

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 April 1, 2009, at 9:00 a.m. in Room 32 of the Courthouse, Commissioners Leslie Lewis, Kathy George, and Mary P. Stern being present.

Also present were John M. Gray, Jr., County Counsel; Rick Sanai, Assistant County Counsel; Ken Friday, Planning Division Manager; Sherrie Mathison, Solid Waste Coordinator; David Bates, News-Register; George Duvendack, 13469 SW Hwy 18, McMinnville; Adam Winston, 1217 NW Whitman St, Camas, WA 98607; Shane Latimer, 317 SW Alder #800, Portland, OR 97204, Mary Dorman, 921 SW Washington #468, Portland, OR 97205; Jim Benedict, 1001 SW 5<sup>th</sup> Ave, Suite 2000, Portland; and others as listed on the attached attendance roll (Exhibit A).

Commissioner Lewis called the meeting to order.

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. None offered.

B. **CONSENT AGENDA:** Ms. Stern moved approval of the consent agenda. The motion passed, Commissioners Lewis, George, and Stern voting aye.

Personnel

1. **B. O. 09-140** - Approve the employment of Bryan Burns and Jon Morgan as Appraiser 1 in the Assessor’s Office, regular full-time, Range 15, Step 4, effective April 9, 2009.

2. **B. O. 09-141** - Approve the employment of Jesse Beaudry and Tony Zindel as Corrections Reserve in the Jail, part-time on-call, \$10/hour, effective April 1, 2009.

3. **B. O. 09-142** - Approve the employment of Richard Noble, Jr., McMinnville, as Community Services Supervisor in Community Corrections, temporary part-time, Range 14, Step 1, effective April 1, 2009, through September 30, 2009.

Contracts/Grants

4. **B. O. 09-143** - Approve Service Element Prior Authorization (SEPA) Approval Unit #313085 for the 2007-09 Financial Assistance Agreement #119951 between HHS and Oregon Department of Human Services, \$31,456.

5. **B. O. 09-144** - Approve Amendment #71 to the 2007-09 Financial Assistance

Agreement #119951 between HHS and Oregon Department of Human Services.

6. **B. O. 09-145** - Approve a memorandum of understanding between Yamhill County and Polk County regarding the use of public safety radio frequencies.
7. **B. O. 09-146** - Approve an agreement between Public Works and GVS Contracting, Inc., provider, for the Quarry Road Embankment Failure Repair, \$157,447, effective April 1, 2009.
8. **B. O. 09-147** - Approve a loan agreement between Yamhill County and Oregon Economic & Community Development for the HHS Adult Services Treatment Building, Project K06002, \$1,350,000

Fees

9. **B. O. 09-148** - Approve a revised fee schedule for Community Corrections, effective April 15, 2009.

Resolutions

10. **B. O. 09-149** - Approve Resolution 09-4-1-1 proclaiming Yamhill County's partnership with the U.S. Census Bureau to help ensure a full and accurate population count in Yamhill County in 2010.
11. **B. O. 09-150** - Approve Resolution 09-4-1-2 recognizing April 2009 as Child Abuse Prevention and Awareness Month.

Plans

12. **B. O. 09-151** - Approve an amendment to the 2008-2014 Yamhill County Plan to Improve Positive Outcomes for Children and Families, as submitted by the Commission on Children & Families.

Surplus Property

13. **B. O. 09-152** - Declare a computer, serial number JQ2QT41, as surplus county property to be donated to Child Care Information Service.

Audit

14. **B. O. 09-153** - Accept the 2007-08 Audit Report for Yamhill County, as prepared by Boldt, Carlisle & Smith, LLC, and authorize it to be posted on the county's website.

C. **OLD BUSINESS:** None.

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

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket S-14-06/C-20-07(KF), a remand of a request for a 16-lot subdivision, applicants Sam & Mildred Eastman represented by Coyote Homes, Inc.,

appellant Friends of Yamhill County, as continued from December 17, 2008. *[Continued to July 15, 2009.]*

Ken Friday presented a request from the applicants to continue the hearing for 90 to 120 days. Ms. Stern moved to continue the hearing to July 15, 2009. The motion passed, Commissioners Lewis, George, and Stern voting aye.

