

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 December 1, 2016, at 10:00 a.m. in Room 32 of the courthouse, Commissioners Mary Starrett, Stan Primozych and Allen Springer present.

Also present were Laura Tschabold, County Administrator; Ken Huffer, Deputy County Administrator; Christian Boenisch, County Counsel; Todd Sadlo, Senior Assistant County Counsel; Mikalie Frei, County Counsel staff; Ken Friday, Planning Director; Stephanie Armstrong, Associate Planner; Bill Gille, County Engineer, Bill Anderson, Public Works Staff, Sergeant Woody Little, Jail; Dave Adams, KLYC Radio; Starla Pointer LaBounty, News-Register; and others as listed on the attendance sheet.

Commissioner Starrett called the meeting to order at 10:00 a.m. Invocation was offered by Matthew Dodd.

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.

David Wall stated his concern regarding the land use hearing process.

B. **CONSENT AGENDA:** Commissioner Springer moved approval of the consent agenda. The motion passed unanimously, Commissioners Starrett, Primozych and Springer voting aye.

Contracts

1. **B.O. 16-474** - Approve the ratification of the 2016-19 Collective Bargaining Agreement between Yamhill County, the Yamhill County Sheriff, and Teamsters Local 223, retroactive to July 1, 2016, through June 30, 2019.

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C. **OLD BUSINESS:**

1. **B.O. 16-475** - Consideration of adoption of the final written decision, findings and conditions of Planning Docket FT-01-16 (SA): An appeal of the Planning Director's approval of a forest template dwelling; applicant: Bill Blair.

Commissioner Primozych moved to approve item C1. The motion passed unanimously, Commissioners Starrett, Primozych and Springer voting aye.

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

1. **B.O. 16-476** - Consideration of approval of a Contract Employee Agreement between Yamhill County Public Works Department, the Board of Commissioners and Elliott Rector for Cove Orchard Sewer Service District (COSSD) maintenance and operations, effective through June 30, 2017.

Commissioner Primozich moved approval of item D1. The motion passed unanimously, Commissioners Starrett, Primozich and Springer voting aye.

2. **B.O. 16-477** - Consideration of approval of a contract between Yamhill County Jail and Westlaw, a Thomson Reuters business, for correctional online legal research services, effective once fully executed.

Commissioner Springer moved approval of item D2. The motion passed unanimously, Commissioners Starrett, Primozich and Springer voting aye.

3. **B.O. 16-478** - Consideration of the approval of the purchase of property at 345 NE 6<sup>th</sup> St and 621 NE Davis Street, between Yamhill County HHS and Mark and Julie Bierly, effective December 1, 2016.
  - a. **B.O. 16-479** - Consideration of the lease agreement between Yamhill County and Mark Bierly, effective December 1, 2016 through November 30, 2019.
  - b. **B.O. 16-480** - Consideration of the approval of the assignment and assumption agreement between Yamhill County, Mark Bierly and Lutheran Community Services Northwest, effective December 1, 2016.

Commissioner Starrett moved approval of items D3 (a-b). The motion passed unanimously, Commissioners Starrett, Primozich and Springer voting aye.

E. **PUBLIC HEARINGS:**

1. **B.O. 16-481** - Order to abate road hazard (ORS 368.251 et. Seq.) 7301 NE Krono Rd., Yamhill, OR 97148.

Mr. Sadlo addressed the issues and concerns of the surrounding neighbors of Mr. Diaz. Public Works employees, Bill Gille and Bill Anderson stated that Mr. Anderson has been involved since the beginning when the issue was first brought to their attention. Mr. Anderson was contacted by neighbors asking that Mr. Diaz's personal property be removed out of the right of way as he was blocking the road with his semi trucks and trailers, making it hard for neighbors to pass. Mr. Anderson stated that he contacted Mr. Diaz a few times to address the issue but no action was taken on his part. Mr. Gille said that any operation during this time of year is weather dependant, but they will be responsive to this matter as soon as it is possible.

Dan Nechemias testified that on October 28, 2016, the road had been blocked by Mr. Diaz's semi truck and completely unpassable for 40 minutes until the Sheriff's Office was contacted, and two weeks prior to that Mr. Diaz parked his vehicle in the middle of the road.

Norm Smith presented a slide show of Krono Road. He expressed his frustration noting that Krono Road has been blocked numerous times within the last 11 months. He said there is no

need to widen Krono Road and is requesting that Mr. Diaz remove his personal possessions from the road.

Kurt and Natalia Kreitzer, Wayne Stonecipher, Roger Grahn and Dan Armstrong testified that they are all in agreement with Mr. Smith's statement.

Christian Boenisch said that Mr. Diaz has failed to remove his personal property and that the county has had no response from him; adding that there is no indication that he failed to receive the notice. Mr. Boenisch stated that Public Works visited the site yesterday and reported back that it appears there has been some process of removal from the right of way but hazards still exist. He said that if the Board finds that a road hazard exists, Mr. Diaz will have 10 days to fully abate the road hazard until any further action can be taken. Todd Sadlo added that if any further action is necessary either through lien or other legal process, the county will hire someone to remove the items from the property which will be taken to a secure storage site. This would be followed by another hearing to establish a cost for removal and storage.

Commissioner Springer reported that he has made six visits since November and met with neighbors who expressed their concerns to him. Commissioner Springer said that he has never seen Krono Road in such bad condition. He made a motion to allow Mr. Diaz 15 days to remove all possessions on the county right of way as directed by staff. Mr. Sadlo restated the motion that finding that a road hazard exists on Krono Rd as described by staff and neighbors. Mr. Diaz is responsible for the hazard and it is part of the same motion Mr. Diaz be given an additional 15 days which would be December 16, 2016 to completely remove all possessions from the county right of way; and that staff be directed to remove to a safe storage area any possessions of Mr. Diaz that remain in the right of way after that date at Mr. Diaz's expense. The cost of removal and storage to be collected from Mr. Diaz at the aforementioned hearing already stated or through a lien or other judicial process. The motion passed unanimously, Commissioners Starrett, Primozych and Springer voting aye.

The public hearing was closed at 10:46 a.m. and Formal Session was recessed at 10:51 a.m.

- Docket L-39-16 (SA):** An appeal of the Planning Director's approval of a property line adjustment to exchange equal amounts of property between Tax Lot 5509-700 and Tax Lot 5510-1200. The resulting parcels will remain the same size as prior to the adjustment of 29.98 and 6.74 acres, respectively; applicant: James and Susan Ruggles.

*[Appeal denied; application approved; final written decision, findings and conditions to be adopted on December 15, 2016.]*

Commissioner Starrett reconvened the Formal Session and opened the public hearing at 11:00 a.m. There being no abstentions or objections to jurisdiction, no ex parte contacts, Mr. Sadlo read the land use statement regarding the requirements that parties must raise all issues at the public hearing or waive their right to raise the issues on appeal.

Staff Report - Stephanie Armstrong explained the request for a property line adjustment to adjust the common property line between abutting properties consisting of 29.98 acres at Tax

Lot 5509-700 and 6.74 acres at Tax Lot 5510-1200.

Proponents - Walter Gowell stated that it's a simple lot line adjustment with no objections other than from Mr. and Mrs. Mahesh adding that the line adjustment would not increase or decrease the size of either lot; just reconfigures the boundary and combines two of three lots into one lot. He referred to a map noting that currently both tax lots and three parcels have legal access to the road.

Betsy Shand stated that if a decision isn't made, her buyers won't be able to close and move into their new home. She urged the Board to make a decision to help resolve this issue.

Dahe Good, the Ruggles' realtor, stated that Mr. and Mrs. Ruggles have worked very hard to meet all the requirements to show ownership that supports the lot line adjustment.

Opponents - Mr. and Mrs. Mahesh addressed concerns regarding the line adjustment stating that their intention was never to file an appeal but that they felt that it was necessary to keep the process legal and documented. They explained the reasoning for wanting to keep the parcels as they are and their concerns about access to their property.

Public Agency Reports - None.

Rebuttal - Mr. Gowell explained that there is an alternative to where the entrance gate could be widened.

Staff Recommendation - After further discussion from the Board, staff recommended approval of the application, denying the appeal made by the Mahesh's with the condition of extending the entrance to a 30 ft. easement.

The public hearing closed at 11:49 a.m.

The Commissioners encouraged both parties to find a resolution that both neighbors could agree upon. Commissioner Springer moved to deny the appeal and uphold Planning's decision with the conditions originally made by staff. The motion passed unanimously, Commissioners Starrett, Primozych and Springer voting aye.

- 3. **Docket C-13-16 (KF):** An appeal of the Planning Commission's approval of a conditional use for a home occupation; applicant: Cary Laughlin, appellant: Stephen Leonard.

*[Appeal denied; application approved; final written decision, findings and conditions to be adopted on December 20, 2016.]*

Commissioner Starrett reconvened the Formal Session and opened the public hearing at 12:07 p.m. There being no abstentions or objections to jurisdiction, Mr. Sadlo read the land use statement regarding the requirements that parties must raise all issues at the public hearing or waive their right to raise the issue on appeal.

