

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 20, 2009, at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Leslie Lewis, Kathy George, and Mary P. Stern being present.

Also present were Laura Tschabold, Administrative Services Director; John Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; John Krawczyk, Budget Director; Ken Friday, Planning Division Manager; Roberta Ashby, 2196 Dorsey Dr, Hubbard; Darren Shelburne, 7609 SE Wallace Rd, Dayton; Judy & Jack Bennett, 16201 SE Fairview Rd, Dayton; Harlie & Patty Noble, 15280 SE Fairview Rd, Dayton; Ellen Konzelman, 15130 SE Fairview Rd, Dayton; Kenneth Clow, 15730 SE Wallace Rd, Dayton; James Shelburne, 17340 SE Wallace Rd, Dayton; Wally Lien, 1775 32nd Pl NE, Salem; Terry & Jennifer Noble, 1339 SW 39th St, Pendleton, 97801; Laurent Montalieu, 17100 Woodland Loop, Yamhill.

Commissioner Lewis 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. Stern moved approval of the consent agenda. The motion passed, Commissioners Lewis, George, and Stern voting aye.

Personnel

1. **B. O. 09-221** - Approve the employment of Stephanie Jensrud as Senior Accounting Clerk in Health & Human Services, regular full-time, Range 12, Step 2, effective May 21, 2009.
2. **B. O. 09-222** - Approve the change of status of Paul Studebaker from .66 to .20 FTE in HHS Abacus, effective June 1, 2009.
3. **B. O. 09-223** - Approve the change of status of Betty Hoskins from .65 to .40 FTE in HHS Abacus, effective June 24, 2009.
4. **B. O. 09-224** - Approve the change of status of David Cano to temporary part-time employment in HHS Family & Youth, .5 FTE, effective June 1, 2009, through June 30, 2009.
5. **B. O. 09-225** - Approve a contract employee agreement between HHS Adult Mental Health and Tabatha Bird Weaver for dialectical behavioral therapy services, Range 20, Step 3, \$22.50/hour, effective June 9, 2009, through June 30, 2010.
6. **B. O. 09-226** - Ratify approval of a contract employee agreement between the Planning Department and Leonard McDowell for electrical inspection services, \$30/hour, retroactive to May 15, 2009.

Contracts/Grants

7. **B. O. 09-227** - Approve Amendment #8 to the 2008-09 Financial Assistance Agreement #124853 between HHS Public Health, provider, and Oregon Department of Human Services to add \$3500 for technology upgrades and personnel costs associated with the Cascadia Peril exercise.
8. **B. O. 09-228** - Approve Amendment #72 to the 2007-09 Financial Assistance Agreement #119951 between HHS, provider, and Oregon Department of Human Services.
9. **B. O. 09-229** - Ratify approval of Amendment #75 to the 2007-09 Financial Assistance Agreement #119951 between HHS, provider, and Oregon Department of Human Services, retroactive to May 8, 2009.
10. Approve the following intergovernmental agreements between HHS Public Health and Willamina School District regarding the School-Based Health Center at Willamina High School:
 - a. **B. O. 09-230** - 2008-09 school year, retroactive to May 11, 2009, through June 30, 2009;
 - b. **B. O. 09-231** - 2009-10 school year, effective July 1, 2009, through June 30, 2010.
11. **B. O. 09-232** - Approve an agreement between HHS Family & Youth, provider, and Willamina School District for Mental Health Specialist services, \$3104/month, not to exceed \$31,036, effective August 15, 2009, through June 14, 2010.
12. **B. O. 09-233** - Approve an agreement between the Planning Department, provider, and the City of Carlton for administration and enforcement of building, plumbing, mechanical specialty, and manufactured home placement codes within city boundaries, effective May 20, 2009.
13. **B. O. 09-234** - Approve Amendment #2 to an agreement between the Commission on Children & Families and Court Appointed Special Advocates (CASA), provider, to reduce funding by \$1707, effective May 20, 2009, through June 30, 2009.

Resolutions

14. **B. O. 09-235** - Adopt Resolution 09-5-20-1 in the matter of the 2009 election to receive National Forest related safety-net payments.

