

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 29, 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; Becky Weaver, Financial Services Manager; Ken Friday, Planning Division Manager; Richard Sly and Barb Paladeni, Community Corrections; Alene Jacobs; Drug Court Coordinator; Marilyn Kennelly, Commission on Children & Families; Sherrie Mathison, Solid Waste Coordinator; Chris Johnson, Health & Human Services Director; Bill Gille, Public Works Director; Jack Crabtree, Sheriff; Merilyn Reeves, PO Box 1083, McMinnville; Waldo Farnham, 13215 SW Fox Ridge Road, McMinnville; Greg Mardock, 26630 SW Thompson Mill Road, Sheridan; Diane Reynolds, Stormwalker Recovery Ministry; Dan Armstrong, 7000 Krono Road, Yamhill; Mike Coyle, 16705 SW Sunrise Lane, McMinnville; Edwin Sharer, 16500 SW Lafayette Hwy, Dayton, McMinnville; Clarke Ellingson, 10075 SW Youngberg Hill Road, McMinnville; Bill & Julia Cattrall, 7320 SE Sartore Road, Amity; Linda Gusa, PO Box 398, Amity; Brenda Bartell, 6930 SE Sartore Road, Amity; George Duvendack, Riverbend Landfill; Lawrence Tonomura, 600 Montgomery Street, San Francisco; and Doug Goe, 1125 NW Couch Street, Suite 800, Portland, 97209.

Commissioner George called the meeting to order.

B. O. 07-820 - PROCLAMATION: Consideration of adoption of Resolution 07-8-29-1 proclaiming September 2007 as National Alcohol and Drug Addiction Recovery Month in Yamhill County.

Ms. George read the resolution. Alene Jacobs noted that a Recovery Fair will be held on September 15, 2007 in downtown McMinnville. Ms. Lewis moved to adopt the resolution. The motion passed, Commissioners George, Stern, and Lewis voting aye.

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.

Waldo Farnham submitted written comments about the county's radio communication system (see attachment) and read the twelve questions listed. He stated that he would like to have his questions answered if possible.

- B. **CONSENT AGENDA:** Ms. Stern moved approval of items B(1) through B(13) on the consent agenda with a clarification to item B(5). The motion passed, Commissioners George, Stern, and Lewis voting aye.

Personnel

1. **B. O. 07-821** - Approve the change of status of Michelle Morrison to regular full-time employment in the Juvenile Department, retroactive to August 20, 2007.
2. **B. O. 07-822** - Approve the change of status of Dawn Hannemann to Laborer 1 in Community Corrections, \$14.50/hour, retroactive to August 24, 2007 through February 23, 2008.
3. **B. O. 07-823** - Approve the change of status of Michelle Pardon to extend temporary part-time employment in HHS Developmental Disabilities, retroactive to August 24, 2007 through June 30, 2008.
4. **B. O. 07-824** - Approve the change of status of Kara King to regular part-time employment in HHS Family & Youth, Range 20, Step 4, \$22.20/hour, retroactive to August 24, 2007.
5. **B. O. 07-825** - Approve a policy for YCEA-affiliated non-bargaining personnel regarding the optional sell-back of Flexible Earned Time and/or Personal Extended Leave prior to retirement.

Contracts

6. **B. O. 07-826** - Approve Intergovernmental Agreement #3736 between the Sheriff's Office and Oregon Department of Corrections for participation in a statewide automated victim notification system.
7. **B. O. 07-827** - Approve Change Order #9085-004 to an agreement between Yamhill County and McKinstry Co. for additional services to the county related to the courthouse chiller replacement, \$7878.
8. Accept the following proposals from A&E Security and Electronic Solutions:
 - a. **B. O. 07-828** - Evans Street Medeco Project master key system, \$4147;
 - b. **B. O. 07-829** - Security Booth/Courthouse upgrade, \$15,513.
9. **B. O. 07-830** - Approve an agreement between the Commission on Children & Families (CCF) and Head Start of Yamhill County, provider, for Child Care Collaboration services, \$14,742, retroactive to July 1, 2007 through June 30, 2008.
10. **B. O. 07-831** - Approve an agreement between CCF and YCAP, provider, for Youth Outreach services in the communities of Newberg/Dundee and Dayton, \$15,650, retroactive to July 1, 2007 through June 30, 2008.

