

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/informal session on August 11, 2011, at 10:00 a.m. in Room 32 of the Courthouse, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George being present.

Also present were Laura Tschabold, County Administrator; Chuck Vesper, Deputy County Administrator; Christian Boenisch, Deputy County Counsel; Rick Sanai, County Counsel (joining the meeting at 11:47); Mike Brandt, Planning Director; Stephanie Armstrong, Associate Planner; Doug McGillivray, Emergency Manager; Todd Sadlo, 1532 SE 36th Ave, Portland 97214; Mary Weil, PO Box 515, Dundee; Linda & John Budan, 19759 Calkins Ln, Newberg; Richard Brown, 515 E 1st St, Newberg; Allan Fetherston, 15900 NE Dopp Rd, Newberg; Janna Ellings, Philip Cleys, and Jacob Cleys, 16785 NE Calkins Ln, Newberg; Alanna Pass and Raymond Woltz, 17675 NE North Valley Rd, Newberg; Michelle Myhrvoldroy, 29300 NE Pendle Hill Rd; and Gareth Vernam, 1712 NW 34th St, Lincoln City.

Commissioner Stern called the meeting to order at 10:00 a.m.

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. **AGENDA:**

Personnel

1. **B. O. 11-478** - Consideration of the employment of the following individuals as HS Specialist 2 in HHS Adult Mental Health, regular full-time, effective August 24, 2011:
 - a. Noreen Gruber, Range 20, Step 1;
 - b. Tara Manitsas, Range 20, Step 4.

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

2. **B. O. 11-479** - Consideration of the change of status of Melanie Merriss to \$57.75/hour in HHS Adult Mental Health, effective August 24, 2011.

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

3. **B. O. 11-480** - Consideration of the change of status of Aubrey Dobrkovsky to regular part-time employment in HHS Adult Mental Health, .5 FTE, effective August 24, 2011.

Ms. George moved approval of item B(3). The motion passed, Commissioners Stern, Lewis, and George voting aye.

Contracts/Grants

4. **B. O. 11-481** - Consideration of authorizing the 2011 State Homeland Security Grant Application for Yamhill County with the following project proposals, total amount \$103,000:

a. Assistance in developing Emergency Operations Plans for the cities of Dayton, Dundee, Lafayette, Sheridan, Willamina, and Yamhill, \$16,000 each;

b. Part-time position to work with the cities in implementing their Emergency Operations Plans, \$7000.

Doug McGillivray stated that this is the final year that cities can participate in the process for EOP grants, and this will result in nine of the county's ten cities having an EOP. He explained that if the applications exceed the county's allocated amount, the entire application could be thrown out. He recommended not including a request from the city of Newberg that doesn't conform to state guidelines for the Homeland Security Grant. Ms. George moved approval of item B(4). The motion passed, Commissioners Stern, Lewis, and George voting aye.

5. **B. O. 11-482** - Consideration of authorizing Emergency Management to apply for a \$7500 grant for the Yamhill County Citizen Corps Council.

Ms. George moved approval of item B(5). The motion passed, Commissioners Stern, Lewis, and George voting aye.

6. **B. O. 11-483** - Consideration of ratification of Amendment #47 to the 2009-11 Financial Assistance Agreement #127319 between HHS and Oregon Department of Human Services to add \$560 for transportation of an individual, retroactive to July 20, 2011.

Ms. George moved approval of item B(6). The motion passed, Commissioners Stern, Lewis, and George voting aye.

7. **B. O. 11-484** - Consideration of approval of Amendment #1 to the 2009-11 Financial Assistance Agreement #128879 between HHS Public Health and Oregon Department of Human Services to extend the spending date limit to July 30, 2011.

Ms. George moved approval of item B(7). The motion passed, Commissioners Stern, Lewis, and George voting aye.

8. **B. O. 11-485** - Consideration of approval of Service Element Prior Authorization (SEPA) Approval Unit #615020 for the 2009-11 Financial Assistance Agreement #127319 between HHS and Oregon Department of Human Services, \$8905.

Ms. George moved approval of item B(8). The motion passed, Commissioners Stern, Lewis, and George voting aye.

Committees

9. **B. O. 11-486** - Consideration of the reappointment of Tony Roos to the Road Improvement Advisory Committee for a three-year term to expire August 11, 2014.

Ms. Lewis moved approval of item B(9). The motion passed, Commissioners Stern, Lewis, and George voting aye.

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

1. **B. O. 11-487** - Consideration of authorizing the chair to sign an agreement between Yamhill County and Pfeifer Roofing, Inc., for the Spence Building Roof Replacement Project, \$34,724, subject to approval by county counsel.

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

2. **B. O. 11-488** - Consideration of approval of 2011 Fund Exchange Agreement #28040 between Public Works and Oregon Department of Transportation (ODOT) for the South Yamhill River Green Bridge project, exchanging \$45,341 federal funds for \$42,621 state funds.

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

3. **B. O. 11-489** - Consideration of approval of Intergovernmental Agreement #27816 between Public Works and ODOT, provider, for right-of-way services related to Phase 1 of the South Yamhill River Green Bridge project, not to exceed \$10,000, effective through June 30, 2013.

Ms. Lewis moved approval of item C(3). The motion passed, Commissioners Stern, Lewis, and George voting aye.

4. **B. O. 11-490** - Consideration of an agreement between Yamhill County, representing Head Start of Yamhill County, and Pavilion Properties, LLC, for the Head Start expansion project, \$1,369,990.

Ms. Stern moved approval of item C(4). The motion passed, Commissioners Stern, Lewis, and George voting aye. Ms. George clarified that these are pass-through dollars and the county is only acting as fiscal agent.

5. **B. O. 11-491** - Consideration of designating the News-Register as the newspaper to publish the 2011 Tax Foreclosure List.

Ms. Stern moved approval of item C(5). The motion passed, Commissioners Stern,

Lewis, and George voting aye.

D. **OLD BUSINESS:** None.

E. **PUBLIC HEARINGS:**

1. **B. O. 11-492** - Consideration of a request for a mass gathering permit for the 2011 Chamber Trilogy Event on September 10, applicant Chehalem Valley Chamber of Commerce, and consideration of waiving 75% of the permit application fee. *[Approved.]*

Ms. Stern opened the public hearing. Richard Brown presented the request on behalf of the applicant. He stated that the application fee was recently increased to \$2166 and requested that the fee be waived to the same amount that was paid last year. He discussed the number of restrooms that would be required and said that the number provided last year ended up being more than was needed. Christian Boenisch said that he would have to clarify whether the statutory requirement is based on the number of people in attendance at any given point or the overall attendance for the day. Michelle Myhrvoldroy said that although they were hoping to get by with fewer, seven restrooms have been ordered, so they will go ahead with those and do some more research for next year.

Ms. Stern closed the public hearing. Ms. Lewis moved approval of item E(1). The motion passed, Commissioners Stern, Lewis, and George voting aye.

2. Consideration of Planning Docket SDR-12-11(SA), a site design review application for a farm stand to be operated out of existing buildings, applicants Janna Ellings and Philip Cleys, appellant Alanna Pass. *[Continued to August 18, 2011, at the point of Staff Recommendation.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction. She noted that the commissioners did not take a site visit, but are all very familiar with the area. Mike Brandt 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 - Stephanie Armstrong described the subject property, surrounding zoning, and approval criteria.

Proponents - Janna Ellings stated that she looks forward to having a farm stand and appreciates the concerns expressed by her neighbors. She said that she thinks the information provided by the county has addressed those concerns.

Questions of Proponents - Ms. Ellings pointed out the proposed new driveway on the map and clarified that the current driveway would be retained for personal and farm use only. She said that although the existing driveway was deemed acceptable by the Road Department, there are some visual limits and she believes the new one would be safer.

Opponents - Alanna Pass clarified for the record that her neighbors are also appealing the

application with her, even though she is the only appellant listed. She stated that this farm stand was approved by the Planning Director without their knowledge or any opportunity for input. She discussed her concerns about land use, water and sewage disposal, economic factors, traffic safety and parking, and noise and visual buffering. She said that she has 19 signed petitions opposing the farm stand, and 14 of those said that they wouldn't use the farm stand, either as a vendor or as a customer, because of how it's sited and because of the way they've been treated by the applicants. She said that the rules need to be followed and the neighbors' interests need to be considered.

She recommended the following conditions of approval: require customers to enter the farm stand from the north side rather than the south, build a new driveway away from her drain field, build a six-foot privacy fence on the east side of her property, and limit the hours of operation to between 9:00 a.m. and 6:00 p.m.

Todd Sadlo stated that the site design review process has not been followed very well, and these issues should have been resolved before this hearing so that satisfactory conditions of approval could have been presented. He said that the Board needs to exercise its discretion to come up with conditions to limit or prevent serious conflicts from continuing in the future. He said that there should be full visual screening between the farm stand and the neighbors, and existing screening should be retained unless other screening is provided. He said that the locations of the farm stand and driveway should be specified, and the new driveway should be 150 feet away from Ms. Pass' property line.

Allan Fetherston, joint appellant, recommended that the farm stand be located further north where there is more winery traffic and better opportunity to sell produce. He expressed concerns about losing trees that he believes are on his property, security risks, and overspray of chemicals onto his property. He said that he doesn't have the finances to afford a property line survey, but needs to protect what is his.

Raymond Woltz read a copy of the petition against the farm stand, along with some of the comments received, and submitted them for the record.

Public Agency Reports - Ms. Armstrong summarized the reports in the record from Public Works and Water Resources Department.

Rebuttal - Ms. Ellings stated that she doesn't intend to use the well for farm stand purposes, but wants to retain her rights to it in case she has livestock at some point. She agreed that water is a concern, but said that those concerns have been addressed. She said that she would follow the county's requirements for building a new driveway. She explained that her primary goal is to use existing buildings in order to minimize the impact on the area and avoid taking any land out of production.

She said that she was considering putting up a boundary fence, but doesn't think she should be burdened by the cost of additional fencing for visual buffering, and would want to reserve the right to trim any trees that overhang onto her property. She said that she would

consider sharing the cost of a property line survey, and she would not be opposed to conditions prohibiting the use of the existing road for farm stand access and requiring the new road to be located 150 feet away from the property line. She said that accessing the farm stand from the north would not be feasible because she would have to give up farmland to do that.

Staff Recommendation - Mike Brandt stated that the site design review (SDR) process includes many things beyond what is allowed by the Brentmar case, and state law precludes the county from applying SDR standards to deny the proposed use. He said that, according to the advice of legal counsel, the county can use the SDR process for health and safety provisions only, and although he did say that he thought the process was awkward, he was referring more to concerns about the applicants. He clarified for the record that the county did follow its process as it always has.

He said that other counties allow farm stands administratively, with no public notice, no hearing, and no appeal process, and he may suggest that Yamhill County amend its ordinance accordingly. He read from a T-Mobile case and stated that he doesn't believe the Board has the ability to deny this application. He suggested that the Board continue the hearing for a week to allow him to work with the applicants and neighbors to develop a list of conditions related to health and safety.

Ms. Stern moved to continue the hearing to August 18, 2011, at the point of Staff Recommendation. The motion passed, Commissioners Stern, Lewis, and George voting aye. Ms. Lewis urged the applicants and neighbors to work with Planning staff on the conditions of approval, as this is their opportunity to provide input. Mr. Brandt requested that any comments or suggested conditions be e-mailed to him by the following Tuesday.

F. ANNOUNCEMENTS:

1. The following positions are open to the public. Contact the Commissioners' Office for applications.
 - a. Commission on Children & Families, four full members and three alternate members;
 - b. Parks & Recreation Board, one position;
 - c. Special Transportation Advisory Commission, two positions.

The meeting adjourned at 12:44 p.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair MARY P. STERN

Commissioner LESLIE LEWIS

Commissioner KATHY GEORGE