



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 July 18, 2024, at 10:00 a.m. in Room 32 of the Yamhill County courthouse and in a virtual meeting via Zoom, Commissioners Lindsay Berschauer, and Kit Johnston being present. Mary Starrett participated via Zoom.

Also present were Ken Huffer, County Administrator; Christian Boenisch, County Counsel; Jodi Gollehon, Assistant County Counsel II; Cynthia Thomas, Transit Manager; Ken Friday, Planning Director; Mark Lago, Public Works Director; and Carolina Rook, BOC Staff. Greg Haffner, Engineer; and Nohely Barajas-Montalvo, Legal Assistant participated via Zoom.

Guests: John Olson, Madison Gregor, Chloe Bingman, Emma Matthiesen, Leslie Lewis, Jason Tosch, Steve Pfaffer, Rosalind Rockweit, Tom Schaad, Kathy Magar, Mike Magar, Doug Rux, Karyn Hanson, Cheryl Cappelli, Greg Hathaway, Carolyn Doherty, Kim Ross, Charlie Harris, Andrew Croy, and Kathryn Jernstedt. Juliettewait, Craig Markham, Lee Shrepel, and Tyler & Aria Boggs 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 bocinfo@yamhillcounty.gov.*

A. CALL TO ORDER: Commissioner Berschauer called the meeting to order at 10:01 a.m.

B. FLAG SALUTE

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

The Commissioners reviewed the joint schedule for the week of July 22– July 28, 2024. No other county business was discussed.

D. PUBLIC COMMENT: This time 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.

Commissioner Berschauer acknowledged public comments received via email related to Racketeer Influenced and Corrupt Organizations Act. There were no other public comments received.

E. PRESENTATION: 2024 Yamhill County Fair Ambassadors

Madison Gregor, Chloe Bingman, and Emma Matthiesen introduced themselves and gave brief descriptions of the ways in which they participate and volunteer in Yamhill County. They each provided the names of colleges they planned to attend after high school and described their future career plans. Commissioner Berschauer explained that the fair ambassadors' jobs were to do public speaking and promote the Yamhill County Fair and Rodeo.

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

Minutes

1. a. **B.O. 24-190** - February 1, 2024; Formal/Informal Session;
- b. **B.O. 24-191** - February 8, 2024; Formal/Informal Session;
- c. **B.O. 24-192** - February 15, 2024; Formal/Informal Session;
- d. **B.O. 24-193** - February 22, 2024; Formal/Informal Session;
- e. **B.O. 24-194** - February 29, 2024; Formal/Informal Session;
- f. **B.O. 24-195** - March 7, 2024; Formal/Informal Session;
- g. **B.O. 24-196** - March 14, 2024; Formal/Informal Session;
- h. **B.O. 24-197** - March 21, 2024; Formal/Informal Session; and
- i. **B.O. 24-198** - March 28, 2024; Formal/Informal Session.

Committees

2. **B.O. 24-199** - Approval of the following changes to the Local Public Safety Coordinating Council (LPSCC) Members:

- a. Reappoint Lindsey Manfrin for a three-year term, expiring July 1 2027;
- b. Reappoint Jason Henness for a three-year term, expiring July 1 2027;
- c. Reappoint Cecelia Martinez for a three-year term, expiring July 1 2027;
- d. Reappoint Perrin Damon for a three-year term, expiring July 1 2027;
- e. Reappoint Anne Falla for a three-year term, expiring July 1 2027;
- f. Reappoint Lt. Jamison Goetz for a three-year term, expiring July 1 2027;
- g. Reappoint Mike Brown for a three-year term, expiring July 1 2027;

- h. Reappoint Jessica Beach for a three-year term, expiring July 1 2027;
 - i. Remove Brian Rucker effective July 19, 2024; and
 - j. Remove Cassy Polen effective July 21, 2024.
3. **B.O. 24-200** - Approval to appoint Brent Turley to the Yamhill County Fair Board to a three-year term to expire January 25, 2027.

Budget

4. **B.O. 24-201** - Authorize a list of checks for the 2024 Yamhill County Fair.

Plans

5. **B.O. 24-202** - Approval to adopt the updated Yamhill County Emergency Operations Plan (EOP) for 2024.

