

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/informal session on June 9, 2011, at 10:00 a.m. in Room 32 of the Courthouse, Commissioners Mary P. Stern, Leslie Lewis, and Kathy George being present.

Also present were Laura Tschabold, County Administrator; Chuck Vesper, Deputy County Administrator; Rick Sanai, County Counsel; Christian Boenisch, Deputy County Counsel; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Hannah Hoffman, News-Register; David Nepom, 3718 SW Condor #100, Portland 97239; Elise Strasser and Jordan Winthrop, PO Box 2370, Estacada 97023; James Fisher, 23225 NE Dillon Rd, Newberg; Rom Tankersley, 701 NE Evans St, McMinnville; and Ronald Strasser, 22375 NE Sunnycrest Rd.

Commissioner Stern called the meeting to order at 10:00 a.m.

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. **AGENDA:**

Personnel

1. **B. O. 11-309** - Consideration of the employment of Steven Smietana as Engineer Technician 2 in Public Works Engineering Division, temporary full-time, effective June 13, 2011, through December 8, 2011.

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

2. **B. O. 11-310** - Consideration of the change of status of Steven Wilkinson to deputy sheriff in the Jail, retroactive to June 6, 2011.

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

3. **B. O. 11-311** - Consideration of the change of status of Jeffrey Donahoo to deputy sheriff in the Sheriff’s Office Patrol Division, retroactive to June 6, 2011.

Ms. Stern moved approval of item B(3). The motion passed, Commissioners Stern, Lewis, and George voting aye.

4. **B. O. 11-312** - Consideration of the change of status of Debra Bridges to regular full-time employment in the District Attorney's Office, effective June 9, 2011.

Ms. Stern moved approval of item B(4). The motion passed, Commissioners Stern, Lewis, and George voting aye.

5. **B. O. 11-313** - Consideration of the change of status of Shanta Frisbee, Kathrina Rutschman, and Sharika Parker to extend temporary part-time employment in HHS Adult Mental Health, effective July 1, 2011.

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

6. **B. O. 11-314** - Consideration of the change of status of Timothy Codiga to .8 FTE in the Planning Department, effective June 9, 2011.

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

#### Contracts

7. **B. O. 11-315** - Consideration of approval of Grant Agreement #2010-6372 between the Juvenile Department, grantee, and Oregon Commission on Children & Families for the Peer Court program, \$10,000, effective July 1, 2011, through June 30, 2012.

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

8. **B. O. 11-316** - Consideration of approval of Intergovernmental Agreement #4494 between Community Corrections, provider, and Oregon Board of Parole & Post-Prison Supervision for parole and post-prison supervision violation hearings, not to exceed \$6578, effective July 1, 2011, through June 30, 2013.

Ms. Stern moved approval of item B(8). The motion passed, Commissioners Stern, Lewis, and George voting aye.

9. Consideration of ratifying the following amendments to the 2009-11 Financial Assistance Agreement #127319 between Health & Human Services and Oregon Department of Human Services, retroactive to May 17, 2011:

- a. **B. O. 11-317** - Amendment #42, -\$10,380;
- b. **B. O. 11-318** - Amendment #43, -\$9176.

Ms. George moved approval of item B(9) and B(10). The motion passed, Commissioners

Stern, Lewis, and George voting aye.

10. **B. O. 11-319** - Consideration of approval of Amendment #44 to the 2009-11 Financial Assistance Agreement #127319 between Health & Human Services and Oregon Department of Human Services.

11. **B. O. 11-320** - Consideration of approval of Service Element Prior Authorization (SEPA) Approval Unit #530457 for the 2009-11 Financial Assistance Agreement #127319 between Health & Human Services and Oregon Department of Human Services, \$7028.

Ms. George moved approval of item B(11). The motion passed, Commissioners Stern, Lewis, and George voting aye.

12. **B. O. 11-321** - Consideration of approval of an agreement between HHS Developmental Disabilities and Renew Consulting, provider, for client transportation services, estimated cost \$765, retroactive to November 4, 2010, through June 30, 2011.

Ms. George moved approval of item B(12). The motion passed, Commissioners Stern, Lewis, and George voting aye.

13. Consideration of approval of the following agreements between HHS Public Health and Yamhill-Carlton School District for the School-Based Health Center:

- a. **B. O. 11-322** - Retroactive to July 1, 2010, through June 30, 2011;
- b. **B. O. 11-323** - Effective July 1, 2011, through June 30, 2012.

Ms. George moved approval of item B(13). The motion passed, Commissioners Stern, Lewis, and George voting aye.

14. **B. O. 11-324** - Consideration of approval of Change Order #1 to an agreement between Public Works and All About Roofs, LLC, to add \$1606 for lighting changes required during installation.

Ms. Lewis moved approval of item B(14). The motion passed, Commissioners Stern, Lewis, and George voting aye.

15. **B. O. 11-325** - Consideration of approval of extending the agreement between the Surveyor's Office and Newberg Surveying, Inc., for surveying services west of Carlton, RFP #8, to July 1, 2011.

Ms. Lewis moved approval of item B(15). The motion passed, Commissioners Stern, Lewis, and George voting aye.

16. **B. O. 11-326** - Consideration of accepting the competitive quote from Kizer Excavating Co., Inc., as the lowest responsive quote for the Yamhill County Sewer Lateral Replacement Project, and authorizing a notice of intent to award the contract, \$17,790.

Ms. Stern moved approval of item B(16). The motion passed, Commissioners Stern, Lewis, and George voting aye.

#### Vehicles

17. **B. O. 11-327** - Consideration of authorizing the purchase of a new 2011 Ford Fusion from Chuck Colvin Ford for Community Corrections, \$16,438, and declaring Unit P-131 as surplus county property to be sold on eBay.

