

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 22, 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 Rick Sanai, Assistant County Counsel; John Krawczyk, Director of Administrative Services; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Ken Huffer, Parks Coordinator; Al Benkendorf, 522 SW 5th; Joel Norgren, 3655 NW Bendurin, Corvallis; John Hemstreet, 28880 Thomson Mill Road, Sheridan; Marilyn Reeves, PO Box 1083, McMinnville; Ilsa Perse, 5765 Mineral Springs Road, Carlton; Bob & Anita Connell, 17025 NE Chehalem Drive, Newberg; John Majouski, 24395 NE Happy Hill Lane; Carr & Jeanne Biggerstaff, PO Box 3072, Newberg; Alan Rush, 16125 NE Chehalem Drive, Newberg; Boyd & Cassandra Teegarden and Dr. Chrys Chrys, 16825 NE Chehalem Drive, Newberg; Allen Stevens, 2715 Douglas Avenue; Buzz Thorsen, 18775 SW Vista Street, Aloha; Mike & Gloria Dreske, 16765 NE Welch Road; Merrill Johnson, 32323 NE Corral Creek Road, Newberg; and Ralph Johnson, 16705 NE Chehalem Drive, Newberg.

Commissioner Stern called the meeting to order.

SPECIAL PRESENTATION: Recognition of Diane Cilenti for her outstanding assistance to Oregon Veterans.

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. None offered.

B. **CONSENT AGENDA:** Ms. Lewis moved approval of the consent agenda with the exception of items #20 and #23. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Personnel

1. **B. O. 05-456** - Approve the employment of the following individuals as Corps Members in the Juvenile Department, temporary part-time, \$7.50/hour, effective June 23, 2005 through August 31, 2005:
 - a. Richard Barney, McMinnville;
 - b. Joshua Moore, Sheridan;
 - c. Jerel Mauser, Newberg;
 - d. Brooke Stanfield, McMinnville;

- e. Bradley Gray, Newberg;
 - f. Tyler Harrington, McMinnville.
2. **B. O. 05-457** - Approve the change of status of Laura Park and Lawrence Henry to extend on-call relief work in the HHS Abacus Division, effective July 1, 2005 through June 30, 2006.
 3. **B. O. 05-458** - Approve the change of status of Mary Jake to HS Associate in the HHS Abacus Division, temporary part-time, Range 14, Step 1, effective July 1, 2005 through June 30, 2006.
 4. **B. O. 05-459** - Approve the change of status of Kent Van Cleave to Senior Office Specialist in the Clerk's Office, Range 10, Step 2, \$2056.50/month, effective July 1, 2005.
 5. **B. O. 05-460** - Approve the change of status of the following individuals to extend on-call employment in the Clerk's Office, effective July 1, 2005 through June 30, 2005:
 - a. Toni Tyree, Range 7, Step 5, \$11.85/hour;
 - b. Patricia Harding, Range 7, Step 6, \$12.47/hour;
 - c. Norma Heath, Range 7, Step 6, \$12.47/hour;
 - d. Cleo Harding, Range 7, Step 3, \$10.67/hour;
 - e. Robert Vertregt, Range 7, Step 2, \$10.11/hour.

Contracts

6. **B. O. 05-461** - Approve an intergovernmental agreement between HHS and Polk County for acute care psychiatric hospital alternatives, \$8063.10, effective July 1, 2005.
7. **B. O. 05-462** - Approve an intergovernmental agreement HHS and Benton County for acute care psychiatric hospital alternatives, \$9854.22, effective July 1, 2005.
8. **B. O. 05-463** - Approve Intergovernmental Agreement #10123 between the Juvenile Department and Oregon Youth Authority for Juvenile Crime Prevention and/or Diversion services, \$541,887, effective July 1, 2005 through June 30, 2007.
9. **B. O. 05-464** - Approve Intergovernmental Agreement #10084 between the Juvenile Department and Oregon Youth Authority for Individual Services, \$17,870, effective July 1, 2005 through June 30, 2007.
10. **B. O. 05-465** - Approve Intergovernmental Agreement #3246 between Community Corrections and Oregon Department of Corrections for administration of the community corrections program in Yamhill County, effective July 1, 2005 through June 30, 2007.
11. **B. O. 05-466** - Ratify the approval of Amendment #44 to the 2003-05 Financial Assistance Contract #36-001 between HHS and Oregon Department of Human Services, retroactive to May 30, 2005.

