

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 October 12, 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 was John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; Ken Friday, Planning Division Manager; John Krawczyk, Administrative Services Director; David Bates, News-Register; and other guests 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. None offered.

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

Personnel

1. **B. O. 05-857** - Approve the change of status of Steven Smith, Sheriff’s Office, to .2 FTE as Evidence Technician, Range 8, Step 3, and .8 FTE as Police Clerk, Range 4, Step 6, retroactive to October 9, 2005.

2. **B. O. 05-858** - Approve a change of the Road and Fleet Division to the 5 day/8 hour shift schedule, effective October 24, 2005 through late February or early March, depending on winter weather conditions.

Contracts

3. **B. O. 05-859** - Approve a modification of intergovernmental agreement between Adult Mental Health and Mid-Valley Behavioral Care Network to provide for direct client services and accounting work, \$3910/month for Regional Acute Care Coordinator and Data Entry Technician services and \$47,049 for direct client services, effective October 12, 2005 through June 30, 2006.

4. **B. O. 05-860** - Approve an agreement between Chemical Dependency and Community Action Agency of Yamhill County (YCAP) for services to homeless youth, \$35,000, retroactive to October 1, 2005 through June 30, 2006.

5. **B. O. 05-861** - Ratify the approval of Amendment #4 to the 2005-07 Financing Agreement #113020 between HHS and Oregon Department of Human Services, retroactive to September 15, 2005.

6. **B. O. 05-862** - Approve Amendment #5 to the 2005-07 Intergovernmental Agreement #113020 between HHS and Oregon Department of Human Services.
7. **B. O. 05-863** - Approve an agreement between Family & Youth and Rainbow Family Services for treatment foster care contracted beds, retroactive to July 1, 2005 through December 31, 2005.
8. **B. O. 05-864** - Approve an agreement between the Juvenile Department and McMinnville School District for Functional Family Therapy services, \$57,000, effective October 12, 2005 through September 30, 2006.
9. **B. O. 05-865** - Approve Amendment #2 to the 2005-07 Intergovernmental Agreement #0507YAM between the Commission on Children & Families (CCF) and Oregon CCF to include Healthy Start funding for the fiscal year 2005-06, \$175,779.
10. **B. O. 05-866** - Approve Intergovernmental Agreement #YAMH0507 between CCF and Oregon CCF for Healthy Start Medicaid administrative activities, \$72,500, retroactive to July 1, 2005 through June 30, 2007.

Committees

11. **B. O. 05-867** - Appoint Donna Albarella to the Ambulance Service Area (ASA) Advisory Committee for a term to expire December 31, 2006.
12. **B. O. 05-868** - Reappoint Mike Ragsdale and Donald Skei to the Parkway Committee for four-year terms to expire September 22, 2009.

Resolution

13. **B. O. 05-869** - Adopt Resolution 05-12-12-1 proclaiming October 16-22, 2005 as Hands & Words Are Not For Hurting Week.

Parks

14. **B. O. 05-870** - Approve the Parks Capital Improvement Plan - 2005 Update for expenditure of Parks System Development Charges, amending B.O. 04-288.

C. **OLD BUSINESS:** None.

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

Budget

1. **B. O. 05-871** - Consideration of rescinding approval of B.O. 04-638, a request for a \$350,000 interfund loan to complete the Juvenile Detention Center remodel project.

John Krawczyk stated that the request for an interfund loan last year was an error on his part because the general fund balance was sufficient to allow the Juvenile to carry a budget deficit, which could be eliminated over time. He noted that the project was actually completed without creating a budget deficit, although most of the Juvenile Department's balance was used up in the process. He stated that the interfund loan needs to be rescinded in order to authorize the Accounting Department to recover the funds.

Ms. Stern moved to rescind the Board's former approval of B.O. 04-638. The motion passed, Commissioners Stern, Lewis, and George voting aye. Ms. Lewis congratulated the Juvenile Department for getting the remodel project done without needing to carry a deficit.

