

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 29, 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; Ken Friday, Planning Division Manager; Ken Huffer, Parks Coordinator; Marilyn Reeves, PO Box 1083, McMinnville; John Rankin, 26715 SW Baker Road, Sherwood; Matthew Powell, 1508 N. College Street, Newberg; Lewis Schaad, 31655 NE Schaad Road, Newberg; Ralph Johnson, 16705 NE Chehalem Drive, Newberg; Mike Gougler, 5241 Windsor Terrace, West Linn; and John Pinkstaff, 1727 NW Hoyt Street, Portland.

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.

John Gray requested that item D13 on the agenda, M37-48-05, be continued to July 6, 2005.

Marilyn Reeves, Friends of Yamhill County, submitted written testimony regarding the Measure 37 claims on today’s agenda and requested that the information be included with the final documents sent to the state. She pointed out that three of the claimants want to subdivide farmland down to 2.5 acres or less, which is becoming a trend in Measure 37 claims. She stated that road issues in rural areas are of key concern to residents living there and road districts have not been successful in solving those problems in Yamhill County.

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

Personnel

1. **B. O. 05-486** - Approve the change of status of Richard McDevitt, Olivia Carson, Walter Dillman, and Matthew Smith to extend temporary part-time employment in Adult Mental Health, effective July 1, 2005 through June 30, 2006.

2. **B. O. 05-487** - Approve the change of status of Kenneth Huffer to Range 22, Step 1 in Community Corrections, effective July 1, 2005.

3. **B. O. 05-488** - Approve the change of status of Brenda Hopper to extend temporary full-time employment in Community Corrections, retroactive to June 27, 2005 through August 26, 2005.
4. **B. O. 05-489** - Approve the change of status of Nancy Ogilvie to extend temporary part-time employment in Community Corrections, retroactive to June 23, 2005 through December 22, 2005.
5. **B. O. 05-490** - Approve the change of status Toni Tyree and Tammy Story to extend temporary part-time hours in the Commission on Children and Families, effective July 1, 2005 through July 30, 2005.

Contracts

6. **B. O. 05-491** - Approve Agreement #00554 between Yamhill County and Oregon Housing and Community Services Department to accept a Community Development Block Grant for the Regional Housing Center, up to \$70,000 for the period January 1, 2005 through December 31, 2005.
7. **B. O. 05-492** - Approve Amendment #9 to the 2004-05 LPHA Financial Assistance Contract #109355 between Public Health and Oregon Department of Human Services.
8. **B. O. 05-493** - Approve Modification #1 to Attachment N to an agreement between HHS and Mid-Valley Behavioral Care Network to extend services of the Regional Housing Coordinator, \$46,730, effective July 1, 2005 through June 30, 2006.
9. **B. O. 05-494** - Approve a Special Transportation Fund Services Agreement between Yamhill County and Abacus for quarterly disbursement of grant funds, \$8113, effective July 2, 2005 through June 30, 2006.
10. **B. O. 05-495** - Approve an intergovernmental agreement between HHS and Marion County for acute care psychiatric hospital alternatives, \$37,626, effective July 1, 2005 through June 30, 2006.
11. **B. O. 05-496** - Authorize a change order to an agreement between Yamhill County and Legacy Wireless Services approved by B.O. 04-453 in the sum of \$21,852 to be reimbursed by Oregon State Police.
12. **B. O. 05-497** - Approve a lease amendment between Adult Mental Health and the Housing Authority to extend the lease of six properties, effective July 1, 2005, total payments \$2407/month.
13. **B. O. 05-498** - Accept the apparent low bid of Mowat Construction Company for the Baker Creek Road Bridge #11540A project, #1,033,742, and authorize the chair to execute an agreement, subject to approval by County Counsel.
14. **B. O. 05-499** - Approve an indemnification agreement between Yamhill County and Cove Orchard Sewer Service District, effective June 29, 2005.
15. Approve the following agreements between Yamhill County and Allegiance Benefit Plan Management, Inc. for the county's Section 125 Flexible Benefits Plan:
 - a. **B. O. 05-500** - Compliance Amendment, effective June 29, 2005;
 - b. **B. O. 05-501** - Security Amendment, effective June 29, 2005;
 - c. **B. O. 05-502** - Business Associate Agreement, retroactive to April 20, 2005.

