

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 February 21, 2007 at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Kathy George, Mary P. Stern, and Leslie Lewis being present.

Also present was John Krawczyk, Administrative Services Director; John M. Gray, Jr., County Counsel; Steve Mikami, Personnel Officer; Laura Tschabold, Projects Coordinator; Mike Brandt, Planning Director; Martin Chroust-Masin, Associate Planner; Merilyn Reeves, PO Box 1083, McMinnville; Charles Harrell, PO Box 1046, McMinnville; Rogers Smith, 25136 Mt. Richmond Road, Yamhill; Pat Evans, Ron Fowler, and Ali Malak, 1500 NE Irving Street, Portland; Elizabeth Seeberger, 18145 NE Fairview Drive, Dundee; Barbara Lipinski, 10750 NE Eaglecrest Lane, Dundee; Christl and Ferenc Stohr, 17995 NE Fairview Drive, Dundee; Ken Kaiser, 40405 NW Murtaugh Road, North Plains; and E. Ellen Roe, 23975 SW Albertson Road, Hillsboro.

Commissioner George 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. **AGENDA:**

Contracts

1. **B. O. 07-214** - Consideration of approval of a memorandum of agreement for matching funds and grant administration for the YCAP Relocation Study, effective February 21, 2007.

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

2. **B. O. 07-215** - Consideration of tentatively accepting the lowest responsible bid of McKinstry Company for the Chiller Replacement Project, \$294,779, authorizing a notice of intent to award, and authorizing the Chair to sign a construction agreement on approval of County Counsel.

Ms. George moved to tentatively accept the bid and authorize the agreement, subject to approval by County Counsel. The motion passed, Commissioners George, Stern, and Lewis voting aye. John Krawczyk stated that he would be coming back to the Board for an interfund loan for this project.

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3. **B. O. 07-216** - Consideration of the appointment of Chief Brian Casey, Newberg Police Department, to the Local Public Safety Coordinating Council to complete the term of Chief Robert Tardiff to expire July 2009.

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

Business License

4. **B. O. 07-217** - Consideration of an application by Carlos Hernandez for a business license to conduct an automobile repair business in Gaston. [*Application denied.*]

Mr. Gray reviewed the procedure for business license applications and recommended denying the application because the proposed use is not allowed under the existing zoning. Ms. Stern moved to deny the application. The motion passed, Commissioners George, Stern, and Lewis voting aye. Mike Brandt stated that he has explained to Mr. Hernandez that he can apply for a home occupation.

C. OLD BUSINESS:

Measure 37

1. **B. O. 07-218** - Consideration of M37-143-06, a Measure 37 claim authorizing the Robert Roe Revocable Living Trust to make application to divide 200 acres into twelve lots and to establish a dwelling on each vacant lot.

Mr. Gray stated that the issue regarding when E. Ellen Roe obtained an ownership interest has been resolved and the claimant's attorney is satisfied with his recommendation. He read the operative part of the order. Ms. Lewis moved approval of M37-143-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

2. **B. O. 07-219** - Consideration of M37-144-06, a Measure 37 claim authorizing the E. Ellen Roe Revocable Living Trust to make application to divide 147.3 acres into nine lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-144-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

3. **B. O. 07-220** - Consideration of M37-145-06, a Measure 37 claim authorizing the Robert Roe Revocable Living Trust to make application to divide 36 acres into three lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Stern moved approval of M37-145-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

4. **B. O. 07-221** - Consideration of M37-146-06, a Measure 37 claim authorizing the E. Ellen Roe Revocable Living Trust to make application to divide 101.5 acres into eight lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-146-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

5. **B. O. 07-222** - Consideration of M37-147-06, a Measure 37 claim authorizing the Robert Roe Revocable Living Trust to make application to divide 44 acres into four lots and to establish a dwelling on each vacant lot.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-147-06. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern voting no.

6. **B. O. 07-223** - Consideration of M37-153-06, a Measure 37 claim authorizing Patrick and Jeanette Bernards to make application to divide forty 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 M37-153-06. The motion passed, Commissioners George, Stern, and Lewis voting aye.

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

Personnel

1. **B. O. 07-224** - Consideration of the employment of Brandon Trombla, Sheridan, as Extra Help in Dog Control, temporary part-time, \$8/hour, retroactive to February 17, 2007 through June 30, 2007.

2. **B. O. 07-225** - Consideration of the change of status of Jennifer Mosiman to regular full-time employment as Police Clerk in the Sheriff's Office, Range 4, Step 3, effective February 21, 2007.

3. **B. O. 07-226** - Consideration of the change of status of John Krawczyk to regular full-time employment in Administrative Services, effective February 26, 2007 through July 8, 2007.

