

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 September 19, 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; Laura Tschabold, Administrative Services Assistant Director; Ken Friday, Planning Division Manager; Russ Heath, County Shop Supervisor; Dave Hunnicutt, PO Box 230637, Tigard, 97281; Bill & SuAnne Bane, 13000 NE Parrett Mountain Road, Newberg; Lori Avgerakis, 13500 NE Parrett Mountain Road, Newberg; Julio Valdenegro, Jr., 12925 NE Parrett Mountain Road, Newberg; Samuel Gordon, 12800 NE Parrett Mountain Road, Newberg; Joan Sirotiak, 11755 NE Parrett Mountain Road, Newberg; Bob Von Brocklin, 900 SW 5th Avenue, Portland, 97204; Bill & Carol Cattrall, 7320 SE Sartore Road, Amity, Greg Mardock, 26630 SW Thomson Mill Road, Newberg; Dan Armstrong, 7000 NE Krono Road, Yamhill; Edwin Sharer, 16500 SE Lafayette Hwy, Dayton; Adrian Castro, 222 6th Street, Dayton; and Merilyn Reeves, PO Box 1083.

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

Personnel

1. **B. O. 07-854** - Approve the employment of Jessica Johnson, McMinnville, as Accounting Clerk 2 in Administrative Services, regular part-time, Range 10, Step 2, \$12.61/hour, effective September 24, 2007.

2. **B. O. 07-855** - Approve the employment of Kathy Burbee as Extra Help in the Commission on Children & Families, temporary part-time, \$12.61/hour, retroactive to September 10, 2007 through September 24, 2007.

3. **B. O. 07-856** - Approve the employment of Michelle Elliott, McMinnville, as Office Specialist 2 in the Planning Department, regular full-time, Range 7, Step 1, \$1766/month, effective October 1, 2007.

4. **B. O. 07-857** - Approve the employment of Thomas Courson, Silverton, as Corrections Reserve in the Sheriff's Office, on-call, \$10/hour, retroactive to September 10, 2007.
5. **B. O. 07-858** - Approve the employment of Daniel Higginson, Sheridan, as Corrections Officer in the Jail, regular full-time, Range 12, Step 1, \$3089/month, retroactive to September 10, 2007.
6. **B. O. 07-859** - Approve the change of status of Sean Sato to temporary full-time employment in the Jail, retroactive to September 10, 2007 through December 8, 2007.
7. **B. O. 07-860** - Approve the employment of Anthony Burnett and Tim Brown as on-call relief in the Juvenile Department, \$7.80/hour, effective September 19, 2007.
8. **B. O. 07-861** - Approve the change of status of the following employees in the Juvenile Department:
 - a. Gabriel Del Rayo, temporary part-time, retroactive to August 24, 2007 through December 31, 2007;
 - b. Jacob Blair, .4 FTE, effective September 24, 2007;
 - c. Garth Lund, regular full-time, \$2302/month, effective September 24, 2007;
 - d. Sara Schneider, regular full-time, \$2421/month, effective September 24, 2007.
9. **B. O. 07-862** - Approve the employment of Cole Kieling, Gladstone, as Laborer 1 in Community Corrections, temporary part-time, \$10/hour, effective September 19, 2007 through March 18, 2008.
10. **B. O. 07-863** - Approve the change of status of the following employees in Community Corrections:
 - a. Richard McKenna, temporary part-time, retroactive to August 31, 2007 through February 28, 2008;
 - b. Dawn Hanneman, temporary part-time, retroactive to September 18, 2007 through March 17, 2008;
 - c. Alma Garibay, temporary part-time, effective October 2, 2007 through April 1, 2008.
11. **B. O. 07-864** - Approve the employment of Trisha Bergemann, Newberg, as HS Associate in HHS Adult Mental Health, temporary part-time, Range 14, Step 1, \$14.66/hour, effective September 24, 2007 through June 30, 2008.
12. **B. O. 07-865** - Approve the change of status of Karen Brooks to regular part-time employment in HHS Family & Youth, effective September 24, 2007.
13. **B. O. 07-866** - Approve the change of status of Patricia Hall to temporary part-time employment in HHS Chemical Dependency, retroactive to September 17, 2007 through December 17, 2007.

