

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 February 2, 2017, at 10:00 a.m. in Room 32 of the courthouse, Commissioners Mary Starrett, Stan Primozich, and Richard L. Olson being present.

Also present were Laura Tschabold, County Administrator; Christian Boenisch, County Counsel; Mikalie Frei, County Counsel staff; Ken Friday, Planning Director; Stephanie Armstrong, Planning Department staff; Dave Adams, KLYC Radio; Nicole Montesano, News-Register.

Commissioner Primozich called the meeting to order at 10:00 a.m. The invocation was offered by Dave Adams.

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.

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

Committees

B.O. 17-31 - Parkway Committee Changes:

1. Request from the Parkway Committee to change members’ terms for efficiency and consistency to all terms expiring each year on January 15.
 - a. Dave Haugeberg, Chair current term expires on 1/15/19, change expiring term to 01/15/18.
 - b. Ivon Miller, current term expires on 01/14/19, change expiring term to 01/15/18.
 - c. Jim Snell, current term expires on 01/15/19, change expiring term to 01/15/18.
 - d. Curtis Walker, current term expires on 01/14/19, change expiring term to 01/15/20.
2. Reappointment of Mike Ragsdale to a 3-year term to expire on 01/15/20.
3. Appointment of Mayor Scott Hill for a 3-year term to expire on 01/15/20.
4. Appointment of Kellie Menke for a 3-year term to expire on 01/15/20.

C. **OLD BUSINESS:** None.

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

E. **PUBLIC HEARINGS:**

Docket FP-07-16 (KF): An appeal by Protect Grand Island Farms of the Planning Commission's approval of an application by Baker Rock Resources Inc. for a flood plain development permit to allow mining on approximately 175 acres of property within the Flood Hazard Overlay District. Applicant: Baker Rock Resources Inc.; Appellant: Protect Grand Island Farms.

Commissioner Primozich opened the public hearing at 10:00 a.m.

There being no abstentions or objections to jurisdiction, Mr. Boenisch, County Counsel read the land use statement required by ORS 197.763(5) regarding the requirement that parties must raise all issues at the public hearing or waive their right to raise the issues on appeal. He also asked if any commissioners had any ex parte contracts or site visits to report. Commissioner Primozich confirmed all three commissioners had completed a site visit. He also stated his locksmith, who lives on Grand Island, attempted to have a conversation with him regarding Baker Rock and Commissioner Primozich informed him he could not speak to him regarding the matter.

Staff Report – Planning Director Ken Friday then provided the staff report describing the request and findings. He also explained the previous review and approval by the Planning Commission at their hearings November 3, and December 1, 2016. Finally, Mr. Friday noted the references to the review criteria the applicant needs to address.

Proponents – Philip Wuest, Attorney for Baker Rock Inc., shared with the board that the matter before them is a specific narrow issue; the flood plain development permit. He stated the county has approved three separate land use actions and the concerns being raised about the quarries' activities have all already been previously addressed. Mr. Wuest stated the applicant is entitled to a decision based on the criteria set forth at the time of the application. He added the applicant is in active ongoing processes with other state and federal agencies for required permits and approvals. Mr. Wuest closed with saying he believes the applicant has met the burden of proof and has a recommendation for approval from the planning department and the planning commission.

Chris Lidstone, owner of Lidstone and Associates, Inc., a geologist in Oregon since 1988 presented to the board information regarding hydrology; river hydraulics; effects of flooding; fluvial geomorphology; reclamation; and a calibration and sensitivity analysis. He stated the Willamette River, since the 1920's, has actually been moving away from the mining site. Mr. Lidstone closed with stating that his firm used the same model used by FEMA; the mining would not affect the slough or the citizens with water rights within the slough; there will be no effects to the ground water; and the fish will have channels that will safely bring them in and out of the mining area.

The meeting recessed at 10:54 a.m. and the public hearing reconvened at 11:01 a.m.

Opponents – Sid Friedman, representing Friends of Yamhill County, testified regarding his opposition to the application. He said the application should be denied for two legal reasons: the material used in the floodway and the application was incomplete. Mr. Friedman feels the application is

premature and should have all of the necessary state and federal permits prior to coming before the board. He also stated that the county's previous interpretations only applied to fill and levies if partially not wholly in the floodway and he urged the board to interpret the flood plain ordinance for themselves. Mr. Friedman requested that the record remain open for 7 days.

