

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, OREGON (“the Board”) sat for the transaction of County business in formal session on December 9, 2009, at 9:00 a.m. in Room 32 of the courthouse, Commissioners Kathy George and Mary P. Stern being present, Commissioner Lewis excused.

Also present were John M. Gray, Jr., County Counsel; Laura Tschabold, Administrative Services Director; Rick Sanai, Assistant County Counsel; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Merilyn Reeves and Ilse Perse, Friends of Yamhill County, P O Box 1083, McMinnville 97128; Joe Myers, 11950 SE Loop Road, Dayton, OR 97114; Charles Harrell, 3 Centerpointe Drive, Suite 250, Lake Oswego, OR 97055; Laurent Montalieu, 17100 Woodland Loop, Yamhill 97148; Brian Doyle, 24001 NE Ellis Lane, Newberg 97132.

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. No public comment was offered.

B. **CONSENT AGENDA:** Commissioner Stern moved approval of the consent agenda. Commissioner George moved to modify Item B.10. to refer to “council”, rather than committee. The motion to approve the consent agenda carried, Commissioners George and Stern voting aye. *[Note: after conferring with appropriate staff, Commissioner George requested the language remain as listed, with no change.]*

Personnel

1. **B. O. 09-813** - Approve the employment of the following individuals in HHS Public Health, temporary part-time, retroactive to December 1, 2009:

- a. Noë Dotson, Office Specialist 1, Range 4, Step 4, effective through March 31, 2010;
- b. Martha Pana, HS Associate, Range 14, Step 1, effective through December 31, 2010.

2. **B. O. 09-814** - Approve the change of status of Linda Terrill to extend temporary part-time employment in HHS Public Health, effective December 31, 2009, through March 30, 2010.

3. **B. O. 09-815** - Modify the Administrative Services personnel management roster to add full-time positions for County Administrator and Deputy County Administrator.

4. **B. O. 09-816** - Modify the Community Corrections personnel management roster to add one

full-time Parole & Probation Officer in Fund 21-45 for the remainder of the fiscal year.

Contracts/Grants

5. **B. O. 09-817** - Approve a memorandum of understanding between Community Corrections and Information Systems for a special project to be completed by Patrick Fuchs, not to exceed \$10,000, effective December 9, 2009, through April 8, 2010.
6. **B. O. 09-818** - Approve Amendment #2 to Intergovernmental Agreement YAM0911 between the Commission on Children & Families, provider, and Oregon Commission on Children & Families to increase the Healthy Start funding allocation to \$193,977.
7. **B. O. 09-819** - Ratify approval of Amendment #9 to the 2009-11 Financial Assistance Agreement #127319 between Health & Human Services, provider, and Oregon Department of Human Services to add \$3362, retroactive to November 20, 2009.
8. **B. O. 09-820** - Approve Amendment #4 to the 2009-10 Financial Assistance Agreement between HHS Public Health, provider, and Oregon Department of Human Services to add \$87,083 for the H1N1 Vaccination Project.

Change Fund

9. **B. O. 09-821** - Authorize a \$100 change fund for Maintenance to conduct a sale of surplus county equipment.

Committees

10. **B. O. 09-822** - Approve the appointment of Cheryl Blevins, Carrie DaFoe, Jan Irish, and Kathy Togstad to the Ending Homelessness Governing Committee.

Policy

11. **B. O. 09-823** - Approve a policy regarding Emergency Warming Centers in Yamhill County.

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

1. **Omit** - Consideration of approval of an employment agreement between Yamhill County and Laura Tschabold for County Administrator services, effective January 1, 2010. Consensus: postpone consideration of this item until December 16, 2009.
2. **B. O. 09-824** - Consideration of approval of an agreement between HHS Developmental Disabilities, and Michael Harris, provider, for client transportation services, \$361 per client per month, retroactive to July 1, 2009, through June 30, 2010.

Commissioner George moved approval of the agreement mentioned above. The motion carried, Commissioners George and Stern voting aye.

3. **B. O. 09-825** - Approve the appointment of Paul Simmons, Matt Dunckel, Harvey Nelson, Lucy King, Herb Kuhn, and Mary Jo Lewis to the County Governing Body Pool and the Non-Office

Holder Pool of the 2010 Board of Property Tax Appeals (BOPTA) for terms to expire June 30, 2010; supercede and replace Board Orders 09-696 and 09-739.

Commissioner George moved approval of adoption of the list of members above, superceding and replacing Board Orders 09-696 and 09-739. The motion carried, Commissioners George and Stern voting aye.

4. **B. O. 09-826** - Consideration of approval of a Revised Lease Agreement between the Housing Authority of Yamhill County and Yamhill County for lease of property for supervised housing of mentally ill persons, \$2,650/month, effective retroactive to November 1, 2009 through October 31, 2014, modifying Board Order 09-617.

Commissioner George moved approval of the revised lease agreement; the motion carried, Commissioners George and Stern voting aye.

5. **B. O. 09-827** - Consideration of a lease agreement between Yamhill County and Sima LLC, Portland, to lease Suite 104 as office space in the Hancock Business Center, 2251 East Hancock Street, Newberg, annual rent as listed in the lease, for a five-year term, effective January 1, 2010 through December 31, 2014.

