

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 January 25, 2006 at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Leslie Lewis, Kathy George, and Mary P. Stern being present.

Also present was John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; John Krawczyk, Administrative Services Director; Steve Mikami, Personnel Officer; Julia Staigers, Administrative Services Manager; Mike Brandt, Planning Director; Bill Gille, Public Works Director; Cassie Sollars, candidate for Commissioner; Ray Teasley, Mid-Willamette Valley Council of Governments; Daniel Danicic and Jim Bennett, 414 E. First Street, Newberg; Jill Gelineau, Attorney; Dick Petrone and John Trudel, Oxberg Lake Estates Homeowners Association; Steve Abel, 900 SW 5th Avenue, Suite 2600, Portland; John Bridges, 515 E. First Street, Newberg; Howard Leichter, 14420 NW Pheasant Hill Road, McMinnville; and Marilyn Reeves, P.O. Box 1083, McMinnville.

Commissioner Lewis 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.

Marilyn Reeves, representing Friends of Yamhill County, expressed her regrets that the county is continuing to process Measure 37 claims while the measure’s constitutionality is under review by the Supreme Court, stating that suspending Measure 37 timelines would be in the best interest of all.

She stated that the date of ownership in M37-114-05 should be 1999, not 1971, because of a gap in ownership, during which time the subject property was in the name of the claimant’s wife. She said that if the Board had held a public hearing on this claim, additional information may have been brought forward.

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

Personnel

1. **B. O. 06-49** - Approve the employment of Kristen Hansen, Amity, as on-call relief in the Juvenile Department, \$7.50/hour, effective January 25, 2006.

2. **B. O. 06-50** - Approve the change of status of Stephanie Brown to MH Specialist 2 in HHS Adult Mental Health, temporary part-time, retroactive to January 23, 2006 through April 23, 2006.

3. **B. O. 06-51** - Amend the Veterans Services personnel management roster to include position authority for a full-time Office Specialist Technician.

Contracts

4. **B. O. 06-52** - Approve an amendment to Sand and Gravel License SG-1618\APP16361 between Public Works and Oregon Department of State Lands to change the billing address.

Roads

5. **B. O. 06-53** - Approve a request for a residential speed zone on Old Yamhill Highway, a portion of County Road #70.

Committees

6. **B. O. 06-54** - Appoint Michael Green to the Budget Committee for a three-year term to expire June 30, 2008.

C. **OLD BUSINESS:**

1. **B. O. 06-55** - Consideration of authorizing the County Tax Collector to establish a reserve account for property tax refunds resulting from SP Newsprint Company v. Dept. of Revenue.

John Krawczyk discussed the potential financial impact of this appeal on the county's budget. Ms. Lewis added that the outcome will affect all taxing jurisdictions in Yamhill County. She expressed her hope that the Department of Revenue will work out the issue with SP Newsprint as quickly as possible.

Ms. Lewis moved to authorize the reserve account. The motion passed, Commissioners Lewis, George, and Stern voting aye.

2. **B. O. 06-56** - Consideration of adoption of Ordinance 778 approving amendments to the McMinnville Urban Growth Management and Urbanization Plan, as tentatively approved January 11, 2005.

Rick Sanai provided the first and second readings of Ordinance 778 by title only, declaring an emergency. Ms. Stern moved approval of the ordinance. The motion passed, Commissioners Lewis, George, and Stern voting aye.

Ms. Lewis noted that although she was not able to attend the public hearings, she had read through the materials and reviewed them with the Planning Director. The commissioners expressed their appreciation to city staff members and to members of the public for their input and work on these amendments.

3. **B. O. 06-57** - Consideration of adoption of Ordinance 779 to repeal Ordinance 773, findings in support of Planning Docket Z-01-05, a request for zone change from EF-80 to AF-20, applicant Gordon Dromgoole, as adopted August 17, 2005.

Rick Sanai provided the first and second readings of Ordinance 779 by title only, declaring an emergency. Ms. Lewis moved approval of the ordinance. The motion passed, Commissioners Lewis, George, and Stern voting aye.

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

Measure 37

1. **B. O. 06-58** - Consideration of approval of M37-105-05, a Measure 37 claim allowing Elmer and Lujean Smith to make application to divide their property into five ten-acre lots and to establish a dwelling on each vacant lot.

John Gray stated that although these orders recognize the Measure 37 claims, any land use action is contingent on the outcome of the Supreme Court. He read the operative part of each order. Ms. George moved approval of M37-105-05. The motion passed, Commissioners Lewis, George, and Stern voting aye.

