

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 March 29, 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, Director of Administrative Services; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Marilyn Reeves, PO Box 1083, McMinnville; Cassie Sollars, candidate for Commissioner; Catherine Wright, PO Box 625, McMinnville; and Starla Pointer, News-Register.

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, urged the Board to reconsider its decision to not hold a public hearing on M37-141-05, which has only a vague description of plans for the property and hasn’t been advertised or publicized in any way. She stated that in 1961, the property owners were listed as John and Sally Moore, and the names Jerry and Marie Moore do not appear until 1983. She said she would like an opportunity to go through the deeds.

She stated that four of the other Measure 37 claims on today’s agenda probably won’t qualify for land use approval because of the zoning regulations in effect at the time of purchase.

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

Minutes

1. **B. O. 06-188** - Approve the formal session minutes from March 22, 2006.

Personnel

2. **B. O. 06-189** - Approve the employment of Jaclyn Mosser, Yamhill, as Marine Patrol Cadet in the Sheriff’s Office Marine Division, temporary on-call, \$10/hour, retroactive to March 24, 2006 through October 31, 2006.

3. **B. O. 06-190** - Approve the employment of Nancy Heins, McMinnville, as Senior Office Specialist in HHS Public Health, regular part-time, Range 10, Step 3, retroactive to March 28, 2006.

Contracts

4. Ratify approval of the following amendments to the 2005-07 Financing Agreement #113020 between HHS and Oregon Department of Human Services:
 - a. **B. O. 06-191** - Amendment #13, retroactive to March 17, 2006;
 - b. **B. O. 06-192** - Amendment #15, retroactive to March 14, 2006.
5. **B. O. 06-193** - Approve Cooperative Agreement #07-GOV-DA-28 between the District Attorney's Office and Oregon Department of Justice for child support enforcement, effective July 1, 2005 through June 30, 2010.
6. **B. O. 06-194** - Approve an agreement between the Board of Commissioners, the Fair Board, and Brandon McManus for Fairgrounds Security Attendant regarding his work as Fairgrounds Security Attendant and the use of a manufactured dwelling on the Fairgrounds, effective April 1, 2006.
7. **B. O. 06-195** - Accept the apparent low competitive quote from HVAC, Inc. for the Corrections Annex Cooling Tower Replacement Project and authorize the chair to execute a contract, subject to approval by County Counsel, \$29,580.
8. **B. O. 06-196** - Authorize a request to Oregon Economic and Community Development to increase the Special Public Works Loan award by \$240,000 and the county match funds by \$160,000.

Grant

9. **B. O. 06-197** - Authorize a Community Development Block Grant application for the Yamhill Community Action Partnership (YCAP) Relocation Feasibility Study, \$29,920.

Insurance

10. **B. O. 06-198** - Ratify the execution of an Authorization to Bind form for pollution liability insurance from Chubb Custom Insurance for the Whiteson and Newberg Landfills, \$69,465 five-year premium.

Plan

11. **B. O. 06-199** - Approve the County Biennial Implementation Plan for mental health and addiction services, as recommended by the Local Alcohol and Drug Planning Committee.

Bridge

12. **B. O. 06-200** - Rescind Board Order 06-71 and authorize the reopening of Ballston Bridge, effective immediately.

Evans Street Campus

13. **B. O. 06-201** - Approve the eight conditions outlined by the McMinnville Historic Landmarks Committee for the demolition or relocation of the house located at 602 NE Davis Street, application HL 2-06.

Refund

14. **B. O. 06-202** - Authorize a refund of \$85 from Dog Control to Liz Atkinson.

C. **OLD BUSINESS:**

1. **B. O. 06-203** - Consideration of M37-134-05, a Measure 37 claim authorizing Steve and Denise Wozniak to make application to subdivide 7.77 acres into lots of one to two acres and establish a dwelling on each vacant lot, as continued from March 22, 2006.

Ms. Lewis noted that although the City of Newberg has been talking with the Wozniaks about annexation of the subject property, county staff has not been able to reach them regarding the possibility of suspending the claim until after the November election.

John Gray read the operative part of the order and noted that if the annexation is approved, the Measure 37 claim will probably not go into effect. Ms. George moved approval of M37-134-05. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no. Ms. Stern explained that this claim could allow up to seven buildable lots, which would constitute a subdivision.

2. **B. O. 06-204** - Consideration of adoption of Ordinance 780 in support of Planning Docket PAZ-02-05, a request for a UGB amendment to include 18.8 acres currently within Newberg's Urban Reserve Area (URA), applicant WRG Design, representing Austin Industries, as tentatively approved March 15, 2006.

Rick Sanai provided the first and second readings of Ordinance 780 by title only, declaring an emergency. Ms. Stern moved approval of the ordinance. The motion passed, Commissioners Lewis, George, and Stern voting aye.

3. **B. O. 06-205** - Consideration of adoption of Ordinance 781 in support of Planning Docket PA-03-05, a request for a UGB amendment to include eight parcels currently in Newberg's Urban Reserve Area (URA), applicant Coyote Homes, as tentatively approved March 15, 2006.

Rick Sanai provided the first and second readings of Ordinance 781 by title only, declaring an emergency. Ms. George moved approval of the ordinance. The motion passed, Commissioners Lewis, George, and Stern voting aye.

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

Personnel

1. **B. O. 06-206** - Consideration of approval of a contract employee agreement between Community Corrections and Sheila Clark for alcohol and drug evaluation services, \$28.12/hour, effective March 29, 2006.

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

Measure 37

2. **B. O. 06-207** - Consideration of M37-137-05, a Measure 37 claim authorizing the William H. MacDonald Trust to make application to divide 51.18 acres into two lots and to establish a dwelling on each lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-137-05. The motion passed, Commissioners Lewis, George, and Stern voting aye.

3. **B. O. 06-208** - Consideration of M37-138-05, a Measure 37 claim authorizing Marcel Van Der Sluys to make application to establish a dwelling on a 24.8-acre property.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-138-05, noting that based on land use regulations in effect at the time of purchase, the applicants will probably not be able to get land use approval for what they want to do. Ms. Lewis stated that in 1986, there was a possibility of getting approval to build a home on a parcel this size. The motion passed, Commissioners Lewis, George, and Stern voting aye.

4. **B. O. 06-209** - Consideration of M37-139-05, a Measure 37 claim authorizing Charles Weitzel to make application to subdivide 103.61 acres into five lots and to establish dwellings thereon.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-139-05. The motion passed, Commissioners Lewis, George, and Stern voting aye. Ms. Stern noted that at the time of purchase, the subject property was zoned AF-20 and EF-40. Ms. Lewis added that the applicants would probably not be able to get subdivision approval.

5. **B. O. 06-210** - Consideration of M37-140-05, a Measure 37 claim authorizing Robert and Gloria Sublet to make application to subdivide five acres into three lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-140-05. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no. Ms. Stern explained that this would be considered a subdivision pursuant to Oregon law.

6. **B. O. 06-211** - Consideration of M37-141-05, a Measure 37 claim authorizing Jerry and Marie Moore to make application to subdivide 285 acres into lots of two to seven acres and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order and stated that although he doesn't believe the ownership issue raised by Ms. Reeves is significant, there is time to hold a public hearing if the Board desires.

Ms. Stern moved to hold a public hearing for M37-141-05. Ms. Lewis stated that this subdivision would result in an average of five-acre lots, which is similar to many of the county's rural residential areas, and more of this kind of available zoning is needed. Ms. George stated that

the Board hasn't been holding public hearings on Measure 37 claims containing five-acre lots and there would be an opportunity for a public hearing during the land use application process. The motion failed, Commissioner Stern voting aye and Commissioners Lewis and George voting no.

Ms. George moved approval of M37-141-05. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no.

7. **B. O. 06-212** - Consideration of M37-142-05, a Measure 37 claim authorizing Blossom Hill Farms, Inc. to make application to divide 82.5 acres into two lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-142-05. The motion passed, Commissioners Lewis, George, and Stern voting aye.

8. **B. O. 06-213** - Consideration of M37-143-05, a Measure 37 claim authorizing Cecil Gross to make application to subdivide 466 acres into six five-acre lots and to establish a dwelling on each vacant lot, with the balance of the property to remain vacant.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-143-05. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no.

9. **B. O. 06-214** - Consideration of M37-144-05, a Measure 37 claim authorizing Thomas Bogh to make application to subdivide 59.7 acres into twelve lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-144-05. The motion passed, Commissioners Lewis and George voting aye and Commissioner Stern voting no.

10. **B. O. 06-215** - Consideration of M37-145-05, a Measure 37 claim authorizing Adlem and Anne Dunn to make application to establish a dwelling on a 58.3-acre property.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-145-05. The motion passed, Commissioners Lewis, George, and Stern voting aye.

11. **B. O. 06-216** - Consideration of M37-146-05, a Measure 37 claim authorizing Douglas Lewis to make application to establish a dwelling on each of four existing lots totaling 19.47 acres.