12. **B. O. 05-467** - Approve an agreement between Yamhill County and Mid-Valley Rehabilitation, Inc. for Special Transportation Fund services, \$32,228, effective July 1, 2005 through June 30, 2006.
13. **B. O. 05-468** - Approve Intergovernmental Agreement #113020 between HHS and Oregon Department of Human Services for the financing of community mental health, developmental disability and addiction services, effective July 1, 2005 through June 30, 2007.
14. **B. O. 05-469** - Approve Intergovernmental Agreement #113258 between Public Health and Oregon Department of Human Services for the financing of public health services, effective July 1, 2005 through June 30, 2006.
15. **B. O. 05-470** - Approve Intergovernmental Agreement #113332 between Public Health and Oregon Department of Human Services for the Public Health Drinking Water Program, effective July 1, 2005 through June 30, 2007.
16. **B. O. 05-471** - Approve Intergovernmental Agreement #113067 between Public Health and Oregon Department of Human Services for the Public Health Foodborne Illness Program, effective July 1, 2005 through June 30, 2006.
17. Approve service agreement extensions between Developmental Disabilities and the following providers, effective through September 30, 2005:
 - a. **B. O. 05-472** - Mid-Valley Rehabilitation, Inc.,
 - b. **B. O. 05-473** - Oregon Mennonite Residential Services (OMRS);
 - c. **B. O. 05-474** - SCVP, Inc.;
 - d. **B. O. 05-475** - Oregon Technical Assistance Corporation (OTAC).

Grants

18. **B. O. 05-476** - Authorize the submission of a Special Transportation Fund grant application to ODOT for cigarette tax money to be distributed for senior and disabled transportation services within Yamhill County, \$171,873.
19. **B. O. 05-477** - Authorize the submission of a Community Development Block Grant application for a future Mental Health Treatment Facility, total project amount \$1,910,908, including grant funding \$800,000 and Special Public Works Community Facilities loan \$1,110,908.

Budget

20. **Omit** - Approve the transfer of expenditure authority:

From	081-087-800.01	\$6000
To	081-087-780.16	\$6000
21. **B. O. 05-478** - Approve the establishment of a \$150 petty cash fund for the new Residential Treatment Facility.

Dues / Fees

22. **B. O. 05-479** - Authorize the payment of annual membership dues to the National Association of Counties (NACo).

23. **Tabled** - Authorize the increase of Dog Control fees.

Committees

24. **B. O. 05-480** - Approve the appointment of Jay Shue to the Parks Board for a four-year term to expire July 1, 2009.

Plans

25. **B. O. 05-481** - Accept the 2005-2007 Biennial Plan for administration and funding of Community Corrections.

Federal County/School Payments

26. **B. O. 05-482** - Authorize the county to join the National Forest Counties & Schools Coalition in support of HR517 and S267.

Measure 37

27. **B. O. 05-483** - Set a hearing date of August 24, 2005 for M37-58-05, a Measure 37 claim authorizing Harold Kuehne to make application to subdivide 94 acres into 62 1.5-acre parcels.

C. **OLD BUSINESS:**

1. **B. O. 05-484** - Consideration of adoption of findings in support of the surrender of jurisdiction to the City of Newberg over a portion of Crater Lane, as tentatively approved June 8, 2005 and continued from June 15, 2005.

John Gray stated that if approved today, this offer will be tendered to the City of Newberg for their formal acceptance. Ms. Lewis moved approval of the order. The motion passed, Commissioners Stern, Lewis, and George voting aye.

