

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 July 21, 2010, at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Kathy George and Leslie Lewis being present and Commissioner Mary P. Stern being excused.

Also present were Laura Tschabold, County Administrator; Rick Sanai, Assistant County Counsel; Murray Paolo, Information Systems Manager; Mike Brandt, Planning Director; Stephanie Armstrong, Associate Planner; Eric Bossé, PO Box 1210, Newberg; Mike Daniel, 20929 Niederberger Rd, Dundee; Jill and Terry Buckmaster, PO Box 999, Newberg; and Hannah Hoffman, News-Register.

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.

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

Personnel

1. **B. O. 10-426** - Approve the employment of Raina Banu-Clayton as HS Specialist 2 in HHS Adult Mental Health, regular full-time, Range 20, Step 2, effective August 2, 2010.

2. **B. O. 10-427** - Approve the change of status of William Hall, Jr., to Facilities Maintenance in Community Corrections, retroactive to July 1, 2010.

3. **B. O. 10-428** - Amend the Health & Human Services position management roster to add a full-time HS Specialist 3 position in Adult Mental Health for the Regional Housing Coordinator.

Contracts/Grants

4. **B. O. 10-429** - Approve Amendment #3 to the 2009-11 Intergovernmental Agreement between the Commission on Children & Families and Oregon Commission on Children & Families to add funding and family service unit expectations for continuance of the Healthy Start Program in 2010-11.

5. Approve the following agreement modifications between Health & Human Services, provider, and Mid-Valley Behavioral Care Network:

a. **B. O. 10-430** - Modification #5 to Attachment T, FY 2010-11 agreement for Strengthening Families parenting classes;

b. **B. O. 10-431** - Modification #7 to Attachment N, Sep10-Jun11 agreement for Regional Housing Coordinator services.

6. **B. O. 10-432** - Approve an agreement between the Juvenile Department and Catholic Community Services, provider, for Solution Focused Brief Therapy services, \$33,300, retroactive to July 1, 2010, through June 30, 2011.

7. **B. O. 10-433** - Authorize Yamhill County to apply for the following 2010 Homeland Security Grants:

a. Newberg Fire, Police, and Waste Water, \$60,722;

b. County Communications, \$30,901;

c. Citizen Corps, \$11,580.

Software

8. **B. O. 10-434** - Authorize the District Attorney's Office to purchase PROSECUTORbyKarpel case management software from Karpel Solutions, \$74,880 plus additional fees.

Laura Tschabold stated that maintenance fees are waived for the first year, but will cost the District Attorney's Office an additional \$10,000 per year after that.

C. **OLD BUSINESS:**

1. **B. O. 10-435** - Consideration of adoption of Ordinance 856 in support of Planning Docket Z-03-10, a request for zone change from AF-80 to F-80 on approximately 300 acres, applicant Old Elk Mountain Tree Farm, LLC, as tentatively approved by the Planning Commission on July 1, 2010.

Rick Sanai provided the first and second readings of the ordinance by title only, declaring an emergency. Ms. Lewis moved approval of Ordinance 856. The motion passed, Commissioners George and Lewis voting aye.

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

1. **B. O. 10-436** - Consideration of a transfer of appropriation authority and funds within Fund 17-28 for post-closure DEQ permit requirements related to the closed Newberg Landfill, \$682,000.

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

(Additional items following the executive session listed below)

2. **B. O. 10-437** - Consideration of appealing LUBA's reversal of the Board's decision regarding the Riverbend Landfill expansion, based on the important legal precedent at stake in LUBA not allowing local government to be more restrictive than state land use law, a right allowed by HB 2438.

Ms. Lewis moved approval of item D(2). Ms. George stated that if the county doesn't join in the appeal, the overarching legal precedent might not include the county's interest. The motion passed, Commissioners George and Lewis voting aye.

3. Discussion of the Board's decision (Board Order 10-424) to initiate a legislative amendment to make the county's zoning ordinance consistent with state law regarding solid waste disposal as an allowed use. *[Consensus to postpone the process pending a decision from the Court of Appeals on the Riverbend application.]*

Ms. Lewis stated that in light of the information brought forward by Rick Sanai about HB 2438, she would like to slow down the legislative amendment process to see what happens with the Court of Appeals. Mr. Sanai stated that the court can take years to write an opinion and LUBA's decision directs the county to change its zoning ordinance. He recommended going forward with the process and at least have the Planning Commission hear the matter. Mike Brandt stated that if the court doesn't act in a timely fashion or doesn't give the desired ruling, the Board could act to expedite the legislative amendment process and hold a joint hearing with the Planning Commission. He suggested that the Board set a date to make that decision.

Based on an assumption that the court would hear oral arguments in December, the Board agreed to reevaluate the situation in February and continue the matter for another two months if appropriate. Mr. Brandt pointed out that even if the zoning ordinance were amended, it still wouldn't be certain that Waste Management could get approval for the expansion because of the soils and other factors.