11. Approve an agreement between CCF and the following providers for Community Progress Team services, retroactive to July 1, 2007 through June 30, 2008:

- a. **B. O. 07-832** - LINC'S (Sheridan), \$7064;
- b. **B. O. 07-833** - Dayton CODE 1 (Dayton), \$7064.

12. **B. O. 07-834** - Approve the renewal of a Membership Participation Agreement between Yamhill County and Oregon Department of Administrative Services for the Oregon Cooperative Procurement Program, county membership fee \$3000, retroactive to July 1, 2007 through June 30, 2008.

Refund

13. **B. O. 07-835** - Authorize the following refunds from the Planning Department:

- a. Seeberger Excavating, Inc., \$2133;
- b. Premier Home Builders, \$566.

Resolution

14. Adopt Resolution 07-8-29-1 proclaiming September 2007 as National Alcohol and Drug Addiction Recovery Month. *[See first item of business.]*

C. OLD BUSINESS:

1. Consideration of adoption of Ordinance 814 in support of Planning Docket PAZ-02-07, a request for plan amendment/zone change from EF-80 to AF-10, applicants Benkendorf Associates representing Bradford & Marina Brenner, as tentatively approved August 15, 2007. *[Continued to September 5, 2007.]*

Rick Sanai stated that he had received a request to continue the item for one week. Ms. Lewis moved to continue the item to September 5, 2007. The motion passed, Commissioners George, Stern, and Lewis voting aye.

D. OTHER BUSINESS (Add-ons and non-consent items): None.

E. PUBLIC HEARINGS:

1. Receipt of public comment on the transfer of jurisdiction to the City of Newberg over portions of 2nd Street. *[Formal transfer offer to be adopted September 5, 2007.]*

Ms. George opened the public hearing. John Gray provided background information. There being no public comment, the hearing was closed. Ms. Lewis moved to continue the item for formal adoption on September 5, 2007. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. Receipt of public comment regarding bond financing for renovations to Friendsview Manor.
a. **B. O. 07-836** - Consideration of adoption of an order approving the issuance of the Yamhill County Hospital Authority Revenue and Refunding Bonds, Series 2007 (Friendsview Retirement Community-Oregon), and related matters

Mr. Gray provided background information, stating that this hearing is required by Internal

Revenue Code. Doug Goe, bond counsel, stated that the bonds would provide for improvements to Friendsview and refinancing of existing bonds.

Ms. George opened the public hearing. There being no public comment, the hearing was closed. Ms. Stern moved to adopt the order approving the issuance of the bonds. The motion passed, Commissioners George, Stern, and Lewis voting aye.

3. Receipt of public comment regarding bond financing for improvements to Riverbend Landfill.

a. **B. O. 07-837** - Consideration of adoption of an order approving the issuance by Gilliam County of Variable Rate Demand Solid Waste Disposal Revenue Bonds, Series 2007, and related matters.

Ms. Stern stated that she normally recuses herself from garbage issues because of an actual conflict of interest due to her husband's employment at Western Oregon Waste, but she does not believe there is a conflict with the issuance of these bonds.

Mr. Gray provided background information, stating that Yamhill County's consent to the issuance of bonds by Gilliam County is required because Riverbend Landfill, one of the beneficiaries, is located in Yamhill County. Mr. Goe, bond counsel, provided additional background information and stated that there would be no liability on the part of Yamhill County for the bonds. He explained that the majority of the improvements would be made in Gilliam County, along with significant improvements in Washington County. Lawrence Tonomura, Bank of America, stated that \$4.2 million, just under 5% of the total funding, would go to Riverbend Landfill.

Ms. George opened the public hearing.

Mike Coyle stated that he and others had fought the original formation of Riverbend Landfill because of concerns about the federal government's hands-off policy regarding cleanup of post-closure landfills. He said that the liners in Yamhill County's two landfills are questionably sound, according to a federal engineer, and almost impossible to clean up. He added that the engineer had grave concerns about the siting of Riverbend Landfill, which has purchased surrounding property and has plans to expand. He stated that the people approving the expansions should know all of the facts.

Ms. Stern stated that these bonds would not be used for expansion of the landfill.

Clarke Ellingson discussed the rise of the landfill level over the past five years and stated that the location is one of the worst possible places to put a landfill because of its visibility from the river, the highway, and the city. He stated that the county should not consider approving any more expansion, whether in the permitted area or not.

George Duvendack, Riverbend Landfill, reviewed the planned improvements to the landfill, including work on the methane collection system and the landfill liner system, which prevents leachate from going into the river or groundwater. He stated that there have been many changes associated with landfill technology since Riverbend began operations in 1982 and the landfill is

using the most current technology. He explained that Waste Management, Inc., which owns Riverbend Landfill, has a long-term obligation for the property and contributes money to a post-closure trust fund that will pay for cleanup costs.

Sherrie Mathison, Yamhill County Solid Waste Coordinator, stated that a leachate seep on the bank going into the South Yamhill River, which is believed, but not proven, to be coming from the closed Whiteson Landfill, is showing mostly iron and has gotten smaller since a new cap was put on. She discussed the monitoring process for closed landfills and noted that test results are available to anyone who is interested. She added that the Department of Environmental Quality (DEQ) has the authority to require any changes to the landfills that it deems necessary.

In response to questions from Dan Armstrong about the public visibility of monitoring results at Riverbend, Mr. Duvendack discussed the monitoring process and stated that results are submitted to DEQ annually and are available for public review.

Ms. George closed the public hearing. Ms. Stern moved to adopt the order approving the issuance of the bonds, noting that this is not for expansion and will allow for improvements that will hopefully make the landfill even safer than it is now. The motion passed, Commissioners George, Stern, and Lewis voting aye. Ms. Lewis stated that encouraging safety improvements at the landfill is in the best interest of the people of Yamhill County. Ms. George added that garbage going into Riverbend is helping to fund cleanup for the closed Whiteson and Newberg landfills.

4. 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, as continued from August 22, 2007 at the point of Public Agency Reports. *[Tentatively approved, findings to be adopted September 19, 2007.]*

Ms. George opened the public hearing at the point of Public Agency Reports. Ken Friday provided background information and stated that a reduction of the request would not satisfy the concerns of Friends of Yamhill County, so the applicant has decided to go ahead with the original request.

Public Agency Reports - Mr. Friday reviewed reports in the file from the Surveyor, City of McMinnville, McMinnville Fire Department, Water Master, Public Works, Department of Land Conservation & Development (DLCD), and Soil & Water Conservation District.

He reviewed concerns expressed by the applicant regarding Conditions 6 and 7. He recommended modifying Condition 6 to require the applicant to either construct a bikeway or provide payment in lieu of a bikeway to allow Public Works to make future improvements. He also recommended modifying Condition 7 to eliminate the traffic study and require the applicant to do a three-quarter frontage improvement along Westside Road. Bill Gille stated that traffic generated by the modest number of lots requested would not justify the expense of a traffic impact study and he would support the proposed modification.

Rebuttal - Greg Mardock stated that he has tried to address some of Marilyn Reeves' objections and he would be willing to amend his application to have his parents, the Measure 37

recipients, sign as applicants. He stated that he had spoken with DLCDC on the phone and they have no issue with eliminating the eighteen-acre lot and increasing the remaining lots from two acres to five acres each. He added that he has no problem with the condition modifications proposed by Mr. Friday.

Staff Recommendation - Mr. Friday recommended approval of the request with the conditions as modified and the suggested condition about a stipulation that residents will not complain about neighboring farm practices. Ms. Stern noted that the Mardocks can choose to delay building on the five-acre lots making up the eighteen acres until it is certain that DLCDC has no issue with the configuration.

Close of Public Hearing / Deliberation - Ms. Lewis stated that she is satisfied that the reconfiguration done of the original site plan complies with the Board's interpretation of Ordinance 29. She disagreed with Ms. Reeves' interpretation of needing to go back in time and listed several examples of subdivisions containing lots of five acres or less that were approved during the time period from when Ordinance 29 was passed until the county's comprehensive plan was adopted.

Ms. Lewis moved tentative approval of Planning Docket S-03-07 with the conditions as recommended by Mr. Friday, with findings to be adopted September 19, 2007.

Ms. Stern agreed that the applicants have met the approval criteria and stated that although she is not a fan of rural subdivisions being filed under Measure 37, she supports those trying to do what their land was zoned for at the time it was purchased. Ms. George expressed appreciation to the applicants for being willing to modify their development plans.

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

5. Receipt of public comment on a citizen proposal to pave Sartore Road. *[Continued to September 19, 2007.]*

Dan Armstrong reviewed his plans to develop five lots on Sartore Road and his application to Public Works to pave the road at his own expense, which would reduce maintenance, provide easier access for emergency vehicles, increase traffic safety, and eliminate dust in the summer and mud in the winter. He stated that the Amity Fire Chief is satisfied with and appreciative of the plans for paving. He said that property taxes should not be affected because the 3% cap on rate increases is already met by normal appreciation.

He stated that the new lots would have a proportionate road maintenance agreement for the new portion of the road and the agreement would be passed on to future owners. He said that he would have no objection to a similar agreement with the existing property owners for the remainder of the road if they are interested, although the obligation for the five new residents to join an homeowners' association should be no greater than that of the other residents. Ms. Stern stated that the new owners could be mandated to join an association if one is formalized and otherwise be required to participate in the current informal maintenance arrangement with the other residents.

Ms. Lewis expressed concern that if the road were paved prior to selling the buildable lots, the construction traffic would tear up the new road. Ms. Armstrong stated that a paved road makes the lots more desirable and it could be a long time before the houses are built. Ms. Stern noted that construction would also tear up a gravel road and create a lot of dust. Mr. Gille stated that the longevity of a paved road depends on the number and weight of loads it carries, but the county aims for a twenty-year design life.

Mr. Armstrong reviewed the uses of each of the existing properties and stated that three of the six residents do not access their properties through Sartore Road. He said that over the past year, he did not see any of the residents using steel-tracked equipment. Ms. George noted that farmers do not necessarily use such equipment every year.

Linda Gusa stated that she would not want to be asked to pay for road upkeep since she doesn't use Sartore Road to access her property. She said that the dust doesn't bother her and she is concerned that a paved road would attract more weekend partiers and off-road vehicles and create a hazard for animals.

Bill and Julia Cattrall discussed the reasons for their opposition to paving the road, including safety and the cost of maintenance. Ms. Cattrall explained that they can do some of the gravel maintenance themselves, but would not be able to do maintenance on a paved road. Mr. Cattrall stated that dust abatement, if necessary, would be a much cheaper and more viable option and many other high-end developments in the area are living with gravel roads. He stated that he doesn't use steel-tracked equipment very often, but does have a vineyard crawler that is sometimes used during the muddy season. Ms. Cattrall stated that most of the advantage of a paved road is to Mr. Armstrong and the existing homeowners should not have to put up with a paved road for his financial gain.