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

1. **B. O. 05-485** - Consideration of approval of a Special Transportation Fund service agreement between Yamhill County and Oregon Mennonite Residential Services for quarterly disbursement of grant funds, effective June 2, 2005 through June 30, 2006.

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

E. **PUBLIC HEARINGS:**

1. Consideration of a request for annexation to the Yamhill Rural Fire Protection District, applicants Donald and Annette Ward. *[Tentatively approved; findings to be adopted June 29, 2005.]*

John Gray stated that this is a petition to annex a single tax lot to the district. Ms. Stern opened the public hearing. There being no public comment, she closed the hearing.

Ms. George moved tentative approval of the annexation request, with findings to be adopted June 29, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. Receipt of public comment on a proposal for user fees at Rogers Landing, effective August 1, 2005. *[Tentatively approved; final order to be adopted June 29, 2005.]*

Staff Report - Ken Huffer presented a proposal on behalf of Yamhill County Parks & Recreation to implement a \$3 launch fee at Rogers Landing Park, with a \$30 season pass available for frequent users. He stated that the recently upgraded park has one of the premiere launch facilities on the Willamette River and the fee is intended to cover the \$40,000 annual maintenance and operation expenses and free up funding for other county parks. He noted that both the Newberg Boat Club and Northwest Steelheaders Association have expressed their support of the launch fees, which are lower than those charged by many other facilities around the state. Ms. Lewis noted for the record that the \$1.4 million spent to upgrade the facility came mostly from grant funding.

Ms. Stern opened the public hearing.

Merrill Johnson, Parks Board member, expressed his support of the fee proposal, stating that Rogers Landing deserves a higher level of maintenance than the minimal \$40,000 per year. He stated that some areas are not well maintained and there are inadequate public amenities, such as picnic tables. He suggested adding a walking path for safety reasons, planting trees and shrubbery, and building up a reserve fund for the future. He noted that a portable restroom facility will be added close to the boat ramp, with the possibility of a permanent facility in the future. John Krawczyk pointed out that the original restroom in that location washed away in a flood back in the 90's and facilities located in floodplain areas can't be insured.

Allen Stevens, member of the Parks Board and Newberg Boat Club, stated that the Newberg Boat Club enthusiastically agrees with the proposal for launch fees.

Close of Public Hearing / Deliberation - Mr. Huffer stated that the iron ranger, which will be used to collect fees until the automated fee machine is installed, will probably be ready to go between July 15 and August 1.

Ms. George moved tentative approval of the fee proposal, effective August 1, 2005, with the final order to be adopted June 29, 2005.

Ms. Lewis stated that she doesn't like to impose fees, but users seem to be agreeable, most other launches have fees, and the revenue would certainly help with maintenance and operation costs. Ms. George stated that using all of the Parks' funding for maintenance of Rogers Landing is cheating the other county parks and this is a fair fee amount. Ms. Stern expressed her appreciation to those involved in the project.

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

3. Consideration of Planning Docket PAZ-08-04, a request for zone change from AF-20 to AF-10, applicant Steven Wilson, Bucks Corporation, as continued from June 8, 2005. *[Continued to July 13, 2005 at the point of rebuttal; record open for submission of information pertaining to a reasons exception until 5:00 p.m. on June 29, 2005, for rebuttal until 5:00 p.m. on July 6, 2005, and for final arguments by the applicant until 5:00 p.m. on July 12, 2005.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdictions. She noted that each of the commissioners had visited the site.

Rick Sanai read the statement required for land use hearings pertaining 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 presented the staff report, describing the lot size and access, current use, surrounding zoning, the request for zone change, and required criteria for exceptions to Goals 3 and 4. He noted that the Board already has a copy of a letter from Friends of Yamhill County regarding the application.

Proponents - Al Benkendorf, representing the applicant, distributed information packets to the Board and asked them to support the application. He stated that the applicant initially filed an exception to Goals 3 and 4, but it was concluded that that was not necessary because this property is in fact non-resource land. He said that the vast majority of the site consists of low-value soils which can't support forestry use. He added that the property is in the middle of a large, rural residential area and is not critical for maintaining natural resources, wildlife, or agriculture in the area. He explained the need for additional AF-10 lots in the county and stated that this request is consistent with the county's Comprehensive Plan and Zoning Ordinance policies.