Vehicles

16. **B. O. 05-503** - Authorize the purchase of a new 2005 Ford ½ ton 4x4 pickup from Chuck Colvin Ford in place of the 2005 Chevrolet pickup from Murray Chevrolet authorized by B.O. 05-268, \$20,499.

Deeds

17. **B. O. 05-504** - Accept a dedication of public right of way from John H. Melnick and Leeann Melnick for a permanent easement for the Willamina Creek Bridge project.

18. **B. O. 05-505** - Accept a quitclaim deed from Leroy E. Beals and Pauline F. Beals for the Willamina Creek Bridge project.

Roads

19. **B. O. 05-506** - Approve the establishment of a residential district on Hagey Road from Dayton Avenue to the dead end with a residential speed zone of 25 mph.

Policy

20. **B. O. 05-507** - Approve a Board Order modifying the county policy relating to disciplinary procedures for non-bargaining employees other than department heads.

Measure 37

21. **B. O. 05-508** - Set a public hearing for August 24, 2005 to consider M37-45-05, a Measure 37 claim authorizing Donald and Glenda Martsolf to make application to subdivide 31.6 acres into one-acre lots and establish dwellings thereon.

Budget Transfers

22. Approve the following transfers of appropriation authority:

a.	<u>B. O. 05-509</u> - From	010-039-720.11	New State Programs	\$3500
	To	010-025-499.99	Vacation Liability Adjust.	\$3500
b.	<u>B. O. 05-510</u> - From	010-081-611.02	Contract Services	\$55,000
	To	010-041-510.01	Central Supplies	\$10,000
		010-041-511.10	Jail Supplies	\$10,000
		010-041-613.01	Medical Treatment	\$35,000
c.	<u>B. O. 05-511</u> - From	010-039-720.11	New State Programs	\$2500
	To	010-010-510.01	Central Supplies	\$1000
	To	010-010-780.04	Telecom	\$1500
d.	<u>B. O. 05-512</u> - From	010-039-334.24	New State Grants	\$4500
	To	010-023-499.99	Vacation Liability Adjust.	\$4500
e.	<u>B. O. 05-513</u> - From	010-039-720.11	New State Programs	\$3000
	To	010-021-780.05	Motor Pool	\$3000
f.	<u>B. O. 05-514</u> - From	040-027-740.01	Principal Payment	\$110,000

	To	040-027-610.01	Professional Services	\$15,000
		040-027-780.02	Internal Interest	\$15,000
		040-027-780.34	Internal Principal	\$40,000
		040-027-780.41	Internal Transfer	\$40,000
g.	<u>B. O. 05-515</u> - From	021-045-699.13	Other State Grants	\$25,000
	To	021-063-820.06	Capital	\$25,000
h.	<u>B. O. 05-516</u> - From	016-079-720.11	New State Programs	\$500,000
		016-172-610.25-P132	Profession Contract Emp.	\$25,000
	To	016-070-695.15-H004	Emergency Expenses	\$125,000
		016-071-695.15-P148	Emergency Expenses	\$75,000
		016-072-695.15-P120	Emergency Expenses	\$225,000
		016-073-695.15-P123	Emergency Expenses	\$25,000
		016-075-695.15-P122	Emergency Expenses	\$50,000
		016-076-685.15-P164	Emergency Expenses	\$25,000
i.	<u>B. O. 05-517</u> - From	045-029-802.02	Pool Cars	\$120,000
	To	045-029-740.01		\$120,000
23.	Approve the following transfers of appropriation authority and funds:			
1.	<u>B. O. 05-518</u> - From	010-039-670.02	Heat/Lights/Water	\$10,000
	To	021-116-670.02	Heat/Lights/Water	\$10,000
2.	<u>B. O. 05-519</u> - From	010-092-950.01	Contingency	\$5000
	To	010-090-900.49	Transfer to Court Security	\$5000
	From	010-090-900.49	Transfer to Court Security	\$5000
	To	049-086-404.09	Corrections Officer	\$3000
		049-086-510.01	Central Supplies	\$2000
3.	<u>B. O. 05-520</u> - From	010-039-670.02	Utilities	\$45,000
	To	010-090-900.04	Transfer to Cap Improve.	\$45,000
	From	010-090-900.04	Transfer to Cap Improve.	\$45,000
	To	040-016-481.01	Overtime	\$5000
		040-016-670.02	Utilities	\$5000
		040-161-482.00	Extra Help	\$10,000
		040-161-611.02	Contract Services	\$25,000

