

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 August 22, 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 M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; John Krawczyk, Administrative Services Director; Laura Tschabold, Administrative Services Assistant Director; Ken Friday, Planning Division Manager; Martin Chroust-Masin, Associate Planner; Nancy Keim, Information Services; Barbara Stanley, Commissioners’ Office; Greg Mardock, 26630 SW Thomson Mill Road, Sheridan; Bill & Portia Mardock, 3620 NW Westside Road, McMinnville; Janet Martin, 390 N Trade Street, Amity; Jerry Hart, 330 NE Evans Street, McMinnville; Richard Kelly, 5924 SE Holgate, Portland; Brittany Painter; Ilsa Perse, 5765 Mineral Springs Road, Carlton; and Merilyn Reeves, PO Box 1083, McMinnville.

Commissioner George called the meeting to order.

SPECIAL PRESENTATION: Recognition of Brittany Painter for the honor of being chosen as Oregon’s Special Olympics Team USA athlete to run with the Global Torch Bearers in Washington, D.C. and for her upcoming participation as a track athlete in the 2007 Special Olympics World Games in Shanghai, China.

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. Lewis moved approval of the consent agenda with a change to the effective date on item B(5). The motion passed, Commissioners George, Stern, and Lewis voting aye.

Personnel

1. **B. O. 07-799** - Approve the employment of Douglas Akin, Dallas, as HS Specialist 2 in HHS Family & Youth, regular part-time, Range 20, Step 1, \$19.47/hour, retroactive to August 20, 2007 through November 22, 2007.

2. **B. O. 07-800** - Approve the employment of Nancy Greenlund, Yamhill, as Accounting Clerk 2 in Health & Human Services, temporary full-time, Range 10, Step 1, effective August 22, 2007.

3. **B. O. 07-801** - Approve the employment of Matthew Capka, Newberg, as Deputy Sheriff in the Sheriff's Office Patrol Division, regular full-time, Range 12, Step 1, \$3089/month, retroactive to August 16, 2007.
4. **B. O. 07-802** - Approve the employment of Sean Sato, Troutdale, as Corrections Reserve in the Jail, part-time on-call, \$10/hour, effective August 22, 2007.
5. **B. O. 07-803** - Approve the employment of Victoria Tillotson, McMinnville, as Office Specialist 2 in Community Corrections, regular full-time, Range 7, Step 1, effective September 4, 2007.
6. **B. O. 07-804** - Approve the employment of Alfredo Madrigal, Corvallis, as Juvenile Probation Officer 1 in the Juvenile Department, regular full-time, Range 16, Step 1, \$2806/month, effective September 4, 2007.

Contracts/Grants

7. Approve the following grant agreements between the Transit Division and Oregon Department of Transportation to accept STG Discretionary Grant funding for the preservation of existing services throughout the county, retroactive to July 1, 2007 through June 30, 2009:
 - a. **B. O. 07-805** - Grant Agreement #24415, \$60,000;
 - b. **B. O. 07-806** - Grant Agreement #24417, \$103,294;
 - c. **B. O. 07-807** - Grant Agreement #24478, \$190,659.
8. **B. O. 07-808** - Ratify the approval of a lease agreement between the Sheriff's Office and Hardrock Enterprises, LLC, for the lease of two storage/garage units at 712 E. 14th Street in Newberg to store two boats and a tow vehicle for Marine Patrol, \$3600/year, retroactive to August 3, 2007 through August 2, 2008.
9. **B. O. 07-809** - Approve an agreement between the Sheriff's Office and the City of Sheridan for police services, 3.0 FTE, \$326,085/year, retroactive to July 1, 2007.
10. Approve the following modifications to the 2007-08 agreement between Health & Human Services and Mid-Valley Behavioral Care Network, retroactive to July 1, 2007 through June 30, 2008:
 - a. **B. O. 07-810** - Modification #4 to Attachment K for additional staffing for the Early Assessment Support & Treatment (EAST) program, \$112,200;
 - b. **B. O. 07-811** - Modification #3 to Attachment N for the funding of a Regional Housing Coordinator, \$49,524;
 - c. **B. O. 07-812** - Modification #1 to Attachment S for the funding of a Regional Wraparound Trainer, \$57.85/hour.
11. **B. O. 07-813** - Approve Amendment #1 to the 2007-08 Financial Assistance Award #121033 between HHS Public Health and Oregon Department of Human Services.