Joel Norgren, consulting soil scientist, shared the results of an in-depth soil analysis of the subject property, concluding that to his knowledge, this is one of the lowest potentially producing pieces of real estate in the county.

John Hemstreet, consulting forester, stated that a letter in the record from Friends of Yamhill County lists the subject property's lumber production as 101 million board feet, but the term "MBF" actually means thousand board feet. He explained that the production level reported on the permit application form is only about three loads of logs and is probably not even from the subject property, but within a quarter mile quadrant.

Mr. Benkendorf stated that these two additional residences would be good for the county, given the quality of homes being built in the area. He added that the fact that this is the largest concentration of stony land in Yamhill County makes it a good place for housing development.

Opponents - Merilyn Reeves, Friends of Yamhill County, apologized for the erroneous statement in her letter. She stated that she didn't oppose this application as it pertained to an exception, but she does oppose the designation of non-resource land. She noted that 20 acres of the property is on forest deferral. She requested that the record be left open to allow their attorney to submit information on previous cases having to do with non-resource land in other counties. She added that she would be willing to work with the applicant to revise the application and go back to

the exception process.

Public Agency Reports - Mr. Friday stated that Oregon Department of Transportation, Public Works, and Newberg Fire Department all reviewed the file and found no conflict with their interests.

Rebuttal - Mr. Benkendorf stated that the materials supporting the original reasons exception are still in the record and he would be willing to go back to that request.

Ms. Lewis moved to continue Planning Docket PAZ-08-04 to July 13, 2005 at the point of rebuttal, leaving the record open for submission of information pertaining to a reasons exception until 5:00 p.m. on June 29, 2005, for rebuttal until 5:00 p.m. on July 6, 2005, and for final arguments by the applicant until 5:00 p.m. on July 12, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

The meeting recessed at 10:08 a.m. and reconvened at 10:17 a.m.

4. Consideration of M37-26-05, a Measure 37/Ordinance 749 claim authorizing applicants Ralph and Norma Johnson to make application to subdivide 49.4 acres into one-acre lots and establish dwellings thereon. *[Continued to June 29, 2005 at the point of deliberation.]*

Ms. Stern opened the public hearing.

Staff Report - Mike Brandt pointed out the location of the subject property on a map and stated that the applicant has submitted a notarized real estate contract showing that he purchased the property in 1956. He said that the sale was not recorded in the county's deed and mortgage records until May 13, 1968, but there were no zoning regulations on the property until August 1968, so either date would be acceptable to the applicants. He reviewed the four criteria to consider in determining the validity of a Measure 37 claim. He explained that if the claim were approved by both the county and the state, the applicant would then have to make a subdivision application to the Planning Department, at which time the surrounding property owners be noticed and would have the opportunity to request a public hearing to address concerns such as water, septic, and roads.

Public Comment - Robert Connell, adjoining property owner, stated that the claimants have been good neighbors and friends and he has mixed feelings about raising his concerns. He discussed the effects of the proposed subdivision on the area's livability, septic capacity, water, and traffic safety. He stated that he would be willing to make a contribution to the county's fund for offsetting Measure 37 claims, but not to the extent that would be necessary for this claim.

Carr Biggerstaff stated that this request for an unplanned subdivision in the middle of agricultural land is not in the spirit of the reason Measure 37 was supposed to be passed. He said that Mr. Johnson had originally said he wanted to put in four or five ten-acre lots with homes.

Boyd Teegarden agreed with comments made by the previous two neighbors and emphasized the need for obtaining credible figures, not only for the land's current worth and growth potential, but also the cost of development and getting the road up to an adequate level to support the increased

traffic. He pointed out that a seasonal creek running through the property was not taken into consideration in the plans to put in 41 new homes.

