

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 combined session on April 13, 2023, at 10:00 a.m. in Room 32 of the Yamhill County courthouse, and in a virtual meeting via Zoom, Commissioners Lindsay Berschauer, Kit Johnston, and Mary Starrett being present.

Also present were Ken Huffer, County Administrator; Christian Boenisch, County Counsel; Jodi Gollehon, Assistant County Counsel II; Mike Barnhart, Finance Manager; Ken Friday, Planning Director; and Nicole Necas, BOC Staff. Nohely Barajas-Montalvo, Legal Assistant participated via Zoom.

Guests: Greg & Debbie Poupard; Paul Weber; Mark Hogard, Mark Butterfield; Barbee Williams; Tom Hammer; Jim McMaster; Casey Creighton; Jon Champlin; Tom Woodward; Jason Fields; and John Bridges.

*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 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. NEW – Public participation also includes the ability to attend Formal Session via Zoom. For attendees that are attending the meeting via Zoom, the Chair will ask if any Zoom attendees wish to provide public comment in same manner as provided above. At that time, attendees will be asked to use the “raise hand” function in Zoom and staff will unmute the participant. Meetings will also continue to be available for view via a live stream on the Commissioners’ You Tube channel. Written public comments may be submitted via email at [bocinfo@co.yamhill.or.us](mailto:bocinfo@co.yamhill.or.us).*

**Notice: The Board of Commissioners will hold an Executive Session at 9:00 a.m. prior to combined session pursuant to ORS 192.660(2)(f) – Executive session to consult with legal counsel regarding records that are exempt by law from public inspection. The BOC combined session meeting will begin at 10:00 a.m. or shortly thereafter.**

**A. CALL TO ORDER:** Commissioner Berschauer called the meeting to order at 10:09 a.m.

**B. FLAG SALUTE**

**C. CALENDAR SESSION:** This time is reserved for the review of the commissioner’s joint schedule (if needed).

The Commissioner’s reviewed the joint schedule for the week of April 17 – April 23, 2023. No other county business was discussed.

**D. PUBLIC COMMENT:** This 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. The Chair may limit the length of individual comments.

Greg Poupard provided an in-person public comment thanking Board members for their service.

**E. DEPARTMENT UPDATES:**

a. Finance – Mike Barnhart

Mike Barnhart reviewed the Oracle central finance system components currently implemented and pending phases that will ultimately combine Accounting, Budget, and HR/Payroll systems.

**F. WORK SESSION:** This time is reserved for topics of discussion scheduled for the Commissioners in advance. If a work session is not needed, the balance of the meeting will begin at 10:00 a.m.

1. Work Session – None.

**G. CONSENT AGENDA:**

Commissioner Starrett moved approval of the consent agenda. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

Committees

1. **B.O. 23-135** - Approval of the appointment of Eileen Slater to the Employee Safety Advisory Committee for a three-year term to expire on March 18, 2026.

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**H. OLD BUSINESS:**

1. **B.O. 23-136** - Consideration of approval of findings for Ordinance 926 in the matter of a Zoning Map Amendment from Resource Industrial (RI) to the Light/General Industrial District (LI) for Tax Lots: R2402DD 00400 & R2402DD 00500; Applicant: Roy Spry; and declaring and emergency. *[Continued from February 2, 2023].*

Hearing no objections, Jodi Gollehon read the Ordinance twice into the record by title only. Commissioner Berschauer moved approval of item H1. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

2. **B.O. 23-137** - Consideration of approval of findings and a Board Order in the matter of upholding the Planning Director's decision to deny Planning Docket #P-16-22; Tax Lot No. 4106-00101. Applicant: Aldace Howard. *[Continued from March 30, 2023].*

Ms. Gollehon noted the agenda item language and related documents contained a Scrivener's error; the action was to uphold the Planning Director's decision to deny the planning docket. Commissioner Berschauer moved approval of item H2 as amended. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

3. **B.O. 23-138** - Consideration of approval of findings and a Board Order in the matter of upholding the Planning Commission's decision to approve Planning Docket #C-26-22/SDR-35-