Contracts/Grants

14. **B. O. 07-867** - Approve an agreement between the Commission on Children & Families (CCF) and Chehalem Park & Recreation District, provider, for Community Progress Team services in Dundee, \$7064, retroactive to July 1, 2007 through June 30, 2008.
15. **B. O. 07-868** - Approve an agreement between CCF and Carlton Together Cares, provider, for Youth Investment services in Yamhill-Carlton, \$19,304, retroactive to July 1, 2007 through June 30, 2008.
16. **B. O. 07-869** - Approve Amendment #1 to Agreement 0709YAMH between CCF and Oregon Commission on Children & Families to revise funding allocations.
17. **B. O. 07-870** - Approve Amendment #1 to Agreement 0709YAMJD between the Juvenile Department and Oregon Commission on Children & Families for Juvenile Crime Prevention funds, \$178,326, retroactive to July 1, 2007 through June 30, 2009.
18. **B. O. 07-871** - Approve an agreement between the Juvenile Department and McMinnville Police Department, provider, for Peer Court services, \$72,236, retroactive to July 1, 2007 through June 30, 2008.
19. **B. O. 07-872** - Approve an agreement between the Juvenile Department and Catholic Community Services, provider, for Functional Family Therapy services, \$75,597, retroactive to July 1, 2007 through June 30, 2008.
20. **B. O. 07-873** - Approve an agreement between HHS Family & Youth, provider, and Willamina School District for Mental Health Counseling Services, not to exceed \$35,720, retroactive to September 1, 2007 through June 30, 2008.
21. **B. O. 07-874** - Ratify the approval of a contract amendment between Health & Human Services and Architects Barrentine.Bates.Lee AIA, provider, for additional work on the Evans Street Campus parking lot, the Ticor Building, and the Romaine Building, \$17,000, retroactive to August 20, 2007.
22. Ratify the approval of the following amendments between Health & Human Services, provider, and Oregon Department of Human Services:
 - a. **B. O. 07-875** - Amendment #54 to the 2005-07 Financial Assistance Agreement #113020, retroactive to August 30, 2007;
 - b. **B. O. 07-876** - Amendment #4 to the 2007-09 Financial Assistance Agreement #119951, retroactive to August 29, 2007.
23. **B. O. 07-877** - Ratify the approval of Agreement #121357 between HHS Chemical Dependency, provider, and Oregon Department of Human Services for residential mutual home services, not to exceed \$37,116, retroactive to July 1, 2007 through June 30, 2010.

Fees

24. **B. O. 07-878** - Consideration of adoption of a revised fee schedule for the Juvenile Department, effective September 20, 2007 for new clients only.

Vehicles

25. **B. O. 07-879** - Authorize the purchase of a used 2007 Ford Taurus from Chuck Colvin Ford of McMinnville for the Sheriff's Office, \$12,995, and declare unit P-204 as surplus property to be sold on e-Bay to the highest bidder.

Deed

26. **B. O. 07-880** - Authorize the transfer of property that was inadvertently omitted from prior legal descriptions to Cliff Brotherton for the sum of \$241 to cover fees.

Refunds

27. **B. O. 07-881** - Authorize the following refunds from the Planning Department:
a. David Evers, \$799;
b. Bernard Diefenderfer, \$588.

C. OLD BUSINESS:

1. **B. O. 07-882** - Consideration of adoption of findings in support 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, appeal tentatively denied on August 22, 2007.

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

2. **B. O. 07-883** - Consideration of adoption of findings in support 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 tentatively approved August 22, 2007.

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

3. **B. O. 07-884** - Consideration of adoption of Ordinance 816 in support of Planning Docket PAZ-07-07/SDR-10-07, a request for plan amendment/zone change from EF-80 and VLDR-2.5 to Light Industrial, applicant Oregon Truss, as tentatively approved September 5, 2007.

Rick Sanai provided the first and second readings of Ordinance 816 by title only, declaring an emergency. Ms. Stern moved adoption of the ordinance. The motion passed, Commissioners George, Stern, and Lewis voting aye.