4. **B. O. 07-227** - Consideration of the change of status of Paul May to regular part-time employment in the Commissioners' Office, 19 hours/week or less, effective February 24, 2007.

Ms. Stern moved approval of items D(1) through D(4). The motion passed, Commissioners George, Stern, and Lewis voting aye.

Minutes

5. Consideration of approval of the following informal session minutes:

- a. **B. O. 07-228** - December 18, 2006;
- b. **B. O. 07-229** - January 8, 2007;
- c. **B. O. 07-230** - January 17, 2007 work session.

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

6. Consideration of approval of the following formal session minutes:
 - a. **B. O. 07-231** - December 13, 2006;
 - b. **B. O. 07-232** - December 20, 2006;
 - c. **B. O. 07-233** - January 3, 2007;
 - d. **B. O. 07-234** - January 10, 2007;
 - e. **B. O. 07-235** - January 17, 2007.

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

Contracts

7. **B. O. 07-236** - Consideration of approval of an agreement between Public Works and Washburn Contract Services for on-call de-icing services, \$75/hour plus product costs, effective February 21, 2007.

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

8. **B. O. 07-237** - Consideration of authorizing the appropriate commissioner to sign a Memorandum of Understanding between Yamhill County and Enterprise for Employment & Education for the operation of a one-stop system in Oregon Workforce Region 3.

Ms. Stern moved to authorize the Memorandum of Understanding. The motion passed, Commissioners George, Stern, and Lewis voting aye.

Discretionary Spending

9. Declaration of a \$55 discretionary expense by Commissioner Lewis to pay Public Works for a Bypass sign.

Resolution

10. Discussion of a resolution in support of a March 20, 2007 legislative event to advocate for the funding of the Newberg-Dundee Bypass. [*Resolution to be adopted February 28, 2007.*]

Ms. Lewis presented a request from the Chehalem Valley Chamber to adopt a resolution in support of the legislative event. She said she would make some minor changes to the sample resolution and bring it back for Board approval the following week.

Grant

11. Consideration of signing a letter of commitment to Sheridan Fire Chief Eckhardt to provide the 10% match requirement for grants obtained by cities and fire districts to complete and expand the emergency communications system operated by YCOM, up to \$310,000.

Mr. Krawczyk stated that the commitment would be contingent on the county's ability to sell Full Faith and Credit Obligations or obtain other financing at a reasonable cost. The Board agreed to circulate a draft letter and sign it upon approval of the commissioners, Mr. Gray, and Mr. Krawczyk.

Measure 37

12. Discussion of a letter from the Board to the legislature regarding Measure 37 and Senate Bill 505. [*Letter to be drafted by Commissioner Stern.*]

After lengthy discussion by the commissioners about Measure 37 issues, The Board agreed to have Ms. Stern draft a letter to the legislature for further review.

E. PUBLIC HEARINGS:

1. **B. O. 07-238** - Consideration of M37-72-06, a Measure 37 claim authorizing Vernie and Kenneth Eiesland to make application to divide 26 acres into not more than 26 lots and to establish a dwelling on each vacant lot, as continued from February 14, 2007 at the point of Deliberation.

Ms. George opened the hearing and agreed to grant a request by Roger Smith to speak, following which the claimants would be given an opportunity to respond.

Roger Smith summarized his testimony from February 7, 2007, stating that the infrastructure cost for the proposed development would be close to or equal to the estimated property value, therefore no loss of value has been substantiated and the Board should deny the claim. He encouraged Ms. Stern to review his complete testimony from the record since she had been absent on the day of the hearing.

Charles Harrell, representing the claimants, stated that no documentation has been received from Mr. Smith so his statements are only an opinion. He stated that the claimants have met the burden of proof for approval of the claim.

Close of Public Hearing / Deliberation - Mr. Gray stated that based on discussions with Commissioners George and Lewis, the orders for this and the following four claims have been written to approve them as submitted. He read the operative part of the order.

Ms. Lewis moved approval of M37-72-06. She stated that the applicants will clearly have many hurdles when they get to the subdivision approval process because of the steep slopes and unstable ground and she reminded them that they will be required to comply with all public health and safety rules. She said that although she is convinced that the claimants will not get approval for 26 lots, she has decided not to approve the claim for fewer lots because the county does not have the financial and human resources to deal with a court case and there are other cases already in the system which will establish a precedent on this issue. She expressed her confidence that the Planning Director will strictly adhere to the public health and safety restrictions and will only approve the number of homes that the land can sustain. She explained that even if the claimants could only get approval for one house, the county does not have the money for compensation, which is why claimants are not required to go to the expense of proving the exact valuation.

