

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 special formal session on March 9, 2006 at 2:00 p.m. in Room 32 of the Courthouse, Commissioners Leslie Lewis, Kathy George, and Mary P. Stern being present.

Also present was John M. Gray, Jr., County Counsel; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; David Bates, News-Register; Merilyn Reeves, PO Box 1083, McMinnville; Ilsa Perse, 5765 Mineral Springs Road, Carlton; Susan Watkins, 13440 SW McCabe Chapel Road, McMinnville; W.N. Gahr, 18605 SW Masonville Road, McMinnville; Aron Perez-Selsky, Linfield intern; and others as listed on the attached attendance roll.

Commissioner Lewis called the meeting to order.

PUBLIC HEARINGS:

1. Consideration of M37-122-05, a Measure 37 claim authorizing W.N. and Harriet Gahr to make application to subdivide 349 acres into lots of various sizes to be used for residential development, RV and camping sites, a restaurant, sales, and educational purposes. *[Continued to May 10, 2006 at the point of deliberation, order to be adopted May 17, 2006.]*

Ms. Lewis opened the public hearing. John Gray explained the hearing procedure.

Staff Report - Mike Brandt reviewed the details of the Measure 37 claim and stated that although ownership of the subject property has been verified back to December 15, 1966, the deed was not recorded until November 7, 1972. He recommended modifying, removing, or not applying land use regulations back to November 7, 1972.

Mr. Gray reviewed the criteria established by Ordinance 749 for evaluating the validity of Measure 37 claims and stated that if the Board determines a claim to be valid, it must determine if the public interest would be better served by granting compensation or waiving land use regulations.

Claimant’s Statement - Mr. Gahr stated that the purpose of this claim is not to seek compensation. He said that there are certain things he wants to do on his property and was told that this is the only way to do it.

Public Testimony - Merilyn Reeves, representing Friends of Yamhill County, requested that the information presented at this hearing be forwarded to the state. She stated that even though Measure 37 has been declared constitutional, it is not necessarily a good law and has presented many unintended consequences. She noted that the Attorney General’s ruling states that Measure 37 waivers cannot be transferred with the sale of the property.

She submitted information for the record regarding 117 acres of the subject property, on which conservation easements have been established through government agencies and private funding. She stated that because the existing easements already restrict development, the county cannot waive land use regulations to allow residential or commercial development on these 117 acres.

Rob Tracey stated that before retiring, he had been very involved in the implementation of the conservation easements discussed by Ms. Reeves. He added that financial assistance has also been given to the claimants by other assistance programs in order to protect the land's ecological function, and these programs have maintenance requirements of ten to fifteen years. He urged the Board not to approve the claim, stating that any development in the upper area would create runoff and would negatively affect the downhill wetland area.

Susan Braden stated that she agrees with the comments made by Ms. Reeves and Mr. Tracey.

William Cleek stated that many of his reasons for opposing this claim were discussed by Mr. Tracey. He added that he considers property owners to be stewards of the land with no moral right to change the land except to leave it more friendly to wildlife. He expressed concerns about the impact of the proposed development on well water levels, water quality, air pollution, and road conditions.

Ilsa Perse read a written statement, which she submitted for the record. She stated that using Measure 37 to pursue plans for environmental education is overkill when there are other ways to accomplish these goals.

Susan Watkins submitted written material on behalf of herself and her husband. She discussed the domino effect that Measure 37 claims are having in Yamhill County and stated that actively managed forests cannot thrive near subdivisions. She said that taxpayers, rather than the developers, will eventually bear the burden of infrastructure costs resulting from Measure 37 development. She urged the Board to require market analyses for more accurate projected land values and to address cumulative and future impacts of these claims.

Carl Caswell stated that Measure 37 claims seem to be all about the money and because he now has claims on both sides of his property, he feels pressured to do the same.

Henry Reeves stated that this claim is an example of the legal, political, and social consequences of Measure 37. He said that before making a decision, the Board should become familiar with the obligations on this property regarding the wetland area.

Summation by Claimant - Mr. Gahr stated that there appears to be some misunderstandings because of the lack of details on the map he had provided, but all of the information is available on his website and none of his plans would affect the conservation easements. He said that people and wildlife can get along with the proper guidelines. He said that although land use laws have no provisions to stop cities from expanding, they are so restrictive to private property owners that Measure 37 is the only way to develop the portions of his property which are not part of the

wetlands.

At Commissioner Lewis' request, Mr. Gahr agreed to extend the 180-day deadline to May 17, 2006 and to work with staff to revise his application in order to better reflect his actual plans.

Close of Public Hearing / Deliberation - Ms. George moved to continue M37-122-05 to May 10, 2006 at the point of deliberation. The motion passed, Commissioners Lewis, George, and Stern voting aye.

A member of the audience asked the Board if any studies have been done on the water table and wells in the area. Ms. Lewis stated that water is controlled by the Water Resources Department. She noted that the Board will be discussing possible financial contributions to the Water Resources Department at upcoming budget meetings. In response to another question, she explained that although vehicle density is not a factor in Measure 37 claims, it would affect subsequent land use applications.

Ms. Stern stated that although Measure 37 was promoted as restoring fairness and balance to land use, it completely overlooked balance and fairness between neighbors. She said she would contact the state legislature about fixing the problems existing in the current land use system. She added that she does not believe Measure 37 was intended to allow large scale development.

The meeting recessed at 3:17 p.m. and reconvened at 3:23 p.m.

2. Consideration of M37-123-05, a Measure 37 claim authorizing Barbara Morton to make application to subdivide 15.78 acres into eleven residential lots and a five-acre retail commercial shopping center. *[Tentatively approved, order to be adopted March 10, 2006 at 9:00 a.m.]*

Ms. Lewis opened the public hearing.

Staff Report - Ken Friday reviewed the details of the claim and stated that ownership of the subject property had been verified back to August 19, 1964.

Public Testimony - Ms. Reeves stated that there is no evidence that the estimated loss of value is the result of land use regulations. She said that because of the property's location in the Dundee bottleneck, the Oregon Department of Transportation should be involved. She added that because the proposal is for a commercial shopping strip, the property should go before the City of Dundee for annexation. She requested that her testimony for this claim be submitted to the state as well. Ms. Lewis noted that approval for annexation into the city's urban growth boundary would be highly unlikely.

Close of Public Hearing / Deliberation - John Gray stated that if the claim is approved, Ms. Morton would still have many other hurdles to clear before being able to do what she wants, most having to do with access on Highway 99W.

Ms. Lewis moved tentative approval of M37-123-05. Ms. Stern stated that she would be

