

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 October 13, 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; Rick Sanai, County Counsel; Pat Anderson, Human Resources; Dan Linscheid, Surveyor; Scott Maytubby, Assessor; Hannah Hoffman, News-Register; Dave Morgan, News Yamhill County; Gretchen Olsen, 23725 Old Bethel Rd, Amity; Mike Breed, 604, NW Blair St, Sheridan; David Petersen, 888 SW Fifth Ave #1600, Portland, OR 97204; Truman Stone, 515 E First St, Newberg; Matt Dunckel, 19010 Baker Creek Rd, McMinnville; and Chris Nash, 31655 Wilsonville Rd NE, Newberg.

Commissioner Stern called the meeting to order at 10:09 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:**

Resolution

1. **B. O. 11-632** - Consideration of approval of Resolution 11-10-13-1 proclaiming October 16-22, 2011, as the 14th annual national Hands And Words Are Not For Hurting Week.

Gretchen Olsen stated that the greatest evidence-based results come from places such as schools and day care centers. She discussed a recent Viewpoints article in the News-Register about the Evidence-Based Decision Making Initiative and said that she would love to partner with the county on that project. She thanked the commissioners for their support and offered to donate a three-piece display for the new glass wall in the courthouse.

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

Minutes

2. Consideration of approval of the following minutes:
a. **B. O. 11-633** - June 9, 2011, formal session;

- b. **B. O. 11-634** - June 13, 2011, informal session;
- c. **B. O. 11-635** - June 16, 2011, formal session;
- d. **B. O. 11-636** - June 27, 2011, informal session;
- e. **B. O. 11-637** - June 30, 2011, formal session;
- f. **B. O. 11-638** - July 7, 2011, formal session;
- g. **B. O. 11-639** - July 12, 2011, formal session;
- h. **B. O. 11-640** - July 25, 2011, informal session;
- i. **B. O. 11-641** - August 23, 2011, formal session;
- j. **B. O. 11-642** - August 29, 2011, informal session;
- k. **B. O. 11-643** - September 1, 2011, formal session.

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

Personnel

- 3. **B. O. 11-644** - Consideration of the change of status of Lindsey Manfrin to regular part-time employment in HHS Public Health, .9 FTE, retroactive to October 9, 2011.

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

- 4. **B. O. 11-645** - Consideration of the employment of Deborah Marsh as Human Services Tech in HHS Abacus, regular part-time, Range 11, Step 1, retroactive to October 12, 2011.

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

- 5. **B. O. 11-646** - Consideration of the change of status of Rebecca Mayer to Deputy Sheriff in the Sheriff's Office Patrol Division, regular full-time, Range 12, Step 1, retroactive to October 6, 2011.

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

- 6. **B. O. 11-647** - Consideration of the change of status of the following employees to part-time on-call employment in the Sheriff's Office, retroactive to October 9, 2011:
 - a. Christina Eastman, Corrections Reserve in Jail and Court Security;
 - b. Shawni Kroeker, Extra Help in Dog Control;
 - c. David Palen, Court Security and emergency Marine response;
 - d. Tonya Zindel, Court Security;
 - e. Donald Schmidt, Joseph Tarmichael, and Robert Wissinger, Marine Patrol.

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

7. **B. O. 11-648** - Consideration of the change of status of Dwight Demmin to extend temporary part-time employment in Community Corrections, effective October 29, 2011, through April 29, 2012.

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

8. **B. O. 11-649** - Consideration of the change of status of Becky Stern Doll, County Clerk, to increase monthly base salary by \$707, retroactive to October 9, 2011, pursuant to action taken by the Budget Committee on October 7, 2011.

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

9. **B. O. 11-650** - Consideration of the change of status of Linda Lowe to regular part-time employment in the Planning Department, .8 FTE, effective November 1, 2011.

Ms. Stern moved approval of item B(9). The motion passed, Commissioners Stern, Lewis, and George voting aye.