Ms. Stern stated that she will not be voting on this or the following Measure 37 claims because she was not present for the hearing and hasn't had a chance to listen to the testimony given, although she is opposed to rural subdivisions and believes that asking for one-acre lots is excessive and does a disservice to the neighbors by not letting them know the actual plans for the property.

She stated that she believes it is wrong that neither the state nor the county requires documentation for establishing property values and said that she is in favor of suspending Measure 37 until the issues can be resolved.

Ms. George stated that she does not believe one-acre lots will ever be approved on this property. She said that Measure 37 claimants have had property rights stolen from them for 33 years and Measure 37 is an effort to make some sort of reparation.

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

2. **B. O. 07-239** - Consideration of M37-93-06, a Measure 37 claim authorizing Stuart Lindquist to make application to divide 340 acres into not more than 340 lots and to establish a dwelling on each vacant lot, as continued from February 14, 2007 at the point of Deliberation.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-93-06, noting that the claimant will not be able to get one-acre lots because the subject property was zoned for agricultural use at the time of purchase. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern abstaining.

3. **B. O. 07-240** - Consideration of M37-94-06, a Measure 37 claim authorizing Stuart and Janice Lindquist to make application to recognize existing platted lots as buildable for dwellings, to divide the remainder of the 137 acres into not more than the number of lots allowed by land use regulations in effect at the time of acquisition, and to establish a dwelling on each vacant lot, as continued from February 14, 2007 at the point of Deliberation.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-94-06, noting that the property was zoned EF-40 at the time of purchase, so forty acres would be the minimum lot size. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern abstaining.

4. **B. O. 07-241** - Consideration of M37-95-06, a Measure 37 claim authorizing William and Faye Sanders to make application to divide 90.88 acres into not more than ninety lots and to establish a dwelling on each vacant lot, as continued from February 14, 2007 at the point of Deliberation.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-95-06, stating that she believes the claimants will not get approval for one-acre lots because of public health and safety regulations. The motion passed, Commissioners George and Lewis voting aye and Commissioner Stern abstaining.

5. **B. O. 07-242** - Consideration of M37-100-06, a Measure 37 claim authorizing James and Diane Brown to make application to divide 74.72 acres into not more than 74 lots and to establish a dwelling on each vacant lot, as continued from February 14, 2007 at the point of Deliberation.

Mr. Gray read the operative part of the order. Ms. Lewis moved approval of M37-100-06.

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

6. **B. O. 07-243** - Receipt of public comment on a mass gathering permit application for the 2007 Memorial Weekend Boat Races at Rogers Landing, applicants Newberg Boat Club and Columbia Outboard Racing Association. *[Permit application approved.]*

Ms. George opened the public hearing. Mr. Gray provided background information and stated that the permit fee was set at \$250 to cover the county's expenses. He stated that he had received no adverse reports regarding this application and both the Sheriff and the Newberg Police Department are looking forward to the event.

Ken Kaiser, Newberg Boat Club, stated that his group has done everything possible to make accommodations favorable to the public. He pledged to continue to work under Ken Huffer's direction on grounds maintenance and improvements at Rogers Landing.

Ms. George moved approval of the mass gathering permit application. The motion passed, Commissioners George, Stern, and Lewis voting aye.

7. Consideration of Planning Docket SDR-22-06, an appeal of the Planning Director's approval of a site design review for a 120-foot communications monopole antenna and associated equipment, applicant Douglas P. Evans for T-Mobile USA, appellants Jerry Seeberger et al. *[Continued to March 14, 2007.]*

Rick Sanai presented a request for a four-week continuance from the appellant. Elizabeth Seeberger explained that the appellants need time to get an evaluation from a radio engineer, who is located out of state.

Ms. George opened the public hearing.

Martin Chroust-Masin stated that the applicant is opposed to a four-week continuance, but would be willing to continue the hearing for one week. Pat Evans explained that the appellants have had plenty of time to prepare for the hearing and the evidence they are seeking is not typically considered in this type of application.

Ms. Seeberger stated that she has been working with her neighbors through an extensive education process as they have prepared for this hearing and believes that the engineer's evaluation is a necessary component of the appellants' case. She said that there were conflicts of interest with using in-state engineers and the cost factor was also taken into consideration, since the neighbors are pooling resources to pay for the appeal.

Ms. Stern stated that the session on March 21, 2007 needs to be kept brief. Ms. Lewis moved to continue the hearing to March 14, 2007. The motion passed, Commissioners George, Stern, and Lewis voting aye.

F. ANNOUNCEMENTS:

1. The following positions are open to the public. Contact the Commissioners' Office for applications.

- a. Commission on Children & Families, one lay alternate position and one youth position;
- b. Parks Board, one position;
- c. Road Improvement Advisory Committee, one position;
- d. Special Transportation Advisory Commission, 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.

The meeting adjourned at 11:07 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS