

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 July 22, 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 John Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; Laura Tschabold, Administrative Services Director; Pat Anderson, Human Resources; Mike Brandt, Planning Director; Bill Gille, County Engineer; Dan Linscheid, Surveyor; John Phelan, Public Works Director; Ilsa Perse, 5765 Mineral Springs Rd, Carlton; Marilyn Reeves, PO Box 1083, McMinnville; Jane and Derek Scott, 19505 NE Woodland Loop Rd, Yamhill; Elizabeth Stark and Donna and Robert Delikat, 19509 NE Woodland Loop Rd, Yamhill; Carol and Joseph Christen, 17240 NE Laughlin Rd, Yamhill; Demetri Tsohantoridis and Jessica Cain, 700 Deborah Rd, Ste 250, Newberg; Ron and Barbara Garand, PO Box 747, Yamhill; Craig Markham, 22245 NE Ilafern Ln, Dundee; and Lynn Gerber, 20230 NE Laughlin Rd, 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. 09-430** - Approve the employment of Janet Davidson as Office Specialist 2 in the Assessor’s Office, regular full-time, Range 7, Step 3, effective July 27, 2009.

2. **B. O. 09-431** - Approve the employment of Todd Sprague as HS Specialist 2 in HHS Adult Mental Health, regular full-time, Range 20, Step 1, effective August 3, 2009.

3. **B. O. 09-432** - Approve the change of status of Robin Lewallen to Range 20, Step 1, in HHS Adult Mental Health, effective August 3, 2009.

Contracts/Grants

4. **B. O. 09-433** - Approve an agreement between the Juvenile Department and Catholic Community Services, provider, for Functional Family Therapy services, \$37,100, retroactive to July 1, 2009, through June 30, 2010.

5. **B. O. 09-434** - Authorize HHS Public Health to apply for a \$10,000 grant from the Community Online Resource Exchange (CORE) program to continue the Healthy Relationships group at the school-

based health center.

Committees

6. **B. O. 09-435** - Approve the reappointment of Brian Casey and Ron Noble to the Local Public Safety Coordinating Council for three-year terms to expire July 2012.

7. **B. O. 09-436** - Approve the appointment of Eric Watt to the Parks & Recreation Board for a four-year term to expire July 22, 2013.

8. **B. O. 09-437** - Approve updated bylaws for the Special Transportation Fund Advisory Committee.

C. **OLD BUSINESS:** None.

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

1. **B. O. 09-438** - Consideration of approval of a \$4000 change fund and a \$2900 petty cash fund for the Fair.

Ms. Lewis moved approval of item D(1). The motion passed, Commissioners Lewis, George, and Stern voting aye.

2. **B. O. 09-439** - Consideration of approval of an agreement between Yamhill County and Marsh USA, Inc., provider, for insurance broker services, \$35,000, retroactive to July 1, 2009, through June 30, 2010.

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

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket C-17-08/SDR-22-08(KF), a request for conditional use and site design review for commercial activity in conjunction with farm use to allow for events such as festivals, parties, receptions, weddings, and banquets, with the primary intent of indirect promotion of lavender flowers and products, applicant/appellant Donna Delikat, as continued from July 15, 2009, at the point of Opponents' Case. *[Continued to August 12, 2009, at the point of Staff Recommendation, record left open until 5:00 p.m. on July 27 for the submittal of written testimony from any party, until 5:00 p.m. on August 3 for rebuttal from any party, and until 5:00 p.m. on August 7 for rebuttal by the applicant only.]*

Ms. Lewis opened the public hearing and stated that William Neuhaeser had submitted written testimony for the record. Ms. Stern stated that she had listened to the audio recording of the discussion that she missed the previous week and had also read the written materials that were submitted.

Opponents' Case - Lynn Gerber submitted written testimony and a photo for the record. She stated that she had attended the lavender festival at the subject property and was disappointed by the lack of manicuring and the tall, unmowed grass, which would pose a fire danger. She stated that access for fire-fighting vehicles would be difficult. She said that the requested use is incompatible with the surroundings and might set a dangerous precedent. She stated that the weekend traffic count on Laughlin Road is not higher than the weekday count for cars, but the road regularly gets substantial bicycle traffic on the weekends.

Craig Markham submitted written testimony for the record. He stated that the lavender is a thinly veiled excuse to make money from the events, which would interfere with permitted uses and create a precedent with negative implications for legitimate agricultural activities.

Merilyn Reeves, Friends of Yamhill County, submitted written testimony for the record. She stated that the county should encourage farmers' markets and festivals in communities where there is an appropriate setting with fire control. She urged the county to provide a survey of the road, which has been described as a shared driveway.

Ilsa Perse submitted written testimony on her own behalf. She stated that it is disingenuous to compare a niche crop like lavender to the wine industry. She pointed out that tasting rooms exist for the marketing of wine, not as event centers to be rented out as marketing tools. She said that she attended the lavender event at the subject property and saw the potential for traffic backup on Woodland Loop and Laughlin Roads. She stated that agri-business can be a huge economic boom and it is time for the county to develop well-thought-out plans to address the growing industry.

Carol Christen submitted written testimony for the record regarding concerns about traffic and amplified sound.

Ms. Lewis noted for the record the letters that had been received by the Planning Department.

Elizabeth Stark described her wedding event, which took place on the subject property. She stated that many of her friends carpooled to the wedding, with a total of about 25 to 30 vehicles. She stated that the lavender farm is a great opportunity for her family and for other people, and will hopefully provide her with a summer job. She said that having an event location on the property would help promote the lavender business.

Public Agency Reports - Ms. Lewis stated that, in addition to the reports in the record, the county received an e-mail message from Mike McCord, District 16 Watermaster, that says that up to 5000 gallons per day can be used from a domestic well for making lavender products, but it cannot be used to irrigate crops.

Dan Linscheid discussed the maps and pointed out the location of county roads in the area. He stated that the access road is solely a proscriptive easement and has been there for over 60 years, although the county would have to go to circuit court to have it legalized. He said that the county would likely prevail in such a request and the court would take into consideration issues such as maintenance, ditches, and equity to all neighbors. He explained that the proscriptive easement only includes the actual road, but the legalized width would be 40 feet. He said that Mrs. Scott is probably correct in stating that the road is mostly on her property.

Bill Gille discussed the traffic counts on Woodland Loop Road and Laughlin Road, which he had done himself, and accident reports, which were taken from Public Works files. He stated that many times accidents are not reported to Public Works. Ms. Stern pointed out that all but three of the accident reports are from the wintertime.

Mr. Gille recommended that the Board require a two-lane access road from Woodland Loop at least to the Delikat property and that the road design and parking area be included in the site design review. He expressed concern that if cars were not turned away after the 50-car limit, they would park on public roads. He recommended that a plan be required for a staging area and for an overflow parking area. He also recommended that paving of the road be required to control dust. He stated that the county needs to be committed to resolving the right-of-way issues, either through legalization or right-of-way acquisition, and that any roadway improvements need to be inspected by a registered engineer.

Rebuttal - Jessica Cain distributed handouts and stated that agri-business is a reality in Yamhill County and is something the county needs to look at. She stated that lavender is a recognized farm product and there are about 24 lavender farms in Oregon, four of which are in Yamhill County. She said that lavender is not an irrigated crop and the water needs for other proposed uses would be much lower than the allowed 5000 gallons per day.

She stated that there are long-standing issues regarding the access road and Morelli Drive, but it is not a shared driveway and the county needs to take the necessary steps to end the dispute.

She stated that the Delikats are committed to maintaining the road and have rocked, graveled, and graded the road on three different occasions. She said that the Delikats would not be financially capable of paving the road, so she would request that the Board consider a condition of approval allowing alternate methods of dust control and maintenance.

She stated that the neighboring vineyards are either in support of the revised application or just want a more limited scope. She noted that the wedding did not even begin until after the neighboring tasting room was closed, so it could not have affected their business. She added that Mike Green had testified that he could only hear the gunfire during the event, not the music, despite the fact that the speakers were pointed in his direction. She said that the speakers could be pointed toward the forest to minimize the impact of the music.