10. **B. O. 11-651** - Consideration of authorizing the Public Works Road and Shop Division to return to the winter work schedule of five consecutive eight-hour days during the six-day work week.

Ms. Lewis moved approval of item B(10). The motion passed, Commissioners Stern, Lewis, and George voting aye.

11. **B. O. 11-652** - Consideration of approval of a contract employee agreement between the Sheriff's Office and Steve Warden for patrol-related services, \$27.98/hour, and Marine Program Manager services, \$32.99/hour, effective November 1, 2011, through January 31, 2012.

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

Contracts/Grants

12. **B. O. 11-653** - Consideration of approval of Agreement #136808 between HHS Public Health, provider, and Oregon Health Authority for the Youth Suicide Prevention Program, \$14,500, retroactive to September 30, 2011, through September 29, 2012.

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

13. **B. O. 11-654** - Consideration of approval of an agreement between HHS Adult Mental Health and Virginia Garcia Memorial Health Clinic, provider, for specialty behavioral health care services to Oregon Health Plan members, \$25,785, effective October 15, 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. 11-655** - Consideration of approval of Amendment #15 to Attachments A-E and H-J of an agreement between HHS Adult Mental Health and Mid-Valley Behavioral Care Network, provider, retroactive to October 1, 2011.

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

15. **B. O. 11-656** - Consideration of approval of Amendment #1 to an agreement between HHS Adult Mental Health and Mid-Valley Behavioral Care Network, provider, to add \$5617 for the Champion Team, retroactive to October 1, 2011, through December 30, 2011.

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

16. Consideration of approval of the following Service Element Prior Authorization (SEPA) Approval Units for the 2011-13 Financial Assistance Agreement #134297 between HHS and Oregon Department of Human Services:

- a. **B. O. 11-657** - SEPA Approval Unit #581633, \$1,106,480;
- b. **B. O. 11-658** - SEPA Approval Unit #616756, \$884,787;
- c. **B. O. 11-659** - SEPA Approval Unit #622382, \$1,898,962.

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

17. Consideration of approval of two agreements between HHS Commission on Children & Families and the following providers for Applied Suicide Intervention Skills Training (ASIST), not to exceed \$1000 plus expenses:

- a. **B. O. 11-660** - Gretchen Ericson;
- b. **B. O. 11-661** - Cheryl Emerson.

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

18. **B. O. 11-662** - Consideration of accepting a Victims of Crime Act Project Extension Grant award from Oregon Department of Justice for the Restitution Specialist position in the District Attorney's Office, \$45,000, retroactive to October 1, 2011, through September 30, 2012.

Ms. Stern moved approval of item B(18). The motion passed, Commissioners Stern, Lewis, and George voting aye.

19. **B. O. 11-663** - Consideration of approval of an agreement between the Sheriff's Office, provider, and the City of Sheridan for police services, 3.5 FTE, \$387,057, retroactive to July 1,

2011, through June 30, 2012.

Ms. Stern moved approval of item B(19). The motion passed, Commissioners Stern, Lewis, and George voting aye.

Budget

20. **B. O. 11-664** - Consideration of approval of combining the HHS Public Health and Commission on Children & Families cash funds for a total Public Health petty cash fund of \$150 and change fund of \$200.

Ms. George moved approval of item B(20). The motion passed, Commissioners Stern, Lewis, and George voting aye.

21. **B. O. 11-665** - Consideration of rescinding Board Order 10-44 and authorizing the cancellation of the Comcast reserve account.

Scott Maytubby stated that House Bill 2569, which went into effect last month, allows him to issue a deferred billing credit and stop interest accrual on large-value appeals. Ms. Stern moved approval of item B(21). The motion passed, Commissioners Stern, Lewis, and George voting aye. Ms. Lewis expressed thanks to Mr. Maytubby for being on top of the legislation and to assessors in general for coming up with this idea. Ms. George added her thanks to Mr. Maytubby, Laura Tschabold, and John Krawczyk for their wise decision to hold the money in a reserve account.

Surplus

22. **B. O. 11-666** - Consideration of declaring two helicopters as surplus county property to be sold on eBay.

Ms. Tschabold stated that the county has permission from the federal government to sell these items, and will list them with a minimum bid amount. Ms. George moved approval of item B(22). The motion passed, Commissioners Stern, Lewis, and George voting aye.

Committees

23. **B. O. 11-667** - Consideration of adoption of the updated constitution and bylaws for the Mental Health Advisory Board.

Ms. George moved approval of item B(23). The motion passed, Commissioners Stern, Lewis, and George voting aye.

24. Acknowledgment of the resignation of Katy Ailstock from the Commission on Children & Families. *[Acknowledged.]*

Ms. George moved approval of item B(24), expressing her appreciation to Ms. Ailstock for her tremendous service. The motion passed, Commissioners Stern, Lewis, and George voting aye.

Refunds

25. **B. O. 11-668** - Authorize a \$600 refund from Health & Human Services to a client for overpayment.

Ms. George moved approval of item B(25). The motion passed, Commissioners Stern, Lewis, and George voting aye.

C. **OLD BUSINESS:**

1. **B. O. 11-669** - Consideration of the appointment of Mike Breed to both the County Governing Body Pool and the Non-Office Holder Pool for the 2012 Board of Property Tax Appeals (BOPTA) for a term to expire June 30, 2012.

Ms. Lewis stated that she hasn't had a chance to talk to Becky Stern Doll yet about what outreach has been done to find applicants, but she would like to appoint Mike Breed. She moved approval of item C(1). Ms. Stern said that she'd been informed by Ms. Stern Doll that she had done some outreach and would follow up with Commissioners Lewis and George. The motion passed, Commissioners Stern, Lewis, and George voting aye.

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

1. Discussion of media coverage of Resolution 11-10-6-1 in support of funding efforts for Phase 1 of the Newberg-Dundee Bypass.

Ms. Stern discussed the News-Register article about bypass funding and clarified that there was no promise that Yamhill County would pay \$20 million, but that it was a figure that a combination of jurisdictions would work toward, and private businesses are contributing as well. She said that the bypass is extremely important to this area, and it is important to allocate a substantial portion of the new gas tax revenue from House Bill 2001 toward the bypass. She added that Ms. Lewis has been unfairly characterized as doing things behind the scenes to try to push this through. Ms. Lewis stated that the cities of Dundee, Newberg, and McMinnville all unanimously passed resolutions pledging a proportionate share of monetary support, even though Newberg and McMinnville didn't include the \$20 million figure.

E. **PUBLIC HEARINGS:**

1. Consideration of Public Works Docket RV-1-11, a request for vacation of a gateway easement on Lot 4 of Margaret's Vineyard, applicant Margaret Bollinger, as continued from September 8, 2011. *[Continued to December 8, 2011.]*

Ms. Stern stated that on September 8 the Board had requested a recommendation from the surveyor, and that had been submitted on September 14. She said that responses to that report had been received from both parties. Dan Linscheid stated that this is probably the most complicated and contentious vacation proceeding that he has processed in his 40 years with the county. He said that in his memo, he had discussed an alternate access to Chris Nash's well site that would be much less expensive for Mr. Nash to construct and would need no easements because it would all be on his own land.

David Petersen, representing Margaret Bollinger, agreed with the staff report and

emphasized the distinction between public and private easements. He said that since Mr. Nash has alternate access to his well site, the Board has statutory authority to approve the vacation of the gateway easement. He said that Mr. Linscheid has stated that it would not be feasible to build a road within the easement corridor because of the steep grade. He added that even if it were feasible, he could provide information regarding the comparative cost of construction.

Jerry Rainwater stated that he has been building roads for 30 years and agrees that a road would not be feasible without negotiating a wider easement. He said that there would be no place to divert rainwater to other than onto Wilsonville Road, and the cost would be substantially more than \$58,000.

Truman Stone provided background information about the statute and the subject property. He said that the gateway easement is the only recorded right of access to the parcel with the well site, although practically speaking, Mr. Nash can access it using the driveway on his other parcel.

Mr. Stone submitted a topographic map prepared by Larry Anderson, surveyor, and stated that Mr. Anderson's opinion is that construction of a road in the easement would be much more feasible than was stated by Mr. Petersen. He submitted an engineer's estimate that is significantly lower than Mr. Rainwater's estimate, as well as a \$40,000 bid for paving, which includes the extra work needed to accommodate part of the septic drain field located within the easement. He stated that it would be impractical to bring a well-drilling rig down from Mr. Nash's driveway.

He said that the applicant needs to prove that the public interest would be served by vacating the road, but the only interest that would be served is Ms. Bollinger's interest. Ms. Lewis stated that the only interest that would be served by keeping the easement open would be Mr. Nash's interest. She said that the public hasn't had access on that easement and she doesn't believe that anybody else would use the road.

Mr. Stone submitted a document with signatures requesting that the vacation be denied. He said that the only public interest identified by Mr. Linscheid in vacating the road would be avoiding oversight of the road, which is minimal according to Mr. Linscheid. He said that if the easement is vacated, the cost of the property right purchased by the predecessors should be reimbursed to Mr. Nash.

Mr. Peterson stated that almost all of the factual information submitted today is irrelevant to the proceedings. He said that the vacation is not prohibited by law because Mr. Nash could build access on his own property. He said that the applicant does not have the burden of proof that the public interest would be served by the vacation – that is simply a question to be determined by the Board, and Mr. Linscheid has stated that the public interest would be served. He said that the cost issue is irrelevant, but even if it were possible to construct a road to public standards within the easement, it would be very expensive.

Close of Public Hearing / Deliberation - Mr. Linscheid stated that the mounds of overburden in the easement could be moved, but Mr. Nash does not have the legal right to build

or take heavy equipment outside of the 20-foot easement. He said that the county could issue a variance regarding the road standards.

Ms. Stern stated that the vacation would be in Ms. Bollinger's interest, not in the public interest. She said that maintaining the easement would debatably be in the public interest, since there is a list of people who say they are interested in keeping it open, but not to drive on it themselves. She suggested continuing the matter to allow the parties to work it out together. She said that she is not inclined to approve the vacation, but denying it would negatively affect both parties. She said that there are ways to find a private easement, and she is hopeful that the parties can work together to agree to a vacation. She suggested Your Community Mediators and said that they are very experienced with this kind of situation.

Ms. Lewis agreed, stating that although Mr. Nash presented a better case than Ms. Bollinger, it sounds like a long-standing neighbor dispute. She said that she is hesitant to allow them to build a road that doesn't meet county standards.

Ms. George stated that she is inclined to deny the vacation, but is willing to hold it over to allow the parties to try to come up with a more satisfactory outcome. She said that she is opposed to taking away Mr. Nash's property right when the only beneficiary would be Ms. Bollinger, and approving the vacation would set a precedent for other vacations.

Ms. Stern moved to continue the hearing to December 8, 2011. The motion passed, Commissioners Stern, Lewis, and George voting aye.

F. ANNOUNCEMENTS:

1. The following positions are open to the public. Contact the Commissioners' Office for applications.
 - a. Local Investment Advisory Committee, one position;
 - b. Parks & Recreation Board, two positions;
 - c. Special Transportation Advisory Commission (STF), two positions;
 - d. Yamhill County Transit Area (YCTA) Advisory Committee, one position.

The meeting adjourned at 12:16 p.m.

Anne Britt
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair MARY P. STERN

Commissioner LESLIE LEWIS

Commissioner KATHY GEORGE