Mr. Gray read the operative part of the order. Ms. George moved approval of M37-146-05. The motion passed, Commissioners Lewis, George, and Stern voting aye. Ms. Stern stated that the subject property was zoned EF-40 at the time of purchase and the claimants are aware that they won't be able to do what they want.

The meeting recessed at 9:34 a.m. and reconvened at 9:43 a.m.

E. PUBLIC HEARINGS:

1. Consideration of Planning Docket FT-16-05, a request for a forest template dwelling, applicant Charma Vaage, as continued from March 15, 2006 at the point of rebuttal. *[Tentatively approved; findings to be adopted April 12, 2006.]*

Ms. Lewis opened the public hearing.

Rebuttal - Catherine Wright, representing the applicant, noted that the Planning Department has decided to change its recommendation to approval. She addressed additional comments submitted during the open record period regarding the Ludwick decision, road access, and water and sewer regulations. She reviewed her previous request to amend the conditions of approval and stated that Ken Friday had indicated his willingness to do so.

Staff Recommendation - Mr. Friday stated that although the subject property is part of an illegally created subdivision, it does satisfy the definition of lot or parcel in the county's zoning code. He said that this situation is similar to that of McKay Creek Valley Association v. Washington County, in which the Court of Appeals ruled that the legality of the lot or parcel did not have to be determined. He stated that based on the Court of Appeals decision, he recommends approval of FT-16-05 with the conditions noted in the request and the minor modifications suggested by the applicant.

He noted that there are very few unlawfully created parcels in the county that meet the definition of "parcel" in the zoning ordinance, which requires that the unit of land be created by a deed or land sales contract on or prior to October 3, 1975.

Rick Sanai said that he had reviewed the cases referred to in the staff recommendation and he concurs with Mr. Friday's statements.

Close of Public Hearing / Deliberation - Ms. Stern stated that the McKay case makes it clear that the Board has to make its ruling based on the definition in the county's zoning ordinance. She moved tentative approval of FT-16-05 with findings to be adopted April 12, 2006. The motion passed, Commissioners Lewis, George, and Stern voting aye.

2. Consideration of Planning Docket FT-21-05, a request for a forest template dwelling, applicant Linda Seiler, as continued from March 15, 2006 at the point of rebuttal. *[Tentatively approved; findings to be adopted April 12, 2006.]*

Ms. Lewis opened the public hearing.

Rebuttal - Ms. Wright repeated her testimony from FT-16-05 for the record and noted that the Planning Department has decided to change its recommendation to approval. She addressed additional comments submitted during the open record period regarding the Ludwick decision, road access, and water and sewer regulations. She reviewed her previous request to amend the conditions of approval and stated that Ken Friday had indicated his willingness to do so.

Staff Recommendation - Mr. Friday repeated his earlier testimony for the record, stating that although the subject property is part of an illegally created subdivision, it does satisfy the definition of lot or parcel in the county's zoning code. He said that this situation is similar to that of McKay Creek Valley Association v. Washington County, in which the Court of Appeals ruled that the legality of the lot or parcel did not have to be determined. He stated that based on the Court of Appeals decision, he recommends approval of FT-16-05 with the conditions noted in the request and the minor modifications suggested by the applicant.

He noted that there are very few unlawfully created parcels in the county that meet the definition of "parcel" in the zoning ordinance, which requires that the unit of land be created by a deed or land sales contract on or prior to October 3, 1975. He added that several lots purchased on one deed would be considered one parcel.

Close of Public Hearing / Deliberation - Ms. Stern stated that the Court of Appeals case is good news for all the property owners in this subdivision who have been in limbo. Ms. George thanked Ms. Wright for her efforts in researching the issue. Ms. Stern moved tentative approval of FT-21-05 with findings to be adopted April 12, 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. Ambulance Service Area Committee, one position for a member of the public;
 - b. Parks Board, three positions;
 - c. Road Improvement Advisory Committee, one position.

2. Northwest Senior & Disability Services has openings for Yamhill County residents on the following regional councils:
 - a. Senior Advisory Council, one position;
 - b. Disability Services Advisory Council, one position.For more information, contact Sally Lawson at (503)304-3473 or by e-mail at Sally.Lawson@state.or.us.

3. The Board will hold a special public meeting on April 27, 2006, 7:00 p.m. at the Carlton Fire Hall to receive public comment about options for funding the construction of a new fire hall and for increasing funding for fire protection services.

The meeting adjourned at 10:05 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair	LESLIE LEWIS
Commissioner	KATHY GEORGE
Commissioner	MARY P. STERN