2. Consideration of Planning Docket PAZ-05-08/FP-04-08/SDR-16-08, a request for plan amendment/zone change, floodplain development permit, and site design review for a proposed expansion of the landfill, applicant Riverbend Landfill Company, Inc., as continued from March 19, 2009, at the point of Public Agency Reports. *[Continued to July 1, 2009, at the point of Staff Recommendation, county to hire a third-party consultant to evaluate alternatives presented during the hearing and submit a report to the Board, record to be reopened for comments on the report after it is adopted by the Board.]*

Ms. Stern recused herself from the hearing due to a perceived actual conflict of interest and left the room. Ms. Lewis opened the public hearing.

Public Agency Reports - Mr. Friday reviewed the reports in the record.

Sherrie Mathison reported on her investigation into complaints related to Riverbend Landfill and other landfills monitored by the county. She reviewed the regular monitoring reports from the closed Newberg and Whiteson landfills, both of which will eventually be capped, and stated that there have been no complaints about the Newberg Landfill in many years. She said that some trash had been dumped near the Whiteson Landfill, but it was not within 100 feet of the river. She reviewed the steps being taken to stabilize the riverbank. She said that she has been driving around the area of the Riverbend Landfill to document odors and get that information into the record.

Gary Andes, Department of Environmental Quality (DEQ), stated that he has been involved with Riverbend since 2000 and hadn't really had any complaints until last fall, when he received about 25 complaints about odor. He said that there will always be odor with a landfill, but the trick is to keep it manageable. He stated that one possible explanation for the increased odor is that Riverbend added eleven new vertical wells, which reduced suction at the end points. He said that Riverbend has since taken measures to compensate for this and has increased suction by about 30%. He submitted drawings of the Riverbend well system for the record.

He explained that it is impossible to measure the actual amount of landfill gas being collected, but his best estimate for Riverbend is 75%. He added that since the landfill will generate more gas as its size expands over time, the goal is to continually improve the efficiency of the gas collection system. He noted that Coffin Butte Landfill was able improve its system to about 90% after receiving odor complaints and said that he believes the same is possible at Riverbend as well.

He reviewed the Environmental Protection Agency's standards for methane emissions and stated that, although methane is odorless, keeping the methane levels down should also keep down the level of volatile sulfur compounds, which are the cause of landfill odors. He stated that if a landfill exceeds the emissions standards, it has ten days to fix the problem. He said that Riverbend's permit is due to be renewed in July 2010 and as long as the pollution levels are within the required standards, DEQ must grant the permit. He noted that SP Newsprint and Cascade Steel are both much higher than Riverbend in terms of emission levels and none of the three are a major source of hazardous air pollutants.

He stated that he does not expect any contamination of nearby farm produce due to landfill emissions. He said that Extension Service had previously investigated a complaint of crop damage in the Riverbend area and had determined that it was not due to the landfill.

Tim Spencer, DEQ, stated that the first three cells of the landfill had a rudimentary packed soil liner and leachate collection system that did not meet the current regulations, which were adopted in 1993. He said that there was a release of volatile organic compounds to the groundwater from that area in approximately 1992 and Riverbend was required by DEQ to take corrective action.

He stated that Riverbend intends to retain the leachate pond as long as possible and then evaluate other alternatives for the leachate, such as trucking it to their wastewater treatment plant in Hillsboro or putting in an onsite wastewater treatment plant. He said that the overall leachate production will steadily diminish once the geomembrane cap is put on. He explained that some moisture is beneficial to the decomposition process and modern landfills are constructed in modules to help manage those controls. He added that landfill caps are designed to accommodate settling. Mr. Andes stated that horizontal wells can be compromised as a capped landfill settles, but vertical wells would not be affected.

Mr. Spencer stated that contamination around a landfill from E. coli is always a possibility because it typically exists in a landfill in large amounts due to the nature of the material. He said that large concentrations of birds can be one pathway for contamination to occur, so all landfills are required to manage that situation. He said that plastic on the landfill separates clean stormwater runoff from the waste and prevents contamination from occurring that way. He stated that the surrounding creeks are required to be monitored by Riverbend and the river is monitored by DEQ.

He stated that there is a strong trend toward regional landfills due to the increased costs of constructing and operating landfills after the adoption of federal regulations in 1993, and there are some changes in how DEQ regulates a landfill once it becomes regional. He said that DEQ does not have the jurisdiction to control cross-county waste flow.