Ken Puhn of WEST Consultants, Inc. was asked by Friends of Yamhill County to conduct a review of the application. Mr. Puhn discussed the differences between floodway and flood fringe and he believes the applicant's analysis has not completed all of FEMA's criteria. He presented information regarding "no-rise" hydraulic analysis methods, impacts to flood directions, and impacts to flood velocities.

Katie and Casey Kulla, owners of Oakhill Organics, gave a brief personal history of their farm and their experiences living on Grand Island. Mrs. Kulla presented three reasons she and her husband feel the application should be denied. They feel the hydrology study offers an incomplete picture of the potential impacts to neighboring properties; the south end of Grand Island, just upstream from the proposed quarry site, is actively eroding; and Baker Rock lacks proper analysis regarding the fish channel. Mr. and Mrs. Kulla respectively request a denial of the application.

Gary Van Otten, a land owner on Grand Island, gave testimony in opposition to the application. Mr. Van Otten is concerned about the proposed noise berm, the lack of consideration in the current modeling regarding its effect on the flood waters, and the potential erosive effect from the berm itself. He added that the noise berm will create a velocity shadow behind it causing sediment/silt to be carried by the flood water and preferentially drop out, likely into the slough. He is concerned about the likelihood of a flood during the "non-aggregate piles" time frame of November 1 to April 1 and said with aggregate piles and potentially a large earth berm in place, flood levels and flood velocities need to be accounted for.

Arry Ojua, Executive Director with the Yamhill Soil and Water Conservation District, said the district is concerned the proposed excavation and floodplain modifications at the proposed site will have a negative effect on the Willamette River Greenway, wildlife habitat and wildlife species, and the floodplain and river channel upstream and downstream of the site. He is also concerned that the mining process will destroy the natural structural integrity of the proposed site making it vulnerable to river capture. He said once erosion and head cutting start, it is nearly impossible to stop. The potential for erosion at this site and the loss of limited high value soils are significant.

Sam Sweeney feels the approval of this application and the mining at proposed site is a critical issue that will significantly affect Grand Island and the county's future. Mr. Sweeney feels the whole river system is out of sync and in a sad state of affairs and that the erosion is not going to stop. He does not want to see Grand Island affected and asked the board that unless they could be assured that Baker Rock will not cause a rise in elevation and flood damage then please deny the application.

Kris Bledsoe, also a land owner on Grand Island, agreed with the previous opponent's testimonies, stating that she had nothing of substance to add. Mrs. Bledsoe added she is worried about the sustainable profitable living for future generations of farmers on Grand Island.

Mr. Friday stated that there were no additional public agency reports.

Rebuttal – Mr. Lidstone reiterated that many of the issues brought up by the opponents were already addressed in the 2005 hearing and not the decision before the board. He stated Baker Rock is working to come to a consensus with other committees and departments regarding the best avenue for the fish channel and that the biological assessment completed is a good workable and ecologically sound plan that maintains the natural biological processes.

Mr. Wuest stated the additional required permits are an ongoing process and the plans for the fish channel are stated clearly in the application. He said the topic of flood velocities are not a part of today's decision and the land has already been zoned as MR2 for mining.

After some discussion between the Commissioners regarding leaving the record open, Commissioner Primozich made a motion to close the hearing and continue it to February 9, 2017 when it will be reopened at the point of staff recommendation, to allow time for the commissioners to review additional written testimony received in the last two days. The motion passed unanimously, Commissioner Primozich, Starrett, and Olson voting aye.

The public hearing was closed at 12:58 p.m.

F. ANNOUNCEMENTS:

1. For information on county advisory committee vacancies, please refer to the county's website, 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 contact the Board of Commissioners' office at (503)-434-7501 or (503)-554-7801 (toll-free from Newberg) or email at coxcr@co.yamhill.or.us.

The meeting adjourned at 12:20 p.m.

Crystal Cox
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair STAN PRIMOZICH

Commissioner MARY STARRETT

Commissioner RICHARD L. "RICK" OLSON