Staff Report - Stephanie Armstrong provided the staff report regarding the application received for the conditional use for a home occupation by Cary Laughlin.

Proponents - Cary Laughlin stated that he has been a member of the community and a business owner for 11 years. He explained that due to Mr. Smith's health condition he has been taking care of his property and now wants to follow the criteria to continue to do so legally. He addressed neighbors' traffic concerns and noted that he kept record of all vehicles and heavy truck traffic in the last year and a half after accusations of damaging the road with cracks on Fox Ridge Road. Mr. Friday made it clear that Mr. Laughlin was unaware that he had to have a home occupation permit to park trucks on the property.

Terry Clevenger, Kirk and Robert Luoto, Joel Kamph, and John Hanes all testified that Cary Laughlin is an honorable and honest man, that everything that he said in his statement is true, and that he has maintained Mr. Smith's property and is now trying to do the right thing by obtaining the correct permits. Mr. Hanes described Cary as a "hand-shake" guy and is in support of the application.

Opponents - Sheryl Rueter said she agrees with neighbors that Mr. Laughlin is a good person but the issue is that he is running his business from Mr. Smith's property; must be operated by the owner; and that she objects to a permit for business use of residential property.

E.M. Greenlees said she is a longtime property owner on Fox Ridge Road and shared her concerns regarding zoning. She asked the Board to consider the approval of the application with restrictions made for safety reasons.

Stephen Leonard submitted written material for the record and presented photos of trucks on Fox Ridge Road, and stated that they are Mr. Laughlin's trucks. He is concerned with the noise issue and declining property values. Mr. Leonard stated that, after reviewing the Planning Commission's decision and requirements, the operation during the summer was not as stated by Cary Laughlin. He encouraged the Commissioners to deny the application. Commissioners Primozych and Springer clarified that the pictures presented do not prove that the trucks belong to Mr. Laughlin's and that the road was already in bad shape due to logging.

Sid Friedman requested the Board deny the application.

Elizabeth Heller stated that she has lived on Fox Ridge Road since 1993 and is distraught that the Planning Commission approved the application without consulting the surrounding neighbors as it is not zoned for commercial or industrial use.

John and Ellen Kirsting argued that none of the people on the proponents side live on Fox Ridge Road and don't realize what they would be destroying. Mr. Kirsting asked if the owner and the renter have entered into any type of agreement for a solution to the problem. He said that regulations should be applied to everyone evenly to stop violating the zoning ordinance.

Rebuttal - Mr. Laughlin said that he wouldn't buy property where he wouldn't be able to

run his business. For the record, Ken Friday clarified that a property owner can run a business without the need to live on the property.

John Phelan arrived for this hearing and discussed the condition of Fox Ridge Road, adding that it has been in bad shape for a long time. He discussed possible solutions to fix the road and what causes road deterioration. Commissioner Starrett asked Mr. Phelan to compare the breakdown and safety of Fox Ridge Road to other roads with similar use. John said that there are about 200 cars per day on Fox Ridge Road.

Staff Recommendation - Staff recommends approval of the application, denying the appeal, with the twelve conditions that were listed in the Planning Commission's decision letter.

The public hearing was closed at 1:53 p.m.

Commissioner Springer moved to deny the appeal and approving the application with the conditions recommended by staff. Commissioner Starrett suggested limiting the time frame for a review from two years to one year. Mr. Springer amended his motion to reflect the conditions recommended by staff and a one year revisit of progress. The motion passed unanimously to deny the appeal, Commissioners Starrett, Primozich and Springer voting aye. Final written decision, findings and conditions to be adopted on December 20, 2016.

F. **ANNOUNCEMENTS:**

1. For information on county advisory committee vacancies, please refer to our website, [www.co.yamhill.or.us/content/volunteer-opportunities](http://www.co.yamhill.or.us/content/volunteer-opportunities), or call the Board of Commissioners' office at 503-434-7501 or 503-554-7801 (toll-free from Newberg).

For questions regarding accessibility or to request an accommodation please contact the Board of Commissioners' office 48 hours in advance of the meeting at (503)-434-7501 or (503)-554-7801 (toll-free from Newberg) or email at [mendezl@co.yamhill.or.us](mailto:mendezl@co.yamhill.or.us).

The meeting adjourned at 2:05 p.m.

Lucy Flores Mendez  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair

MARY STARRETT

Commissioner

STAN PRIMOZICH

Unavailable for signature

Commissioner

ALLEN SPRINGER

Accepted by Yamhill County  
Board of Commissioners on  
2-9-17 by Board Order  
# 17-32