Contracts

6. **B.O. 24-203** - Approval of a renewal to an existing intergovernmental agreement between Yamhill County Sheriff's Office and the City of Amity for FY24-25 in the amount of \$337,238.84 for 2.0 FTE. #SO25003IGA.

7. **B.O. 24-204** - Approval of a renewal to an existing intergovernmental agreement between Yamhill County Sheriff's Office and the City of Lafayette for FY24-25 in the amount of \$379,605.11 for 2.0 FTE. #SO25002IGA

8. **B.O. 24-205** - Approval of a renewal to an existing intergovernmental agreement between Yamhill County Sheriff's Office and the City of Willamina for FY24-25 in the amount of \$371,714.35 for 2.0 FTE. #SO25004IGA

9. **B.O. 24-206** - Approval of a quote and purchase of a four-year agreement for Information Technology-related County network security hardware/software in the 2024-25 Fiscal Year in the amount of \$101,114 annual cost.

H. OLD BUSINESS:

1. Consideration of approval of a recommendation from Economic Development Competitive Grant Review Committee regarding the Economic Development Competitive Grant program. *[Continued from June 20, 2024.]*

Commissioner Berschauer stated that she was provided information about how other counties structured their Economic Development Competitive Grant programs which was different than how Yamhill County structured the program and that information led her to want to schedule a work session to discuss the program further. Commissioner Starrett requested to be instructed by County Counsel about how we could use the money for the grant program and what changes could be made at the proposed work session.

After discussion, the consensus of the Board was to continue item H1 to July 25, 2024, as a work session. There was no action taken.

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

1. **B.O. 24-207** - Consideration of approval of Change Order #1 to an agreement between Yamhill County and Roy Houck Construction, LLC. for the 2024 Albertson Road Pavement Repair Project (B.O. 24-80) for an increase of \$3,991.25 for additional pilot car services and \$27,643 for increased pavement repair bid quantities in the total amount of \$161,926.25.

Mark Lago stated that the traffic was significantly more obstructed by construction than anticipated which was why the pilot car was added. He also stated that the dig outs needed to be larger than anticipated which increased the cost.

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

2. **B.O. 24-208** - Consideration of approval to adopt the 2023 Coordinated Human Services Transportation Plan.

Cynthia Thompson stated that in 2019, a policy was introduced to require a Coordinated Human Services Transportation Plan to be renewed every three to five years to minimize duplication, maximize route efficiencies, identify unmet needs, and set goals. Ms. Thompson stated that the highest priority of the plan was to maintain current services and that the plan included ways they may have been able to meet the needs identified by surveys conducted by the department. According to the surveys, the most significant need was increased frequency of services especially related to medical appointments and weekend services.

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

3. **B.O. 24-209** - Consideration of approval to adopt the 2024 Yamhill County Transit Title VI-Civil Rights and Limited English Proficiency Plan.

Cynthia Thompson stated that the purpose of the plan was to make sure the department was not being discriminatory. The department had developed means to have translation services available for all languages and created a public QR code to a survey for citizens to provide feedback about their experiences. The plan was required for the department to seek federal or state funding.

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

4. **B.O. 24-210** - Consideration of approval to appoint Paulette Alexandria as interim Yamhill County Treasurer to fill the remaining term vacated by former Treasurer Kris Bledsoe.

Commissioner Starrett stated that she believed the Board should appoint an interim County Treasurer until elections were finalized in January 2025 to fill the role of the former Treasurer after their resignation in May 2024. Commissioner Starrett suggested Paulette Alexandria as a potential candidate for the interim Treasurer, as she was interested in the position and had qualifications that would negate the need for much training if she were to fill the roll. Ms. Alexandria also had experience in the Local Investment Advisory Committee and was a member of the Oregon Association of County Treasurers and Finance Officers as well as several other related committees.

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

The meeting was recessed at 10:43 a.m. and reconvened at 10:52 a.m.

J. PUBLIC HEARINGS:

1. Docket M-05-24: An appeal of the Planning Director’s approval of an irrigation reservoir to supply water for a vineyard. Applicant: Red Hills Farm LLC. Appellant: Karyn Hanson.

