

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 May 18, 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 John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; John Krawczyk, Director of Administrative Services; Mike Brandt, Planning Director; David Bates, News-Register; Henry Reeves, 22250 Boulder Crest Lane SE, Amity; Marilyn Reeves, PO Box 1083, McMinnville; Kris Olsen, 875 SW Daniels Court, McMinnville; and others as listed on the attached attendance roll.

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.

Henry Reeves stated that although Commissioners Lewis and George had stated that the purpose of Measure 37 was mostly to allow small landowners to build a house on their property, the three claims on today’s agenda would result in hundreds of new dwellings, many on agricultural land. He asked the Board how they were going to deal with this “tiger” they have by the tail.

B. **CONSENT AGENDA:** Ms. Lewis moved approval of the consent agenda, with item #13 being moved to Other Business. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Personnel

1. **B. O. 05-337** - Approve the employment of Thomas Oliverius, Newberg, as on-call relief in the Juvenile Department, \$7.25/hour, effective May 18, 2005.
2. **B. O. 05-338** - Approve the employment of Joshua Eckroth, Dayton, and Shane Markuson, Salem, as Corrections Reserve in the Jail, part-time on-call, \$10/hour, effective May 18, 2005.
3. **B. O. 05-339** - Approve the employment of Tyler Hart, McMinnville, as Extra Help in the Assessor’s Office, regular part-time, \$7.50/hour, effective May 23, 2005.
4. **B. O. 05-340** - Approve the employment of Sheila Clark, McMinnville, as Extra Help in Community Corrections, temporary part-time, \$25/hour, effective May 18, 2005 until November 17, 2005.
5. **B. O. 05-341** - Approve the change of status of Ronald Roach and Richard McKenna to extend temporary part-time employment in Community Corrections, effective May 12, 2005 until November 11, 2005.

Contracts

6. **B. O. 05-342** - Approve an agreement between the Commission on Children and Families and Child Care Information Service for the CARES program, \$7080, retroactive to March 1, 2005 until June 30, 2005.

Roads

7. **B. O. 05-343** - Approve Public Works Docket RV-3-2005, a request for vacation of a public road in the Chehalem Richlands subdivision, no hearing necessary under ORS 368.341.

8. **B. O. 05-344** - Approve the substitution of Finn Lane Road for Red Prairie Road on the 2005 Public Works summer project list.

9. **B. O. 05-345** - Authorize Public Works to post signs prohibiting unmuffled engine brakes on each end of Hill Road South.

#### Easements

10. **B. O. 05-346** - Accept a permanent easement and a temporary construction easement from Chan Mendenhall for the Willamina Creek Road Bridge project.

#### Vehicles

11. **B. O. 05-347** - Authorize the purchase of the following vehicles from Chuck Colvin Ford for Community Corrections:

- a. 2005 Ford Taurus, \$13,805;
- b. 2006 Ford F-350 crew cab truck, \$22,784.

#### Public Hearing

12. **B. O. 05-348** - Set a hearing date of June 29, 2005 to consider the private sale of surplus county Tax Lot R5309 00900 to Joe Hoffart for \$2500 plus costs.

#### Policy

13. **See Other Business** - Rescind B.O. 05-295 and approve the amended Vegetation Management Policy.

#### Committees

14. **B. O. 05-349** - Approve the reappointment of Wayne Stocks and Roger Worrall to the Parkway Committee for four-year terms to expire September 22, 2009.

C. **OLD BUSINESS:** None.

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

1. **Tabled** - Consideration of approval of an addendum to an agreement between Administrative Services and ABM Janitorial Services to include services at 420 E. 7<sup>th</sup> Street, McMinnville.

2. **B. O. 05-350** - Consideration of approval of an agreement between Public Works and J.C. Compton Co. for 2005 Asphalt Overlay Projects, \$1,037,558, effective until October 29, 2005.

Ms. Lewis moved approval of the agreement. The motion passed, Commissioners Stern, Lewis, and George voting aye.

3. **B. O. 05-351** - Consideration of rescinding B.O. 05-295 and approving the amended Vegetation Management Policy.

Ms. Lewis reviewed the minor changes in the amended policy. She moved to rescind B.O. 05-295 and approve the amended policy. The motion passed, Commissioners Stern, Lewis, and George voting aye.

4. **B. O. 05-352** - Consideration of approval of the employment of Robert Bernal, Lafayette, as Extra Help in the Sheriff's Office Marine Patrol, temporary part-time, \$10/hour, effective May 19, 2005 until September 21, 2005.

Ms. Stern moved approval of the employment of Robert Bernal. The motion passed, Commissioners Stern, Lewis, and George voting aye.

E. **PUBLIC HEARINGS:**

1. Public Hearing -- pursuant to TEFRA Notice published on May 3, 2005 in the McMinnville News-Register pursuant to Section 147(f) of the Internal Revenue Code of 1986 regarding the George Fox University Project.

Doug Goe reviewed the terms of the conduit financing order, making it clear that no county funds will be involved in any way. He explained that the purpose of the county's involvement is to allow the university to get tax-exempt status and a lower interest rate.

Ms. Stern opened the public hearing. There being no public comment, the hearing was closed.

a. **B. O. 05-353** - Consideration of a Board Order Authorizing the Issuance, Sale, Execution and Delivery of Tax-Exempt Variable Rate Demand Revenue Bonds, Series 2005A (George Fox University Project) and Federally Taxable Variable Rate Demand Revenue Bonds, Series 2005B (George Fox University Project), in an aggregate principal amount not exceeding \$28,400,000.

Ms. Stern moved approval of the order. The motion passed, Commissioners Stern, Lewis, and George voting aye. Ms. Lewis added that Yamhill County is blessed to have two very fine universities and this financing will provide a great expansion to the university system in Newberg.

The meeting recessed at 9:30 a.m. and reconvened at 9:44 a.m.

2. Consideration of approval of M37-23-05, a Measure 37 claim authorizing applicants Larry and Karen Waide to make application to subdivide 173.93 acres into 1.5-acre lots and establish dwellings thereon, as continued from April 27, 2005 at the point of deliberations. [*Tentatively approved; findings to be adopted June 1, 2005.*]

Mr. Gray stated that for items #2-4, all of the conditionally received written evidence has been evaluated and will be part of the record, with the weight going to information pertaining to the listed criteria.

He stated that Measure 37 defines an owner as the current property owner or anyone having an interest therein, which can include more than just ownership interest. He stated that he believes the correct date of ownership to be 1993, when Mr. Waide received the property as a living trust and had the power to sell the property. Ms. Lewis reviewed the land use regulations in effect at that time and concluded that based on those regulations, only one ten-acre parcel of the subject property could be divided.

Ms. Lewis moved tentative approval of M37-23-05, with findings to be adopted June 1, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

3. Consideration of approval of M37-01-04, a Measure 37 claim authorizing applicant Maralynn Abrams to make application to subdivide 342 acres into one-acre and smaller lots, build dwellings thereon, and develop a commercial strip area adjacent to Hill Road, as continued from April 27, 2005 at the point of deliberations. [*Tentatively approved; findings to be adopted June 1, 2005.*]

Mr. Gray stated that although this is a large claim, the ownership dates are valid and the compensation amounts listed are reasonable. He noted for the record that the Department of Land Conservation and Development (DLCD) has issued a staff recommendation that this is a valid claim. Mr. Brandt stated that public health and safety issues raised at the public hearing will be addressed when Ms. Abrams makes an application for land division.

Ms. Lewis stated that discussions between the applicant, the county, the City of McMinnville, and DLCD about bringing a portion of the property into the city's urban growth boundary will continue and would be a better solution, but the county has to make a decision on this claim before the June 4, 2005 deadline. Ms. Stern expressed her appreciation to Ms. Abrams for her willingness to discuss the issue with all of the groups involved.

Ms. Lewis moved tentative approval of M37-10-04, with findings to be adopted June 1, 2005. The motion passed, Commissioners Stern, Lewis, and George voting aye.

4. Consideration of approval of M37-10-04, a Measure 37 claim authorizing applicants Jeffrey Magar and Billy Magar to make application to subdivide their property into 24 lots and establish dwellings thereon, as continued from April 27, 2005 at the point of deliberations. *[Tentatively approved with regulations waived back to November 6, 2002; findings to be adopted June 1, 2005.]*

Mr. Gray stated that this is an interesting case because of the equitable mortgage issue and the Board's decision will probably make new law for other jurisdictions in Oregon. He stated that the Board will have to decide if an equitable mortgage existed between Billy and Jeffrey Magar. Rick Sanai summarized the legal arguments of both positions.

Ms. Stern stated that after carefully considering the issue, she is not convinced that there is sufficient evidence to support the claim of an equitable mortgage. She moved tentative approval of M37-10-04, modifying, removing, or not applying land use regulations back to November 6, 2002, with findings to be adopted June 1, 2005.

Ms. Lewis stated that although a case might be made in circuit court for the equitable mortgage, the Board should use existing case law to make the decision rather than making new case law. Ms. George agreed that it would be inappropriate for the Board to step out ahead of the courts.

The motion passed, Commissioners Stern, Lewis, and George voting aye.

5. Consideration of Planning Docket PA-01-05, a request for amendment to the City of McMinnville Urban Growth Boundary. *[Tentatively approved; findings to be adopted June 1, 2005.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction. Each of the commissioners noted that they had read the editorial in Saturday's *News-Register* regarding the issue and are familiar with the area.

Staff Report - Mike Brandt referred to a map on the board and stated that the subject property is being processed as a legislative amendment. He stated that the primary soils are classed as high-value farmland, but cannot be used as a farm zone because it is within three miles of the city's urban growth boundary (UGB). He distributed copies of a letter which were received by the Planning Department yesterday and submitted various newspaper articles for the record.

Proponents - Stan Primozich, McMinnville School District Board of Directors, stated that the urgency

of the request is due to the fact that the high school already has over 1800 students enrolled in a facility with a 1500-student capacity and significant growth is projected over the next ten years. He stated that the new facility would be able to open its doors by the 2008-09 school year at the earliest.

Kris Olsen, McMinnville High School Principal, stated that the current campus has had eleven additions over the last 50 years to accommodate growth, which has resulted in an inefficient infrastructure that is difficult to supervise and doesn't meet the academic programs and needs of the students. He explained that the proposal before the Board is to annex property for a starter campus to accommodate 1200 students, which will allow the existing campus to be remodeled. He stated that without the new site, the existing site would have to be expanded with modular classrooms, resulting in the loss of Baker Field as community green space as well as increased traffic, parking, and security issues.

David Horner, Director of Business Services, submitted a demographer's report of projected enrollments, a long-range task force report, a conceptual drawing of the property, and the newspaper editorial. He stated that enrollment is projected to reach 2600 over the next 20 years, which will eventually necessitate the development of a second complete high school, although not all of the subject property will be used at this point. He stated that the school district will go out for a bond to finance the first phase.

Renee Kroupa, Dull Olson Weekes Architects, reviewed the conceptual drawing and answered questions. Mr. Horner stated that the unused property will more than likely continue to be used as farmland until it is needed.

Greg Winterowd, Winterbrook Planning, stated that he had looked at all areas both inside and outside the UGB and all exception areas and had found no sites that would meet the high school's criteria for even a 30-acre parcel. He stated that the subject property complies with state-wide planning goals and its west side location will keep most of the traffic off Highway 99W. He added that there is a letter in the record from the person currently farming the land which states his expectation to discontinue farming it at some point.

Opponents - Sid Friedman, 1000 Friends of Oregon, stated that it is clear that the existing high school is inadequate for current and future needs, but the letter in the record from 1000 Friends of Oregon outlines why this location and parcel size are ill-advised at this time and points out other sites which could be used. He said that the entire area may or may not be included in the UGB and any conclusions about development of the site are purely speculative. He stated that the school district and other parties would be much better served by addressing the issue as part of a global process, rather than in this piecemeal fashion. He submitted written copies of his statement.

Merilyn Reeves, Friends of Yamhill County, echoed the statements of Mr. Friedman.

Public Agency Reports - Mr. Brandt stated that he had received a letter from DLCDD dated March 30, 2005 in support of the application, but it appears to have been written in regard to the zone change rather than the remand that is being processed now. He reported that McMinnville City Council voted unanimously on May 10, 2005 to approve the request as part of the UGB process.

Rebuttal - Mr. Winterowd stated that the need for another high school site is not speculative and the application stands on its own as a separate amendment based on that need, without assuming approval of the activity center. He added that the site requirements were developed by the school district, not by the consultant, and Mr. Friedman's request for a global process is a request for monumental delay. He stated that the school district hopes this issue will be on the annexation ballot in November and the Board's approval is critical to that goal.

Staff Recommendation - Mr. Brandt stated that based on recently submitted information along with

the fact that the school district purchased the land years ago to address the high school's needs, he recommends approval of the application.

Close of Public Hearing / Deliberation - Ms. Lewis stated that she understands the concerns expressed about the piecemeal process, but it would have been more orderly if the larger process hadn't dragged on so long. She stated that this plan fits into the work that has already been done and has been written to stand on its own.

She moved tentative approval of PA-01-05, with findings to be adopted June 1, 2005. Ms. George commended the school board for its long-range planning and efforts to maximize taxpayers' dollars and expressed her appreciation to the entire community for working together cooperatively for over twelve years to put together a plan that is not piecemeal. Ms. Stern added that the cost of delay is more than monetary and will impact students as well as the community. 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. Food Service Advisory Committee, six positions in various categories;
  - c. Special Transportation Commission, two positions;
  - d. Dog Control Advisory Committee, one position (candidates must be directly involved with dog-related issues);
  - e. Local Alcohol and Drug Planning Council, one position;
  - f. Planning Commission, three positions.

The meeting recessed to executive session in Room 108 at 11:00 a.m. pursuant to ORS 192.660(2)(e) for the purpose of discussing real property transactions. The meeting reconvened at 11:26 a.m. with no formal decisions made and the sense of the Board conveyed to staff.

Adjourn: 11:28 a.m.

Anne Britt  
Secretary

**YAMHILL COUNTY BOARD OF COMMISSIONERS**

---

Chair MARY P. STERN

---

Commissioner LESLIE LEWIS

---

Commissioner KATHY GEORGE