

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/informal session on March 12, 2015, at 10:00 a.m. in the McMinnville Civic Center, Commissioners Allen Springer, Mary Starrett, and Stan Primozich being present.

Also present were Christian Boenisch, County Counsel; Todd Sadlo, Assistant County Counsel; Desiree Lundeen, County Counsel staff; Mike Brandt, Planning Director; Ken Friday, Planning Division Manager; Nicole Montesano, News-Register; and others as listed on the attached attendance rolls.

Commissioner George called the meeting to order at 10:09 a.m. The invocation was offered by Kay Soyer.

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. **AGENDA:** None.

C. **OLD BUSINESS:** None.

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

E. **PUBLIC HEARINGS:**

1. Consideration of Planning Docket No. SDR-16-14/FP-03-14 (KF/MB); an appeal of the Planning Commission’s approval of a 37-acre expansion of Riverbend Landfill.

[Continued to March 26, 2015, in Room 32 of the courthouse at the point of Staff Recommendation; record left open until 5:00 p.m. on March 17th, 2015, for submission of written testimony by any party, and until 5:00 p.m. on March 20th, 2015, for submission of written rebuttal by any party.]

Mr. Springer opened the public hearing.

There were no objections to jurisdiction.

Mr. Springer then made a statement addressing recent calls for his recusal based on ex parte contacts. He indicated that it would be easier for him to recuse himself than to read and listen to the testimony, and make a decision, but it would also be a dereliction of his duty as a commissioner. He stated that the pressure and perceived pressure he has received from both sides over the past few months does not change or influence his decision or judgment in this case. A decision has to be rendered, not on emotion or perceived pressure and influence, but simply on the law and criteria. He stated that he was voted into office in the middle of this controversy with an attitude from the voters that they had some

confidence in his ability to stay neutral. He indicated that he had not prejudged the application, and that he would not be recusing himself.

Mike Brandt addressed a couple more items that are of an ex parte nature. He stated that a series of newspaper articles and letters to the editor were being entered by staff into the record, in an abundance of caution, in case the commissioners have seen them.

Mr. Brandt then summarized site visits to Riverbend Landfill conducted separately with each individual Commissioner, stating that the visits took place on February 20th with Commissioner Primozych, March 6th with Commissioner Starrett, and March 9th with Commissioner Springer. On all of the visits, as a safety precaution, Bill Carr of Waste Management escorted them. Primarily, Mr. Carr walked in front of the group and warned of approaching trucks and similar hazards. Mr. Brandt stated that, on all three occasions, when the group reached the leachate pond, the commissioners asked questions about the function and capacity of the leachate pond, and Mr. Carr briefly explained what it was for, its capacity, and the number of trucks that were hauling leachate out of the site. He stated that none of Mr. Carr's explanations addressed matters that are not already in the record.

Commissioner Springer then asked the Board if there were any other comments that the commissioners wanted to make regarding the site visits, and none were noted.

County attorney Todd Sadlo then asked if there were any other ex parte comments by commissioners, and Chair Springer asked the commissioners if there were any other ex parte contacts they needed to put on the record. Hearing none, he asked Mr. Sadlo to read the "raise it or waive it" statement required by Oregon law. Mr. Sadlo indicated that the law requires that the county list the applicable criteria, and that a planner would do so in a few minutes. He stated that those testifying should make sure to direct their testimony, arguments and evidence toward the criteria stated by the planner, or any other criteria believed to apply to the application. He then stated that an issue that might be raised in an appeal of the decision after the hearing must be raised before the record of the hearing is closed. He stated that if a person testifying does not raise the issue before the record is closed, it cannot be raised on appeal. He stated that a person testifying must identify the issue clearly enough so that the county and all parties have an opportunity to respond to the issue.