Vehicles

15. **B. O. 09-236** - Authorize the purchase of a new Ford F-350 for the Juvenile Department from Chuck Colvin Ford of McMinnville for \$22,810; declare units P-105 and P-125 as surplus county property to be sold on eBay.

C. **OLD BUSINESS:** None.

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

1. **B. O. 09-237** - Consideration of declaring a 3M printer/copier in the Surveyor's Office as surplus county property to be sold to JL Enterprises NW, Inc., for \$50.

Laura Tschabold stated that it would probably cost more than \$50 to dispose of the machine, so this is a reasonable price. Ms. Lewis moved approval of item D(1). The motion passed, Commissioners Lewis, George, and Stern voting aye.

2. **B. O. 09-238** - Consideration of approval of Amendment #76 to the 2007-09 Financial Assistance

Agreement #119951 between HHS and Oregon Department of Human Services.

Ms. George moved approval of item D(2). The motion passed, Commissioners Lewis, George, and Stern voting aye.

E. PUBLIC HEARINGS:

1. Consideration of Planning Docket PAZ-06-08/P-14-08(KF), a request for plan amendment/zone change from EF-80 to AF-10 and partition of property into two 11.5-acre lots, applicant D. Maxine Noble Family Trust. *[Tentatively approved with the conditions in the Staff Report, findings to be adopted June 3, 2009.]*

Ms. Lewis opened the public hearing. There were no abstentions or objections to jurisdiction. She stated that Commissioners George and Stern had taken a site visit with Ken Friday. Rick Sanai read the statement required for land use hearings relating 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 described the subject property, surrounding zoning, and the approval criteria for the request. He stated that the Planning Commission attempted on March 5, 2009, to pass a motion to approve the request, with a 3-2 vote in favor. He said that the commission had then unanimously approved a motion to forward the application to the Board without a recommendation. He noted that the Planning Commission had the applicant's supplemental information at the time of the vote.

Proponents - Wally Lien, representing the applicant, stated that although the legal side of this application is complex, the request is simple: to divide the subject property down the middle, leaving the existing house on one side and allowing a new house to be built on the other side. He stated that the new house would be along the road in line with neighboring houses and the use of the remaining property would be unchanged, so the net effect would be negligible.

He stated that he had prepared an exception overlay statement at the request of the Land Conservation & Development Commission and believes that the applicant meets the exception criteria. He said that the area between the subject property and Grand Island Junction has a mixture of industrial, commercial, and residential uses and a practice of orienting the dwellings along the street. He said that the predominant pattern of parcels in the area is about ten acres of land with a primary residence, with the land in farm use but not commercial agricultural use. He stated that the nearest AF-10 land that would meet the needs of the applicant would be more than three miles away.

He noted that two letters in the record incorrectly state that the subject property currently has two houses and the application is for a third house. He stated that the comments in the record about the difference between the words "impractical" and "impracticable" from Mr. Fish, Department of Land Conservation & Development (DLCD), are a semantical, game-playing exercise that DLCD does in order to get a negative resolution. He said that there is no difference in meaning, according to the dictionary, and the code and statute both say that "impractical" does not mean "impossible," although DLCD is requiring proof that a parcel is impossible to farm in order to approve an exception.

Judy Noble Bennett read a written statement about the personal aspects of the application and the history of the Noble family in that area. She stated that she believes that the motion to approve the application would have passed on March 5 if all members of the Planning Commission had been present. She said that only one to two acres of the property would be taken out of farm production by allowing the

home to be built.

Terry Noble stated that the goal of the Noble family is to have the three children share equally in what is left of the estates. He said that it was always his father's wish to keep the property in the family.

Harlie Noble shared memories of his father and grandfather and farming on the property and stated that he would like his brother to be there with the rest of the family. He stated that a 100-acre property mentioned in the Planning Commission minutes is no longer in his grandfather's trust and is currently for sale. He added that there is a rental house on one of the parcels and it is also in a floodplain.

Jennifer Noble expressed her hope that the Board would allow her and her husband to move back to the area and build a house on the farm.

