

**INFORMAL WORK SESSION  
MINUTES**

**November 6, 2006 1:00 p.m.**

**Oval Office**

**PRESENT:** Commissioners Leslie Lewis, Kathy George, and Mary P. Stern.

**Staff:** John Krawczyk, John M. Gray, Jr., and Mike Brandt.

**Guests:** David Bates, News-Register.

**Topic: Measure 37/Ordinance 749**

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Leslie called the meeting to order.

John Gray presented his proposed amendment to Section 7 of Ordinance 749 (see attached memo). Mary expressed her concern that making changes to the ordinance before the legislature makes changes to Measure 37 may be misleading. John G recommended that the Board not adopt any changes until November 29, 2006.

The group discussed the possibility of requiring recording fees from claimants. Mike suggested four "bookkeeping" amendments to the ordinance.

The meeting adjourned at 1:30 p.m.

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Anne Britt, Secretary

*Minutes prepared from notes provided by Mike Brandt.*

## Interoffice Memorandum

Office of County Counsel  
Yamhill County Courthouse  
535 E. Fifth Street  
McMinnville, Oregon 97128  
(503) 434-7502 (voice) (503) 434-7553 (fax)

November 6, 2006

TO: Board of Commissioners

CC: Michael Brandt, Planning Director  
Ken Friday, Planning Division Manager  
Rick Sanai, Assistant County Counsel

FROM: John M. Gray, Jr., County Counsel 

RE: Amendments to Ordinance 749, as amended

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As you know, Measure 37 became effective December 2, 2004. There is currently significant debate regarding the interpretation of language in the measure regarding the claims deadline. The Oregon County Counsels Association is meeting in conjunction with the annual AOC conference next week. A topic of discussion on the agenda is the claims deadline. Following the discussion, I may or may not recommend related changes to the county's Measure 37 implementing ordinance, Ordinance 749, as amended.

I do currently recommend at least one change, however. When I drafted Ordinance 749 in 2004, I believed relief obtained under Measure 37 was not transferrable. This view is consistent with the view of the Attorney General's Office. However, I now believe it is more prudent to state that the relief is transferrable *to the extent provided by law* rather than a simple prohibition. The language offered below attempts to do so, retroactive to the effective date of the measure. Thus, if the courts or legislature ultimately make waivers transferrable, the county ordinance will not conflict with that action.

If the Board elects to amend the ordinance as suggested, I recommend you do so on November 22 or 29. Delay until then will allow consideration of additional necessary changes after the AOC conference.

My proposed amendment regarding the transferability issue is stated on the attachment. Please let me know if you have questions.

jmg

EXHIBIT A 1/2

MINUTES

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LL \_\_\_ KG \_\_\_ MS \_\_\_

MEMO TO BOARD  
RE: Ordinance 749 amendments  
November 6, 2006  
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Language to be deleted is in [brackets and bold print], language to be added is in *italics and bold print*.

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Section 7. Board Decision Effect.

(1) Pursuant to [Ballot Measure 37 (November 2, 2004)] *ORS 197.352*, and notwithstanding any other law, rule, ordinance, resolution, goal or other enforceable enactment of the County, and notwithstanding any other procedure for release, exception, or otherwise in Yamhill County ordinances or regulations, the Board is authorized to modify, remove, or not to apply a challenged land use regulation by Board Order pursuant to this ordinance when the Board, in its discretion, elects to do so rather than paying just compensation to the property owner.

**[(2) Any modification, removal, or discontinued application of a land use regulation shall be in effect during such time as the owner owns the subject property and shall automatically cease when the property is owned by a new owner. Following termination of ownership of the property by the owner that made application under this ordinance, the discontinued regulation or any subsequent amendments shall be reinstated and apply to the property. Thereafter, the new property owner shall be deemed to hold the property as a non-conforming use under the Yamhill County Zoning Ordinance No. 310, as amended.]**

*(2) The following language supercedes and replaces Section 7(2) of Ordinance 749, as amended. This subsection is retroactive to December 2, 2004.*

*(1) The Board's decision to modify, remove, or not apply a land use regulation shall in no way impact any obligation to demonstrate compliance with any regulations not expressly provided for in the decision or to obtain any required approvals or permits.*

*(2) The Board's decision to modify, remove, or not apply a land use regulation shall be transferable to a future owner or otherwise run with the land only to the extent provided by law. A decision under this chapter does not confer any legal status on any use or development except that provided by law.*

...

{Remainder of Section 7 unchanged.}

EXHIBIT A 2/2

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