Advisory Committee, one position (candidates must be directly involved with dog-related issues);
- e. Local Alcohol and Drug Planning Council, one position;
- f. Planning Commission, three positions, application deadline June 30, 2005;
- g. Ambulance Service Area Advisory Committee, one position for an emergency room physician;
- h. Parks Board, one position.

Adjourn: 11:58 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