Jeff Kleinman, attorney for Stop the Dump Coalition, then asked to be allowed to speak. He claimed that he had a right to "examine" the commissioners regarding their possible ex parte contacts and bias. Mr. Sadlo indicated that the Chair could entertain his request, and asked him to provide the basis for his position that he has a right to examine the board on any point in the hearing. Mr. Kleinman made his record on his objection, and Mr. Sadlo stated that he does not believe Mr. Kleinman has a legal right to cross examine the commissioners—he has the right to respond to or rebut the statements made, or to make additional allegations, but that is all. Mr. Sadlo stated that he is not recommending that the chair entertain Mr. Kleinman's request. Chair Springer stated that he would have a dialogue with Mr. Kleinman. Mr. Kleinman then began examining the Chair regarding ex parte contacts through e-mails with a Waste Management employee. Mr. Sadlo again interjected that there was no legal basis to allow an interrogation of a commissioner, and recommended that the examination cease. The chair accepted his recommendation. Mr. Kleinman then requested that communications with the applicant regarding the proposed expansion of the landfill be placed in the record, specifically communications between Commissioner Springer and Jackie Lang, a Waste Management employee. He made additional allegations, and concluded by challenging Commissioner Springer for bias. Mr. Sadlo pointed out that Mr. Kleinman made the same points in a letter submitted the day before, and that Commissioner Springer had answered his claim of bias and call for recusal at the opening of the meeting. Mr. Sadlo then made an informational statement, outlining his view of what is, and is not, an ex parte communication under

Oregon law. He asked if, based on that explanation, there was anything else that needed to be put on the record. Hearing none, Chair Springer concluded the dialogue with Mr. Kleinman and continued the hearing.

Staff Report - Ken Friday provided a brief summary of the written staff report, listing the standards for approval. He stated that this application is different than others that the Board has dealt with in that this is not a recommendation from the Planning Commission but rather it's an appeal of the Planning Commission's decision. He said the Planning Commission voted 3-2 to approve the request with 22 conditions of approval. He said the Planning Commission decision denied the eight-acre expansion known as Module 10 and granted an expansion of 29 acres. He stated that ORS 215.427 requires final action on the application to be made within 150 days of receipt of a complete application and as of today, 127 days of the 150 day deadline had passed and the County's final decision needs to be made by Friday, April 3rd.

Proponents - Paul Burns, director of operations for Waste Management in the Pacific Northwest, provided a presentation of the Riverbend application package consisting of four elements that explain how the plan developed over the last few years, a look at how citizens, businesses and county leadership have all supported Waste Management's efforts, key elements of the application and context for the decision. He said Yamhill County voters spoke loud and clear when they defeated a measure that would have shut down Riverbend. He added that residences and businesses from across the county have demonstrated support by attending numerous public hearings and submitting comments. He said Waste Management has gone to great lengths to answer any questions raised and to build understanding.

Frank Willmann, from Waste Management's Pacific Northwest engineering group, provided a detailed overview of the landfill design, stating that this plan will allow for slightly more than 9 years of additional capacity. He explained that the proposed height of the landfill will not increase with this application and that the proposal minimizes impacts to the floodplain and improves fish and wildlife habitat. He said he envisions construction of Module 11 to begin in the summer of 2016.

Tommy Brooks, with the Law Firm of Cable Huston and counsel to Riverbend Landfill, discussed the farm impact assessment and said it shows that the continued operation of Riverbend Landfill will not result in significant changes or impacts to nearby farm practices. He said the analysis of the farm practices that are around Riverbend Landfill was a three-step process. The first step in the process was to identify the crops that are in the area within three miles of Riverbend. The second step for the analysis was to identify farm practices that are associated with each crop identified; and the third step was to look for information to indicate whether the continued operation of the landfill would be likely to impact those farm practices. He said the report then identified potential impacts from the landfill such as escaped litter, air quality, water quality, nuisance birds and rodents. He reiterated that while the application seeks to expand the actual footprint of the landfill, the operations of the landfill are not changing, they are shifting location and are not moving any closer to neighboring farms. He said Riverbend will go through the DEQ permitting process and the public will continue to have opportunities to comment on those environmental regulations. He expressed that this was not just a quick look and that the Planning Commission made the determination that applicable standards had been met so the expansion could move forward.

Paul Burns expressed that the application has been reviewed, deemed complete and approved by the Planning Commission and is now on a path forward. He thanked the Commissioners for their consideration and leadership in this matter.

The meeting recessed and reconvened.

Mike Ragsdale, executive director of the Newberg Downtown Coalition and member of the Chehalem Parks and Recreation District Board, gave testimony about the Waste Management Stewardship Committee and praised them for what they're doing to be good citizens in the community.

Scott Wagner, general manager for SP Fiber Technologies stated he was representing the employees of SP Fiber Technology in support of Waste Management's application for the expansion of the landfill. He added that the company spends approximately 1.7 million each year to landfill their boiler ash and residuals and if the landfill were to close, they would have to look at other areas to transport their material to, which would result in an estimated cost increase of \$750,000 per year.

Eric Wright stated he is in support of the application to expand Riverbend Landfill. He added that by approval of the application, Riverbend would continue to provide great family living wage jobs and services to many local companies for many years to come.

Richard Allen, owner and president of Construction Equipment Company (CEC), spoke in support of Riverbend and Waste Management. He stated that the approval of the application will allow Waste Management to continue to operate its landfill and recycling center in Yamhill County, which is a good thing for businesses in the county. He urged the commissioners to approve the application.

Andy LeVine stated that Waste Management dollars have a major impact on Yamhill County and all policy decisions about the Riverbend Landfill should take into consideration Waste Management's contribution and ongoing commitments to local vendors. He said he believes the expansion of Riverbend Landfill is the right choice.

Steve Farley stated that he is a neighbor and supporter of Riverbend. He read a letter from Ed Gormley addressing Mr. Gormley's support of the expansion of Riverbend Landfill.

Don Clemments, Superintendent of the Chehalem Parks and Recreation District, stated that he is an ex officio member of the Chamber of Commerce and Chairman of the Stewardship Committee. He stated that he is not representing any of these entities as they are all present and have given their testimony. He said he is very proud to see people on both sides and expressed his appreciation and respect on their stances. He asked, as a citizen who produces garbage, where is it going to go? He added that it must go to a dump or a landfill. He explained the distinction between a dump and a landfill; a dump is where people used to just go and dump whatever they wanted, anytime they wanted and a landfill is managed, and that is what Waste Management is trying to do; the right thing, the right way. He said Waste Management has proven across this country that they have taken green technology and moved it forward. He stated he is here today in support of the commissioners approving the expansion of the landfill.

Todd Holt stated he is in support of the proposed rezoning of Riverbend Landfill and Waste Management. He said that as a local resident and active member of the community who has served on the City of Lafayette Planning Commission, the Lafayette City Water Resource Committee and currently on the Board of Directors for the Yamhill County Historical Society, he recognizes the significance of the landfill, how it supports our local economy and our way of life. He added that every community depends on disposal service regardless of its size and the reality that we face today is that Riverbend is nearing capacity, and now we must figure out how to manage our solid waste. He said disposal services are essential to any business or household to have and have an impact on budget if rates increase because garbage has to be hauled to Arlington or Corvallis, stating that the higher rates would hit businesses the hardest, especially manufacturing and those that employ large numbers of people. Mr. Holdt asked that the commissioners support our local business.

Scott Essin, council member of the Newberg City Council, stated he is representing himself. He read a letter he wrote for the record that discussed his background managing parks and trails for over 25 years and the last five years working to reduce the amount of debris deposited in landfills. He stated he is in support of the Riverbend landfill expansion and that the expansion will continue to allow Waste Management to operate in Yamhill County by extending the current life span of an already existing landfill. He listed opposing argument such as, should there be a landfill? He said that even the most logical arguments will not remove what is already in place, and issues with the current landfill have little to do with the expansion. Another argument he stated was that the current landfill will continue to attract seagulls, and there are odors associated with the landfill. He said that these arguments are true; however, the location of the landfill is in an agricultural area and in agriculture, farmers apply pesticides and herbicides in order to grow healthy crops. Scott presented arguments in favor of Riverbend landfill stating that the landfill produces jobs, and produces tax revenues for the county which are used by local government to provide local services.