She explained that the Delikats currently have one acre of lavender in production and are committed to planting another half-acre in the next year, which would bring the farm revenue to \$27,000, a figure higher than the \$20,000 income derived from events if the facility were fully booked. She added that there is a potential for \$126,000 in farm revenue from the seven acres available. She stated that the goal is to use events to indirectly promote lavender products to enable the expansion of farm acreage, and this goal is an attempt to apply the existing ordinance in a responsible way to create more agricultural use in the county.

Regarding the traffic concerns, she stated that the Delikats do not plan to be open seven days per week, but that would be allowed even now without a conditional use permit, as lavender is an agricultural product. She pointed out that lavender festivals bring an economic boon to communities. She stated that most of the reported traffic accidents occurred at a time of year when no events would be going on and are likely weather-related.

Mike Ard provided additional traffic counts and accident data for Woodland Loop Road and Laughlin Road. Regarding the potential impact on nearby sheep, he stated that there would be no expectation of a large increase of audible volume associated with passenger cars and only one large truck per event would be expected. He stated that the proposed use would add less than one vehicle per minute

during peak times, which is not a large volume of traffic or dynamic change. He stated that there is a sound scientific basis for determining the traffic volumes based on the capacity of the site. He said that 99% of cars would be arriving from the north and turning right into the driveway, creating minimal traffic conflicts. He added that the number of cars arriving would be at most two per minute and no flagging should occur on Woodland Loop Road. He agreed with the recommendation for a two-lane roadway, but pointed out that it may not be possible due to the neighbors' refusal to allow improvements. He said that one-lane traffic would not be ideal, but it is feasible and can function without the road improvements.

Ms. Cain stated that the applicants have removed benefit concerts from the original application, but would not be in favor of a complete prohibition of amplified music. She said that the applicants would be willing to maintain the entire road within the right-of-way at their cost, to plant an additional half-acre of lavender within one year, to reposition the sign for Woodland Lavender to give drivers more notice, to ensure that all traffic monitors are adults, to provide a trained person on site to operate the 400-gallon water truck, to plant a visible buffer between the subject property and the neighboring property to deflect the impact of headlights, and to work with Public Works to create a design for turnouts along the access road.

She stated that the Delikats have done due diligence for this application and have held public meetings to minimize the concerns of neighbors. She said that no construction would be taking place, so the term "event center" is a mis-characterization. She stated that lavender products are a natural match for weddings and the beautiful venue is a natural way to indirectly promote the products. She said that, although agricultural products like this take time to reach full maturity, the proposed farm use is an opportunity for Yamhill County to embrace the agri-tourism trend.

Staff Recommendation - Mr. Brandt recommended denial of the application because the commercial revenue, using current figures, would outweigh farm revenue and because of compatibility and access issues. In response to a request from Ms. Lewis, he read the Oregon Revised Statute regarding farm stands and stated that a farm stand would still be subject to a site design review, so some of the access issues would still exist. He stated that a home occupation would be subject to all of the same criteria except the relationship between farm use and commercial use.

Merilyn Reeves stated that her decision on whether to request that the record be left open depends on whether or not Mr. Linscheid's testimony is audible on the recording of this meeting, since nothing was submitted in writing.

The meeting recessed at 11:35 a.m. and reconvened at 11:50 a.m.

Ms. Lewis stated that staff had confirmed that Mr. Linscheid's testimony is audible on the recording. Ms. Cain requested that the record be left open.

Ms. Stern moved to continue the hearing to August 12, 2009, at the point of Staff Recommendation, with the record to be left open until 5:00 p.m. on July 27 for the submittal of written testimony from any party, until 5:00 p.m. on August 3 for rebuttal from any party, and until 5:00 p.m. on August 7 for rebuttal by the applicant only. 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. Special Transportation Advisory Commission, two positions.

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

- a. Senior Advisory Council, one position;
- b. Disability Services Advisory Council, one position.

For more information, contact Sally Lawson at (503)304-3473 or by e-mail at Sally.Lawson@state.or.us.

The meeting adjourned at 12:01 p.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair LESLIE LEWIS

Commissioner KATHY GEORGE

Commissioner MARY P. STERN