

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 October 28, 2009, at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Leslie Lewis, Kathy George, and Mary P. Stern being present.

Also present were Laura Tschabold, Administrative Services Director; John Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; Pat Anderson, Human Resources; Elizabeth Fettig, 23100 NE Hyland Dr, Newberg; Carole Connell, 4626 SW Hewett Blvd, Portland, OR 97221; Jim Van Dyke, PO Box 400, Yamhill; Dan Armstrong, 7000 NE Krono Rd, Yamhill; William Neuhauser, 19075 NE Woodland Loop Rd; and Hannah Hoffman, News-Register.

Commissioner Lewis 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 Lewis, George, and Stern voting aye.

Minutes

1. **B. O. 09-744** - Approve formal session minutes from July 22, 2009.

Contracts/Grants

2. **B. O. 09-745** - Approve a price adjustment for the maintenance agreement between Yamhill County and Carrier Commercial Services, provider, from \$8860/year to \$9600/year.

3. **B. O. 09-746** - Accept a proposal from RSS Architecture, P.C., for the County Courthouse Campus Master Planning and Initial Phase of Courthouse Security Improvements Preliminary Design, \$16,416 plus reimbursable expenses not to exceed \$2800.

4. Approve the following amendments to the 2009-11 Financial Assistance Agreement #127319 between HHS and Oregon Department of Human Services:

a. **B. O. 09-747** - Amendment #6, retroactive to October 7, 2009;

b. **B. O. 09-748** - Amendment #7.

5. **B. O. 09-749** - Approve an agreement between the Surveyor’s Office and Newberg Surveying, Inc., provider, for surveying services, \$53,404, effective October 28, 2009, through

March 15, 2010.

6. **B. O. 09-750** - Approve a memorandum of understanding between the Sheriff's Office, Air Support, and the United States Coast Guard regarding maintenance and operation of the county's Zodiac Hurricane boat.

Committees

7. **B. O. 09-751** - Appoint Laura Tschabold to represent Yamhill County as a board member for the Yamhill County Affordable Housing Corporation.

C. **OLD BUSINESS:**

1. **B. O. 09-752** - Consideration of adopting a county policy on access by media to executive sessions, as continued from October 21, 2009.

Ms. Lewis moved to adopt the policy. The motion passed, Commissioners Lewis, George, and Stern voting aye.

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

1. **B. O. 09-753** - Consideration of the employment of Mary Williamson as Extra Help in HHS Public Health, temporary part-time, \$20/hour, retroactive to October 1, 2009, through December 31, 2009.

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

2. **B. O. 09-754** - Consideration of approval of a memorandum of agreement between the Board of Commissioners and the Yamhill County Employees Association regarding FET use in connection with influenza virus.

Ms. Lewis moved approval of item D(2). The motion passed, Commissioners Lewis, George, and Stern voting aye.

3. **B. O. 09-755** - Consideration of approval of an order adopting a red flag identity theft prevention program in accordance with the Fair and Accurate Credit Transactions Act (FACTA).

John Gray explained that a new federal requirement requires this to be in place by November 1. He said that it would only affect those departments that are considered creditors because they offer billing for services, such as Health & Human Services. Ms. George moved approval of item D(3). The motion passed, Commissioners Lewis, George, and Stern voting aye.

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket PAZ-03-09 (KF), a request for a UGB amendment to include 1.24 acres and to rezone property from VLDR 2.5 to LI Light Industrial, applicant Elizabeth Fettig. *[Tentatively approved, findings to be adopted November 4, 2009.]*

Ms. Lewis opened the public hearing. There were no abstentions or objections to jurisdiction. Ms. Lewis stated that the commissioners had chosen not to do a site visit for the applications listed in items E(1) or E(2) because they are all very familiar with the area. She stated for the record that she is a member of the Newberg Urban Area Management Commission (NUAMC), which makes recommendations to the Newberg City Council and to the Board regarding UGB amendments, and had been in attendance at the September NUAMC meeting when this application was considered.

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.

Staff Report - Ken Friday described the subject property, the surrounding zoning and uses, and the approval criteria for the request. He stated that NUAMC voted to recommend approval of the application with a limited use overlay zone and ten conditions of approval recommended by the City of Newberg.

Proponents - Elizabeth Fettig stated that the current zoning of the subject property does not match the surrounding area. She said that she may decide to sell the property to get through some economic issues and she would not be able to sell it as residential property.

Opponents - None.

Public Agency Reports - Mr. Friday stated that Newberg Fire Department has no objections to the application.

Staff Recommendation - Mr. Friday recommended approval of the application with the limited use overlay zone identified in NUAMC's recommendation.

Close of Public Hearing / Deliberations - Ms. Stern moved tentative approval of Planning Docket PAZ-03-09 with the conditions as stated by Mr. Friday and with findings to be adopted on November 4, 2009. The motion passed, Commissioners Lewis, George, and Stern voting aye.