Ms. Stern moved approval of item B(17). The motion passed, Commissioners Stern, Lewis, and George voting aye.

#### Roads

18. Consideration of accepting a roadway deed from Deborah R. Wolfson, Michael R. Tankus, Patrick A. Hammell, and Angela R. Hammell. *[Tentatively approved, findings to be adopted June 16, 2011.]*

Tom Tankersley explained that the county is maintaining the road and the assumption was that it was owned by the county. He said that this roadway deed covers 15 feet of the 30-foot width, and the rest is owned by other people, with the hope to eventually get it all under county ownership. Ms. Lewis moved tentative approval of item B(18), with findings to be adopted June 16, 2011. The motion passed, Commissioners Stern, Lewis, and George voting aye.

C. **OTHER BUSINESS** (Add-ons and non-consent items): None.

D. **OLD BUSINESS**: None.

#### E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket NCU-01-10(SA), a non-conforming use application to allow replacement of a dwelling destroyed by fire in 2006, applicant James Fisher, appellant Ronald Strasser, Jr. *[Continued to June 23, 2011, at the point of deliberation; record to remain open until 5:00 p.m. on June 16, 2011, for the submission of written testimony by any party, and until 5:00 p.m. on June 21, 2011, for written rebuttal by the applicant only.]*

Ms. Stern opened the public hearing. There were no abstentions or objections to jurisdiction. Ms. George recused herself from the matter, stating that she has had discussions with Mr. Strasser about issues regarding his property, and does not feel that she could make a fair or unbiased decision.

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 approval criteria. Ms. Stern stated that the county had received an order from the judge stating that Mr. Strasser has no ownership interest in the property or the adjoining property, and no standing or legal basis to

object to these proceedings. She said that under Oregon's land use law, anyone has the right to appeal the decision, so the Board will move forward with the hearing. She stated that parties would be limited to 15 minutes each.

Proponents - David Nepom, representing the estate of Betty Strasser, stated that three-fourths of the subject property is owned by the estate and one-fourth is owned by Betty's brother, and both owners have agreed to the sale of the property. He said that the approval criteria have been met and there is no adverse impact on the surrounding area greater than that of the allowed uses.

He said that the appellant is the decedent's son and has filed this appeal for wrongful purposes, since he does not object to the permit application itself, but to the sale of the property, which has already been litigated in appellate court.

Opponents - Ms. Stern assured Mr. Strasser that the fact that he is in restraints would not be held against him in this decision. She encouraged him to stick to the approval criteria in his testimony. Mr. Strasser stated that he cannot make an adequate appeal without his written testimony, which is in the possession of his attorney. He said that the legal documents are crucial because they speak to his ownership standing. He requested a recess to try to obtain the documents.

Ms. Stern recessed the hearing at 10:23 a.m. to go through the other agenda items, then reopened the hearing at 10:51 a.m.

Other Proponents - Elise Strasser stated that Mr. Strasser has been causing problems in this case since it first began about two years ago, and this appeal is another tactic to delay the process of the estate being sold. She said that because of him, the process has been time-consuming, stressful, and costly.

James Fisher stated that he is prepared to purchase the property after the proceedings are through, regardless of what happens, but it would be unfair to everyone in the estate if they were to only get farmland value instead of face value. He said that he would love to have the opportunity to clean up the property and restore it to its previous use. At Mr. Strasser's request, he clarified that face value, if a house were allowed, would be about \$200,000 less cleanup charges, but farm value would only be \$30,000 to \$35,000. He also clarified that cleanup would include removal of blackberry bushes and piles of debris from demolished buildings, and he has budgeted up to \$20,000 for that. He stated that he was not involved with the property prior to the demolition and does not know who was responsible for that.

Opponents - Mr. Strasser presented a certified copy of a deed, already in the record, showing that he is the owner of one-fourth of the subject property. He also submitted a lien against the title of the property that he said can only be satisfied with his signature.

He said that he does not object to the non-conforming use permit, which he would need to build his own home on the property, but he objects to it being approved in any name other

than his own, and he objects to Mr. Fisher applying for a permit for land still in his name. He read from his documents and submitted them for the record.

Public Agency Reports - Mr. Friday stated that Soil & Water Conservation District has no conflicts with the application, and Newberg Rural Fire Department said that all access must meet current standings.

Rebuttal - Mr. Nepom pointed out that Mr. Strasser had indicated that he has no objection to the non-conforming use permit.

Staff Recommendation - Mr. Friday stated that the Board is only being asked to evaluate whether the request satisfies the approval criteria. He said that evidence shows that a dwelling was previously on the site, and the owners should be allowed to re-establish that dwelling. He recommended approval of the application.

Close of Public Hearing / Deliberation - Mr. Brandt stated that Mr. Strasser had requested that the record be left open. Ms. Stern moved to continue the hearing to June 23, 2011, at the point of deliberation, with the record to remain open until 5:00 p.m. on June 16, 2011, for the submission of written testimony by any party, and until 5:00 p.m. on June 21, 2011, for written rebuttal by the applicant only. Mr. Friday clarified that written testimony should be submitted to the Planning Department. The motion passed, Commissioners Stern and Lewis voting aye and Commissioner George abstaining.

**F. ANNOUNCEMENTS:**

1. The following positions are open to the public. Contact the Commissioners' Office for applications.
  - a. Commission on Children & Families, four full members and three alternate members;
  - b. Parks & Recreation Board, one position.

The meeting adjourned at 11:28 a.m.

Anne Britt  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

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Chair MARY P. STERN

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Commissioner LESLIE LEWIS

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Commissioner KATHY GEORGE