

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 August 31, 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; Ken Friday, Planning and Development Director; Cynthia Thompson, Transit Manager; and Carolina Rook, BOC staff. Nohely Barajas-Montalvo, Legal Assistant participated via Zoom.

Guests: Leesa & Jim Novak; Luann DeYoung; Beau & Debra Svendson; Charles Woodworth; Julia Knightly; Andrew Walker; Breat Frederickson; Dennis & Norma Daly; Ken Katzeroff; Shaun Slowick; Jeff Hughes; Gregg Scholz; Jeff Flake; Kathleen Kessinger; Carol Parks; Barbra Whitaker; Linn Whitaker; George H.; Gary Bowen; Todd Mobley; Corrine W.; Tony Mode; Brian Bellairs; Hannah L.; Dorothy Rohalt; Rob Hallyburton; Tim Tompkins; Michael R.; Read Stapleton; Todd Mobley; Chris Cook; Kathy Cook; Andrew Walker; and Dale Cleassen. Mike Cafferata; Michelle Blankenheim; Doug Rux; and Mary Ann Sholez participated via Zoom.

***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 [cocinfo@co.yamhill.or.us](mailto:bocinfo@co.yamhill.or.us).*

A. CALL TO ORDER: Commissioner Berschauer called the meeting to order at 10:08 a.m. The meeting was delayed due to technical difficulties.

B. FLAG SALUTE

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

The Commissioners reviewed the joint schedule for the week of August 31– September 3 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.

There were no general public comments received.

E. DEPARTMENT UPDATES: None.

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.

Surplus

1. **B.O. 23-337** - Approval to declare an inventory of computer equipment as surplus county property to be donated to the school districts throughout Yamhill County.

Contracts & Grants

2. **B.O. 23-338** - Approval of Amendment #2 to an agreement between Yamhill County and SAREnterprises, Inc. (B.O. 22-256) for county fire paging system upgrade for additional labor and equipment costs increasing the not-to-exceed amount by \$24,229.90.

3. **B.O. 23-339** - Approval of Amendment #1 to a Commercial Lease Agreement between Yamhill County and Ronald/Linda Hixson for storage space (B.O. 23-171) adding a monthly electrical service to be paid by the Yamhill County Sheriff's Office.

4. **B.O. 23-340** - Approval of Amendment #1 to Agreement #180033 between Yamhill County and the Oregon Health Authority (OHA) (B.O. 23-260) adding funding to the Tobacco Prevention and Education Program in the amount of \$94,752.17 effective to October 1, 2023 through June 30, 2024.

5. **B.O. 23-341** - Approval of Amendment #11 to Agreement #173153 between Yamhill County and the Oregon Health Authority (OHA) (B.O. 21-490) adding funding for the financing of Community Mental Health, Addiction Treatment, Recovery, & Prevention, and Problem Gambling Service in the amount of \$24,666.67 effective September 1, 2023 through December 31, 2023.

6. **B.O. 23-342** - Approval of Amendment #3 to Grant Agreement #34342 between Yamhill County and the Oregon Department of Transportation/Rail and Public Transit Division 5339 (B.O. 20-228) to modify the scope of work, change style of remaining vehicles and to extend the terms of the agreement through June 30, 2026, subject to final review by County Counsel.

7. **B.O. 23-343** - Approval of Agreement #35397 Between Yamhill County and the Oregon Department of Transportation/Rail and Public Transit Division 5339 for \$1,050,000 in grant funds with local match in the amount of \$185,294 to purchase two vans and two buses on or before June 30, 2027, subject to final review by County Counsel.

H. OLD BUSINESS:

1. **B.O. 23-344** - Consideration of approval of a Board Order in the matter of approving a decision on reconsideration upholding the approval of Planning Docket No. #E-02-23, approval of an Agri-tourism Use Permit for Tax Lot #4312-00400; adopting findings in support of the decision on reconsideration. *[Continued from August 3, 2023].*

Commissioner Berschauer moved approval of item H1. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

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

1. **B.O. 23-345**- Consideration of approval to add .95 FTE HS Associate to the Health and Human Services position management roster. (Reference Item G5)

Commissioner Starrett moved approval of item I1. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

2. **B.O. 23-346** - Consideration of approval of Agreement #10724400 between Yamhill County, Health and Human Services and Chemeketa Community College in the not to exceed amount of \$20,000.00. Chemeketa Community College's Bridging Institute for Inclusion and Belonging will provide cultural awareness training to HHS staff. Effective October 3, 2023 through November 7, 2023.