C. OLD BUSINESS:

1. Consideration of adoption of findings in support of a request for annexation to the Yamhill Rural Fire Protection District, applicants Donald and Annette Ward, as tentatively approved June 22, 2005. *[Continued to July 6, 2005.]*

Mr. Gray requested that the item be continued to next week while an ownership issue is being resolved. Ms. Lewis moved to continue the item to July 6, 2005. The motion passed, Commissioners Stern,

Lewis, and George voting aye.

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

1. Consideration of approval of Modification #2 to a Sub-Recipient Agreement between Yamhill County and Yamhill County Affordable Housing Corporation regarding the Regional Housing Center grant. *[Continued to July 6, 2005.]*

Mr. Gray requested that the item be continued for one week while an issue with the state is being resolved. Ms. George moved to continue the item to July 6, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. Consideration of Ordinance 770 establishing boat launch fees at Rogers Landing Park, \$3/launch or \$30/year, effective August 1, 2005. *[Continued to July 13, 2005.]*

Mr. Gray stated that a tentative agreement was reached between two commissioners at Monday's informal session regarding the fine amounts for violation of launch fees, but Ms. Lewis had expressed her dissatisfaction with the amounts. He said that a question was raised yesterday about the process of approving one ordinance to establish the fees and a second to impose penalties, so he would like to continue the item for two weeks and have further discussion with the commissioners.

Ms. George suggested looking into the possibility of an arrangement with the City of Newberg for enforcement so that violations could be cited into their justice court until the county gets a justice court of its own. Mr. Gray stated that Newberg has a municipal court, but an intergovernmental agreement might be an option. Ms. Lewis suggested appointing a county hearings officer and treating violations more like parking tickets rather than getting the circuit court involved.

Ms. George moved to continue the item to July 13, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

3. **B. O. 05-521** - Consideration of Ordinance 771 modifying Dog Control fees, effective August 1, 2005. *[Approved.]*

Rick Sanai provided the first and second readings of Ordinance 771 by title only, declaring an emergency. Ms. Stern moved approval of the ordinance. The motion passed, Commissioners Stern, Lewis, and George voting aye.

4. **B. O. 05-522** - Consideration of approval of the 2005-06 renewal of the county's annual insurance policy with City/County Insurance Services for property and liability coverage. *[Approved.]*

Mr. Krawczyk stated that he hasn't yet received quotes for insurance coverage, but early information indicates that the rates will be equal to or less than the rates for the current year.

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

5. **B. O. 05-523** - Consideration of adoption of Resolution 05-6-29-1, adopting the Yamhill County Budget for fiscal year 2005-06 in the amount of \$85,103,024 and setting the schedule of appropriations and tax rate at \$2.5775 per thousand dollars assessed value. *[Approved.]*

Mr. Krawczyk stated that a public hearing for the budget was held last week, but no testimony was given. He reported that a number of changes have been made since the budget was approved by the Budget Committee and the total budget has been reduced by over \$1 million.

Ms. Lewis moved to adopt the budget resolution. The motion passed, Commissioners Stern, Lewis, and George voting aye. Ms. Lewis expressed her appreciation to all those who worked so hard on the budget.

6. **B. O. 05-524** - Consideration of adoption of Resolution 05-6-29-2 supporting a priority bill or other legislation similar to Utah's Senate Bill 184. *[Approved.]*

Ms. George stated that the Senate is working on a joint resolution regarding the limits of eminent domain. Ms. Stern stated that she has some concerns with the draft resolution provided by Ms. George and the Board should write up their own resolution before signing it.

Ms. George moved to adopt the resolution, still to be drafted. The motion passed, Commissioners Stern, Lewis, and George voting aye. *[Note: This Board Order was replaced by B.O. 05-568 once consensus was reached on the wording of the resolution.]*

7. Consideration of approval of the transfer of appropriation authority and funds: *[Continued to June 30, 2005.]*

To	010-074-362.22-J145	Lease/Loan Proceeds	\$350,000
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Mr. Krawczyk stated that the Juvenile Department may not need this much money for the Juvenile Detention Center remodel project. He suggested continuing the item to tomorrow's special session.