2. **B. O. 06-59** - Consideration of approval of M37-107-05, a Measure 37 claim allowing Constance Trunk to make application to divide 12.88 acres into four lots of approximately three acres each and to establish a dwelling on each vacant lot.

Ms. George moved approval of M37-107-05. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no.

3. **B. O. 06-60** - Consideration of approval of M37-111-05, a Measure 37 claim allowing Keith Hay to make application to divide 153 acres into two lots and to potentially establish a dwelling on the vacant lot.

Ms. George moved approval of M37-111-05. The motion passed, Commissioners Lewis, George, and Stern voting aye.

4. Consideration of approval of M37-114-05, a Measure 37 claim allowing Hugh Norby to make application to divide approximately fifteen acres into three five-acre lots and to establish a dwelling on each vacant lot. *[Continued to February 1, 2006.]*

Mr. Gray stated that in light of Ms. Reeves' earlier comments, he would like some more time to evaluate the claim. Ms. Lewis moved to continue M37-114-05 to February 1, 2006. The motion passed, Commissioners Lewis, George, and Stern voting aye.

Policy

5. Consideration of approval of a policy to end medical benefits for terminated employees on the last day of the month of termination. *[Continued to February 1, 2006.]*

At Mr. Gray's request, Ms. Stern moved to continue the item to February 1, 2006. The motion passed, Commissioners Lewis, George, and Stern voting aye.

Contracts/Grants

6. **B. O. 06-61** - Consideration of approval of an agreement between the Board of Commissioners, the Fair Board, and Stephanie Collver regarding her work as Fairgrounds Security Attendant and the use of a manufactured dwelling on the Fairgrounds, retroactive to January 1, 2006 through March 31, 2006.

Mr. Gray explained that the county has an existing agreement with Stephanie Collver's sister, which Stephanie took over in January, not knowing that a new contract would be needed. He stated that this temporary agreement is necessary in order to pay Stephanie for her work and collect rent from her paycheck. Ms. Lewis added that the Fair Board intends to advertise the position in hopes of finding a qualified applicant not related to any of the Fair Board members.

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

7. Consideration of approval of a letter of support for a grant application by the West Valley Fire District. *[Consensus of agreement, letter to be circulated and signed by the Chair.]*

John Krawczyk explained that the fire district would like to apply for a grant to obtain additional manpower and has requested a letter of support from the Board. The Board agreed to the request.

E. PUBLIC HEARINGS:

1. Consideration of approval of Planning Docket PAZ-03-05, a request for zone change of approximately thirty acres from EF-80 to AF-10, applicants Wade and Patricia Miller, as continued from December 7, 2005 at the point of Staff Report. *[Continued to March 1, 2006.]*

Ms. Stern moved to continue PAZ-03-05 to March 1, 2006 at the request of the applicants. The motion passed, Commissioners Lewis, George, and Stern voting aye.

2. Consideration of Planning Docket PAZ-06-04, a request for zone change of eleven acres from AF-10 to Highway Commercial, applicant Willie Owens, as continued from December 7, 2005 at the point of Proponent's Case. *[Continued to March 1, 2006.]*

Ms. Stern moved to continue PAZ-06-04 to March 1, 2006 at the request of the applicant. The motion passed, Commissioners Lewis, George, and Stern voting aye.

3. Receipt of public comment on the Community Development Plan for Oregon Lottery funds.

Ms. Lewis opened the public hearing.

Ray Teasley reviewed the makeup and function of the 27-member Partnership Board and explained that the proposed plan divides the funds into two different categories of grants: immediate job creation grants, which would have an eighteen-month hire deadline, and rural investment grants, which would have five years to comply with requirements. He said that this plan has very few changes from the plan used in the last biennium. He reviewed a list of past grant recipients and discussed the long-term goals of the program. Ms. Stern invited him to discuss the grant opportunities at an upcoming Economic Development Roundtable.

There being no public comment, the hearing was closed.

a. **B. O. 06-62** - Consideration of approval of the 2005-07 Community Development Plan proposed by the Mid-Willamette Valley Community Development Partnership, authorizing the Partnership to proceed with the regional investment program.

