

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 June 16, 2010, at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Mary P. Stern and Leslie Lewis being present and Commissioner Kathy George being excused.

Also present were Chuck Vesper, Deputy County Administrator; Rick Sanai, Assistant County Counsel; Pat Anderson, Human Resources; Scott Maytubby, Assessor; Tom Adams, GIS Analyst; Ken Friday, Planning Division Manager; Hannah Hoffman, News-Register; Katie Paysinger, student intern; Michael Robinson, 1120 NW Couch St, Tenth Floor, Portland 97209; Steven Schuback, PO Box 702, Wilsonville 97070; Marni Haley, 16300 NE Leander, Sherwood; Carolyn Meeker, 20401 Madrona Ln, Amity; Chris Clemon, 1515 SE Water Ave #331, Portland 97214; Merilyn Reeves, 22250 Boulder Crest Ln SE, Amity; Barbara Schaffner, 30750 NE Bell Rd, Sherwood; Barbara Richman, 30765 NE Bell Rd, Sherwood; Jane Bardolf, 31950 NE Canter Ln, Sherwood; Leslie Atiyeh, PO Box 3040, Newberg; and Sid Friedman, 14286 NW Old Moores Valley Rd, Yamhill.

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

Personnel

1. **B. O. 10-311** - Rescind Board Order 10-288 and approve the employment of Nathaly Pretell as HS Associate in HHS Public Health, temporary full-time, Range 14, Step 5, retroactive to June 9, 2010, through December 31, 2013.

2. **B. O. 10-312** - Approve the change of status of Chris Johnson to Assistant Director in Health & Human Services, . 5 FTE, effective June 16, 2010.

3. **B. O. 10-313** - Approve the change of status of Kathrina Rutschman, Elizabeth Harris, and Shanta Frisbee to extend temporary part-time employment in HHS Adult Mental Health, effective July 1, 2010, through June 30, 2011.

4. **B. O. 10-314** - Approve the employment of Megan Blumenthal as Registered Nurse 3 in HHS Public Health, temporary part-time, \$60/hour, effective September 9, 2010, through December 31, 2010.
5. **B. O. 10-315** - Approve the employment of Angela Witt as Registered Nurse 3 in HHS Public Health, temporary part-time, \$60/hour, effective June 24, 2010, through December 31, 2010.
6. **B. O. 10-316** - Approve the change of status of Marsha Gabriel to Election Personnel in the Clerk's Office, \$8.40/hour, retroactive to June 1, 2010.
7. **B. O. 10-317** - Approve the change of status of John Krawczyk to .3 FTE in the Commissioners' Office, effective July 1, 2010.
8. **B. O. 10-318** - Approve an amendment to the contract employee agreement between HHS Adult Mental Health and Aida Apple to add language for call-out pay, retroactive to June 1, 2010.

Contracts

9. **B. O. 10-319** - Approve an agreement between HHS Developmental Disabilities and Unlimited Choices, Inc., provider, for a house adaptation project at 644 NW 17<sup>th</sup> Street, McMinnville, \$14,357, effective June 16, 2010, through September 30, 2010.

Surplus Property

10. **B. O. 10-320** - Declare a CPN MC-3 nuclear density testing gauge as surplus county property to be returned to the manufacturer for disposal.

Committees

11. **B. O. 10-321** - Approve the following changes to the Local Public Safety Coordinating Council:
  - a. Reappoint John DeMay, Steve Gibbons, Mike Hamilton, and Lee Vasquez for three-year terms to expire July 2013;
  - b. Appoint Lt. Eric Davenport for a three-year term to expire July 2013;
  - c. Acknowledge the resignation of Chris Johnson and appoint Silas Halloran-Steiner to fill Mr. Johnson's position through July 2012.
12. **B. O. 10-322** - Approve the reappointment of Daryl Garrettson and John Abrams to the Planning Commission for four-year terms to expire July 1, 2014.

Budget Transfer

13. **B. O. 10-323** - Approve the transfer of appropriation authority and funds from the Jail to Community Corrections to cover personnel costs if SB 1145 funds are not received, \$55,000.

C. **OLD BUSINESS:** None.

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

1. **B. O. 10-324** - Consideration of the placement of the Computer-Aided Mapping Coordinator position into the GIS and Cartography classification families, as recommended by the Classification Committee. *[Position placed into the GIS family only, upholding the existing list of classification families.]*

Steven Schuback, legal counsel for Yamhill County Employees Association, stated that the Classification Committee is a function of collective bargaining and is the process used to resolve disputes or concerns about pay ranges and classification families as related to bumping rights. He said that Steve Mikami had created the list of classification families years ago. He stated that it had recently come to his attention that Tom Adams' position had never had a job description, therefore, it had been placed into a classification family inappropriately. He said that a job description was created a couple of weeks ago and presented for review to the Classification Committee, which placed it into two families. He noted that this is not unprecedented in the county.

He stated that the committee is concerned about the classification list and has decided to review it as a whole, but since this issue has a time constraint, he would ask the Board to let this process continue and support the recommendation of the committee. He said that another option would be to refer the issue back to the committee to review again after gathering more information. He asked that a decision be made promptly or that an extension be provided for Mr. Adams' layoff.

Pat Anderson stated that the list has been established and used before for bumping rights with the union's approval, but now the union is asking the Board to reject the list to allow bumping. She said that she is concerned about manipulating the process to suit a particular employee. She agreed that the list is faulty and stated that Mr. Adams' position could very well belong in both families, but asked the Board not to modify it until the committee has a chance to review all of the families.

Laura stated that Mr. Adams' position was reclassified to GIS Analyst through a 2005 budget action, but due to an administrative oversight, his job title was never changed from Computer-Aided Mapping Coordinator (CAMC). She said that his manager has confirmed that he is performing the duties of a GIS Analyst, not a CAMC. She said that the job description considered by the committee was written to address the title of CAMC, even though nobody is currently performing that job. She agreed with Ms. Anderson that there is a historical precedent to use the established list.

Ms. Anderson stated that although Mr. Adams has been performing GIS Analyst duties, bumping rights would be affected by placing the CAMC position into both families because that is his title.

Ms. Lewis moved to uphold the existing list of classification families, stating that she

believes the Board should follow the historical precedent, although the list does need to be reviewed in the future. Ms. Stern agreed, stating that this is a difficult situation, but the Board can't look at individual employees in making a decision. The motion passed, Commissioners Stern and Lewis voting aye.

2. Consideration of approval of the 2010-11 fee schedule for HHS Public Health. *[Continued to June 23, 2010.]*

3. **B. O. 10-325** - Consideration of approval of formal session minutes from May 19, 2010.

Ms. Lewis moved approval of the minutes. The motion passed, Commissioners Stern and Lewis voting aye.

4. Consideration of a request from the Yamhill County Historical Society to submit a letter of intent regarding a grant opportunity through Oregon Department of Transportation's Transportation Enhancement Program. *[No action taken at this time.]*

Carolyn Meeker reviewed the types of projects that would qualify for the grant and said that the new Yamhill Valley Heritage Center is a great fit. She explained that the Historical Society would need to partner with a public agency to apply for the grant. Ms. Lewis stated that neither Ms. Tschabold nor Ms. Saunders are planning to submit an application, but she hasn't talked to Public Works yet. Ms. Meeker said that she could provide more information about the project after the Property Development Committee meets this week, and there is plenty of time for both parties to study the project in more depth before the actual application is submitted.

**E. PUBLIC HEARINGS:**

1. Consideration of Planning Docket Z-02-10(KF), a request to rezone 52 acres from EF-20 to AF-20, applicant Mills Development Co. *[Tentatively approved, findings to be adopted June 30, 2010.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction. Ms. Stern noted that the commissioners had taken a site visit in December. 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 - Ken Friday described the subject property and the surrounding zoning. He said that the Planning Commission had voted unanimously on May 6 to approve the application, but it was appealed to the Board of Commissioners. He noted for the record that he had received a letter from the applicant's attorney and another letter this morning from Barbara Schaffner.

Proponent's Case - Michael Robinson, representing the applicant, reviewed the approval criteria and the appeal and stated that the appeal does not provide a sufficient basis for the Board to reverse the recommendation of the Planning Commission, as it provides nothing to suggest that the relevant criteria aren't met. He said that the subject property is surrounded by farming and forestry use and meets the relevant comprehensive plan policies. He stated that the application is a straight zoning map amendment and does not ask for land division or

development. He added that most zones allow the possibility of housing; they just have different standards to meet. He addressed the appellant's position that the wrong section of the Zoning Ordinance is being applied, stating that it is up to the applicant to decide which section to use.

Questions of Proponent - None.

Opponents - Barbara Schaffner read written testimony and submitted it for the record, stating that it would be a mistake for the Board to approve a zone change and housing development outside of a rural residential area.

Mr. Friday stated that although the AF-10 and AF-20 zones sound alike in name, they are very different in land use law and going from AF-20 to AF-10 is very difficult. He said that not all of the existing lots would qualify for forest dwellings, and while the applicant could apply for farm dwellings under AF-20 zoning, they would have to meet the same criteria that they do now under EF-20 zoning.

Barbara Richman stated that this application is laying the groundwork for an eventually smaller subdivision and it does not meet the criteria of Section 1208.04 in the Zoning Ordinance. She said that agribusiness will bring prosperity to the county, but land use laws stress that preserving high-quality farmland is a high priority and it is up to the Board to uphold that. She said that when there are different possible interpretations of the law, the Board should err on the side of preserving farmland. In response to a question from Ms. Stern, she stated that she also believes that there is a goal to preserve forest land.

Marni Haley reviewed written testimony and submitted it for the record. She discussed her concerns about the impact that additional wells would have on the limited water supply. She noted that other parcels on the hill are less than 20 acres in size even though they are zoned EF-20, and each of them have a well. Mr. Friday explained that the property was subdivided prior to the EF-20 zoning going into effect. He said that it was up to the property owners whether or not to put a well in at the time, but it was not a requirement of subdivision.

Jane Bardolf reviewed written testimony and submitted it for the record. She stated that the subject property is clearly being used for agricultural purposes, but it is unclear whether it has been managed for forestry uses in the past or if there are any plans to do so in the future. She stated that the review criteria in Section 1208.04 apply to this request and are the most relevant criteria. She said that it is the nature of the request, not the preference of the applicant, that determines which criteria to use. She stated that the proposal does not meet Goal 3 and would erode the intent of the county's Comprehensive Plan.

Leslie Atiyeh stated that although it is in the best interest of the applicant to keep the two applications separate, claiming this application is not for development is not showing respect to the opponents. She stated that the subject property has been farmed consistently for several decades and requested that the Board uphold the current zoning.

Sid Friedman stated that the county needs to examine the propriety of processing two conflicting applications concurrently for the same property. He said that the subject property

clearly meets the description in Section 1208.04 and there is nothing to suggest that the applicant has the option to choose whether or not this subsection applies. He said that 1208.03 states that the rezoning request must meet all applicable criteria of the ordinance, so 1208.04 applies, and because at least 50% of the property is not forested, the application cannot be approved. He added that Section 1208 also requires that there be a demonstrated need for the proposed zone change, which has not been shown by the applicant. He stated that all of the existing uses on the subject property can clearly continue under the existing zoning.

Merilyn Reeves, speaking for herself and not on behalf of Friends of Yamhill County, reviewed written testimony and submitted it for the record. She stated that when Ordinance 565 was adopted in 1993 and finalized in 1997, the review criteria in Section 1208.04 were included because the Board understood the need for legal criteria. She said that this criteria cannot be disregarded and the application does not meet the requirements for approval.

Ms. Stern stated that the application also fits Section 1208.03, which has conflicting criteria, and the Planning Department has chosen to apply Section 1208.03. Mr. Friedman stated that 1208.03 is more general and states that the application must meet the criteria in 1208.03 and all other criteria, which would include 1208.04, so it needs to meet both.

Public Agency Reports - Mr. Friday stated that Public Works had no concerns about the request, but noted that a traffic impact study may be required. He said that the Sheriff's Office had indicated that there would be no impact from additional traffic.

Rebuttal - Mr. Robinson stated that the fact that the Department of Land Conservation and Development (DLCD) expressed no opposition to the application indicates that they are comfortable with the request. Regarding the two separate applications, he stated that no subdivision application has been submitted and the AF-10 application, which is currently on hold, will be withdrawn if this application is approved. He said that AF-20 zoning leaves the subject property available for farm use and does not create urban sprawl.

He agreed that both 1208.03 and 1208.04 are applicable options, but stated that there is no plan language directing the applicant as to which section to use. He said that 1208.03 was not amended to exclude 1208.04, 1208.04 was not amended to make it mandatory, and 1208.03 and 1208.04 include redundant criteria, so using both would be unnecessary and would create more confusion. He said that 1208.03(b) does not include the words "management of forest use" and the application is appropriate for the existing use.

He stated that the comments made about agribusiness, wine country tourism, and water issues are not relevant to the application. He said that the application satisfies Goal 3 and DLCD has no objections. He stated that there has been no request to keep the record open and unless the Board wants a final written argument from him, he will waive his right to final argument.

At the request of Ms. Stern, Mr. Friday provided background information on Sections 1208.03 and 1208.04, explaining that 1208.04 had been added as a more straightforward option that the owner could choose for a rezoning application if the criteria are met, otherwise 1208.03 would be used. He said that there was no intent to require both options; if that had been the case,

the requirements would have been combined into one subsection. He said that out of the dozen or so past applications that he'd found, the applicant had always been allowed to choose one option or the other.

Staff Recommendation - Mr. Friday recommended approval of the application.

Close of Public Hearing / Deliberations - Ms. Lewis moved tentative approval of Planning Docket Z-02-10 based on evidence in the record, with findings to be adopted June 30, 2010. She emphasized the importance of focusing on the current application, not the previous application that had been submitted. She said that this is a straightforward rezoning request and it meets the relevant criteria for approval. She said that, based on her experience on the Planning Commission at the time Ordinance 565 was adopted, she believes that Mr. Friday has correctly presented the history and that it is up to the applicant to choose whether to follow 1208.03 or 1208.04. She noted that the Board has used 1208.03 a number of times in the past to rezone property to AF zoning. She said that DLCD did comment on the previous application, so it is very telling that they did not comment on this one.

Ms. Stern stated that Board's decision has to be based on the approval criteria and it is clear that the applicants have met that criteria, so the Board has no choice but to approve the application. In response to an earlier comment that the applicant did not reach out to the neighbors, she pointed out that it was comments made by the neighbors about the previous application that led to this modified application.

The motion for tentative approval passed, Commissioners Stern and Lewis voting aye.

**F. ANNOUNCEMENTS:**

1. The following positions are open to the public. Contact the Commissioners' Office for applications.
  - a. Commission on Children & Families, one regular lay member and four alternate members;
  - b. Parks & Recreation Board, one position;
  - c. Planning Commission, one position;
  - d. Special Transportation Advisory Commission, one position.

The meeting adjourned at 10:57 a.m.

Anne Britt  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

\_\_\_\_\_  
Chair KATHY GEORGE

\_\_\_\_\_  
Commissioner MARY P. STERN

\_\_\_\_\_  
Commissioner LESLIE LEWIS