

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 14, 2010, at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Kathy George and Leslie Lewis being present and Commissioner Mary P. Stern joining the meeting at 9:08 a.m.

Also present were Laura Tschabold, County Administrator; John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; Mike Brandt, Planning Director; John Phelan, LouAnn Schenk, Bill Gille, and Russ Heath, Public Works; Becky Weaver, Accounting Division Manager; Captain Ron Huber; Hannah Hoffman, News-Register; Katie Paysinger, student intern; Cathy Stuhr, 31100 NE Fernwood Rd, Newberg; John Bridges, 515 E First St, Newberg; and Sheryl Kelsh, 415 E Sheridan St, Newberg.

Commissioner George 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.

John Bridges stated that the location of the bus stop in Dundee across from 9<sup>th</sup> Street is a safety hazard because there isn't room for the bus to get fully off the road and eastbound traffic goes into the center turn lane to get around the bus. He stated that moving the bus stop even 100 feet in either direction would improve the situation.

Cathy Stuhr stated that she has frequently been run off Fernwood Road because trucks with trailers can't negotiate the curves going up the hill and end up crossing the center line. She requested that the county engineer look at the curve radiuses and road width and see if the road could be widened or if restrictions need to be put in place.

B. **CONSENT AGENDA:** Ms. Lewis moved approval of the consent agenda. The motion passed, Commissioners George and Lewis voting aye.

Personnel

1. **B. O. 10-403** - Approve the employment of Brandy Brockway, Leslie Al-Homidan, Julie Boles, Victoria Salinas, Rafiqul Bhuiyan, Nathan Burden, Rodney Thomas II, and Douglas Stevens as on-call relief in Juvenile Corrections, \$8.40/hour, effective July 15, 2010.

2. **B. O. 10-404** - Approve the employment of Peter Jensen and Mary Lavoie as Laborer 1 in Public Works, temporary part-time, \$12/hour, retroactive to July 12, 2010, through August 31, 2010.
3. **B. O. 10-405** - Approve the change of status of Tamara Garvey to Heavy Equipment Operator in Public Works, Range 15, Step 6, retroactive to July 9, 2010.

#### Contracts/Grants

4. **B. O. 10-406** - Approve Amendment #1 to Agreement #11625a between HHS Family & Youth, provider, and Oregon Youth Authority, for sex offender and alcohol and drug treatment services.
5. Approve Business Associate Amendments between HHS Family & Youth and the following providers to include HIPAA regulations:
  - a. **B. O. 10-407** - Lynn Fontana;
  - b. **B. O. 10-408** - Veneta Stoyanova;
  - c. **B. O. 10-409** - Automated Typing Services, Inc.
6. **B. O. 10-410** - Approve an agreement between HHS Family & Youth and Catholic Community Services, provider, for treatments services for youth in treatment foster care contracted beds, retroactive to July 1, 2010, through June 30, 2011.
7. **B. O. 10-411** - Approve Modification #3 to Attachment M of an agreement between HHS Public Health, provider, and Mid-Valley Behavioral Care Network for the Post-Partum Depression Prevention Project.
8. **B. O. 10-412** - Approve an intergovernmental agreement between the Sheriff's Office, provider, and Sheridan School District for School Resource Officer services, .5 FTE, \$51,228, retroactive to July 1, 2010, through June 30, 2011.
9. **B. O. 10-413** - Approve an amendment to extend an agreement (Board Order #10-190) between the Commission on Children & Families, provider, and Oregon School-Based Health Care Network, effective through June 30, 2011.
10. **B. O. 10-414** - Ratify authorization of a grant application to Oregon Department of Transportation for the Abbey-Kuehne Bike Lane Project, \$786,765.
11. **B. O. 10-415** - Authorize HHS Public Health to submit a grant application to the U.S. Department of Health & Human Services for \$50,000 to purchase capital equipment for the school-based health centers.

#### Committees

12. **B. O. 10-416** - Approve the reappointment of Matt Dunkel, Tamara Garvey, and Rocky Losli to the Road Improvement Advisory Committee for three-year terms to expire July 14, 2013.

C. **OLD BUSINESS:** None.

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

1. **B. O. 10-417** - Consideration of the employment of Robert Wissinger as Marine Reserve Deputy in the Sheriff's Office Marine Patrol, part-time on-call, \$10/hour, effective July 14, 2010.

2. **B. O. 10-418** - Consideration of the change of status of Marc Brodeur and Thomas Hoy to add 78.5 hours of K-9 leave, retroactive to July 1, 2010.

3. **B. O. 10-419** - Consideration of the employment of Lacey Bradford as HS Specialist 2 in HHS Abacus, temporary part-time, Range 20, Step 2, effective July 19, 2010, through October 29, 2010.

4. **B. O. 10-420** - Consideration of the employment of Kimberly Kind as Grant Support Specialist in the Commission on Children & Families, temporary part-time, \$17/hour, retroactive to July 8, 2010, through June 30, 2011.

Ms. Lewis moved approval of items D(1) through D(4). The motion passed, Commissioners George, Stern, and Lewis voting aye.

5. **B. O. 10-421** - Consideration of approval of the 2010-11 fee schedule for Public Health Food Services, retroactive to July 7, 2010.

Ms. George moved approval of item D(5). The motion passed, Commissioners George, Stern, and Lewis voting aye.

6. **B. O. 10-422** - Consideration of authorizing Health & Human Services to submit a joint federal grant application with Marion, Polk, and Linn Counties for up to \$150,000 total for the ALERT Immunization Information System.

Ms. George moved approval of item D(6). The motion passed, Commissioners George, Stern, and Lewis voting aye.

7. **B. O. 10-423** - Consideration of authorizing Public Works to sell two surplus 600 KW generators to John Dulla for a total of \$7750.

Russ Heath provided background information, noting that the generators were previously declared as surplus county property, but he wasn't able to sell them on eBay. He said that this is

a fair offer. Ms. Lewis moved approval of item D(7). The motion passed, Commissioners George, Stern, and Lewis voting aye.

8. **B. O. 10-424** - Consideration of initiating two options for a legislative amendment to the county's zoning ordinance: allowing landfills on exclusive farm use (EFU) land, or allowing landfills on EFU and agriculture/forestry (AF) land; direct the Planning Director to prepare amendment language consistent with state law to allow the disposal of solid waste under ORS 215.283(2)(k) and to allow facilities for the processing of farm crops or the production of biofuel consistent with ORS 215.283(1)(r); direct Planning staff to begin preparing notices for these amendments.

Following item E(1), Mike Brandt read a memo to the Board (see Exhibit A) in response to a request from Cable Huston on behalf of Waste Management, Inc., to initiate a legislative amendment to the zoning ordinance. Ms. Stern recused herself from the issue, stating that her husband is employed by Waste Management, which would be impacted by the ordinance amendment.

Mr. Brandt stated that Ken Friday's opinion is that if the Board initiates the amendment, it should include the AF zone as well as the EFU zone. He said that he would be fine with either option, but it should be done as soon as possible since the process has been so lengthy already.

Mr. Gray suggested that the Board initiate both options for the amendment. He clarified that initiating this process does not mean that the Board is foregoing an appeal of the LUBA decision, as they are not mutually exclusive processes. Ms. Lewis pointed out that state law allows counties to be more restrictive than the state in land use regulations, but the LUBA ruling goes against that concept of local control. She said this is an important issue that needs to be raised to the court of appeals.

Ms. Lewis moved approval of item D(8). The motion passed, Commissioners George and Lewis voting aye. Ms. George expressed her disappointment in the narrow scope of LUBA's ruling and said she is glad that these issues can still be addressed.

**E. PUBLIC HEARINGS:**

1. **B. O. 10-425** - Consideration of a mass gathering permit application for the 2010 Chamber Trilogy Event on September 11-12, applicant Chehalem Valley Chamber of Commerce; consideration of waiving 50% of the permit fee.

Ms. George opened the public hearing. John Gray provided background information and reviewed the mass gathering ordinance. John Bridges stated that he had reviewed Mr. Gray's proposed order and conditions, and the terms are acceptable to the applicant. In response to a question by Mr. Bridges, Mr. Gray stated that it would be acceptable to place signage in the county right-of-way. He said that the applicant would need to coordinate with the Oregon Department of Transportation for any signs to be placed in the state right-of-way.

Mr. Bridges provided an overview of the event, explaining that the Chamber is trying to

lessen the impact on winemakers by splitting the previously combined event into two parts to be held at different times of the year. He said that the proposed site was selected because of its ample parking. He presented a request for a partial or full refund of the \$972 permit application fee. He stated that the Chamber is a non-profit organization and is putting on this event to bring tourists to the area and benefit businesses in the community.

After further discussion, Ms. Lewis moved approval of the mass gathering permit application. The motion passed, Commissioners George, Stern, and Lewis voting aye. Ms. Lewis moved to waive half of the permit application fee. The motion passed, Commissioners George, 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 9:57 a.m.

Anne Britt  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

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Chair KATHY GEORGE

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Commissioner MARY P. STERN

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Commissioner LESLIE LEWIS

As we all are aware, last week LUBA reversed the counties approval of the Riverbend Landfill expansion. Since that time, myself and other county staff including legal counsel have been in communication with representatives of Waste Management. In fact, late yesterday I received an email from Cable Huston, the attorneys representing Waste Management in the land use process. I opened that email this morning and I have given copies to each of you.

Before I review this letter with you I want to emphasize a few points that have been communicated to myself and others during the past week:

- Waste Management has expressed a commitment to providing for long term waste disposal needs at the Riverbend site. As part of their overall strategy to achieve this end goal they are pursuing their options.
- Toward this end, Waste Management has petitioned the Board, through this letter from their attorneys, to initiate an amendment of the Yamhill County Zoning Ordinance.
- Pursuant to Section 1207 of the zoning ordinance, such a legislative amendment may only be initiated by the planning director, the planning commission or the Board.
  - A. For a couple of reasons, this planning director is not initiating any such legislative amendment:
    - i. Solid Waste disposal facilities (landfills at the time) were an allowed use in the EFU zones until a previous Board amended the zoning ordinance to remove them from those zones. This was done in 1993 and you can ask John Gray to elaborate on the history if you are so inclined.
    - ii. Although the z.o. gives the planning director authority to initiate a legislative amendment to the text of the ordinance, historically, my practice has always been to defer that action to the Board because you are ultimately the ones to decide upon ordinance amendments.
- As per the LUBA order and as per state law (statutory and administrative rule), a county can allow waste disposal facilities on agricultural land. I want to point out that this possibility was discussed with Waste Management representatives a few years ago when the landfill expansion application was initially being considered. The application process selected was done so not because none of us were unaware of the ability to amend the zoning ordinance to be consistent with state law but because all parties felt that the pa/z and exception process provided the most comprehensive review and, ultimately, the greatest public input and scrutiny of the proposed landfill expansion. We all felt that this path was probably extremely difficult, as it should be, but that it was certainly the most transparent and objective path to pursue.
- Now, if a majority of the Board desires to initiate an ordinance amendment to allow solid waste disposal facilities on agricultural land, please make a motion directing staff to prepare language consistent with state law and to initiate the public notice and public hearing process.
- If you do so, it is my recommendation that we draft ordinance language that mirrors statutory language in terms of uses, review criteria and process. (If you want, I can be more specific.) In addition, it is my recommendation that, as part of this amendment process, we also add facilities for the processing of farm crops, or the production of biofuel as an allowed use as per ORS 215.283(1)(r).

Ex. A v/1