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

4. Consideration of the transfer of jurisdiction to the City of Newberg over various roads, as continued from December 7, 2005. [*Continued to February 1, 2006.*]

Mr. Gray stated that although the Board had come to a preliminary agreement on Monday regarding the transfer of jurisdiction order to be adopted, the county had discovered yesterday that a portion of Springbrook Road was already transferred to the City of Newberg in 1976. Bill Gille stated that he doesn't believe any significant county funds have been spent in maintaining that portion since the transfer.

Ms. Lewis opened the public hearing.

Daniel Danicic, Newberg Public Works Director, stated that the city and the county have worked together cooperatively to take care of roads within the city. He requested that the application be amended to exclude that portion of Springbrook Road already under the city's jurisdiction. He reviewed the purpose of the request for transfer of jurisdiction and stated that the road planned between Aspen Way and Springbrook Road will serve both local city traffic and traffic to other portions of the county. He said that changes were made to the design of the roundabout in order to address citizen concerns.

He stated that the city is comfortable with the language changes discussed by the Board on Monday, but has serious concerns with recent language proposed through the attorney representing Oxberg Lakes Estates Homeowners Association because it expands the scope of the order to land not directly affected by the road project, which would usurp the authority of the City Council and Planning Commission to hear and make land use decisions in that area.

Ms. Stern stated that the Oxberg Lakes residents are looking for some assurances from the city that it will continue to use best practices in projects surrounding the aquifer and water system. Mr. Danicic stated that the city's development code already contains provisions to ensure that development won't adversely affect the area. Jim Bennett, Newberg City Manager, added that the city has also adopted a Stormwater Management Plan, which contains language regarding the use of best practices. Ms. Lewis stated that although the plan might address wellhead protection issues, the residents would like a written statement which specifically addresses concerns about protecting the aquifer. Mr. Bennett offered to provide such a letter with his name on it as the chief executive officer of the city.

Ms. George stated that she would like to see a connection made between the Board Order and existing city code requirements, as well as some remediation for Oxberg Lakes residents if a fault occurs. Mr. Bennett stated that the city would support finding some way to remedy any fault that might occur, although that discussion should take place in another venue. He supported Ms. Stern's suggestion that the Board and the city mutually work out an overlay zone for the area to require best practices in order to protect the aquifer and water system.

Mr. Bennett assured the Board that the city plans to implement the results of a consulting study which is being done to evaluate options for the northern arterial road.

The meeting recessed at 10:34 a.m. and reconvened at 10:42 a.m.

Jill Gelineau, representing the Oxberg Lake Estates Homeowners Association, urged the Board to add as a condition of the transfer the requirements that the city pass a resolution regarding the use of best practices, which would be more effective than a letter from staff, and that the city accept the recommendation of the consulting study regarding the northern arterial.

Gary Trudel stated that in his experience, the appeals process is not a satisfactory method of protecting the aquifer. He said that this transfer is the Board's opportunity to translate verbal assurances from the city into writing. Dick Petrone stated that it would be appropriate to ask the City Council for a resolution, which could have a broader scope than the roads listed in the transfer and would have more visibility than a letter. Ms. George stated that because the city's plans to use the portion of Crestview Drive still under the county's jurisdiction could change, she is reluctant to depend on that as the county's only leverage for protecting the aquifer.

John Bridges, attorney, stated that adding development requirements for this area beyond what is already in the city's development code without giving any public notice or opportunity for input would be unfair to his clients. He said that city government is not the appropriate enforcement mechanism for broad aquifer protection, but he would have no objection to language urging the city to uphold existing state laws regarding the protection of community water systems.

Mr. Gray stated that although he is confident that the January 23, 2006 draft of the order would not be a land use decision, he would like to consult with the Assistant County Counsel about the proposed conditions which impose additional land use requirements.

Steve Abel, attorney, expressed concern with the significant number of off-record contacts with Board members, the lack of opportunity to review and comment on last-minute amendments, and the possibility that this may have become a land-use decision-making process. The Board assured him that they will not be making a decision today on this matter. Ms. George stated that the Board will do whatever it can to expedite the transfer while protecting all parties. Ms. Stern added that she shares Mr. Abel's concerns about the process and believes that one safe rail crossing rather than two is very important.

Ms. Lewis moved to continue the matter to February 1, 2006. The motion passed, Commissioners Lewis, George, and Stern voting aye.

F. ANNOUNCEMENTS:

1. The following positions are open to the public. Contact the Commissioners' Office for applications.
 - a. Local Alcohol and Drug Planning Council, three positions;
 - b. Ambulance Service Area Committee, one position for a member of the public;
 - c. Parks Board, two positions;
 - d. Fair Board, one position.