22; Conditional use and site design review; Tax Lots R5434 02100, R5434 02200, and R5434 02800; Applicant: Daniel Diephouse for Corollary Farm, LLC. *[Continued from March 23, 2023].*

Commissioner Berschauer moved approval of item H3. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

4. **B.O. 23-139** - Consideration of approval in the matter of a Board Order declaring certain tax foreclosed property as surplus, authorizing the sale of the property by private sale, approving of an Access Easement over the property, and ordering distribution of proceeds (Tax Lot No. R3434 01190). *[Continued from March 30, 2023].*

Commissioner Starrett moved approval of item H4. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

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

1. Consideration of opening sealed bids for Tax Lot No. R3216AB 01802 County-owned tax foreclosed real property.

Jodi Gollehon presented sealed bids to the Board for consideration. Commissioner Berschauer moved approval to accept a bid in the amount of \$250 from the Richard & Gina Stellwagen Trust. The motion passed, Commissioner Berschauer, Johnston and Starrett voting aye. Staff will create a Board Order and deed to be prepared for consideration of adoption upon payment.

2. **B.O. 23-140** - Consideration of approval of a contract agreement between Yamhill County and North Santiam Paving Co. for the Yamhill County 2023 Overlay Project in the amount of \$2,617,716.60 effective upon May 15<sup>th</sup> 2023 through August 15, 2023.

Commissioner Johnston moved approval of item I2. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

3 **B.O. 23-141** - Consideration of approval of a contract agreement between Yamhill County and K&L Industries for the 2023 Albertson Road Pavement Repairs project in the amount of \$274,250.08 effective April 6, 2023 through June 15, 2023.

Commissioner Johnston moved approval of item I3. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

4. **B.O. 23-142** - Consideration of approval of a license agreement between Yamhill County and the American Legion Hall for the temporary placement of the Carlton Ballot Drop Box at the Carlton American Legion Hall effective upon full execution.

Commissioner Berschauer moved approval of item I4. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

5. **B.O. 23-143** - Consideration of authorizing County Counsel Christian Boenisch to sign the final Participation Forms and related documents to include Yamhill County in the proposed national opioid settlement agreement between litigating parties and Teva, Allergan, CVS, Walgreens, and Walmart, settling and releasing all claims against the named parties arising out of federal multi-district opioid litigation.

Commissioner Berschauer moved approval of item I5. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

6. **B.O. 23-144** - Consideration of authorizing the Department of Community Justice (YCDCJ) Director to submit three Criminal Justice Commission (CJC) Specialty Court grants to support Yamhill County Adult Recovery Court, Court Coordinated Services (Behavioral Health Court), and Juvenile Drug Court for the 2023-25 biennium.

Commissioner Berschauer moved approval of item I6. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

**J. PUBLIC HEARINGS:**

1. A public hearing to hear objections to the transfer of certain tax foreclosed real properties to the City of Sheridan pursuant to the provisions or ORS 271.330. The specific properties to be transferred are:

- 1) Tax Lot No. R5626CD 01604; Tax Account No. 507466
- 2) Tax Lot No. R5626CD 01702; Tax Account No. 507469

Commissioner Berschauer opened the public hearing at 10:45 a.m. to hear objections, of which there were none. The public hearing was closed at 10:46 a.m.

a. **B.O. 23-145** - Consideration of approval in the matter of a Board Order declaring certain tax foreclosed properties as surplus, authorizing the sale of the properties pursuant to ORS 271.330, and ordering distribution of proceeds (Tax Lot No. R5626CD 01604 and Tax Lot No. R5626CD 01702).

Commissioner Berschauer moved approval of item J1. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

The meeting was recessed at 10:48 a.m. and reconvened at 10:57 a.m.

2. Docket #FP-10-22/SDR-40-22: An appeal, by the Chehalem Parks and Recreation District (CPRD), of the Planning Director's denial of a floodplain development permit to construct a footbridge at Ewing Young Park.