Commissioner George moved approval of the lease agreement with Sima LLC. The motion carried, Commissioners George and Stern voting aye.

6. **B. O. 09-828** - Consideration of a Amendment #01 to Agreement Number 129972 between the Yamhill County Public Health and the State of Oregon Department of Human Services to adopt the "My Future-My Choice" program, total funding in the amount of \$3236, effective through September 30, 2010.

Commissioner George moved approval of Amendment #01 as listed. The motion carried, Commissioners George and Stern voting aye.

D. PUBLIC HEARINGS:

1. Consideration of Planning Docket Z-01-09(KF), a request to rezone 131.5 acres from EF-80 to EF-40 to allow the partitioning sought by Docket P-01-09, applicant Laurent Montelieu.

Tentatively approved; findings in support of approval to be considered December 21, 2009 1:00 p.m.

Commissioner George opened the public hearing.

There were no abstentions or objections to jurisdiction. The commissioners had visited the site prior to the hearing to become familiar with the property and its surroundings.

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 reviewed the written staff report and stated that the zone change request applies to only 15 of the 131.5 acres. Mr. Friday reviewed the past land use activity for the parcel and stated that an earlier application was denied by the Planning Department because the proposed lot sizes could not satisfy the 80-acre minimum lot size. The denial was appealed to the Board of Commissioners, and the Board had indicated that a zone change was the only possible avenue for the change the applicant wanted to make.

Mr. Friday said the application for a zone change was reviewed by the Planning Commission on July 9, 2009, and granted conditional approval with two conditions. One, that if approved by the County on remand, findings be adopted demonstrating the request complies with provisions of OAR 660-033-0100, as described in LCDC 09-Remand-001774. Two, that the County not make a final decision to approve the request until and unless the applicant has recorded a deed restriction in the deed records of Yamhill County which provides that no dwelling will be established on the 51-acre area to be rezoned for such time as the property is planned and zoned for exclusive farm use. Mr. Friday stated the applicant has submitted an additional packet of information for inclusion in the record.

Proponents - Charles Harrell, attorney for the applicant, reviewed in depth the written submittal to address the criteria and LCDC remand issues. The 17 page submittal is included in the record.

Mr. Montalieu provided background information regarding the reason for the zone request. He said only one parcel is to be EF-40; and no additional dwellings will be added to the property.

Joe Myers, vineyard manager, provided information regarding the commercial impact of the Montalieu vineyard and others in providing jobs and revenue within the county.

Questions of Proponents - None.

Opponents - Marilyn Reeves and Ilse Perse, Friends of Yamhill County, listed concerns that the County had not followed its own policies in managing this application. In particular, Ms. Reeves was concerned that public notice requirements had not been met. She said that the County failed to follow necessary procedures in the hearing before LCDC. She said there is concern regarding preferential treatment of wineries and the perception that this particular application was expedited because of the applicant's financial situation.

Ms. Reeves said that an on-going concern of Friends of Yamhill County and others is the increasing expansion of commercial activities on rural land which may interfere and cause conflicts in farming communities. She said the Friends do not object to wineries or making wine but there is concern regarding the added activities of restaurants and cooking schools, etc.

Ms. Perse stated that a number of in-town businesses are also concerned regarding the non-approved activities taking place in wineries.

Questions of Opponents - None.

In response to the concerns raised above, Mr. Friday stated the News-Register published the July planning commission hearing on June 20, 2009 and published today's hearing on November 21, 2009. He said that if he had a 'do-over', he would plan this application process differently, but because there has only been one other similar process in the past, this type of applicant has been unfamiliar to both the County and LCDC.

Mr. Brandt stated that the last time this type of application was considered, the County was chastised by the State for approving the application before it was sent to the State for review. In this instance, planning staff discussed the application with LCDC and the consensus was to submit it to the State first.

Commissioner Stern stated that the ancillary commercial activities occurring at many wineries are a concern to the Board as well, and will likely be addressed by the legislature on a state-wide basis because a number of other counties also have concerns.

Mr. Friday stated that the cooking school does not have land use approval from the County and may not get it. He recommended that if the Board approves this application, findings be adopted which specify those uses which are not yet approved.

Commissioner George stated that she would prefer less distinction between "agriculture" and "vineyards" as they are both recognized farming activities. She said it is clear there will be discussion in the coming year regarding ancillary activities at wineries.

Public Agency Reports - Mr. Friday stated no new public agency reports have been submitted.

Rebuttal - Mr. Harrell stated the applicant's financial requirements are not a part of the application. Mr. Harrell stated pressures regarding food service at wineries is growing, particularly because OLCC wants to see alcohol served with food and is not interested in land use process or approval.

Staff Recommendation - Mr. Friday recommended approval with a condition to be placed on the zone change that "the applicant will be required to record a deed restriction in the deed records of Yamhill County to provide that no dwelling will be established on the 51-acre area that will be rezoned, for such time as the property is planned and zoned for exclusive farm use. Mr. Friday also asked that the findings note that not all of the uses being conducted by the applicant have received land use approval as yet.