4. **B. O. 07-885** - Consideration of adoption of Ordinance 817 in support of Planning Docket PAZ-06-07/SDR-06-07, a request for plan amendment/zone change from AF-80 to PAI (Public Assembly Institutional) for a natural resources educational facility, applicant Soil & Water Conservation District, as tentatively approved September 5, 2007.

Mr. Sanai provided the first and second readings of Ordinance 817 by title only, declaring an emergency. Ms. Stern moved adoption of the ordinance. The motion passed, Commissioners George, Stern, and Lewis voting aye. Ms. Lewis stated that this will provide an outstanding opportunity for citizens to learn about the habitat.

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

1. Consideration of approval of Public Works Docket RV-3-2007, vacation of a public road in the Hidden Hills #2 subdivision, petitioners SuAnn Reddick and John Gregor, no hearing necessary under ORS 368.351, subject to the filing of a partition for Tax Lot 5700. *[Continued to September 26, 2007.]*

At the request of Mr. Gray, Ms. Lewis moved to continue the item to September 26, 2007. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. **B. O. 07-886** - Consideration of reestablishing the minimum bid for a county surplus 1987 International truck with ten-yard dump body at \$13,000.

Russ Heath explained that the truck didn't sell at the previous bid price and he has an offer for \$13,000, which he believes to be a good offer, based on comparative research. Ms. Lewis moved to establish the new minimum bid for the truck at \$13,000. The motion passed, Commissioners George, Stern, and Lewis voting aye.

3. **B. O. 07-887** - Consideration of granting an easement to McMinnville Water & Light for the Evans Street Campus, subject to approval by County Counsel.

Mr. Gray explained that the easement is necessary for electricity to be brought in to the new Evans Street Campus. Ms. George moved to grant the easement, subject to approval by County Counsel. The motion passed, Commissioners George, Stern, and Lewis voting aye.

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 September 5, 2007 at the point of Staff Recommendation. *[Continued to October 10, 2007 at the point of Staff Recommendation, record to remain open for the submission of information by either party.]*

Ken Friday stated that there has been another request from the parties to continue the hearing and they are making progress on resolving their differences. Ms. Stern moved to continue the hearing to October 10, 2007 at the point of Staff Recommendation, with the record to remain open for the submission of information by either party. The motion passed, Commissioners George, Stern, and Lewis voting aye.

2. Receipt of public comment on a citizen proposal to pave Sartore Road, as continued from August 29, 2007. *[Consensus to support paving request, final decision to be made by the Public Works Director.]*

Mr. Gray provided background information. Ms. George opened the public hearing.

Bill Cattrall reiterated his opposition to the paving because of the burden that would be placed on residents for maintenance. He submitted copies of a letter from Tad Seestadt, winemaker, and requested that the paving, if approved, not take place during the time the grapes are ripening, as the smell of asphalt would likely taint the product.

Carol Cattrall stated that the main advantage to paving would be larger profits for the developers, whereas the disadvantages would include higher safety risks due to increased traffic speed and higher maintenance costs. She said that the dust from a gravel road is part of country life. She also expressed concern about the use of heavy equipment on the road and stated that the new turnaround is not currently being used.

Dan Armstrong stated that the paving could be done after the grape harvest. Ms. Lewis expressed concern about the new owners only being required to participate in road maintenance if a road maintenance association were formed. Mr. Armstrong stated that he would be willing to include a deed restriction to require new owners to participate in an informal maintenance arrangement at no greater cost than that of existing owners. Mr. Gray stated that the specific language could be worked out with Bill Gille, since he would be the one to issue the permit.

Mr. Armstrong stated that there is no issue with equipment being able to turn around using either the driveways or the new hammerhead area available. He added that the paving contractor would leave the road in good condition.

Ms. Stern read a letter from Mr. Gille regarding a discussion with Fire Chief Hubbard, in which the Fire Chief had expressed his opinion that pavement would be a much better situation for Sartore Road.

Ms. George closed the public hearing. Ms. Lewis stated that she understands the concerns raised by the Cattralls and Brenda Bartell, but the new houses will go in regardless of whether the road is paved and change in the area is inevitable. She said that, based on the site visit she took, the road seemed to be in pretty good shape with good visibility and the hills were not as steep as many other county roads. She stated that she would be in favor of the paving and expressed her hope that language could be worked out regarding maintenance costs to protect existing residents without overly burdening the new residents. She pointed out that maintaining a paved road is actually less expensive than a gravel road for some time and funds can be put aside each year toward future costs.

Ms. Stern stated that she also understands the concerns raised, but feels confident that Mr. Gille will address all safety issues. She said that as part of the homeowners' association for the private road she lives on, which is about as long as Sartore Road, she pays \$125 per year for road maintenance. She said that if any damage is done to the vineyards from the road equipment, perhaps that can be worked out with Mr. Armstrong.

Ms. George stated that pavement would probably be safer in the long run and the long-term change due to paving would not be too significant because the new homes would be built either way. She said that Mr. Armstrong is doing everything he can to make the area as pleasant and liveable as possible.

Mr. Gray stated that he would communicate the consensus of the Board to Bill Gille, who would then make an administrative decision on the permit application.

3. Consideration of Planning Docket P-26-07/C-21-07, a request for conditional use and partition under standards in effect in 1972 to allow the creation of two 2.5-acre parcels from an existing 47.4-acre lot, applicant Marla Robison, appellant Samuel Gordon. *[Continued to October 10, 2007 at the point of Staff Recommendation; record to remain open for the submission of information by either party until 5:00 p.m. October 3, 2007 and for the submission of written rebuttal by the applicant until 5:00 p.m. October 8, 2007.]*

Ms. George opened the public hearing. There were no abstentions or objections to jurisdiction. Rick Sanai 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. Ms. George stated that the Board had taken a site visit. She noted for the record that Ms. Robison had made contributions to her campaigns, but that will not affect her decision in this matter.

Staff Report - Mr. Friday described the subject property and surrounding zoning. He stated that Measure 37 waivers from both the county and the state authorize Ms. Robison to apply to divide the subject property into eighteen lots, but she had withdrawn her subdivision application and filed this partition application after the Board's interpretation of Ordinance 29 was adopted, which requires a 2.5-acre minimum lot size for Ag A zoning.

He explained that Mr. Gordon was inadvertently omitted from the list of people to receive formal notification of the revised application, so when the error was noticed on August 6, 2007, he was sent notice and given the opportunity to appeal.

Proponents - Dave Hunnicutt, representing Ms. Robison, stated that there is substantial evidence in the record to comply with the standards of the partition ordinance. He submitted site evaluation reports for onsite sewage systems prepared by the Department of Environmental Quality. He also noted that a letter in the record from Arrow Drilling indicates that there is adequate water for the two domestic wells that would be created.

Opponents - Bob Von Brocklin, representing Sam Gordon, discussed two procedural issues with the application, the first being the fact that the decision was first made by the Planning Director rather than by the Planning Commission. He stated that Ordinance 29 requires a hearing to be held by the Planning Commission. He stated that since he was not aware that this would be considered the initial hearing, he would like to request additional time to develop his case. Mr. Friday pointed out that the hearing notice sent to Mr. Gordon on August 6, 2007 included information about the evidence that could be presented at this hearing. Ms. George added that Mr. Gordon was provided as much time to prepare for the hearing as anybody else would have had.

He discussed the second procedural issue: the fact that the preliminary plat does not meet the partition requirements, such as the requirement for all lot dimensions to be outlined. Mr. Friday explained that, according to a determination by Mr. Gray on November 2, 2006, not all of the present partition requirements are necessary to protect public health and safety and a map showing adequate boundaries is sufficient. He gave a copy of the determination to Mr. Von Brocklin.

Mr. Von Brocklin stated that the Board ought to get additional information about the issues of sight distance and erosion from water runoff prior to making a decision. He requested that the record be held open for two weeks to allow time to review and respond to the materials submitted to him today.

Mr. Gordon read from the last page of the December 3 ruling by the Yamhill County Circuit Court judge, which is in the record. He stated that ORS 215.213 clearly states that the partition application must be related to farming, although that was not considered by the Planning Department. He said that the long-term intent of the applicant is clearly to develop a subdivision in an exclusive farming area and there is no guarantee that the new residents would be conservative with their water use, which could affect his water supply. He suggested a condition of one well per five acres with a 200-foot separation from existing wells.