He stated that there is some truth in the statement that all liners will eventually leak, if the

definition of “leak” includes pinholes, but the industry as a whole has vastly improved over the last couple of decades with regards to installation and quality control. He said that one of the main problem areas for liner damage is during construction when heavy equipment is being used, but there are now leak detection methods that allow a new cell to be checked for defects before any waste is put in it. He disagreed with the statement that the clay layer will eventually dry out and crack, explaining that it is not exposed to the atmosphere and is therefore unlikely to dry out completely. He stated that the construction sequence is the key to quality control and DEQ inspects the site at critical times to make sure the quality assurance plan is being followed.

Mr. Spencer stated that the capital costs and maintenance costs of incinerator plants are very high and there is still about 25% to 30% of the waste left over in ash, as well as a leachate, that needs to be disposed of. He added that tipping fees tend to be significantly higher than landfills. He stated that better waste screening and sorting before incineration could help make this a better technology and safer environmentally. He said that there is more potential for water pollution from a landfill, but more potential for air pollution from an incinerator. Mr. Andes stated that the burner is monitored for particulate emissions and the Brooks facility has always been in compliance. He noted that the Brooks facility is currently at capacity and is considering the addition of a third burner.

Mr. Spencer stated that he is not aware of any waste-to-fuel operations in Oregon, nor has he seen any detailed proposals on any of the alternatives brought up during the hearing. He said that waste prevention and reduction is an area that will see great advances in the near future. He offered to check with his colleagues to make sure there aren't any viable alternatives that he's missing. He said that although landfills will not likely be completely eliminated anytime soon, society may be able to significantly reduce their size and its dependency on them in the long run.

The meeting recessed at 11:15 a.m. and reconvened at 11:31 a.m.

Rebuttal - George Duvendack, Manager of Riverbend Landfill, stated that the sophisticated regulatory framework put in place to protect the environment from landfills is very costly and the regional landfill model is now necessary to make economics work. He said that Riverbend has a 25-year track record of providing environmental stewardship and economic benefits to the county, with a leadership team that listens and responds to the community, and he would like the opportunity to continue that service in the future.

He discussed the odor problem from the previous fall and expressed his regret for the inconvenience caused to neighbors. He stated that a new blower has been installed and he is currently working on readjusting the well field to collect as much gas as possible and operate in a safe and efficient manner. He said that he is also working to develop an odor monitoring program and will continue to implement measures to address issues as needed in a prudent and timely manner.

He stated that the value of the closure/post-closure trust fund is currently about \$9

million. He explained that guaranteed funding mechanisms for closure/post-closure costs are required and can be done in various ways that he would work out in the renewed licensing agreement with the county. He said that if Riverbend were to go out of business, the county would become the trustee of those funds.

He discussed the projected costs for shipping waste by rail to Arlington and said that it is not a viable option at this time. He said that Union Pacific didn't even bid on shipping waste from Portland to Arlington because it knew it couldn't compete with trucking.

Adam Winston, Director of Operations for Waste Management, stated that there are a lot of fixed costs at a landfill and volume helps stabilize disposal rates for residents and businesses. He said that the current volume is the ideal balance between limiting waste and keeping rates low. He stated that lowering out-of-county waste to equal in-county waste would increase rates by about 46% and eliminating out-of-county waste would increase rates by about 100%. He said that he would be willing to sit down with county staff and negotiate a new license agreement that explores the strategy of incoming waste, restricts materials, or includes an annual cap, but timing would be critical and there would need to be a phase-in period. He said that now is the time to focus on reducing the overall waste generation rate.

He stated that Waste Management does not want the height of the landfill to be an issue for the community and would be able to manage the landfill in an efficient and economical way without asking for any additional height increase beyond the current permitted height. He said that this would reduce the lifespan to approximately 2032, based on the current generation rates.

Shane Latimer, ICF Jones & Stokes, stated that he does not expect the new, unnamed creek to capture Turley Creek or vice versa because of the underlying clay soil that isolates the two waterways from each other. He said that a similar high-clay soil would be used to create the bed of the new creek. He stated that a berm could be installed to ensure that there are no drainage changes in that area. He said that the creek carries surface water only and there is nothing to indicate that the groundwater would be impacted by the new creek.

He provided an overview of the buffer plan included in the record as part of the site design review document, stating that the goal is to provide a visual buffer, help block noise and dust, and enhance wildlife habitat. He pointed out that some of the pictures submitted by Arnie Hollander took the landfill out of context and did not provide a point of reference.