Ellen Konzelman stated that she is in favor of the application because Harlie and Patty Noble have been good neighbors, the property has been lived on for many years and the property taxes paid to the county, and the request is a valid one.

Roberta Ashby stated that the Noble ancestors are the reason the community exists. She requested that the Board approve the request or find an exception to the law.

Darren Shelburne stated that he and his father have farmed the subject property for 25 years and they also farm the Noble property on Grand Island, most of which was underwater during the flood. He said that he would not farm the subject property if he wasn't also farming the surrounding land because it isn't large enough to be economically feasible. He said that his gross revenue from that property is at most \$1200, with a profit of \$300 to \$400 at best, and he pays the Nobles about \$140 per acre per year for the use of the land. He stated that the equipment to farm just that parcel would probably cost about \$60,000.

Jim Shelburne stated that he supports the application and is happy to have neighbors who know what farming is all about and will contribute to the area.

Ken Clow stated that he has known the Noble family for over fifty years and can testify that they have a strong attachment to the land. He said that the proposal would fit right in with the other houses currently along Fairview Road and a large portion of the subject property would be kept in farming.

Questions of Proponents - None.

Opponents - None.

Public Agency Reports - Mr. Friday reviewed the public agency reports in the record. Ms. George restated for the record that the letter from the Soil & Water Conservation District contains an incorrect assumption of two existing houses. Ms. Lewis added that the letter from Friends of Yamhill County also contains that assumption.

Rebuttal - None.

Staff Recommendation - Mr. Friday recommended denial of the application. He stated that

although it probably would have been approved as a Measure 37 application, he does not believe it meets the criteria for an exception to Goal 3. He noted that he had also prepared findings for approval, though, in case the Board decides to approve the application.

Ms. Stern stated that the only reason it is practical to farm the subject property now is because the Shelburnes are farming it along with the neighboring property. Mr. Friday stated that if the lot were the only EF-80 property there and had fences along the property, he may have a different opinion about the practicality of farming it.

Close of Public Hearing / Deliberations - Ms. Stern moved tentative approval of Planning Docket PAZ-06-08/P-14-08 with the conditions as stated in the Staff Report, with findings to be adopted June 3, 2009. Ms. George stated that the proposal is consistent with the neighborhood. Ms. Lewis stated that the area is irrevocably committed and it wouldn't be practical to farm the property by itself. The motion passed, Commissioners Lewis, George, and Stern voting aye.

2. Consideration of Planning Docket P-01-09(KF), an appeal of the Planning Director's denial of a request to partition 131.5 acres of EF-80 land into two parcels of 80 and 51.5 acres, applicant/appellant Laurent Montalieu. *[Continued to September 9, 2009, at the point of Proponent's Case.]*

Ms. Lewis opened the public hearing. There were no abstentions or objections to jurisdiction. Ms. Lewis stated that she was not able to do a site visit, but is familiar with the area. She stated that Commissioners George and Stern took a site visit earlier in the week. There was no request for the required land use statement to be reread.

Staff Report - Mr. Friday described the subject property, surrounding property and zoning, and approval criteria for the request.

Proponents - Laurent Montalieu stated that he agrees with the spirit of EF-80 zoning and doesn't want to put the county at odds with its own ordinance. He suggested the possibility of asking for a continuance and applying to rezone the property to EF-40. Mr. Friday stated that if the Land Conservation & Development Commission were to approve the rezoning, he would change his recommendation on the request to partition. He said that it could take up to eight months to get a ruling from the state.

After further discussion, Ms. Stern moved to continue the hearing to September 9, 2009. The motion passed, Commissioners Lewis, George, and Stern voting aye.

F. ANNOUNCEMENTS:

1. The following positions are open to the public. Contact the Commissioners' Office for applications.

- a. Commission on Children & Families, two full members and one alternate member;
- b. Parks & Recreation Board, two positions;
- c. Planning Commission, one position;
- d. Special Transportation Advisory Commission, two positions.

2. Northwest Senior & Disability Services has openings for Yamhill County residents on the following regional councils:

