

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 March 23, 2005 at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George being present.

Also present were Rick Sanai, Assistant County Counsel; John Krawczyk, Director of Administrative Services; Ken Friday, Planning Division Manager; Marilyn Reeves, PO Box 1083, McMinnville; and John Rankin, 26715 SW Baker Road, Sherwood.

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. None offered.

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

Personnel

1. **B. O. 05-179** - Approve the employment of Chad Cox, Salem as HS Specialist 2 in Adult Mental Health, regular full-time, Range 20, Step 5, effective April 11, 2005.

2. **B. O. 05-180** - Approve the employment of Olivia Carson, Newberg, as HS Associate in HHS, temporary on-call, Range 14, Step 1, effective March 25, 2005 until June 30, 2006.

3. **B. O. 05-181** - Approve the employment of Elvira Myers, Willamina, as Office Specialist 2 in Telecom, regular part-time, Range 7, Step 2, effective March 20, 2005.

Contracts

4. **B. O. 05-182** - Approve a contract employee agreement between Public Health and Beth Morrell for tobacco policy research services, \$22/hour, effective March 23, 2005.

5. **B. O. 05-183** - Approve an intergovernmental agreement between Yamhill, Polk, and Marion Counties for household hazardous waste collections and management, subject to receipt of the original documents from Polk County.

6. **B. O. 05-184** - Approve an amendment to a contract between Yamhill County and RSS Architecture for development of building permit documents for the Stern Building, \$2720.

7. **B. O. 05-185** - Ratify the approval of an intergovernmental agreement between HHS and Tillamook County for acute care psychiatric hospital alternatives, \$4479.84, retroactive to July 1, 2004 until June 30, 2005.

Grant

8. **B. O. 05-186** - Authorize Yamhill County to apply for 2005-07 ODOT discretionary grants, based on project rankings unanimously recommended by the Special Transportation Fund Committee.

Committees

9. **B. O. 05-187** - Approve the appointment of Katy Ailstock to the Commission on Children and Families for a four-year term to expire November 1, 2008.

Dispute Resolution

10. **B. O. 05-188** - Approve Resolution 05-3-23-1 regarding Yamhill County's participation in funding activities of the Oregon Office for Community Dispute Resolution.

11. **B. O. 05-189** - Appoint Carol White as Yamhill County Dispute Resolution Coordinator.

Measure 37

12. **B. O. 05-190** - Schedule a public hearing on April 27, 2005 at 9:00 a.m. for M37-23-05, a Measure 37/Ordinance 749 claim, authorizing uses on the subject property allowed when the current owner acquired the property, applicants Larry and Karen Waide.

C. **OLD BUSINESS:**

1. **B. O. 05-191** - Consideration of adoption of findings in support of Planning Docket FT-14-04, request for a forest template dwelling, applicant James McDermand, as tentatively approved March 9, 2005.

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

D. **OTHER BUSINESS** (Add-ons and non-consent items): None.

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket PAZ-02-03, request for a comprehensive plan amendment/zone change from EF-20 to AF-10, applicant Matthew Powell, approved May 13, 2004 and remanded to the Board by the Land Use Board of Appeals (LUBA). [*Continued to April 13, 2005 at the point of deliberation, allowing the submission of additional written information by all parties until 5:00 p.m. March 30, 2005 and allowing the submission of additional written information by the applicant until 5:00 p.m. April 6, 2005.*]

Rick Sanai stated that this is a remand hearing to consider only the narrow issues brought up by LUBA.

Commissioner Stern opened the public hearing. There were no abstentions or objections to jurisdiction.

Mr. Sanai read the statement required for land use hearings related 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 stated that the request now includes approximately 21 acres to be rezoned, since the 17 acres owned by Chehalem Park & Recreation District is no longer part of the application. He said the key issue is to determine whether or not the property is resource land as defined in Goal 3, so only testimony relevant to that issue should be accepted today. He stated that agricultural land is defined as Class 1-4 soils and referred to the soil report in the record, which shows that over 50% of the property is Class 6-8 soils.

Proponents - John Rankin distributed copies of the LUBA opinion to the Board. He stated that a soil

scientist hired by the applicant found confirmation of the information already in the record from the Soil and Water Conservation District, which indicates that the property is not high-value farmland and that the proposed use would not infringe on adjacent land uses. He noted that a site analysis had been done of the soils on the Travers property.

He explained how the property meets three tests to determine that it is not resource land. He said those three reasons and all of his original reasons are included in the new burden of proof and he requested that the Board find the property to be non-resource land and approve the application as they did originally.

Ms. Stern pointed out some errors in the dates listed in the new burden of proof; Mr. Rankin noted the correct dates for the record.

Opponents - Marilyn Reeves, representing Friends of Yamhill County, submitted a letter for the record. She read the property description from the original burden of proof and stated that there is a disconnect between the statements that up to 22% of the property can be easily accessed and that 90% of the property precludes commercial agricultural use. She stated that the land has historically had timber resources and no evidence has been presented to preclude future uses such as Christmas trees, orchards, or forest products. She opposed the designation of the property as non-resource land and requested that the record be left open for seven days to allow an attorney, Mr. Ian Simpson, to finish working on information to be submitted for the record.

Public Agency Reports - None.

Rebuttal - Mr. Rankin stated that he had given Mr. Simpson all of the materials one week ago, which was plenty of time to be ready for today. He said it would be inappropriate to bring forest uses into consideration at this late date since the issue wasn't raised before and the focus has only been on agricultural uses.

Staff Recommendation - Mr. Friday recommended approval of the application based on the proximity of rural residential land, the slope of the property, and the soil classifications, which lead him to believe it is not resource land under the definition of Goal 3.

He stated that forest use comes under Goal 4 and was not part of the hearing notice. He said that in the Exclusive Farm Use zone, forest use is allowed, but an exception is not required. He added that when the Planning Commission proposed a forest template dwelling last year, Friends of Yamhill County was strongly opposed because it was not a forest zone.

Close of Public Hearing / Deliberation - Ms. Lewis stated that there is no requirement to leave the record open and Mr. Simpson had plenty of time to provide evidence. She stated that the applicant has met the burden of proof to show that the property is not resource land. She moved tentative approval of the application with findings to be adopted in two weeks.

Ms. Stern stated her reluctance to move forward for fear the applicant would be back before the Board again a year from now. Mr. Rankin indicated his willingness to leave the record open. Ms. Lewis withdrew her motion.

Ms. Lewis then moved to continue the hearing to April 13, 2005 at the point of deliberation, allowing the submission of additional written information by all parties until 5:00 p.m. March 30, 2005 and allowing the submission of additional written information by the applicant until 5:00 p.m. April 6, 2005. She noted that submitted information must be limited to the issue listed in the hearing notice. The motion passed, Commissioners Stern, Lewis, and George voting aye.

F. **ANNOUNCEMENTS:**

1. The following positions are open to the public. Contact the Commissioners' Office for applications.
 - a. Commission on Children and Families, two positions;
 - b. Parks Board, two positions;
 - c. Food Service Advisory Committee, six positions in various categories;
 - d. Special Transportation Commission, two positions;
 - e. Dog Control Advisory Committee, one position (candidates must be directly involved with dog-related issues);
 - f. Local Alcohol and Drug Planning Council, one position;
 - g. Fair Board, two positions as of April 22, 2005, application period extended to April 8, 2005.

2. Byrne Grant Application available for review. Interested persons are invited to review an application by Yamhill County and the City of Newberg for an Edward Byrne Memorial Justice Assistance Grant Program grant for a total of \$14,971, with the city seeking \$7,485.50 and the county seeking \$7,485.50. If the grant is awarded, the two jurisdictions will purchase law enforcement equipment consisting of ballistic vests and Taser X26 Electronic Stun Devices with accessories. The application can be reviewed during regular business hours in the Board of Commissioners office in Room 106 of the Yamhill County Courthouse, 535 NE Fifth Street, McMinnville, OR 97128. Questions can be addressed to Lt. Ken Summers, Yamhill County Sheriff's Office, (503) 434-7506.

Adjourn: 9:43 a.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair	MARY P. STERN
Commissioner	LESLIE LEWIS
Commissioner	KATHY GEORGE