Kort Clayton stated he is a wildlife biologist by training and in November of 2012, Waste Management asked his company, Air Strike Bird Control, to initiate a natural and sustainable bird program at Riverbend. He explained that it's a program that involves the use of hawks and falcons to deter unwanted pest birds from the property. He said falconry is the most natural and sustainable and responsible bird control solution available to the solid waste industry; it is natural, non-lethal and quiet. He added that most landfills manage birds with canons and pyrotechnics and Waste Management could have opted for a lower cost, less responsible approach, but they've maintained a falconry program because it is both effective and community friendly. He said that a well-executed falconry program imposes chronic hazing pressure on the offending population of gulls, denies them opportunities to feed regularly at the landfill and forces them to forage elsewhere, adding the result is that fewer gulls return to the landfill and the Yamhill valley each winter. He said that the peak counts of gulls at Riverbend have been reduced from 1000 during the first winter of the falconry program in 2012-13, to 300 birds in the 2014-15 season. He said Yamhill County is fortunate to have Waste Management operating the Riverbend Landfill using the best practices in the industry and working as an engaged and receptive community partner. Ms. Starrett asked if the birds are encouraged to go to neighboring farms when they are removed or deterred from the landfill. Mr. Clayton clarified that they are not encouraged to go to neighboring farms but they are kept away from the landfill and they seek other opportunities locally and explained that in the long term, they're not finding the significant resources that they came to the valley for, so they stop coming and that is why there have been fewer birds this past winter than we had last winter, because they stay on the coast where they belong and do what a seagull is supposed to do naturally.

Mr. Primozich read the list of names of proponents who submitted a video for the record: Alan Roodhouse, Kenneth Gross, Mike Brennan, Budd Sinclair, Chris Klein, Bobby Hodrett and Susan Jones.

Kristin Mitchell, executive director of Oregon Refuse & Recycling Association (ORRA), thanked the commissioners for the opportunity to testify in support of the Planning Commission's approval of the expansion of Riverbend landfill. She explained that ORRA is a statewide trade association representing solid waste management companies in Oregon and their purpose is to collect and process most of Oregon's residential and commercial refuse and recyclables, as well as operate material recovery facilities, compost facilities and many of Oregon's municipal solid waste transfer stations and

landfills. She added that Riverbend is a modern, state of the art facility operating in one of the most highly regulated industries in the country but yet, these businesses often face challenges from those who do not see their value and it takes leadership on the part of the community and its elected officials to make decisions that may be difficult for some to accept, those decisions are made by following the law and with the public's interest at heart and in mind. She added that these decisions are made after a great deal of public involvement with public notice and outreach and after careful consideration. She said ORRA and its members recognize the efforts of the Yamhill County Planning Commission and the Yamhill County Commissioners. She expressed her appreciation for their consideration of the application and for their commitment to the community and an open and public process. She stated that Yamhill County has a great partner in Waste Management, now and in the future and asked the board to uphold the Planning Commission's approval.

Ryan Thornton stated that he works for a contracting company based out of Yamhill County, in multiple sites around the state, and has worked with employees of Waste Management at Riverbend Landfill and a few other sites and has seen their commitment toward protecting the environment at all costs. He added that they have tried different types of green technology on a few of their sites, some of those have not worked out and that they wouldn't come forward until they have a firm foundation. He stated his support and asked the board to vote in favor of the application.

Georgene Keith stated that she is impressed with Riverbend's effort to engage the community and to make the environment as safe as possible. She said she believes that if the landfill closes, there will be a lot of negatives such as litter, piling up of garbage, rodents and smell around neighboring properties. She thanked the commissioners for all they do for the county and Riverbend.

Tim Logan stated he is in support of any businesses that are engaged in protecting the environment and noted Waste Management's efforts to construct a landfill, a gas facility, and to use byproduct and decomposing waste to produce renewable energy and electricity for residents in Yamhill County. He stated he is in support of Waste Management's application.

Lee Brennan, District Manager of Riverbend Landfill, stated he was speaking on behalf of his employees and expressed his appreciation for the commissioners' consideration of the application for the expansion. He said Riverbend interacts with its customers all the time, and for them not to get this expansion would mean citizens would have to go somewhere else for their needs and stated he was also advocating on their behalf. Mr. Brennan added that there has been overwhelming support in favor of the expansion.

Dave Adler, Ron Melton, Shad Moore, Louis Caruso, and Dean Cochran stated they are in support of the Riverbend landfill expansion.

The meeting recessed at 12:00 p.m. and reconvened at 12:30 p.m.

Opponents - Jeff Kleinman testified on behalf of the Stop the Dump Coalition. He stated that he has submitted a lengthy written memorandum into the record. He renewed his earlier objection to the procedures being followed. He again asserted that he did not believe the full statement required by ORS 197.763 was read at the commencement of the hearing. He stated again that everyone has a right to ask the commissioners about their ex parte contacts and to ask follow-up questions. He renewed his

challenge to the Chair's participation on the basis of actual bias. He stated his strong disagreement with Riverbend's attorney suggesting that the applications "are preordained or are already decided." He stated that the landfill did not exist in an EFU zone at the time the administrative rule allowing expansion in an EFU zone was adopted and said there is caselaw consistent with his interpretation. He stated that the application does not meet the requirements of ORS 215.296. He said that a floodplain development permit could not be issued unless the applicant first has necessary federal and state permits from DEQ, the Army Corps, and DSL. He stated that is the way the county's code is written. He stated that under ORS 215.296, the applicant has argued that their farm impact analysis and commentary of their experts overcomes the actual testimony of actual farmers adjacent to and very near the site and that those impacts will only get worse if the expansion is allowed. No expert can overcome that testimony. Allowing the landfill to operate for an additional decade or more is an impact on farm and farming practices and it also brings the impact even closer to the farms impacted.

Tim Mossier with TJ Engineering stated that he's been practicing for 32 years as a civil and structural engineer. He discussed floodplain/floodway issues, erosion and sedimentation and the impacts in the surrounding areas. He referred to the map slides from previous presentations and pointed out floodplain lines and boundaries, stating that boundaries were mapped before the landfill was built on the site. He clarified that his intention is not to say that everything that Waste Management has done is wrong, as he has had a chance to look at some of their input data and it looks like it meets industrial standards, but stated that when Waste Management was asked for full disclosure of their input data as well as output data, they respectfully declined.

Arnie Hollander said he submitted a letter to the board addressing his input and recommendations on the conditions of approval as approved by the Planning Commission. He said that the decision that the Board makes will be a legacy decision that will affect the environment and have physical consequences. He believes the county will have to take over the maintenance and the environmental testing and mentioned esthetics. He recommended that the Board not allow the landfill to go forward because he believes it's inconsistent with the zoning ordinance. He said that Waste Management failed to inform the public that they are planning on removing several existing trees where the green technology center is proposed.

Jennifer Redmond Noble stated she is speaking on behalf of 2301 and 2303 South Hill Road and 13480, 13700 and 16220 SW Peavine; all homes owned by family on their farm. She stated that as a long-term member of the Solid Waste Advisory Committee, she wants citizens to be aware that garbage rates do not necessarily have to go up if there isn't a landfill and that other areas in Oregon have the same rate as Yamhill County, adding that the county has never put its garbage franchises out to bid. She provided a history of her family farm and expressed her concerns about the continued expansion of Riverbend landfill and her family's ability to continue farming their land into the future. She explained a study by the USDA that speaks to the need to control bird populations around livestock due to food contamination and the spread of many diseases. She currently sells hay and beef and slaughters lambs but fears that if her costumers lose faith in the wholesome goodness due to concerns of healthiness of her products, she will lose sales and income, and expanding the landfill will cause further harm to direct farm sales, with water contamination being the biggest concern. She explained that due to the landfill and nuisance birds, she has had to make changes to her way of living and has incurred expenses. She stated that the future of her family farm depends on our ability to keep our soil, air and water healthy and fertile

and piling unsorted garbage in a giant pile on the banks of our river is a big money maker for Waste Management, but is a big mistake for the future of the county.

Ms. Starrett asked Mr. Kleinman to clarify a statement made that the expansion would actually move the landfill closer to existing farms rather than move it away from existing farms. Mr. Kleinman stated that it had been part of his statement and it was based on statements of farm owners in the record. He said that Module 11 will bring the operation closer to existing operating farms that are already affected, including Jennifer's.

Don New stated that the previous speakers addressed his question regarding what's going to happen next with the landfill and said it's probably the Commissioners and News-Register to seek that answer but hopes that when then decision is made, that it affects the least number of people adversely in the community and county.