Commissioner Berschauer opened the public hearing at 10:52 a.m.

Steve Pfaffer objected to the jurisdiction of the hearing. Mr. Pfaffer stated that he filed a motion to dismiss the hearing on July 9, 2024. He argued that the appeal was filed late due to the weekend, and it was not stated in County policy whether the weekend was counted in the 15-day deadline.

Greg Hathaway, representing the appellant Karyn Hanson, stated that the Planning Director provided sufficient notice of his decision and stated that the deadline to appeal was Monday July 13, 2024, which was met by the appellant. He stated that the board was in their jurisdiction to proceed with the hearing based on the Planning Directors determination of time.

Commissioner Berschauer moved denial of the motion to dismiss. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye. The public hearing continued as scheduled.

There were no reports of site visits or ex-parte contact. Ken Friday read the “raise it or waive it” statement required by ORS 197.763.

Staff Report:

Ken Friday presented the staff report by describing the subject parcel as approximately 26.68 acres and described the land as unimproved. He stated that Red Hills Farm LLC originally submitted a conditional use application (Docket C-02-24) for establishment of a reservoir in the AF-20 Agriculture/Forestry Zone. The application went to a hearing before the Planning Commission on April 4, 2024, and a request was made to leave the record open. During the open record period, the attorney representing Red Hills Farm, submitted arguments that the reservoir fell under the definition of farm use since it was solely to support irrigation, and therefore did not need the conditional use approval and the Planning Department agreed. This decision approving the agricultural reservoir as a permitted use was appealed by Karyn Hanson, represented by Greg Hathaway. Mr. Friday stated that many concerns were submitted that relate to the protection of groundwater. The Planning Department did not regulate groundwater because the legislature directed the Water Resources Department in ORS 536.220 to be the sole agency in charge of Oregon’s water resources.

Applicant Testimony:

Applicant representative, Jason Tosch who was the owner of Stoller Wine Group, began by explaining that irrigation and water resources would allow the subject property to have longevity to support their farm. The location chosen for the proposed reservoir was shaded which

made it unusable for farming and would require a dam. The applicant had already begun working with an engineer to design the dam. The reservoir would not affect any connecting properties according to Mr. Tosch. The subject property belonged to Chehalem Wines which was a part of Stoller Wine Group.

Commissioner Starrett inquired about the potential impact to existing creeks which was not technically groundwater. Mr. Tosch clarified that the location of the reservoir was not fed by an existing creek, and they expected to collect any runoff from rainwater and snow melt that already collected in the proposed location. Mr. Tosch added that he was aware that collection of groundwater was illegal.

Steve Pfaffer stated that in his experience appeals are opened by the appellant and requested an opportunity to rebut the appellants comments. Commissioner Berschauer clarified that that was the typical process set by the Board.

Appellant Testimony:

Greg Hathaway representing Karyn Hanson provided testimony in opposition stating that the appellant didn't oppose the reservoir, they opposed the process taken by the applicant and that they did not obtain a conditional use permit which the Planning Department initially advised them to do. He stated that the applicant claimed they didn't need a conditional use permit which the Planning Director considered an interpretation of County code and allowed the applicant to proceed without the permit. Mr. Hathaway also pointed out that all water reservoirs are required to obtain a conditional use permit regardless of it being for farm use per the County code. Mr. Hathaway requested a seven-day continuance due to receiving written memos from the applicant the evening before the hearing which he argued was not sufficient time to review.

Karyn Hanson, a civil engineer who was licensed in water resources, addressed the board to state that the applicant did not provide sufficient information for the Planning Department to make a decision about the reservoir and that the location would naturally collect both groundwater and surface water. She requested that the conditional use permit be required to identify potential adverse impacts and publish legal findings for the public to review.

Doug Rux from Rux Group LLC concurred that the reservoir would require a conditional use permit and the interpretation process used to withdraw the permit that had been applied for would not represent County code accurately. Mr. Rux stated that there may have been a wetland on the property which would likely be impacted and that he would have expected to see information regarding soil, biographical, and endangered species impacts. He stated that the material previously proposed to be used to build the dam was not something typically used for that purpose which was a potential safety concern.