Ms. Stern moved to continue the item to June 30, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

8. **B. O. 05-525** - Consideration of approval of a supplemental budget for the Fair to purchase a tractor, fiscal year 2004-05: *[Approved.]*

Revenue:	020-082-390.23	Interfund Loan	\$13,900
Expenditure:	020-082-800.80	Department Equipment	\$13,900

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

Measure 37

9. **B. O. 05-526** - Consideration of M37-43-05, a Measure 37 claim authorizing Richard and Barbara Taeubel to make application to subdivide 20 acres into 2.5-acre lots and establish dwellings thereon. *[Approved.]*

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-43-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

10. **B. O. 05-527** - Consideration of M37-44-05, a Measure 37 claim authorizing Ray and Randy Hopp to make application to subdivide 17.45 acres into 2.5-acre lots and establish dwellings thereon. *[Approved.]*

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-44-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

11. **B. O. 05-528** - Consideration of M37-46-05, a Measure 37 claim authorizing Robert and Katie Moffitt to make application to partition 80 acres into three lots and establish dwellings thereon, and to establish a dwelling on an existing 28-acre property. *[Approved.]*

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-46-05. The motion passed, Commissioners Stern, Lewis, and George voting aye. Ms. Lewis stated that this request fits in with the surrounding AF-10 and EF-20 zoning, which was very common in the county during the 1980's.

12. **B. O. 05-529** - Consideration of M37-47-05, a Measure 37 claim authorizing Raphael and Irene Toner to make application to subdivide 103.54 acres into four lots and establish dwellings thereon. *[Approved.]*

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-47-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

13. Consideration of M37-48-05, a Measure 37 claim authorizing Celia Dromgoole to make application to partition 39 acres into three lots and establish dwellings thereon. *[Continued to July 6, 2005.]*

Ms. Lewis moved to continue the item to July 6, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

14. **B. O. 05-530** - Consideration of M37-49-05, a Measure 37 claim authorizing Don and Rea Barnes to make application to partition 55 acres into three lots and establish dwellings on two of those lots. *[Approved.]*

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-49-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

15. **B. O. 05-531** - Consideration of M37-50-05, a Measure 37 claim authorizing Joseph and Darlene Mathis to make application to partition 9.2 acres into three lots and establish dwellings on two of those lots. *[Approved.]*

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-50-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

16. **B. O. 05-532** - Consideration of approval of an intergovernmental agreement between Adult Mental Health and Linn County for acute care psychiatric hospital alternatives, \$13,439, effective July 1, 2005 through June 30, 2006. *[Approved.]*

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

17. **B. O. 05-533** - Consideration of approval of an intergovernmental agreement between Adult Mental Health and Lincoln County for acute care psychiatric hospital alternatives, \$5375, effective July 1, 2005 through June 30, 2006. *[Approved.]*

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

18. Declaration of use of commissioners' discretionary funds. *[No formal action necessary.]*

Ms. George stated that she used \$200 for the meth summit broadcasting costs. She said she would declare the remainder of her discretionary spending at tomorrow's special formal session.

Ms. Lewis stated that the \$3400 she received for discretionary spending in lieu of a raise all went to Ball Janik, LLP for lobbyist expenses for the Newberg-Dundee Bypass project. She stated that \$435 went to the Fair for a tabloid sponsor ad, \$70.82 went to the Juvenile Department for a temporary shelter, and \$994.18 went to the Fair for replacement of bleacher boards.

Ms. Stern stated that \$375.27 of her discretionary budget went to Lazerquick for the meth summit, \$321 went to Habitat for Humanity, and \$72.91 went to the Institute of Metropolitan Studies for Metroescape.

E. PUBLIC HEARINGS:

1. **B. O. 05-534** - Consideration of a stipulated settlement agreement between Matthew and Renee Powell, Friends of Yamhill County, and Yamhill County regarding an appeal of the Board's decision in Planning Docket PAZ-02-03. *[Ordinance 772 approved.]*

Ms. Stern opened the public hearing.

John Rankin, representing the applicants, expressed his appreciation to Merilyn Reeves and Friends of Yamhill County for their willingness to enter into a settlement agreement, and to the Board of Commissioners and county staff for their help. He asked the Board to approve the stipulated settlement agreement.

Ms. Reeves thanked Ian Simpson, attorney for Friends of Yamhill County, and Planning Department staff for their help.

The public hearing was closed.

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

Mr. Sanai provided the first and second readings of Ordinance 772, approving the voluntary remand of Planning Docket PAZ-02-03, by title only, declaring an emergency. Ms. Lewis moved approval of the ordinance. The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. **B. O. 05-535** - 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 from June 22, 2005 at the point of deliberation. *[Approved.]*

Mr. Gray stated that although there is good evidence of a land sales contract dated in 1956, the Planning Director's recommendation is to use the 1968 date of ownership because that was the first recorded instrument. He agreed that it would be appropriate to take the conservative position and this won't affect the potential lot size for development. He noted that each Measure 37 claim is examined on a case by case basis.

Deliberation - Ms. Lewis agreed with Mr. Gray's conclusion, but noted that ownership doesn't hinge on recordation because many land sales contracts were not recorded in those days.

Ms. George stated that this would not be setting a precedent that recordation is necessary, but would be a more defensible position if appealed.

Ms. Stern stated that this case illustrates the problem of how to assess health and safety issues under such a vague law. She said that the issues raised by the claimants' neighbors are valid, but will have to be addressed later in the land use process.

Ms. Lewis moved approval of M37-26-05. The motion passed, Commissioners Stern, Lewis, and George voting aye.

3. Consideration of Planning Docket C-02-05, a request for temporary use of an emergency access road, applicant Mike Gougler, MJG Development, continued from June 8, 2005 at the point of staff recommendation. *[Tentatively approved; findings to be adopted July 13, 2005.]*

Staff Recommendation - Ken Friday referred to earlier implications that Mr. Gougler had knowingly violated some major land use regulations and was uncooperative, and stated that he had found Mr. Gougler to be very cooperative with the Planning Department's requests.

He stated that he does not agree with Mr. Pinkstaff's argument that land use approval is unnecessary because the proposed use does not serve local travel needs as defined by the Comprehensive Plan. He stated that conditional use approval is required because the road would eventually be restored to emergency vehicle access rather than to its original use. He said that although the Planning Department does have concerns about the safe use of the road, he believes it would reduce truck traffic on county roads.

He recommended that the Board approve the request with a time limit to expire December 31, 2007 and a condition that the road be restored back to emergency vehicle access at that time, with locked gates at both ends of the road.

Deliberation - Ms. Lewis stated that since trucks are using Corral Creek Road anyway, it would be preferable to have this temporary access road available to shorten their trips. She added that the Public Works Director has expressed his support of the request for that reason. Ms. George agreed with the statements made by Ms. Lewis and Bill Gille.

Ms. Lewis moved tentative approval of Planning Docket C-02-05 with a time limit expiring December 31, 2007 and findings to be adopted July 13, 2005.

Ms. Stern read an email message in the record from Joe Schiewe, dated June 16, 2005. She stated that she finds it disconcerting that the City of Newberg misled the applicant, the fire department, and the neighbors, and has now dumped the problems created by an ill-thought-out transportation plan into the county's lap. She said that the Board has a responsibility to the residents to minimize the effects of this plan by approving the applicant's request. She added that it is the city's responsibility to make temporary improvements to that stretch of Corral Creek Road until plans for the bypass are finalized.

Ms. Lewis emphasized the importance of developing an interchange management plan for this area and stated that she has been pushing ODOT to move forward on that first. Ms. George stated that plans were originally made to include more entrances to the development, but were stymied because of extremely high costs in working around environmental laws.

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

4. **B. O. 05-536** - Consideration of the private sale of surplus Tax Lot R5309 00900 to Joe Hoffart for \$2500 plus costs, subject to approval of the final order. *[Approved.]*

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

Ms. George moved approval of the sale, subject to approval of the final order. The motion passed, Commissioners Stern, Lewis, and George voting aye. Mr. Gray stated that he will prepare the deed and come back with an order to be finalized once payment has been received.

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

The meeting recessed at 10:15 a.m. and reconvened at 11:30 a.m. in Room 108 following an executive session pursuant to ORS 192.660(2)(d) for the purpose of discussion labor negotiations. No final decisions were made during the executive session.

Adjourn: 11:30 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair	MARY P. STERN
Commissioner	LESLIE LEWIS
Commissioner	KATHY GEORGE