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

3. **B.O. 23-347** - Consideration of approval of an agreement between Yamhill County, Health and Human Services and Amity School District to provide behavioral health counseling services in the not to exceed amount of \$67,409.91 effective September 5, 2023 through June 13, 2024.

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

4. **B.O. 23-348** - Consideration of approval of an agreement between Yamhill County, Health and Human Services and Dayton School District to provide behavioral health counseling services in the not to exceed amount of \$67,409.91 effective September 5, 2023 through June 13, 2024.

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

5. **B.O. 23-349** - Consideration of approval of an agreement between Yamhill County, Health and Human Services and Newberg School District to provide behavioral health

counseling services in the not to exceed amount of \$67,409.91 effective September 5, 2023 through June 13, 2024.

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

6. **B.O. 23-350** - Consideration of approval of a Contract Employment Agreement between Yamhill County, Health and Human Services and Susan Lamb for Emergency Preparedness and Response management consultant services not to exceed 20 hours per week at a rate of \$52.18 per hour, effective September 9, 2023 through March 8, 2024.

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

7. **B.O. 23-351** - Consideration of approval of the intent to Award a contract to Community Wellness Collective, First Baptist Church McMinnville, and Yamhill Community Action Partnership for Behavioral Health Housing Services in Yamhill County.

Commissioner Starrett moved approval of item I7. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

8. **B.O. 23-352** - Consideration of approval of Amendment #5 to an agreement between Yamhill County and Siemens Industry, Inc. (B.O. 19-504) for modifications to the PLC/VMS system upgrade in the Yamhill County Correctional Facility, adding five cameras and amending the not to exceed amount by \$40,443 for a total of \$1,905,044, effective upon full execution.

Commissioner Berschauer moved approval of item I8. The motion passed, Commissioners Berschauer, Johnston and Starrett voting aye.

9. Discussion regarding the potential closure of High Heaven Road gate. (Lindsay Berschauer)

Ken Huffer, County Administrator, provided the Board with a summary of previous actions and shared with them that the Board has the authority to open and close the gate. Commissioner Starrett entered into the record pictures of the Ball Bearing Hill fire. The Board received the following public comment and testimony:

Sean Slowick (Resident of Amity) - provided testimony in support of having the gate locked during the wildfire risk season. He also shared with the Board that the City of McMinnville is proposing a bike park near High Heaven Road.

Tony Mode (High Heaven Road Resident) - provided testimony in support of having the gate locked during the summer due to the unmanaged roads, excessive speeders, homeless camps, and parties. Lastly, he said that he would support a keylock system that would accommodate multiple users.

Mike Cafferata (District Forester of Oregon Department of Forestry) - provided to the Board that the Oregon Department of Forestry (ODF) has seen an increase in the number of fires, and the cost associated with fires is becoming very expensive to fight. Per ODF – the rule of thumb is to close gates during the extreme fire conditions which does not exclude everybody, but it excludes vehicular traffic. Historically, the people who walk in are generally not the ones that

start fires. Lastly, Mr. Cafferata said that he would support the closure of the gate during the wildfire risk season as well as implementing a warning system to close the gates during a Moderate risk level.

Tim Tonkins (Weyerhaeuser Lumber Representative and former Willamette Industries employee)- Mr. Tonkins provided to the Board that Weyerhaeuser Lumber manages a lot of recreational programs including a permit program. He added there have been a couple of private leases on the property located at both sides of High Heaven Road. He said that Weyerhaeuser Lumber owns the gate located at Turner Creek which is currently closed for the wildfire risk season. Lastly, he said that he would support a keylock system that would accommodate multiple access users.

Dennis Thyme (Resident of High Heaven Road) - provided testimony in support of having the gate locked year-round.

Jeff Lakes (Resident of High Heaven Road) - provided testimony in support to have the gate closed during the wildfire risk season and shared that he would like to see the Sheriff's Office patrol the area more regularly.

Tim and Leesa Novak - (Residents of High Heaven Road) - provided testimony in support of having the gate locked year-round or have the gate closed during the wildfire risk season. Lastly, he said the Watershed is threatened and would also like to see the Sheriff's Office to patrol the area more regularly.

After hearing testimony, the consensus of the Board was to continue discussion regarding the potential closure of the High Heaven Road on September 7, 2023. There was no action taken.

The meeting was recessed at 11:22 a.m. and reconvened at 11:27 p.m.

J. PUBLIC HEARINGS:

1. Docket PA-01-21: A request by Brian and Kathy Bellairs, and Bestwick, LLC. to place 95.3 acres of property into the Newberg Urban Reserve Area for future urban uses, as recommended by Newberg Ordinance 2023-2911.