12. Ratify approval of the following amendments to the 2005-07 Financial Assistance Agreement #113020 between Health & Human Services and Oregon Department of Human Services:

- a. **B. O. 07-814** - Amendment #49, retroactive to July 10, 2007;
- b. **B. O. 07-815** - Amendment #50, retroactive to July 11, 2007;
- c. **B. O. 07-816** - Amendment #51, retroactive to July 13, 2007.

13. **B. O. 07-817** - Approve Intergovernmental Agreement #0709YAMH between the Commission on Children & Families and Oregon Commission on Children & Families, \$790,598, retroactive to July 1, 2007 through June 30, 2009.

Donation

14. **B. O. 07-818** - Acknowledge the Board's donation of historic collections to the Yamhill County Historical Society & Museum, Accession #2007.009.

C. **OLD BUSINESS:** None.

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

1. **B. O. 07-819** - Consideration of approval of the change of status of John Kowolik to Detective in the Sheriff's Office Patrol Division, Range 13, Step 8, \$4476/month, effective August 24, 2007.

John Gray stated that Mr. Kowolik is willing to take a pay cut in order to fill the detective position that recently opened up in the Sheriff's Office. Ms. Stern moved approval of the change of status of Mr. Kowolik. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. **Tabled** - Consideration of adoption of Resolution 07-8-22-1 proclaiming September 2007 as National Alcohol and Drug Addiction Recovery Month.

The meeting recessed at 9:09 a.m. for Ms. Stern to discuss one of the following Planning dockets with Mr. Gray. The meeting reconvened at 9:35 a.m.

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket NCU-01-07, a request to recognize an existing storage business as a non-conforming use, applicant David Evers, appellant Dan Bansen, as continued from August 1, 2007 at the point of Staff Recommendation. *[Continued to September 5, 2007 at the point of Staff Recommendation; record left open until 5:00 p.m. August 31, 2007 for the submission of additional information by either party.]*

Martin Chroust-Masin presented a request to continue the hearing to September 5, 2007 with the record being left open, explaining that the parties are continuing to work to resolve their differences. The Board discussed the procedure for leaving the record open, since the last designated open record period had already ended, and agreed to wait for Ken Friday's input.

Following the conclusion of item E(2), Mr. Friday stated his belief that there would be no problem with leaving the record open for both parties to submit additional information. Ms. Lewis

moved to continue the hearing to September 5, 2007 at the point of Staff Recommendation, with the record being left open for the submission of information by either party until 5:00 p.m. on August 31, 2007. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. Consideration of Planning Docket FT-06-07, a request to modify the previous condition of approval of FT-11-97 to allow the existing dwelling to remain 186 feet from the property line, applicant Catherine Wright representing Stephen Shea, appellants Ron and Leigh Woodard, as continued from August 1, 2007 at the point of Staff Recommendation. *[Appeal denied and Planning Director's approval upheld, findings to be adopted September 5, 2007.]*

Ms. George opened the hearing.

Staff Recommendation - Mr. Chroust-Masin stated that the surveyor's report shows the house to be 186 feet from the existing property line and no rebuttal to this was received from the appellants. He recommended approval of the request with the removal of Conditions 1, 2, and 4. After further discussion with the Board, the consensus was to include Condition 1 with "85 feet" changed to "130 feet" and the words "in compliance with forestry siting standards" added to the end. The Board also agreed to change Condition 6 to the language suggested by Mr. Tankersley regarding final road access, along with a requirement that it be inspected by the Public Works Department.

Close of Public Hearing / Deliberation - Ms. Stern moved to deny the appeal and uphold the Planning Director's approval of the request with Conditions 1 (as modified), 3, 5, and 6 (as modified), with findings to be adopted September 5, 2007. The motion passed, Commissioners George, Stern, and Lewis voting aye.

3. Consideration of Planning Docket S-03-07, a request for a ten-lot subdivision on 38.73 acres under Measure 37 approval, applicant Gregory Mardock, appellant Marilyn Reeves. *[Continued to August 29, 2007 at the point of Public Agency Reports.]*

Ms. George opened the public hearing, noting that the Board had taken a site visit the previous day. There were no abstentions or objections to jurisdiction. Ken Friday read the statement required for land use hearings relating to the requirement that parties must raise all issues at the hearing or waive their right to raise the issues on appeal.

Staff Report - Mr. Friday described the subject property and surrounding zoning. He explained that since the state's Measure 37 waiver is more restrictive than the county's, the county would not approve more than the eleven parcels allowed by the state.

Proponents - Greg Mardock stated that he would be willing to consider amending the original application to include four two-acre lots in the front and two five-acre lots and an eighteen-acre lot in the back, which was suggested by Mr. Friday in order to comply with the state's Measure 37 waiver. He requested that the costly requirement for a traffic study be eliminated, since the number of lots has been reduced so much, and stated that he would still be willing to have the intersection with the new driveway designed to proper safety standards. He noted that the existing driveway would be eliminated at that time.

He expressed concern about the safety hazard of creating just a short section of bicycle path and stated that he would be willing to dedicate the right of way for a future bike path to be constructed when the county is ready to do the entire length of the road.

He stated that this property is a buffer zone to farmland and he would be creating small farms. He said that about half of the property is questionably tillable, but it has great southern exposure and would be good for daylight basements, animals, and growing vegetables. He stated that the water supply seems to be adequate for the surrounding residents, with wells producing 20 gallons/minute at 100-120 feet.

Ms. Stern stated that although the current application for ten lots complies with the regulations in place when the property was purchased, the question remains whether or not it complies with the Department of Land Conservation and Development (DLCD), and arguments could be made either way. She stated that the application was appealed because the configuration does not leave an eighteen-acre parcel. She suggested that the Mardocks talk with Merylne Reeves to see if an agreement could be reached through reconfiguration of the lots. Ms. Reeves stated that she would prefer to continue with the hearing process before committing to any mediation.

Ms. Stern also stated that before eliminating the requirement for a traffic study, she would want some input from Bill Gille. Mr. Mardock suggested extending the 35 mph zone. Ms. Lewis stated that the State Speed Control Board controls the speed zones, but the county could look into that possibility. Mr. Friday stated that he would support the elimination of the traffic study requirement with Mr. Gille's approval, but he would recommend keeping the requirement regarding intersection design. He added that he could discuss with the Board a condition regarding the water supply.

Questions of Proponents - None.

Opponents - Ms. Reeves, representing Friends of Yamhill County, submitted written testimony for the record and reviewed it. She asked the Board to review with legal counsel and the Planning staff her written comments regarding the 1983 farm dwelling standard and the 1963 law.

She stated that the Board's interpretation of the county's Agricultural Ordinance 29 has not yet received clear approval from the Land Use Board of Appeals (LUBA) to show that it is in accordance with state law. She expressed doubts that an agreement could be reached with the Mardocks because Friends of Yamhill County does not agree with the Board's interpretation of the ordinance. She stated that her attorney has not yet filed a brief in the LUBA appeal of the Eastman application and until a ruling is given on that, she will continue to appeal all cases that fall under Ordinance 29.

She stated that the record ought to contain a zoning map. Mr. Friday said that he could try to photocopy a portion of it for the record.

Ms. Reeves stated that she would like to see the Mardocks make an amended Measure 37 application to the state so that the state and the county could have the same application and could issue the same waiver. Ms. Lewis explained that this is no longer at the waiver stage and by keeping

an eighteen-acre parcel, the Mardocks would be complying with both the state and the county waivers. Ms. Reeves stated that the waiver only allows the Mardocks to apply in accord with the land use provisions in effect at the time of purchase and that part is unclear.