E. PUBLIC HEARINGS:

1. Consideration of Planning Docket C-13-05, an appeal of the conditions of approval for a bed & breakfast, applicant Linda Kesler, appellant Cheryl McCaffrey. *[Continued to November 9, 2005 at 9:00 a.m. at the point of rebuttal; record left open until 5:00 p.m. October 19, 2005 for submission of additional information by any party; until 5:00 p.m. October 26, 2005 for written response from any party; and until 5:00 p.m. November 2, 2005 for written rebuttal by the applicant.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction. She noted that the Board had taken a site visit with Ken Friday on October 6, 2005.

Rick 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 - Mr. Friday reviewed the size, location, and zoning of the subject property, the zoning of surrounding properties, and the request for a four-bedroom bed and breakfast operation. He stated that the application had been approved by the Planning Commission, subject to provisions in the county's zoning ordinance. He confirmed that a letter from Mary Kelley has been included in the record and gave Cheryl McCaffrey a copy of a memo from Bill Gille regarding traffic issues.

Proponents - John Pinkstaff, representing applicant Linda Kesler, stated that this is a simple, straightforward case. He said that the primary use of the property would be for a bed and breakfast, with some meetings held there as an accessory use. He explained that the word "retreat" used in the original application materials was intended to refer to the tranquil nature of the bed and breakfast.

Ms. Kesler stated that the primary function of the home occupation would be to provide a peaceful, private place for guests to get away from the demands of daily life. She said that activities would be substantially carried out within the home, although guests may use the grounds as an accessory use. She stated that the living room may also be an accessory use for meetings of up to twelve guests. She read the definition of a bed and breakfast as stated by the Oregon Bed & Breakfast Guild and noted that hosting groups for a variety of activities is a common practice among Yamhill County innkeepers. She said that she does not intend to advertise the home as a retreat center or rent out the living room solely for meetings.

She stated that she had initiated a neighborhood meeting in August to explain her intentions and hear any concerns, and said that she is willing to participate with the neighbors in a dust abatement program. She stated that she doesn't expect traffic to exceed fifteen trips per day, the normal use in the AF-10 zone, and that she is working with a landscape architect to screen the two adjacent properties from her home. She concluded that the proposed use is compatible with other uses in the area.

Questions of Proponents - Ms. Kesler answered questions about the comparison bed and breakfast properties cited in her application, stating that they are all rural properties in Yamhill County.

Opponents - Cheryl McCaffrey, appellant, submitted written testimony for the record and reviewed the main points verbally. She expressed frustration with the communication and timely disclosure of

information by the county. Mr. Friday explained that copies of the supplemental report packet were only distributed upon request. Ms. McCaffrey requested that the record be left open to allow time to address the issues.

Ms. McCaffrey reviewed her written request for the revision of two conditions as well as the placement of additional conditions of approval. She said that in the original application, Ms. Kesler stated her expectation of groups of up to sixteen people using the meeting room, which exceeds the amount of guests that would be staying overnight. She stated that this use is substantially different than a bed and breakfast and should be considered a separate home occupation. She suggested that a designation as an organizational camp would be more appropriate to Ms. Kesler's plans.

She stated that she would like Ms. Kesler to completely fund the dust abatement for the portion of road used to access her property since the other residents can't always afford the treatment, but sharing the costs equally would also be acceptable. She stated that a survey of the neighborhood, including the former owners of the subject property, showed that the average number of daily trips per household was only 3.6.

Ms. Lewis stated that the county could look into the possibility of a residence district on the upper portion of the gravel road if the homes are close enough together to qualify, which would allow a speed limit of 25 mph.

Beth Walton submitted written information for the record and stated that she feels she has been mistreated by county staff, giving several examples. She said that her main concerns are the dust, traffic, and safety on Earlwood Road, of which she has previously spoken individually with the commissioners, and the county needs to craft appropriate conditions to address these concerns. She stated that the supplemental staff report was untimely, lengthy, not clearly written, and didn't address the issues raised in the appeal. She said that a retreat operation as described by the applicant is inappropriate in an AF-10 zone. She discussed the increasing traffic along Earlwood Road and the resulting poor road conditions, stating that the frontage people living along the road can't afford to pay individually for the general benefit of all who use the road.