Mary Dorman, Angelo Planning Group, provided an overview of the plan amendment/zone change and site design review and stated that the applicant has met the requirements and relevant criteria for approval. She said that much of the land going back to Exclusive Farm Use would be used for wetland enhancement and mitigation, which is an approved use of EFU land.

Jim Benedict, Cable Huston, submitted written rebuttal for the record. He agreed with

Bill Kabeiseman that the exception process should generally be reserved for exceptional circumstances, but pointed out that this case is different because state regulations allow landfills in the EFU zone as a general condition and no exception is required in most other counties. He said that the proposed use is not much of a departure from the goal requirements and the county can determine that it needs a regional landfill to meet its economic goals and keep costs down. He stated that it is inappropriate to use existing operational facilities in the comparison of alternative sites.

Mr. Kabeiseman requested a continuance of the hearing in order to submit rebuttal to the new evidence presented, including the lower height proposal, the odor control system, the chart from DEQ, information about alternative sites, monitoring of adjacent streams, and tree buffering.

The meeting recessed at 1:45 p.m. and reconvened at 1:51 p.m.

Ms. Lewis stated that this is probably the most important land use decision the Board has faced during her time as commissioner and it will set a policy course for Yamhill County and solid waste disposal for the next twenty to thirty years that will affect every resident of the county. She said that she had promised to read all of the written testimony submitted and hasn't been able to finish that yet. She said that although the suggestion was made to set up a task force to look at alternatives, the Board already has the Solid Waste Advisory Committee (SWAC), which has done a lot of excellent work in drafting the Solid Waste Management Plan, and the Board needs to respect that work. She added that technology has changed since many of the alternative options were looked at, however, and conflicting testimony has been given about the viability of these options. She suggested continuing the hearing for ninety days and directing staff to hire a third-party consultant to evaluate the technology presented and the alternative disposal locations, with the consultant to work with SWAC and county staff and present a report to the Board when the hearing reconvenes.

Ms. George moved to continue Docket SDR-05-08/FP-04-08/SDR-16-08 to July 1, 2009, at the point of Staff Recommendation, and to direct staff to develop a request for proposal to hire a third-party consultant to evaluate the alternative technologies presented during this hearing process and transportation options, along with projected costs for alternative processes and alternative transportation and locations. She stated that the projection should include both the cost of the location, such as the tipping fees, and how much it would cost for transportation in today's dollars. She stated that, upon acceptance of the final report by the Board and posting of the report on the county's website, the Board would reopen the hearing for three weeks to allow written comment on the report and on the system diagram regarding the gas disposal system that was presented at this hearing by DEQ. She clarified that the first week would be for all parties to submit comments, the second week would be for rebuttal of those comments by all parties, and the third week would be for final rebuttal by the applicant. The motion passed, Commissioners Lewis and George voting aye.





BOARD OF COUNTY COMMISSIONERS

Attendance Roll for meeting records

Meeting: Informal \_\_\_\_\_ Formal  Work Session \_\_\_\_\_ Date 4/1/09

PLEASE PRINT  
Name

PLEASE PRINT  
Complete Address

PLEASE PRINT  
Subject

David Lamont	1356 NW Countryside Ct. Mac	—
Dan Hinman	614 NW 18th St McM	—
Susan Merwin	14100 SW McCabe Chapel Rd Mac	—
Marilyn Walsh	142816 NW Old Moors Valley, Seaside	—
Sid Friedman	189 Liberty St. Salem, OR	—
Dileen Britchell	13550 SW Masonville Rd Mac	—
B. // Kobesun	121 SW Morrison St, Portland, OR	—
Kris Bledsoe	3500 SW Reed Hill Mac	—
Ilsa Perse	5765 Mineral Springs Rd Carlton 97111	—
Susan Watkins	13440 SW McCabe Chapel Rd Mac	E 2
Talke Ling	7700 SW Westwood Ave 97225	—
Gary Andes	750 Front St NE Salem	—
John Mcghehey	12830 McCabe Chapel - McMinnville	—
Patricia Mcghehey	12830 McCabe Chapel - McMinnville	—
Michael Fonger	14030 McCabe Chapel - McMinnville	—
Krin Rainey	11270 SW River Bend Rd McM	—
Tim Spencer	DER 2020 SW 4th Ave Portland 97201	—