Ms. Stern suggested amending the application to have William and Portia Mardock, as the Measure 37 waiver recipients, sign as applicants along with Greg Mardock. She explained that while this seems like a technicality, it would be better to err on the side of caution in order to prevent an appeal. Ms. George agreed.

Public Agency Reports - Mr. Friday reviewed reports in the file from Public Works, the surveyor, City of McMinnville, McMinnville Fire Department, the Water Master, Soil & Water Conservation District, and DLCDC.

Mr. Friday stated that if the Mardocks are interested in amending the application to reduce the number of lots, it would be appropriate to continue the hearing for a week to allow them to submit a drawing of the reconfiguration. Mr. Mardock stated his willingness to continue the hearing.

Ms. Stern moved to continue the hearing to August 29, 2007 at the point of Public Agency Reports. The motion passed, Commissioners George, Stern, and Lewis voting aye.

4. Consideration of Planning Docket PAZ-04-07, a request for plan amendment/zone change from EF-80 to VLDR-2.5, applicant Richard Kelly represented by Jerry Hart. *[Tentatively approved, findings to be adopted September 5, 2007.]*

Ms. George opened the public hearing, noting that the Board had taken a site visit the previous day. There were no abstentions or objections to jurisdiction. There was no request to reread the required land use statement.

Staff Report - Mr. Friday described the subject property, access, surrounding property and zoning, and criteria for approval. He noted that the Planning Commission had voted 6-0 to recommend approval of the request with a limited use overlay zone that requires the applicants to sign a statement acknowledging the surrounding farm uses and that the building not be located in the 100-year floodplain.

Proponents - Jerry Hart, representing the applicant, distributed maps of the subject property and of the floodplain. He reviewed the geographic features surrounding the property and stated that it is appropriate to take the "irrevocably committed" exception to Goal 3 because the property is isolated from any farmland. He stated that the City of Amity is not interested in bringing this property into the urban growth boundary because of its isolated nature and limited access.

He stated that the statewide transportation rule will be satisfied because the property will require an access permit from the Oregon Department of Transportation (ODOT). He noted that ODOT is aware of the private easement across Inez Road used by ten properties for ingress and egress, which allows farm equipment, construction equipment, and other vehicles. He referred to a letter submitted by Janet Martin regarding cost-sharing for the easement and explained that her

concerns are addressed by OAR 105.175, which requires the people using the easement to share in maintenance costs proportionately, based on their use. Richard Kelly indicated that he understands the law and is willing to share in the costs.

Questions of Proponents - In response to a question by Ms. Martin, Mr. Kelly stated that he would be willing to sign a maintenance contract after it is reviewed by Mr. Hart.

Opponents - Ms. Martin stated that she has maintained the access road since she purchased her property in 1989, not knowing that Mr. Kelly had any financial obligation to help. She stated that the road was not built for heavy construction equipment and asked for a condition that he help maintain the road and that repairs are made for any damage done to the road during construction.

Public Agency Reports - Mr. Friday reviewed the public agency reports in the file.

Rebuttal - None.

Staff Recommendation - Mr. Friday recommended approval of the request with the limited use overlay zone requirements discussed earlier, based on the fact that the property is irrevocably committed to non-farm use because of the topography. He said that he would work with Rick Sanai to write up a condition that would require the applicant to enter into a road maintenance agreement prior to any building permit being issued.

Close of Public Hearing / Deliberation - Ms. Stern agreed that the parcel is irrevocably committed and said that a road maintenance agreement would be to everyone's benefit. She moved tentative approval of Planning Docket PAZ-04-07 with the conditions recommended by Mr. Friday, with findings to be adopted September 5, 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, three lay alternate position and one youth position;
 - b. Local Alcohol and Drug Planning Committee, two 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.

The meeting adjourned at 11:36 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS