

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 September 14, 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; Mike Brandt, Planning Director; Merilyn Reeves, PO Box 1083, McMinnville; Ilsa Perse, 5765 Mineral Springs Road, Carlton; David Stutz, 19610 NE 116th, Redmond, Washington; Harold Kuehne; Cassandra Sollars, 520 NW 18th Place, McMinnville; Larry Doty, 1707 NW Doty Lane, McMinnville; and David Bates, News-Register.

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. None offered.

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. 05-765** - Recognize Dawn Cottrell’s previous years of service in the calculation of her FET accrual.

2. **B. O. 05-766** - Approve a contract employee agreement between Chemical Dependency and Rosy Wyland for services under the direction of the Prevention Program Coordinator, \$17.25/hour, retroactive to August 30, 2005 through December 30, 2005.

3. **B. O. 05-767** - Approve a contract employee agreement between the Sheriff’s Office and Consuelo Christianson for YCINT crime analysis services, \$13.89/hour, effective September 14, 2005.

Contracts

4. **B. O. 05-768** - Approve the renewal of an agreement between Family & Youth and Willamina School District for a full-time mental health counselor, not to exceed \$34,425, retroactive to September 1, 2005 through August 30, 2006.

5. **B. O. 05-769** - Approve Amendment #1 to an agreement between the Commission on Children and Families (CCF) and Oregon Commission on Children and Families for 2005-07 funding.

6. **B. O. 05-770** - Approve an agreement between CCF and Yamhelas Community Resource Center for Community Progress Team services in Yamhill, not to exceed \$7064, retroactive to July 1, 2005 through June 30, 2006.
7. **B. O. 05-771** - Approve an agreement between CCF and Yamhill County CASA for children's services, \$16,033, retroactive to July 1, 2005 through June 30, 2006.
8. **B. O. 05-772** - Approve an agreement between CCF and Carlton Together Cares for at-risk services in the communities of Carlton and Yamhill, \$19,304, retroactive to July 1, 2005 through June 30, 2006.
9. **B. O. 05-773** - Ratify the approval of Amendment #48 to the 2003-05 Financial Assistance Contract #36-001 between HHS and Oregon Department of Human Services, retroactive to August 25, 2005.
10. **B. O. 05-774** - Ratify the approval of Amendment #50 to the 2003-05 Financial Assistance Contract #36-001 between HHS and Oregon Department of Human Services, retroactive to August 25, 2005.
11. **B. O. 05-775** - Approve Amendment #3 to an agreement between Public Works and OBEC Consulting Engineers to extend the completion date for preliminary engineering of the Baker Creek Road Bridge #11540A project to November 30, 2005.
12. **B. O. 05-776** - Approve a grant agreement between Yamhill County and Mid-Willamette Valley Council of Governments for the administration of a portion of the Community Development Block Grant Evans Street Expansion and Remodel project.
13. **B. O. 05-777** - Accept a proposal from RSS Architecture for additional design consulting services regarding the Stern Building dumbwaiter project, \$8764.

Designation of Authority

14. **B. O. 05-778** - Designate the Yamhill County Parks Department to oversee and provide management of the Rainbow Lodge facilities.

Policy

15. **B. O. 05-779** - Approve a modification to county policy to allow employees with over 800 hours of Personal Extended Leave to sell back two weeks this fiscal year.

C. OLD BUSINESS:

Measure 37

1. Consideration of M37-62-05, a Measure 37 claim authorizing Kathryn McCallie, Bette Sunderman, and Barbara Thompson to make application to establish a dwelling on a 41.6-acre property, as continued from September 7, 2005. *[Continued to September 21, 2005.]*

Ms. Lewis moved to continue M37-62-05 to September 21, 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 a letter in support of the Spirit Mountain Community Fund grant application by Mid-Willamette Valley Senior Services Foundation. [*Consensus of approval; no formal action necessary.*]

Ms. George explained that the foundation provides relief for low-income seniors needing help with one-time expenses under \$200. The Board agreed to sign the letter of support.

2. **B. O. 05-780** - Consideration of approval of changing the salary range for Certified Medical Assistants from Range 8 to Range 12, as recommended by the Classification Committee.

Ms. Stern stated that the county has had a difficult time recruiting and keeping CMA's and this increase would bring the salary range up to a more competitive level. She moved approval of the new salary range. The motion passed, Commissioners Stern, Lewis, and George voting aye.

3. **B. O. 05-781** - Consideration of approval of the employment of Audelia DuClos, Independence, as a Certified Medical Assistant in Public Health, regular part-time, Range 12, Step 1, effective September 14, 2005.

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

E. **PUBLIC HEARINGS:**

1. Consideration of M37-58-05, a Measure 37 claim authorizing Harold Kuehne to make application to subdivide 94 acres into 62 1.5-acre lots and establish dwellings thereon. [*Tentatively approved; order to be adopted September 21, 2005.*]

Ms. Stern opened the public hearing.

Staff Report - Mike Brandt reviewed the claimant's request, stating that Mr. Kuehne has owned the subject property since August 20, 1965 and estimates the loss of value at \$15 million. He recommended modifying, removing, or not applying the land use regulations back to August 20, 1965.

Public Testimony - Marilyn Reeves, Friends of Yamhill County, stated that the purposes of a public hearing are to notify the public, to seek information to aid in the decision-making process, and to provide participants an avenue of appeal. She said that the county has not provided adequate public notification, the Board's legislative authority to make decisions has been restricted by Measure 37, and according to the attorney for one Yamhill County Measure 37 claimant, only the property owner would be allowed to appeal the Board's decision. She stated that Measure 37 is discriminatory because claims are only available to a closed class of people, and she believes there will be some constitutional relief in the matter.

She stated that this public hearing process is not rational because the county either has to let the claimant do what he wants or pay him compensation, which gains nothing for the majority of taxpayers. She pointed out that when Mr. Kuehne acquired the property in 1965, the purchase price reflected the uses allowed at that time.

Ilsa Perse stated that communities around the country are madly trying to accomplish land use planning to remedy the mistakes resulting from years of no planning, but now Oregon is madly undoing what was once the model land use plan for the country. She said that in any democracy, citizens are often not allowed to do everything they want to do and land use regulations here have still allowed property owners to get ahead in a reasonable manner. She added that rural subdivisions were probably not the original intent of residents who purchased land in Yamhill County.

David Stutz stated that he owns a farm to which the only access is via an easement on the subject property. He said that he is neither opposed to nor in favor of the application, but is concerned about his ability to continue his farming operation without impact. He stated that he only recently heard about Mr. Kuehne's plans, but he intends to speak with him about his concerns.

Close of Public Hearing / Deliberation - Ms. Lewis stated that the law only gives the Board two options: to waive the land use regulations or pay the compensation. She said that the county does not have \$15 million, and even if it did, paying the money would purchase nothing for the majority of county residents. She stated that Mr. Kuehne clearly has a valid Measure 37 claim and noted that issues concerning septic, water, and roads would be addressed when the subdivision application is considered.

Ms. Lewis moved tentative approval of M37-58-05, with findings to be adopted September 21, 2005.

Ms. George stated that if the public feels strongly about the value of maintaining open space on the subject property, it needs to buy the development rights from the owner. She added that landowners should not be forced to defend their constitutional rights. She expressed her regrets that when the land use bill went into effect in the 1970's, it contained no provision at that time for compensation rights to the people.

Ms. Stern stated that Measure 37 is a horribly flawed law, but the Board has to follow it as written. She noted that the claimant still has to go through the land use application process before he can start building.

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

2. Consideration of M37-60-05, a Measure 37 claim authorizing Gary and Nancy Owens to make application to subdivide 122 acres into 2.3-acre lots and establish dwellings thereon. *[Tentatively approved; order to be adopted September 21, 2005.]*

Ms. Stern opened the public hearing.

Staff Report - Mike Brandt reviewed the claimant's request, stating that the Owens have owned the subject property since May 1, 1972 and estimate the loss of value at a little over \$2 million. He recommended modifying, removing, or not applying the land use regulations back to May 1, 1972.

Public Testimony - Marilyn Reeves, Friends of Yamhill County, requested that her comments from the previous hearing also be applied to this hearing. She stated that she is unaware whether or not the City of Dayton, which would be severely impacted by this claim, has been properly notified about the public hearing. She disagreed with Ms. George's statement that property rights should not be appealable and stated that citizens have a right to take court action. She added that it is not rational to raise the expectations of

the claimant with a Measure 37 approval and then ask him to go through the land use process to deal with issues.

Ilsa Perse requested that her previous comments be applied to this hearing as well. She stated that land use laws have not diminished property owners' investments and provided examples to demonstrate that property values have been increasing over the years. She stated that Measure 37 claims affect the whole county, not just immediate neighbors. She expressed frustration that claimants will be bringing in hundreds of new residents to the county, but voters will not approve a bond measure to pay for schools.

Close of Public Hearing / Deliberation - Ms. Lewis reiterated her previous comments and moved tentative approval of M37-60-05, with findings to be adopted September 21, 2005.

She stated that there have been many attempts over the years to pass a vested rights bill, but those attempts have been shot down by 1000 Friends of Oregon and Oregon Farm Bureau. She said that Measure 37 shouldn't have had to happen, but more realistic efforts to get reason to prevail have been unsuccessful in the legislature. Ms. George added that Measure 7 was an unsuccessful attempt four years ago to bring reasonableness, but there seems to be much polarization on this issue. Ms. Stern stated that Measure 37 is not a reasonable or fair solution either, but it is now the law.

The motion for tentative approval 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. Special Transportation Commission, two positions;
 - b. Local Alcohol and Drug Planning Council, one position;
 - c. Ambulance Service Area Advisory Committee, one position for an emergency room physician;
 - d. Parks Board, two positions.

The meeting recessed at 9:48 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair	MARY P. STERN
Commissioner	LESLIE LEWIS
Commissioner	KATHY GEORGE