

BOARD ORDERS AND MINUTES

IN THE BOARD OF COMMISSIONERS FOR THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON sat for the transaction of County business in formal session on August 18, 2011, 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; Rick Sanai, County Counsel; Ken Friday, Planning Division Manager; Dan Linscheid, Surveyor; Hannah Hoffman, News-Register; Joseph Gall, 1156 SW Westvale Street, McMinnville; Mark Bortnem, 21650 NE Sunnycrest, Newberg, 97132; Matt Willcuts, 22915 NE Sunnycrest Rd, Newberg; Marc Willcuts, 700 North Deborah Road, Newberg; John Bridges, attorney, 515 East First St, Newberg.

Commissioner Stern 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. Joseph Gall presented a number of issues with which he is concerned regarding the "rule of law".

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

Personnel

1. **B. O. 11-493** - Amend the Health & Human Services position management roster to delete 3.75 FTE and add 4.33 FTE.

Contracts/Grants

2. **B. O. 11-494** - Ratify Amendment #2 to the 2011-13 Financial Assistance Agreement #134337 between HHS and Oregon Health Authority to provide Continuum of Care funds for the Reflections program \$1000, retroactive to August 10, 2011.

3. **B. O. 11-495** - Approve Amendment #7 to the 2010-11 Financial Assistance Agreement #132036 between HHS Public Health and Oregon Health Authority to extend the spending date limit for H1N1 to July 30, 2011.

*Handwritten initials:* MW, JAG, KG, V

4. **B. O. 11-496** - Approve Modification #4 to Attachment M of an agreement between HHS Adult Mental Health and Mid-Valley Behavioral Care Network for the Post-Partum Depression Prevention Project, \$60,800, retroactive to July 1, 2011, through June 30, 2012.

5. **B. O. 11-497** - Authorize a notice of intent to award a contract to MacDonald & Associates, LLC, for surveying services west of Carlton, RFP #9, \$35,180.

Roads

6. **B. O. 11-498** - Authorize the placement of a stop sign on Courtney Road at its intersection with Mountain Top Road.

Plans

7. **B. O. 11-499** - Approve the 2011-12 Annual Plan for Community Corrections, to be effective July 1, 2011 through June 30, 2012.

C. **OLD BUSINESS:** None.

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

1. **B. O. 11-500** - Consideration of approval of Intergovernmental Agreement # 4563 between Community Corrections and Oregon Department of Corrections, in the amount of \$3,205,437, effective July 1, 2011 through June 30, 2012.

Commissioner Stern moved approval of IGA #4563 as listed above. The motion carried, Commissioners Stern, Lewis, and George voting aye.

2. **B. O. 11-501** - Consideration of acceptance of a Financial Assistance Award Amendment (FAAA), Amendment #48 to the Department of Human Services 2009-2011 intergovernmental agreement for the Financing of Mental Health, Developmental Disability and Addiction Services Agreement #127319, in the amount of \$35.

Commissioner George moved approval of FAAA Amendment #48 as listed above. The motion carried, Commissioners Stern, Lewis, and George voting aye.

3. **B. O. 11-502** - Consideration of Approval of the Service Element Prior Authorization (SEPA), Approval Unit 617373, to add State Operated Community Programs Premium as follows:

- a. SE 02 Local Admin \$20,628.00 7/1/11-6/30/13; and
- b. SE 48 Case Mgmt \$20-628.00 7/1/11-6/30/13.

Commissioner George moved approval of the SEPA issues as listed above. The motion carried, Commissioners Stern, Lewis, and George voting aye.

*[Handwritten initials: MW, LL, KG]*

4. **B. O. 11-503** - Consideration of rescinding B.O. 09-508 which authorized a \$20 change fund for use at the Willamina School-Based Clinic and which is no longer needed; and approving the re-direction of the \$20 change fund for the use of the HHS Newberg Clinic.

Commissioner George moved approval of re-directing the \$20 change fund for use by the HHS Newberg Clinic. The motion carried, Commissioners Stern, Lewis, and George voting aye.

5. **B. O. 11-504** - Consideration of adoption of a board order approving an Outdoor Mass Gathering Permit for the "Chamber Trilogy Event, 2011, to be held on September 20, 2011, applicant Chehalem Valley Chamber of Commerce, as approved at the public hearing on August 11, 2011.

Commissioner Lewis moved approval of the board order as tentatively approved on August 11, 2011. The motion carried, Commissioners Stern, Lewis, and George voting aye.

6. **B. O. 11-505** - Consideration of a contract agreement between the Juvenile Department and Catholic Community Services (aka Rainbow Family Services) to provide Solution Focused Brief Therapy (SFBT) services to 13 families in the amount of \$24,050, effective July 1, 2011 through June 30, 2012.

Commissioner Stern moved approval of the contract agreement as listed. The motion carried, Commissioners Stern, Lewis, and George voting aye.

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket SDR-09-11(KF), a request for a community water system to serve a 16-lot subdivision, applicant Coyote Creek, LLC (Willcuts), appellant Mark Bortnem, as continued from July 28, 2011, at the point of Staff Recommendation. *[Application tentatively approved, appeal denied; findings in support of approval to be considered September 8, 2011.]*

Commissioner Stern reopened the public hearing at the point of Staff Recommendation.

Staff Recommendation - Ken Friday reviewed the issue of written material submitted by Mr. Bortnem on August 11<sup>th</sup>; he stated that the Planning Department had rejected the letter as being past the time the record was open. Following discussion, there was consensus from the Board that the letter would be excluded from the record. Ms. Lewis disclosed an ex parte contact.

Mr. Friday stated that the planning department in certain situations is tasked with reviewing what is best for the community which will be affected by a landowner's actions. He stated that a 16-lot subdivision will best be served by a community water system. He stated that if denied, the applicant would have to build individual exempt wells.

Mr. Friday recommended approval of the site design review with the four conditions originally approved by the planning director and a one-word change in condition #2 to state: "The proposal shall **substantially** comply with the site map submitted with the application (see

enclosure)".

Close of public hearing / Deliberation - Commissioner Lewis moved to tentatively approve of upholding the planning director's approval of a community water system and deny the appeal, with findings to be adopted on September 8, 2011. She stated she agreed with the documentation provided by the applicant and with Mr. Friday's assessment that it is preference to have a community water system. She stated that a community water system is more regulated by the State's Department of Water Resources, and that the community is better served in this situation.

Commissioner Stern stated she approves the recommendations because of the regulatory oversight that will be provided by Water Resources.

The motion carried, 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, as continued from August 11, 2011, at the point of Staff Recommendation. *[Application tentatively approved, appeal denied; findings in support of approval to be considered on August 23, 2011, 10:30 a.m.]*

Commissioner Stern reopened the public hearing at the point of Staff Recommendation.

Staff Recommendation - Mr. Brandt reviewed statutes and an Oregon Supreme Court decision relating to farm stands. He stated that the County has been advised by legal counsel that the site review process can be used, but the County's regulations are not to go beyond the limits of the statute. He stated that if the Board makes findings to address the criteria, the comparison must be to farm use, not to dwellings; that dwellings in a farm zone are the incompatible use.

Stephanie Armstrong reviewed the recommendation for approval with conditions which it is hoped will address the opponents' concerns about the operation of a farm stand.

Close of public hearing / Deliberation - Commissioner Stern moved tentative approval with findings to be adopted on August 23<sup>rd</sup> at 10:30 a.m. She stated that she understands the neighbors' concerns; however this property is in a farm zone and there are protected rights for farming. She stated that it has been suggested that mediation between the parties might be useful in resolving concerns.

Commissioner Lewis stated that she agrees with the motion, and also hopes that the participants involved can resolve their differences.

Commissioner George stated that she understands the concerns of neighbors regarding loss of privacy, but that it is important not to create barriers to marketing farm products. She stated it is clear there are many concerns and tensions between the neighbors, but according to the law, which is very specific, the Board must approve this request.

The motion to approve the site design review with conditions carried, Commissioners Stern, Lewis, and George voting aye.

3. Consideration of Public Works Docket RV-1-11, a request for vacation of a gateway easement on Lot 4 of Margaret's Vineyard, applicant Margaret Bollinger. *[Continued to September 8, 2011, 10:00 a.m.]*

Commissioner Stern opened the public hearing.

Mr. Sanai stated that attorney John Bridges has concerns about the sufficiency of the petition and objects to the Board's jurisdiction to consider the matter.

John Bridges stated that his objection to jurisdiction is based on ORS 364.341. He stated that ORS 368.341(3) lists the items that must be contained in a petition and that this petition lacks an essential element without which the petition cannot be approved. He reviewed the requirements that 60% of abutting landowners must sign the petition; however, in this instance, there are only two landowners: the applicant and Mr. Nash. He said the petition must be dismissed on that basis.

Following additional discussion, Ms. McCormick requested a continuance.

Commissioner Stern moved to continue the hearing until September 8, 2011. The motion carried, Commissioners Stern, Lewis, and George voting aye. Mr. Linscheid was requested to prepare a staff report addressing the issues raised today.

**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.

Adjourn: 10:45 a.m.

Carol Ann White  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

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Chair MARY P. STERN

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Commissioner LESLIE LEWIS

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Commissioner KATHY GEORGE