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket PAZ-03-10(SA), a request for plan amendment/zone change from AF-10 to LI Light Industrial on 1.75 acres, applicant Mike Daniel. *[Tentatively approved, findings to be adopted August 4, 2010.]*

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. Lewis stated that the commissioners did not do a site visit because they are all familiar with the area.

Staff Report - Stephanie Armstrong described the subject property, the surrounding property and zoning, the request for plan amendment/zone change, and the approval criteria. She noted that the Planning Commission had voted unanimously on July 1 to recommend

approval of the request.

Proponents - Mike Daniel stated that a representative from the city's Water Division had assured him there would be no water issues. He said that the subject property already has metered water as well as a backup plan to access water from his adjacent lot. He said that the water usage would likely decrease as a result of the proposed changes.

Opponents - None.

Public Agency Reports - Ms. Armstrong stated that there are no reports in addition to those already in the record. She said that a limited use overlay that limits the square footage to 35,000 feet would satisfy Goal 14.

Staff Recommendation - Ms. Armstrong recommended approval of the request with the three conditions listed in the staff report. She read the conditions.

Close of Public Hearing / Deliberations - Ms. Lewis moved tentative approval of Planning Docket PAZ-03-10, with findings to be adopted August 4, 2010. She stated that the request appears to be compatible with other uses in the area. Ms. George said that she is glad to see a business growing instead of closing. The motion passed, Commissioners George and Lewis voting aye.

2. Consideration of Planning Docket PAZ-04-10(SA), a request for plan amendment/zone change from AF-20 to AF-10 on 20 acres, applicants Terrence and Jill Buckmaster. *[Tentatively approved, findings to be adopted August 4, 2010.]*

Ms. George opened the public hearing. There were no abstentions or objections to jurisdiction. Ms. Lewis stated that the commissioners did not do a site visit. 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 - Ms. Armstrong described the subject property, the surrounding property and zoning, the request for plan amendment/zone change, and the approval criteria.

Proponents - Eric Bossé, representing the applicants, stated that at the Planning Commission hearing, he had withdrawn the argument that the subject property is not resource land. He reviewed the remaining arguments in support of the request. He stated that it simply isn't economically feasible to operate a successful farming operation on twenty acres on top of Chehalem Mountain, and the proposed use would be allowed under a forestry template because of past forestry use on the property.

He stated that the strongest argument is that the property is irrevocably committed to this type of use, with houses on all of the surrounding properties. He said that the subject property has never been used for any serious commercial enterprise and the county has already approved a partition of the property, with the house on one parcel and the barn on the other. He stated that when his clients applied for the partition, they clearly stated their intended use, but nobody at the

county said anything about the property being able to have a house on it.

He stated that there is a need for this type of parcel in the county. He said that a statement in the record from a local realtor supports that statement, showing that there is low supply and high demand. He stated that not only are there no opponents to the request, but all of the neighbors have expressed their support.

Commissioners Lewis and George agreed that the county should embrace all kinds of farming, regardless of the parcel size, noting that a twenty-acre parcel would allow somebody to have a small farming operation in addition to living there. Ms. George stated that “self-sustainability farm” is a better description of this than “hobby farm,” which people tend to use as a negative term.

Opponents - None.

Public Agency Reports - Ms. Armstrong stated that there are no reports in addition to those already in the record. Mr. Sanai stated that the findings could be written to support an “irrevocably committed” exception.

Staff Recommendation - Ms. Armstrong stated that she had originally recommended denial of the application, but now recommends approval based on additional evidence presented to justify an exception. She said that the Planning Commission had voted 7-0 to recommend approval of the request with a limited use overlay, but she is not recommending the overlay. Mr. Sanai stated that he would not recommend the overlay, either.

Close of Public Hearing / Deliberations - Ms. Lewis moved tentative approval of Planning Docket PAZ-04-10 without the limited use overlay, with findings to be adopted August 4, 2010. She agreed with the applicants that the area is irrevocably committed to rural residential and small farm use, which is an important use and lifestyle that tends to produce independent-minded people. She said that the reason why Planning staff didn’t tell the applicants whether or not they could get a dwelling at the time of the partition application is that there were a number of possible avenues to pursue that goal and promises can never be made with the current land use system.

Ms. George expressed support of the application, stating that the ability to raise families in a rural area is beneficial to children and to the community as a whole. The motion for tentative approval passed, Commissioners George 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, one regular lay member and four alternate members;
 - b. Parks & Recreation Board, one position;
 - c. Planning Commission, one position;
 - d. Special Transportation Advisory Commission, one position.

G. **EXECUTIVE SESSION** pursuant to ORS 192.660(2)(h) regarding potential litigation.

The meeting recessed to executive session at 9:48 a.m. and reconvened at 10:18 a.m. with no formal decisions made. Following items D(2) and D(3), the meeting adjourned at 10:45 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair KATHY GEORGE

Commissioner MARY P. STERN

Commissioner LESLIE LEWIS