Commissioner Berschauer opened the public hearing at 11:43 a.m. There were no abstentions or objections to the jurisdiction of the Board and there were no reports of ex-parte, or onsite visits. Commissioner Johnston provided to the rest of the Board that as a Newberg Urban Area Management Commission (NUAMC) former Planning Commission representative he is familiar with the property and has also driven by the property. Commissioner Starrett provided to the rest of the Board that she frequently drives along the property and shared that she was the former Board of Commissioner liaison for NUAMC until Commissioner Johnston was elected and became the liaison. Commissioner Starrett also shared with the Board that she previously made her position known on the urban area expansion at a NUAMC meeting. Commissioner Johnston and Commissioner Starrett both confirmed they can make a fair and impartial decision.

Staff Report: The tract consists of four parcels totaling 95.3 acres. The tract is developed with three existing dwellings and multiple outbuildings with the remainder being largely vacant with

minimal farming activities. The tract of land is located northwest of the intersection of NE Corral Creek Road and NE Fernwood Road. The tract contains scattered vegetation and trees and is comprised of a mixture of agricultural Class I, II, III, and IV soils. The subject property has a Comprehensive Plan designation of Agriculture/Forestry Large Holding and a zoning designation of EF-20 Exclusive Farm Use. The review criteria includes Newberg Urban Area Management Agreement, Statewide Planning Goals, Yamhill County Comprehensive Goals and Policies, ORS 197.298 and Oregon Administrative Rules, OAR 660-021. The priority list for land to include within the URA is found in OAR 660-021-0030(3). The application was reviewed by the Newberg Urban Area Management Commission (NUAMC) at six scheduled hearings over a two-year period.

NUAMC voted to approve this request and sent it onto the Newberg City Council. The City Council voted 5 to 1 to approve the expansion and forwarded their findings onto the Board of Commissioners. The Intergovernmental Agreement states: The City shall forward its ordinance to the County, which shall make its final decision based on the NUMAC record, the City's ordinance, and public testimony. The County shall adopt its final decision by ordinance and issue a Board Order. If the governing bodies do not concur in their final decision within sixty days of referral of the matter to them (by the NUAMC), a joint meeting shall be held to resolve differences. If agreement cannot be reached, the parties agree to mediate the issue using a jointly selected mediator.

Applicant: *Read Stapleton*, representing the applicant, provided a PowerPoint describing the application process and shared with the Board that the Newberg City Council previously voted 5-1 in favor of the application. He also shared an analysis that described the buildable land inventory, land needs, comparative site analysis of exception lands, and resource land serviceability demonstrating the applicant site is a primary candidate for expansion based on the criterion. *Todd Mobley*, also representing the applicant shared details about the transportation planning rule. He said the site would bring additional East to West connectivity to The Greens at Springbrook subdivision as well as street connectivity to serve emergency access. Lastly, he shared with the Board that the site is compatible with the Newberg Dundee bypass expansion plans.

Brian Bellairs - the applicant provided a summary of the Urban Reserve Area (URA) and how it specifically relates to his property. He shared that the land is immediately adjacent to the Urban Growth Boundary (UGB) and the utilities are located at the property line, the land has very poor rocky soil and very low agricultural value, the land is also located next to the fastest growing employment segment. Mr. Bellairs provided to the rest of the Board that the CEO of Providence Hospital (Newberg) provided him with a letter of support which states that if a development of a community passes then it would help Providence Hospital attract and retain employees. He also shared that he received another letter of support from the Newberg Fire Department, Assistant Fire Chief, which also acknowledges that the inclusion could add fire safety access.

Testimony in Support of the Application:

Kathleen Kessinger- provided testimony in support and shared with the Board that both she and her husband have lived on Corral Creek Road for 20 years. She also provided to the Board that

there have been several accidents on the road which have resulted in multiple power outages near her home. She said the road needs major improvements and if there were Board approval it would mean the roads could be repaired under the developer's project package agreement. She also shared with the Board that prior to the hearing her husband submitted a letter of support. Lastly, Mrs. Kessinger provided to the Board that prior to the hearing her husband submitted a letter of support. Mrs. Kessinger also read aloud a letter of support from her neighbors Roger and Sandra Schaad

Hannah Level – provided to the Board that she is in support.

Lydon Hansen – provided to the Board that an approval could help with the current housing shortage and transportation needs.

Appellant:

Beau Svendson - provided to the Board that Oregon has a strict urban growth boundary rule to protect areas from rapid unchecked expansion that does not benefit the community. He also shared that he does not agree with the proposal and believes the urban reserve should support the people of Newberg and affordable housing.