Commissioner Berschauer opened the public hearing at 10:58 a.m. There were no abstentions or objections to the jurisdiction of the hearing. There were no reports of site visits; Commissioner Berschauer disclosed that emails received regarding the hearing were forwarded to the Planning Department. Ken Friday read the "raise it or waive it" statement required by ORS 197.763(5).

Staff Report: Ken Friday stated the 23.8-acre parcel containing Ewing Young Park bisects the Chehalem Creek located in AF-10 district and inside the 100-year floodplain overlay zone. The application seeks to build a footbridge over Chehalem Creek at Ewing Young Park.

Applicant: Jon Champlin presented the site plan which identifies the location of the proposed foot bridge across Chehalem Creek in relation to the western property line. He stated that the 43-acre property was purchased by CPRD in 1977 and bisects Chehalem Creek which cuts off 11-acres of parkland making it unusable. As a result of the inaccessibility, the parcel continues to

have problems with homeless camps and overgrowth. Mr. Champlin added that the Urban Growth Boundary and Newberg city limits follow the centerline of Chehalem Creek putting a portion of the parcel in city limits. He noted that a land use application was approved by the City of Newberg basing the proposed development as a park improvement. He stated that the park predated the residential area by 16 years, and emphasized the park district's willingness to construct a privacy fence along neighboring property lines at no expense to the requesting homeowner. He requested an overturn of the Planning Director's decision and to accept the application. There was no additional testimony in support of the application.

Oppositional Testimony: Mark Hogard requested a postponement of the hearing pending a site evaluation. He also expressed concern wildlife impacts if the grassland coverage is removed and potential noise and foot traffic.

Mark Butterfield stated his concern was related to public safety; he said the location of the proposed bridge was a difficult area to access in the event of fire due to heavy vegetation. He also raised concerns about potential crime in the nearby residential area and public health risks with no nearby access to sanitation facilities. He asked the Board to uphold the application denial.

Barbee Williams read submitted testimony of opposition into the record.

Paul Weber said the CPRD's response to his homeowner's association letter of concern did not provide sufficient compromise to the HOA's requests. He asked that the park be required to have a funded security plan to ensure the safety of his neighborhood. He added concerns about potential crime and said approval of the application would be a step towards future parcel development. He asked the Board to uphold the denial. There was no additional oppositional testimony.

Public Agency Reports: Ken Friday stated there were no additional public agency reports submitted.

Applicant Rebuttal: Attorney John Bridges asked for direction from the Board regarding Mr. Hogard's request to leave the record open and postpone the hearing. Commissioner Berschauer responded that land use authority to build the bridge had to be established first. Mr. Bridges proceeded to respond to oppositional testimony regarding concerns of crime and maintenance.

Staff Recommendation: Ken Friday summarized that the application was not denied under the criteria of being a park but on the basis of being a transportation facility in the AF-10 zone which is not permitted.

The public hearing was closed at 12:02 p.m.

Deliberation: After discussion, Commissioner Starrett moved approval to uphold the Planning Director's decision to deny the application. The motion passed, Commissioners Berschauer,

Johnston, and Starrett voting aye. Final written decision and findings to be ready for consideration of adoption on May 4, 2023.

**THE RECORDS FOR PUBLIC HEARINGS CAN BE FOUND AT:** <https://www.co.yamhill.or.us/content/public-hearing-notices>

**K. ANNOUNCEMENTS:**

1. For information on county advisory committee vacancies, please refer to the county’s website, <https://www.co.yamhill.or.us/content/board-commissioners-committees>, or call the Board of Commissioners’ office at 503-434-7501 or 503-554-7801 (toll-free from Newberg).
2. 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](mailto:bocinfo@co.yamhill.or.us)
3. Electronic versions of all meeting agendas and meeting information packets can be found at the county’s website: <https://www.co.yamhill.or.us/meetings>

Following Commissioner announcements, the meeting adjourned at 12:43 p.m.

Carolina Rook  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

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Chair LINDSAY BERSCHAUER

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Commissioner KIT JOHNSTON

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Commissioner MARY STARRETT