Merilyn Reeves, Friends of Yamhill County, requested that the information presented at this hearing be made accessible for the subdivision application as well. She stated that Friends of Yamhill County is not interested in contributing to the Measure 37 compensation fund because the Attorney General has ruled that Measure 37 rights cannot be transferred. She said that the stated loss of value is a reflection of what is currently a scarce resource and she shared the concerns already expressed about the need to better determine the real loss of value. She pointed out that because the Board repealed systems development charges in 2001, there is now no funding mechanism to require developers to pay for demands which they impose on rural county roads. She stated that the Board now has enough information about the effects of Measure 37 to begin planning and doing some pro-active work.

Ilsa Perse stated that in her experience with rural subdivision applications, information that is provided about difficult issues such as water, roads, and traffic is usually not taken into consideration as reasons to deny development.

Rebuttal - Ralph Johnson stated that this subdivision concept was not just planned in the last few years. He referred to a letter from the Planning Commission, dated June 5, 1969, in response to his request for a subdivision, which affirmed the rural residential zoning of his property. He noted that he has a well which produces 129 gallons per minute, so there is the possibility of some good water in the area.

Close of Public Hearing / Deliberation - Ms. Lewis stated that she understands the concerns about infrastructure, but Measure 37 is now a state law with limited criteria. She explained that although the exact loss of value might not be clear, the county just has to find that the property value has been reduced, which is quite clear in this case. She stated that even if the loss of value were only \$500,000, paying the equivalent of six deputy positions for compensation would not be good public policy.

She discussed concerns raised about infrastructure, stating that people have to deal with water issues when they choose to live in the country. She stated that onsite sewage disposal is heavily regulated by the county and will be adequately taken care of. She said that the Budget Committee has discussed the need to look at traffic impacts of larger subdivisions and how to best use revenue from back taxes when farm or forest deferral is removed, and the Public Works Director is gathering information about requirements placed on developers in other counties. She stated that the county will probably be putting some of these things into place in the next few months.

Ms. Lewis moved tentative approval of M37-26-05, with findings to be adopted July 6, 2005.

Ms. George agreed with the comments made by Ms. Lewis and added that the claimants had purchased their property for a particular purpose, which was then taken away from them.

Ms. Stern stated that although the issue of ownership dates might not matter in this case, it

will set a precedent for other cases. She asked Mr. Gray to do some research and give his recommendation next week as to which date would be the right one to use.

Ms. Lewis withdrew her earlier motion and moved to continue the item to June 29, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

5. Receipt of public comment on the proposed 2005-06 county budget. [*Budget to be adopted June 29, 2005.*]

Mr. Krawczyk stated that there will be some changes to the budget approved by the Budget Committee in May before it is adopted next week, but this is the opportunity for citizens to comment.

Ms. Stern opened the public hearing.

Henry Reeves asked about the \$200,000 budgeted in the Measure 37 fund. Mr. Krawczyk explained that the fund was set up as a tool for the Board to accept contributions for compensation of Measure 37 claims, which would be the only source of funding. Ms. Stern stated that the Board is not anticipating any contributions, but this gives them expenditure authority in case any do come in.

The public hearing was closed. Ms. Stern expressed her appreciation to Mr. Krawczyk and other staff for a fine job in preparing the budget.

6. Receipt of public comment on a proposed 2004-05 supplemental county budget. [*Supplemental budget to be adopted June 29, 2005.*]

Mr. Krawczyk stated that this is a very simple supplemental budget for Public Works, but it requires a public hearing because it exceeds 10% of the original budget. He explained that the \$750,000 increase in revenue comes from Project Reimbursement and goes to Contract Services and is necessary in order to move some projects from the 2005-06 fiscal year into the 2004-05 fiscal year.

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

Mr. Krawczyk reported that the latest information from Eileen Slater indicates that property tax revenue will exceed his earlier estimate by about \$90,000 to \$100,000. He recommended putting the funds into the ending balance and the contingency fund.

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;
- i. Budget Committee, one position, application deadline August 31, 2005.

Adjourn: 11:26 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair MARY P. STERN

Commissioner LESLIE LEWIS

Commissioner KATHY GEORGE