

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 28, 2019, at 10:00 a.m. in Room 32 of the courthouse, Commissioners Mary Starrett and Casey Kulla and being present. Commissioner Richard L. "Rick" Olson was excused.

Also present were Ken Huffer, County Administrator; Todd Sadlo, Senior Assistant County Counsel; Ken Friday, Planning Director; Matt Vogt, Associate Planner; Dave Adams, KLYC Radio; Tom Henderson, News-Register; and others as listed on the sign-in sheet.

Commissioner Starrett called the meeting to order at 11:03 a.m. The invocation was offered by Allen Schwartz.

Welcome! Thank you for attending today's meeting. Public participation is encouraged. If you wish to address the Commissioners on any item not on the agenda you may do so as part of the public comment period at the beginning of the meeting. If you desire to speak on any agenda item please raise your hand to be recognized after the Chair announces the agenda item. Please fill out a public comment card to indicate your intent to speak.

A. PUBLIC COMMENT: This thirty-minute time period is reserved for public comment on any topic other than: 1) agenda items, 2) a quasi-judicial land use matter, or 3) a 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.

Tom Hammer commented on public procedures and public expenditures.

B. CONSENT AGENDA:

Commissioner Starrett noted item B2 will be removed from the consent agenda. Commissioner Kulla motioned to approve the consent agenda with the recommended change. The motion passed, Commissioners Starrett and Kulla voting aye.

Minutes

1. a. **B.O. 19-55** - January 3, 2019, Formal Session;
- b. **B.O. 19-56** - January 8, 2019, Informal Session;
- c. **B.O. 19-57** - January 15, 2019, Informal Session; and
- d. **B.O. 19-58** - January 22, 2019, Informal Session

Contracts

2. Approval of a memorandum of understanding between the Housing Authority of Yamhill County and Yamhill County Health and Human Services for shared supportive housing case management projects, effective March 1, 2019. *[Removed from consent agenda, continued to next week].*

Letters

3. **B.O. 19-59** - Approval of a request for a letter of support from Yamhill County for HB2195 to the House Committee on Veterans and Emergency Preparedness, which is for a Vietnam War Memorial on Oregon State Capitol Grounds Project.

Committees

4. **B.O. 19-60** - Approval to appoint Elise Yarnell Hollamon as a representative from the City of Newberg to the Yamhill County Transit Advisory Committee (YCTAC), term to expire June 30, 2019 and accept the resignation of Kenna West.

C. OLD BUSINESS: None.

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

1. **B.O. 19-61** - Consideration of approval and authorization to close the sale of tax lot #R4416DC 00502, also known as 1235 NE 14th Street, McMinnville, OR 97128, and all improvements therein, (the "Property") to the Yamhill County Mission, an Oregon public benefit corporation, in the amount of \$10,591.31, plus closing costs and fees. The Property was declared surplus on January 24, 2019 (B.O 19-20).

Commissioner Kulla motioned to approve item D1. The motion passed, Commissioners Starrett and Kulla voting aye.

E. PUBLIC HEARINGS:

1. Docket #C-11-18/SDR-17-18: An appeal of the Planning Director's denial of a conditional use and site design review application for a solar facility consisting of approximately 12 acres. Applicant: ForeFront Power, LLC.

Commissioner Starrett opened the public hearing at 10:13 a.m.

There were no abstentions with regard to objections to jurisdiction. Ken Friday stated the county does not have jurisdiction to hear the appeal due to unmet timelines in the application process. With regard to jurisdiction, Mr. Vogt read a portion of ORS 215.427. Mr. Friday explained the application was void due to not meeting the 180-day deadline in ORS 215.427 to submit additional information once an application has been deemed incomplete. He noted that missing the deadline for completing the application is important in this case, because there has been a change in the county code and state administrative rule since the applicant first submitted their application, and both changes bar solar facilities on Class I and II soils, as is proposed in

28

this case. He noted recent caselaw indicating that, when the deadlines are missed, the application is void, and cannot be considered by the county. Mr. Sadlo stated it would be appropriate to open the public hearing for the limited purpose of hearing public comment regarding jurisdiction. Chair Starrett opened the hearing for that limited purpose.

Shannon Luoma, Ian Kroll and Kimberly Demutz, Forefront Power representatives, testified that they believed their application was complete. They stated site plan adjustments were submitted to Planning with the understanding that they had met the 180-day deadline. They also provided a copy of part of an e-mail chain indicating that the Planning Department had deemed their application complete.

Sid Friedman commented regarding deadlines and that he agrees that, under ORS 215.427, deadlines are important and have consequences.

Ximena Orrego spoke regarding the jurisdiction of the application. She echoed Mr. Friedman's comments.

There was discussion regarding the timeline of an email sent by Mr. Vogt to the applicants, accepting their application and whether the county has jurisdiction to hear the appeal. Mr. Sadlo stated that the email submitted into testimony complicates the matter and advised that the public hearing may continue if it is the consensus of the Board.

Commissioner's Kulla and Starrett agreed with counsel's and planning's comments. Commissioner Starrett stated that she was inclined to make a decision, based on their recommendations, not to proceed with the hearing based on the lack of jurisdiction.

Mr. Sadlo asked for a recess to consult with Mr. Friday. Commissioner Starrett called for a recess at 10:33 a.m. and resumed the public hearing at 10:37 a.m. Upon reconvening, he and Mr. Friday both indicated that they believe the application is void, in which case the hearing would be a waste of time. If the Board agrees and finds that it does not have jurisdiction, that decision is appealable to the Land Use Board of Appeals, which could find that the Board has jurisdiction and return the matter to the county to complete the hearing process.

Commissioner Kulla motioned to not proceed with the public hearing based on the county's lack of jurisdiction. The motion passed, Commissioners Starrett and Kulla voting aye.

Commissioner Starrett closed the public hearing at 10:40 a.m. and reopened formal session.

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 bocinfo@co.yamhill.or.us

Following Commissioner announcements, the meeting adjourned at 10:40 a.m.

Carolina Rook
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair


RICHARD L. "RICK" OLSON

Commissioner


MARY STARRETT

Commissioner


CASEY KULLA

Accepted by Yamhill County
Board of Commissioners on
4/11/19 by Board Order
19-104