Brenda Bartell stated that of all the residents on the road, she lives the farthest down the road and her front door is closest to the road. She stated that dust and traffic are inevitable and she had initially supported the paving proposal because she did not want to pass up the opportunity. She explained that the road used to have a nice, hard surface, but has now been built up by Mr. Armstrong with a loose surface of fine dirt that will turn to mud in the winter. She discussed several concerns about paving, including increased use by four-wheelers, faster traffic, slopes too steep to put in a turnaround, and the breakdown of the road edges from residents pulling their vehicles and equipment onto their property.

Edwin Sharer stated that he has worked with Mr. Armstrong on this project for about two years and he is a good neighbor who is not trying to deceive anybody. He stated that before Mr. Armstrong worked on the road, no trucks could get through, but it is now a good road with a lot of base and two places at the end of the road where trucks can turn around. He stated that a paved road could be maintained for the cost of dust abatement if done judiciously. He pointed out that Mr. Cattrall doesn't need a gravel road for his steel-tracked equipment because there is an area between his vineyard and the county road that can be used.

Ms. Stern discussed the possibility of vacating the road, if all of the residents are in support,

to make it a private road. Ms. Lewis stated that if this happened, the residents could post “Private Road” signs and speed limits, although enforcement would be difficult.

The Board agreed to take a site visit before making a decision. Ms. Lewis moved to continue the discussion to September 19, 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;
- 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 11:59 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS

It has been nearly five years since Yamhill County residents approved a \$1.4 million levy that County Commissioners placed on the ballot for the purpose of funding improvements in the county's emergency services (police, fire and ambulance) radio communication system.

Levy funds were used to pay a consultant, Art Walker, at a contract price of \$124,000. Then--with the job yet incomplete--additional checks were written to him. His total payoff was \$196,000. Ultimately, Walker's contract was terminated in February 2006, after he had accomplished about 50% of his contractual commitments.

As of today, all levy funds, plus other grants and additional general fund monies have been expended. Promised completion dates have come and gone, and Yamhill County's radio communication system still does not work as it should--still does not operate as the Commissioners promised it would. I am told by other people in the community that the county communications system (excluding the cities of McMinnville, Newberg and Dundee) may actually be in *worse shape* now than it was prior to the "work" of the consultant.

In addition to the puzzling over the blatant fiscal irresponsibility of this entire fiasco, I am left with the following questions:

1. Which Commissioner was the lead person overseeing this disaster?
2. Why was no law suit filed against Art Walker for failure to complete the terms of his contract?
3. What is the total amount of money expended to date on this radio system from all sources? This includes the tax levy dollars, grants, contingency funds and other monies.
4. Did Art Walker describe in writing specifically what County levy money would buy?
5. What was the date agreed upon on which Yamhill County was to have had the radio system operational as per its design?
6. Was a needs analysis conducted for a county radio system? If so, who approved it?
7. Was a performance bond required and received from Art Walker and/or the installing contractor?
8. Was a warranty bond requested or provided?
9. At what point (when, exactly) did it become clear that the project was failing?
10. Why did the County continue to pay vouchers submitted by Art Walker after the point when it was clear that there was no chance of the system becoming functional and operational?
11. What was the percentage of retainage on each request for payment?
12. F.C.C. records indicate that a large number of frequencies assigned to Yamhill County bear the name of Monart and Associates on the license. How could this happen?

I am sure that there are more questions to be asked. The above are only a few. When Yamhill County voters agree to tax themselves for any purpose whatsoever, they are entitled to complete disclosure regarding how their money was expended. To date, voters have been offered no explanation and certainly no apology for wasting their \$1.4-plus dollars.

No CEO of any private enterprise would survive the wrath of his/her shareholders if he/she spent company funds on a project that failed as miserably as this. The same should hold here. Yamhill County voters should demand full disclosure on this issue and demand accountability from their County Commissioners. With this information, they can make their feelings known via the ballot box.

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EXHIBIT A 1/1