Cheryl Cappelli stated that she was a member of the Cedar Green Water Improvement district which had a community well approximately 800 ft from the suggested location of the reservoir and she expressed concerns that the reservoir may redirect water from the public water source. According to her calculations, the area would support over 13 million gallons of water which was larger than any reservoir in the city of Newberg if correct. Ms. Cappelli believed that if the applicant would have continued the conditional use permit application, her concerns would have been addressed.

Charlie Harris introduced himself to the Board as a resident of the potentially affected area and highlighted the differences between EFU land and AF-20 zone. He stated that the subject property was in AF-20 zone so the County was responsible for balancing farm use of water and the impact on the environment. According to Mr. Harris, Steelhead Trout, Chinook Salmon and Lampray were sensitive species which were in the water ways behind the proposed dam and would likely be affected by the introduction of the reservoir and dam.

Andrew Croy presented several maps of the selected area regarding landslide areas, slope, and volume. He compared the area to approximately four NFL football fields at a 10-foot depth and explained that the location of the proposed reservoir was in a high landslide area. The downstream distance of the proposed reservoir was about 1 mile away from the nearest highway according to Mr. Croy.

Rosalind Rockweit addressed the Board and explained that she resided directly across the street from the proposed site. Ms. Rockweit expressed concerns about a 60-year-old barn that may have contained chemicals or biohazards that may have seeped into the soil which would be used to sustain grapes to make wine for human consumption. She was interested in information regarding food safety. Ms. Rockweit stated that she would also like to know what the proposed dam hazard score was which she believed would be answered if the conditional use permit application was required.

Tyler Bogg commented that they believed that if the conditional use permit was not required in this case, it could potentially be setting a precedence that any farm use matters may not need a conditional use permit going forward. Mr. Bogg stated that he had concerns about the impact on the surrounding area.

Kathryn Jernstead from Friends of Yamhill County highlighted that the County code stated that there were other applicable provisions which could affect whether the reservoir would be considered a right due to it being farm use. She went on to elaborate on the other applicable provisions indicated in the code which included reservoirs which would suggest that the conditional use permit was required for this case.

Public Agency Reports:

Ken Friday stated there were no public agency reports received.

Applicant Rebuttal:

Steve Pfaffer representing Red Hills Farms LLC rebutted that counties had limited control of land use regulations due to legislative statutes. Oregon legislature recognized any farm use to be allowed as a right without the need of a considerable use permit. Irrigation operations constitute farm use, and the state legislature had prohibited individual counties from interpreting their code to require a permit as opposed to following state statute. AF-20 zone included both farm and forest use which encompassed the same codes applicable to EFU zones. The conditional use permit application was withdrawn because Mr. Pfaffer recognized that it would not be necessary due to state statutes after the initial application was submitted.

Ken Friday proposed a motion to keep the record open to 5:00 PM on July 25, 2024, for all parties to submit written testimony or evidence to the Planning Department at 400 NE Baker

Street, McMinnville. The record shall then be open until 5:00 PM on August 1, 2024, for all parties to submit to the Planning Department written rebuttal to what was submitted during the first open record period. The record shall then be open for the applicant only to submit final written argument, with no new evidence, until 5:00 PM on August 8, 2024. At that point, the record shall be closed. The Board of Commissioners shall then reopen the hearing at 10:00 AM on August 15, 2024, in Room 32 of the Yamhill County Courthouse at the point of *Staff Recommendation*.

Commissioner Berschauer moved approval of the recommended motion. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye. The public hearing will remain open.

THE RECORDS FOR PUBLIC HEARINGS CAN BE FOUND AT:
<https://www.yamhillcounty.gov/1190/Public-Hearing-Notices>.

K. ANNOUNCEMENTS:

1. For information on county advisory committee vacancies, please refer to the county’s website, <https://www.yamhillcounty.gov/765/Boards-and-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@yamhillcounty.gov.
3. Electronic versions of all meeting agendas and meeting information packets can be found at the county’s website: <https://www.yamhillcounty.gov/AgendaCenter>.

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

Bailey Barnhart
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair LINDSAY BERSCHAUER

Commissioner KIT JOHNSTON

Commissioner MARY STARRETT