He submitted maps showing the erosion area from surface water during the rainy season and pointed out that there are no conditions to deal with the erosion. He added that he would also like to see some reasonable conditions imposed regarding building height restrictions or setbacks in order to maintain the enjoyment and resale value of his home.

Bill Bane stated that his 750-foot well, which produced about fifteen gallons per minute when drilled in 1974, now only produces seven gallons per minute because of the development that has taken place. He expressed concern that any new wells in the area may further deplete the water supply and force him to drill deeper, which is quite costly. Ms. Lewis encouraged him to look into rainwater collection systems.

Julio Valdenegro stated that his biggest concern is with water. He said that he is not opposed to growth, but growth in Yamhill County is about to explode and it needs to be regulated. Ms. George noted that she is working with the Association of Oregon Counties and Water Resources to look for smarter ways of providing water to rural areas. Mr. Valdenegro suggested including Washington and Clackamas Counties in the discussions since part of Parrett Mountain falls under their jurisdiction.

Lori Avgerakis stated that she is also concerned with the water supply, which has decreased in the sixteen years she has lived on the mountain, as well as with road improvements. She said that there is no easy access to the subject property and the area is not ready for this kind of growth.

SuAnne Bane suggested a compromise with Ms. Robison, such as ten-acre lots instead of 2.5-acres, a requirement for shared wells or a water district, and placement of the homes further down the hill so as not to interfere with the view of the existing homes. She also expressed concern about whether there would be any recourse for neighbors if Ms. Robison started to develop the property and then abandoned the project. Ms. Lewis stated that if Ms. Robison is willing to discuss a compromise, Your Community Mediators is a free resource that does a lot of mediation and facilitation among neighbors.

Public Agency Reports - Mr. Friday reviewed reports from the Water Master and Newberg Fire Department. Ms. Stern pointed out that Water Resources may wish to comment on the letter in the file from Arrow Drilling, which differs substantially from the testimony given today about

water issues.

Mr. Gordon stated that he would be out of the state until September 29, 2007 to take care of matters after the recent passing of his mother-in-law. He requested that if the open record request is granted, he be given sufficient time to prepare. Mr. Friday noted that the 150-day deadline has passed.

Rebuttal - Ms. Robison stated that the letter from Arrow Drilling was written by a gentleman who is on the Water Resources Board. She stated that the water that collects on her property is not runoff, but comes from a spring and is used to water the cattle. She noted that the spring produces one to three gallons per minute and furnishes water to two homes as well as the cattle, and has also been shared with neighbors in the past. She pointed out that Ms. Avgerakis has been filling a new Olympic-sized swimming pool, which may help explain her decreased water supply. She said that she has the right to dig a well on her property even without the partition approval, since she doesn't currently have one.

She stated that the 400 acres she owns on the hill below will always be a buffer and will have no wells on it. She explained that she never intended to put in eighteen homes, but plans to sell two lots for her retirement. She stated that the new homes shouldn't interfere with anyone's view, if done properly. She said that the easement indicated on the plat map was a preliminary location and can be changed.

Mr. Hunnicutt stated that he would be willing to keep the record open for seven days. He said that domestic wells are a permitted use in limited groundwater areas and there is no evidence to show that two new domestic wells would be a public health or safety issue. He added that height restrictions have nothing to do with the exclusive farm use zone and are not mentioned in the approval criteria. After some discussion by the Board, he stated that he would agree to continue the hearing to October 10, 2007.

Ms. Stern moved to continue the hearing to October 10, 2007 at the point of Staff Recommendation, with the possible inclusion of a report from Water Resources, with the record to remain open for the submission of information by either party until 5:00 p.m. October 3, 2007 and for the submission of written rebuttal by the applicant until 5:00 p.m. October 8, 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.

3. The Board's informal session on September 24, 2007 will begin at 3:00 p.m. instead of 2:00 p.m.

The meeting adjourned at 11:42 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS