

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, OREGON (“the Board”) sat for the transaction of County business in formal/informal session on Wednesday, August 12, 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 M. Gray, Jr., County Counsel; Laura Tschabold, Administrative Services Director; John Krawczyk, Budget Officer; Rick Sanai, Assistant County Counsel; Michael Brandt, Planning Director; Carol Christen, 17240 NE Laughlin, Yamhill; Jane Scott and Derek Scott, 19505 NE Woodland Loop, Yamhill; Lynn Gerber, 20230 NE Laughlin, Yamhill; Jessica Cain, Attorney at Law, 700 N. Deborah Road, Suite 250, Newberg; Barb and Ron Garand, 19501 NE Woodland Loop Road, Yamhill.

Chair Leslie 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. No public comment was offered.

B. **AGENDA:**

Minutes

1. Consideration of approval of the following Board minutes:

Informal Sessions:

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| a. <u>B.O. 09-458</u> - July 30, 2007, 2:00 p.m. | f. <u>B.O. 09-463</u> - March 2, 2009, 1:30 p.m. |
| b. <u>B.O. 09-459</u> - May 19, 2008, 2:00 p.m. | g. <u>B.O. 09-464</u> - March 9, 2009, 2:00 p.m. |
| c. <u>B.O. 09-460</u> - June 16, 2008, 2:00 p.m. | h. <u>B.O. 09-465</u> - March 16, 2009, 1:00 p.m. |
| d. <u>B.O. 09-461</u> - June 23, 2008, 2:00 p.m. | i. <u>B.O. 09-466</u> - March 30, 2009, 2:00 p.m. |
| e. <u>B.O. 09-462</u> - February 23, 2009, 2:00 p.m. | |

Formal Sessions:

- | | |
|---|---|
| j. <u>B.O. 09-467</u> - August 15, 2007, 9:00 a.m. | p. <u>B.O. 09-473</u> - February 18, 2009, 9:00 a.m. |
| k. <u>B.O. 09-468</u> - May 5, 2008, 7:55 a.m. | q. <u>B.O. 09-474</u> - February 25, 2009, 9:00 a.m. |
| l. <u>B.O. 09-469</u> - June 30, 2008, 3:45 p.m. | r. <u>B.O. 09-475</u> - March 4, 2009, 9:00 a.m. |
| m. <u>B.O. 09-470</u> - January 7, 2009, 9:00 a.m. | s. <u>B.O. 09-476</u> - March 11, 2009, 9:00 a.m. |
| n. <u>B.O. 09-471</u> - February 4, 2009, 9:00 a.m. | t. <u>B.O. 09-477</u> - March 18, 2009, 9:00 a.m. |
| o. <u>B.O. 09-472</u> - February 11, 2009, 9:00 a.m. | |

Commissioner Stern moved approval of the sets of formal and informal minutes listed above. The motion carried, Commissioners Lewis, George, and Stern voting aye.

Personnel

2. **B.O. 09-478** - Consideration of the employment of Shannon Fost as Environmental Health Specialist 1 in HHS Public Health, regular full-time, Range 17, Step 4, retroactive to August 10, 2009.
3. **B.O. 09-479** - Consideration of the employment of Kathy Myers as Registered Nurse 2 in HHS Public Health, temporary part-time, Range 19, Step 7, retroactive to August 10, 2009, through June 30, 2010.
4. **B.O. 09-480** - Consideration of the employment of Melissa Heuberger as Registered Nurse 3 in HHS Public Health, temporary part-time, \$60/hour, retroactive to August 10, 2009, through December 30, 2009.
5. **B.O. 09-481** - Consideration of the employment of Laura Park as HS Specialist 1 in HHS Developmental Disabilities, regular full-time, Range 17, Step 3, retroactive to August 10, 2009.
6. **B.O. 09-482** - Consideration of the change of status of Heather Dixon to regular full-time employment at the HHS Residential Treatment Facility, retroactive to August 9, 2009.
7. **B.O. 09-483** - Consideration of the change of status of John Nyberg to extend temporary full-time employment in the Jail, retroactive to July 25, 2009, through October 23, 2009.
8. **B.O. 09-484** - Consideration of a modification to the employment agreement for John Krawczyk, Budget Director, to correct a scrivener's error.

Commissioner George moved approval of Item B2 through B-8. The motion carried, Commissioners Lewis, George, and Stern voting aye.

Contracts/Grants

9. **B.O. 09-485** - Consideration of approval of Service Element Prior Authorization (SEPA) Approval Unit #392058 for the 2009-11 Financial Assistance Agreement #127319 between HHS and Oregon Department of Human Services, \$99,020.

Commissioner George moved approval of the SEPA contract as listed. The motion carried, Commissioners Lewis, George, and Stern voting aye.

10. **B.O. 09-486** - Consideration of approval of a Participating Clinic Agreement between HHS Public Health, provider, and ODS Health Plan, Inc., for medical services.

Commissioner George moved approval; the motion carried, Commissioners Lewis, George, and Stern voting aye.

11. **B.O. 09-487** - Consideration of approval of Agreement #128879 between HHS Public Health, provider, and Oregon Department of Human Services for the Drinking Water Program, not to exceed \$77,198, retroactive to July 1, 2009, through June 30, 2011.

Commissioner George moved approval of the Agreement as listed. The motion carried, Commissioners Lewis, George, and Stern voting aye.

12. **B.O. 09-488** - Consideration of approval of Modification #5 to Attachment N of an agreement between HHS Adult Mental Health, provider, and Mid-Valley Behavioral Care Network for Regional Housing Coordinator services, \$53,355, retroactive to July 1, 2009, through June 30, 2010.

Commissioner George moved approval of the contract modification as listed. The motion carried, Commissioners Lewis, George, and Stern voting aye.

13. **B.O. 09-489** - Consideration of approval of an agreement between HHS Family & Youth, provider, and Willamina School District for supplemental mental health counseling services, \$75.50/hour, effective August 12, 2009, through the close of the 2009-10 school year.

Commissioner George moved approval of the contract as listed. The motion carried, Commissioners Lewis, George, and Stern voting aye.

14. **B.O. 09-490** - Consideration of a contract amendment between Yamhill County Public Health, Yamhill County Adult Mental Health, and Multnomah County (Multnomah County Services Contract Amendment No. 1) to provide an 3% COLA increase for the Ryan White HIV-related services contract, as included in the 2009-10 HHS adopted budget.

Commissioner George moved to accept the contract amendment as listed. The motion carried, Commissioners Lewis, George, and Stern voting aye.

15. **B.O. 09-491** - Consideration of contract between Public Works and North Santiam Paving Company for acquisition of asphalt grindings from Baker Creek Road, ODOT Contract #14078, at \$3/ton.

Commissioner Lewis moved to approve the contract as listed above. The motion carried, Commissioners Lewis, George, and Stern voting aye.

16. **B.O. 09-492** - Consideration of an agreement between Yamhill County and All About Roofs, LLC, for public works office remodel (Phase 1) in the amount of \$24,035, to be completed no later than October 15, 2009.

Commissioner Lewis moved approval of the contract as listed. The motion carried, Commissioners Lewis, George, and Stern voting aye.

Committees

17. **B.O. 09-493** - Acknowledgment of the resignation of Mike Hale from the Parks Board.

Commissioner George, noting that Mr. Hale's contributions to the Park Board will be missed and his services have been appreciated, moved to accept his resignation. The motion carried, Commissioners Lewis, George, and Stern voting aye.

18. **B.O. 09-494** - Consideration of the appointment of Wade Witherspoon to the Parkway Committee for a four-year term to expire September 22, 2013.

Commissioner Lewis moved approval of the appointment of Mr. Witherspoon. The motion carried, Commissioners Lewis, George, and Stern voting aye.

Surplus Property

19. **B.O. 09-495** - Consideration of declaring a boat and trailer owned by the HHS Abacus program as surplus county property to be disposed of.

Commissioner George moved approval of declaring the boat and trailer as surplus property for disposal. The motion carried, Commissioners Lewis, George, and Stern voting aye.

Foreclosure List

20. **B.O. 09-496** - Designate the McMinnville News-Register to publish the 2009 Foreclosure List.

Commissioner Stern moved to designate the News-Register to publish the 2009 Foreclosure List. The motion carried, Commissioners Lewis, George, and Stern voting aye.

C. **OLD BUSINESS:** None.

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

1. **B.O. 09-497** - Consideration of a contract between Health & Human Services and Willamette Sign Language Interpreting Services, Inc., with charges based on level of services provided, effective August 15, 2009 through June 30, 2009.

Commissioner George moved approval of the contract as listed. The motion carried, 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 22, 2009, at the point of Staff Recommendation. *Unanimous vote to tentatively reject the application based on the application having been materially altered since first submission; findings in support of the rejection to be considered August 19, 2009, 9:00 a.m.*

Commissioner Lewis opened the public hearing at the point of Staff Recommendation. Following brief discussion of the changes made to the application, Planning Director Mike Brandt stated that his

original thought was that reducing the number of events constituted a modification of the application, which is an acceptable practice. He stated that following discussion with legal counsel, however, he now believes that it may not be advisable for the Board to proceed with a decision, based on the scope of the proposed modification.

Mr. Sanai stated that while an applicant has the right during the course of the application process to reduce the scope and intensity of the proposed use, if the reduction or change in scope is so drastic that the Board feels the application is no longer substantially the same as submitted, then the Board should not vote on it. He stated the Board may reject an application considered to be materially altered, after which the applicant may reapply.

Close of public hearing; deliberation - Commissioner Stern moved to reject the application as having been materially altered. She stated that in the alternative, she would move to deny the application, as either way reaches the same point and the applicants would return with a new application. She stated that if the Board denies the application on the merits, the applicants will have the option of applying for a farm stand or home occupation. She stated there is a need for the county to clarify the road's legal status, which has been unclear for a number of years. She stated issues of traffic and noise have been raised by opponents and lessening the number of events allowed each year will lessen the impact on neighbors. Ms. Stern recommended both the applicants and the opponents work with Yamhill County Mediators to resolve some of the contentious issues that are ongoing between them. She stated she believes the best resolution would be to reject the application as materially altered.

Commissioner George stated she disagrees with opponents' testimony that disparaged lavender as not being a "real crop". She stated "profit" is not necessarily the deciding factor in defining a farm; many farms may make a profit one year, and not the next. She stated that farm uses are frequently smelly, noisy, dusty, and may create traffic, and that these nuisance factors are simply a part of living in the country. She stated that while she agrees the road issue must be resolved, the road is, nevertheless, a dedicated road that the applicants and their employees have the same right to use as does any other resident.

Commissioner Lewis stated that she agrees with the comments made by Commissioners Stern and George and, in addition, believes it is very important for the neighbors to resolve the issues that divide them and live amicably. She stated that both Yamhill County and the State of Oregon encourage people to develop farm and forestry uses and that new businesses generally start small, and size does not determine whether it is a "real farm" or a "real business". She stated that the applicants have every right to farm, to sell their product, and to hire employees who will use the road for the business. She reminded the newer residents in the neighborhood that the Delikats have lived there longer, that they have the right to farm their property, and their business efforts should not be disparaged.

Ms. Lewis stated that it is important to remember that a conditional use approval does not establish a precedent for commercial activities; conditional uses are decided on a case-by-case basis. She stated that neither state statute nor county ordinance contains a helpful definition of what an acceptable ratio of farming to commercial activity is. She stated she is glad that the applicants have revised the number of events requested downward to minimize the impact on their neighbors.

Ms. Lewis stated that, contrary to some testimony entered previously, it is not true that all wineries or bed & breakfast businesses in the County “are playing by the rules” and that the County is working to provide more followup in those situations. She stated that she was very distressed by a sign placed by the Scotts relating to their right to use guns. She stated that by placing an intimidating sign, they used a cherished constitutional right for the purpose of harassing their neighbors. Ms. Lewis stated she supports the recommendations of Commissioners Stern and George that the parties participate in mediation so that they may live peacefully in the shared neighborhood. She stated she definitely agrees the County is obligated to take appropriate action to clarify the road status.

The motion to tentatively reject the application as having been materially altered carried, Commissioners Lewis, George, and Stern voting aye. Written findings in support of the motion will be considered on August 19, 2009, at 9:00 a.m.

2. Fair Report - Commissioner Lewis and Commissioner George shared information about the County Fair with Commissioner Stern, who had been on vacation.

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 10:22 a.m.

Carol Ann White
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair LESLIE LEWIS

Commissioner KATHY GEORGE

Commissioner MARY P. STERN