Charles Woodworth- provided to the Board that he is representing Julia Kitley, Green Waterbury, Joe Hughes, and Dorothy Roholtz. He shared that the in-support testimony indicated the expansion would be for the year 2051 land supply, however both the City of Newberg and Yamhill County confirmed that state statute requires housing for up to year 2041; the City of Newberg confirmed there is no need for additional land to achieve 2041 state statute. Lastly, the Board acknowledged Mr. Woodworth's request to keep the record open.

Michael Austin - provided to the Board that he agrees with the testimony received from *Charles Woodworth*. He also shared that the formative plans mention a roundabout but does not address the straightening of Corral Creek Road and said the road challenges should be addressed before the applicant moves forward.

Dorothy Roholtz - provided to the Board some other options to utilize the land without building homes which included farming.

Commissioner Johnston shared with the rest of the Board that water rights indicate that 99% of the land does not have rights other than where there's a spring that comes out to it.

Christy Cook – extended an invitation to the Board to visit her property to evaluate the traffic.

Rob Halliburton (Representative for Friends of Yamhill County) - provided to the Board that the Friends of Yamhill County agree with the testimony received by *Charles Woodworth*. Lastly, Mr. Halliburton shared that the Friends of Yamhill County believes the application and city council ordinances are incomplete.

Mary Ann Sholez - provided to the Board that she agrees with the previous testimony for opposing the application.

Michelle Blankenheim - provided to the Board that she agrees with the previous testimony for opposing the application but added that she is concerned about her family's quality of life noting that she does not want to live in a subdivision and hear traffic noise.

Public Agency Report: - nothing further to add aside from what has already been included in the packet.

Rebuttal by the Applicant:

Ken Kazteroff – provided to the Board that the urban growth process was stalled because of an improper analysis of some assumptions around institutional lands. He also shared that there are two disputes with regards to the interpretations of the law about the serviceability requirements and the statute that identifies the lands that get brought into an URA boundary. Lastly, he said if the URA application is approved then the next step would be to apply for a UGB for development which is a very lengthy process, but it would require that the applicant provide additional analysis which would hopefully answer pending questions. The Board acknowledged Mr. Katzeroff's requests to keep the record open.

Todd Mobley – provided to the Board that the development of the land would bring significant infrastructure improvements and in this this stage of the process, it's not required to have 100% of the transportation needs met; the focus is strictly the serviceability of the property with regards to transportation.

Commissioner Berschauer instructed staff to keep the record open as the hearing moved through the staff recommendations and deliberation segments.

Staff Recommendations:

Ken Friday provided to the Board that there are approximately 1500 acres of exception land in the study areas near the city. If the City of Newberg were to find that the land in the exception area was not available for inclusion, then other lower priority lands could be added. However, it appears that 793 acres of exception land is reasonably serviceable and could be taken into the Urban Reserve Area. As such, it does not appear that the request satisfies the standards.

Deliberation:

Doug Rux, City of Newberg Community Development Director, provided a summary to the Board. He shared that the UGB and URA information for 2015 is outdated and staff was directed to withdraw the applications from the Department of Land Conservation and Development (DLCD) and URA. Mr. Rux also shared that NUAMC directed the staff at the City of Newberg to create recommendation proposals for both approval and denial. NUAMC adopted a resolution that approved the URA request with a condition that it excluded 20 acres that was above the 300ft in elevation. This brought up an issue with a water booster pump station, so the City of

Newberg modified the NUAMC resolution to include back in roughly 20 acres that were above the 300ft elevation mark, with the condition that if the land was developed the developer would be responsible for funding and developing the water booster pump station.

Commissioner Johnston confirmed with the City of Newberg staff that if the land is approved for the URA it would not be fast-tracked into the UGB.

Commissioner Berschauer confirmed with staff that the City of Newberg is not necessarily responding to NUAMC in terms of wanting to include this property in the URA, they are in acceptance of it, promoting it, and would like the land to be included.

Director Ken Friday said that if the Board denies the application, then the City of Newberg and Yamhill County will be required to work through any differences per the intergovernmental agreement.

Commissioner Starrett shared with the rest of the Board her concern regarding bypassing other available land to include this property, especially with the acknowledgement that this would most likely not be approved by DLCD.

Commissioner Berschauer closed the public hearing at 1:59 p.m.

After discussion, Commissioner Johnston moved to uphold the Planning Directors decision to approve the application. The motion passed, Commissioners Berschauer and Johnston voting aye, Commissioner Starrett voting nay. Findings will be presented to the Board for consideration of adoption on September 14, 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
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 2:07 p.m.

Nicole Necas
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair LINDSAY BERSCHAUER

Commissioner KIT JOHNSTON

Commissioner MARY STARRETT