2. Consideration of Planning Docket Z-02-09 (KF), a request for a zone change on 9.61 acres from HI Heavy Industrial to LI Light Industrial, applicant Elizabeth Fettig. *[Tentatively approved, findings to be adopted November 4, 2009.]*

Ms. Lewis opened the public hearing. There were no abstentions or objections to jurisdiction. Ms. Lewis stated that she had been in attendance at the September NUAMC meeting when this application was considered. There were no requests to have the required land use statement reread.

Staff Report - Mr. Friday described the subject property, the surrounding zoning and

uses, the history of the area, and the approval criteria for the request.

Proponents - Ms. Fettig stated that the purpose of the zone change request is to increase potential options for the property's use.

Opponents - None.

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

Staff Recommendation - Mr. Friday recommended approval of the application with the limited use overlay zone and conditions requested by the City of Newberg and identified in the packet.

Close of Public Hearing / Deliberations - Ms. Stern moved tentative approval of Planning Docket Z-02-09 with the conditions as stated by Mr. Friday and with findings to be adopted on November 4, 2009. The motion passed, Commissioners Lewis, George, and Stern voting aye.

3. Consideration of PA-02-08 (KF), a request for a UGB amendment to include 20 acres east of Yamhill, applicants VanDyke Riverview Farms, LLC, and Tim Landauer. *[Tentatively approved with limited use overlay zone, findings to be adopted November 4, 2009.]*

Ms. Lewis opened the public hearing. There were no abstentions or objections to jurisdiction. Ms. Lewis stated that the commissioners had all taken a site visit with Mr. Friday the previous Friday. She noted for the record that she serves on the Yamhill Urban Area Management Commission (YUAMC), which makes recommendations to the Yamhill City Council and to the Board regarding UGB amendments, and had been in attendance at the May YUAMC meeting when this application was considered. There were no requests to have the required land use statement reread.

Staff Report - Mr. Friday described the subject property, the surrounding zoning and uses, and the approval criteria for the request. He reviewed the procedure for population forecasting and recommended that, if this application is approved by the Board, the supplemental report prepared by the applicants be adopted with the findings. He stated that both YUAMC and the Yamhill City Council had approved the application.

Proponents - Carole Connell, representing the applicants, provided background information on the request. She stated that the City of Yamhill has no industrial acreage in its UGB and the subject property was identified as a recommended site, but formal action was never taken to include it in the UGB. She acknowledged that concerns have been raised regarding the potential impacts on Stillers Mill Road, but there is no development of the subject property planned at this time and any future development would be subject to design review. She added that the city has made it clear that it wants the property to be zoned as light industrial, which would be conducive to agri-tourism business.

Jim Van Dyke, owner of the subject property, stated that the city had approached him about getting this UGB amendment done and the proposal seemed to make sense for the property, so he initiated the application. Ms. Connell pointed out the flood plain area on the map.

Opponents - Dan Armstrong stated that he wants to make sure the subject property comes into the city as Light Industrial land. He said that the city has expressed its intent to do so, but as yet does not have a defined Light Industrial zone. He expressed concern that if the zoning is not taken care of now, the city's intent could change in the future. He noted the possibility of pressure to have a natural gas pipeline come through that area at some point.

Mr. Friday stated that the property would stay under county jurisdiction while it is in the UGB and would keep the current county zoning until it is annexed into the city. He agreed with a suggestion by Ms. Lewis that the portion zoned Heavy Industrial be rezoned to Light Industrial if there are no objections from the owners.

Questions of Opponents - In response to a question from Ms. Connell, Mr. Armstrong stated that he had been informed by city staff that they are currently working on the Light Industrial zone definition, but all they have for now is the Industrial zone. Mr. Friday stated that, according to the county's agreement with the city, the county is required to take action on this application within 60 days or meet with the city to express its concerns, and that deadline has already passed.

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

Rebuttal - Ms. Connell stated that only two of the ten acres of Heavy Industrial land are owned by the applicants. Mr. Friday stated that he believes the remaining portion is owned by the railroad. He agreed that only the portion owned by the applicants would be affected by this application. He estimated that it would take about four months for the county to rezone the two-acre portion to Light Industrial and that it would take at least three months for the city to adopt a definition for a Light Industrial zone.

Mr. Van Dyke stated that he has no immediate plans for the two-acre portion of land and would have no objection to the county initiating a zone change on that portion. After further discussion, Mr. Friday pointed out that approval of the application with a limited use overlay zone would allow the county to restrict the property to Light Industrial use until it is annexed into the city. He also suggested that the county request to be on the city's notification list regarding its process for defining its Light Industrial zone, in order to stay updated on the progress. Ms. Stern agreed that the limited use overlay zone would provide some protection now and address Mr. Armstrong's concerns. Ms. Lewis added that even after the city adopts a Light Industrial definition, there is nothing to prevent future city council members from changing that definition.

Staff Recommendation - Mr. Friday recommended approval of the application with a