Barbara Whitaker stated that when the Planning Department sends notices to surrounding property owners, 250 feet from the outside boundaries is not always an adequate distance in rural areas. She stated that the expected daytime activities described by Ms. Kesler would result in a significantly higher number of trips than a traditional bed and breakfast. She discussed traffic concerns on Earlwood Road, explaining that the dust creates expensive maintenance problems with electronic equipment and is not just a cosmetic issue. She said she would like the county to go back to maintaining the road. She also noted that water usage is not a trivial issue.

The meeting recessed at 11:04 a.m. and reconvened at 11:17 a.m. Ms. Stern noted for the record that during the break, she had discussed with Ms. McCaffrey the standards for a residence district.

David LeVee read portions of his written testimony, which he submitted for the record. He stated that the Planning Department's conditions of approval are ambiguous and do not address the concerns of the neighbors, and that the proposed use of the facility was somewhat misrepresented. He said that although no two bed and breakfasts are the same, guests are generally transitory and depart after the morning meal. He stated that the direct view between his property and the subject property would result in a reduction of his property value and the increased traffic with no turn lanes would limit accessibility to his property.

Annette Cooley, Co-President of Ladd Hill Community Planning Organization, submitted written information for the record and stated that the county's summary of this application was inaccurate because it made no mention of the business plan to cater to groups for onsite team-building activities which may require additional meals. She listed several mistakes made by the county in this case and expressed her disappointment in how the case was handled by the county. She asked that community planning organizations be notified of land use decisions relevant to the county.

She stated that she had never received a response from the Public Works Department to a letter she had previously written regarding traffic safety issues at the intersection of Earlwood and Wilsonville Roads, which included suggestions such as intersection signs and a no-passing strip. Ms. Lewis stated that those are inexpensive solutions and said she would follow up with the Public Works Director. Ms. Cooley stated that she would support the application if the additional conditions suggested by Ms. McCaffrey were imposed.

Deanne Sterritt stated that the primary purpose of the home occupation seems to be for guests to gather for rest and team-building activities, with the bed and breakfast being an ancillary purpose. She added that including a condition that dinner cannot be served does not make it a bed and breakfast.

Public Agency Reports - Mr. Friday reviewed reports from the County Sanitarian, Soil & Water Conservation District, Newberg Rural Fire District, and Yamhill County Public Works. He stated that no response was received from Water Resources or Public Health.

Rebuttal - Mr. Pinkstaff joined in Ms. McCaffrey's request to keep the record open for written information. He stated that the question for the Board to consider seems to be one of code interpretation for bed and breakfast operations and determining what the primary and secondary uses are in this application.

Ms. Lewis said she would be interested to hear from Mr. Pinkstaff whether or not the conditions suggested by Ms. McCaffrey would be acceptable to his client, and she would like to hear both sides' requests regarding the dust abatement issue.

Ms. Stern apologized for any errors made by the county in this case and stated that it is common in land use cases for information to come in at the last minute. Ms. Lewis added that because it is anticipated that new information will be presented at land use hearings, statute allows either side to request the record to be left open.

Rick Sanai suggested the following timetable: continue the hearing to November 9, 2005 at the point of rebuttal; record left open until 5:00 p.m. October 19, 2005 for submission of additional information by any party; until 5:00 p.m. October 26, 2005 for written response from any party; and until 5:00 p.m. November 2, 2005 for written rebuttal by the applicant. He explained that during the first seven-day period, any new information can be submitted, but during the second seven-day period, parties may only address what is already in the record to that point.

Ms. Lewis moved to continue Planning Docket C-13-05 to November 9, 2005 at 9:00 a.m. at the point of rebuttal, with the record left open as described by Mr. Sanai. 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. Special Transportation Commission, two positions;
 - b. Local Alcohol and Drug Planning Council, one position;
 - c. Ambulance Service Area Advisory Committee, one position for an emergency room physician;
 - d. Parks Board, two positions.

The meeting recessed at 12:30 p.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair MARY P. STERN

Commissioner LESLIE LEWIS

Commissioner KATHY GEORGE