Pieper Sweeney spoke on behalf of both the Yamhill County Farm Bureau and the Oregon Farm Bureau. She said it seems like common sense, especially to farmers in the area, that you don't have garbage on water in an area where it continues to rain. She stated that the requirements of ORS 215.296 talk about significant changes in farming practices and costs but if we don't protect our farmland, it'll have effects on the food we grow when agriculture contributes so much to our county and our state. She stated that she speaks for many farmers, and it's hard to understand that this landfill takes priority over protecting farmland, adding that it is 29 acres now but then there's going to be 29 more or 37 more.

Ramsey McPhillips stated he is the owner of a 500-acre farm which is down wind adjacent to the landfill. Addressing ORS 215.296, he stated that he put into the record a lot of information showing how his costs and practices have been changed and stated that the reason the Planning Commission voted to approve the application was because of advice from county counsel and that advice was that the planning commission could only take into consideration the effect of 215.296 on the land of the expansion. He added that the state has said that the landfill would have to go back into a comparable use. He discussed the effects that Riverbend has on him when applying for a loan from a bank for his farm to buy seed, grass seed, or tractors, in that the rate at which he'll be charged will be higher because of the proximity of the known environmental issues with Riverbend landfill. He added that his property has been reduced in value 30% as indicated by an appraiser who is the appraiser for Riverbend. He asked Mr. Springer to ask for his input on a transfer station.

Ms. Starrett referenced written testimony submitted for the record regarding the pheasants that Mr. McPhillips mentioned in the record and the adverse effects of the landfill as stressors on the birds, including cannibalism among pheasants, egg damage, and a variety of other things such as rodents. She asked for clarification as to whether pheasants, in general, are prone to cannibalization, and if there is a difference in a few degrees of temperature or others stressors. Mr. McPhillips clarified that they are a very reclusive and nervous bird and many things can affect them but certainly it is greatly exacerbated by the pounding and the inconsistent noises from the landfill. He added that what affects his farm is not allowed under the statute and it is verifiable information that he believes requires the Commission to deny the landfill expansion.

Mr. Springer asked if the 30% land reduction noted in the appraisal was due to the recent recession. Mr. McPhillips said that the appraisal was based on sales and the recent sales near his farm in

Yamhill County and the 30% in loss of value is due to the landfill and not the economy. Mr. Springer asked Mr. McPhillips for his input on the idea of a transfer station. Mr. McPhillips stated that he is not in favor of a transfer station on Lafayette Avenue because it would just open up a whole nightmare of hearings, again. He added that there are two other places where it could go; both of them being owned by Waste Management and the other being on Waste Management's site. He said he has gathered input from neighbors and said that if they had a choice between a landfill or transfer station, they would rather go to a transfer station, preferably in Newberg because of the bypass.

Susan Coyle, member of the Oregon Farm Bureau and co-owner of Peavine Boarding Stable located one mile NW of Riverbend landfill, stated that they have provided an indoor arena to the McMinnville High School equestrian team and have hosted numerous training clinics and donated the revenue from the events; in addition to boarding clients, the events make their horse boarding business operable. However, she added that due to the close proximity to Riverbend landfill, expanding growth, loud noise and awful odor in the surrounding area, it is becoming much more difficult to continue to have a workable boarding business and host equestrian events. She stated that she has called DEQ to complain and request information about the smells coming from the landfill but that DEQ only provided a complaint number for her to call and so far, over the years, nothing has changed and the odor has gotten much worse which makes her believe that they don't care. She expressed that Riverbend Landfill has hurt their business in other ways such as horse owners worrying about water and air pollution and it has eliminated that once-peaceful experience. She said there is greater potential for disease carried by flies, birds, rodents and mosquitos and the need for more frequent and costly vaccinations that are required to keep horses safe from disease. She stated that she believes the upcoming proposed expansion of Riverbend landfill and all the unfavorable aspects associated with the landfill, will only become greater, therefore any further expansion of Riverbend landfill will force a negative impact to their business in the future, to costs and loss of revenue. She asked the commissioners to deny the expansion application.

Leo Krick spoke on behalf of the Yamhill Soil and Water Conservation District Board members to which he serves on the board of directors. He stated that the district was also present at the hearing to request that the Yamhill County Board of Commissioners sustain the appeal and deny the application for the expansion of the Riverbend landfill because it is not in the public's interest. He added that the expansion will have permanent effects on the natural resources, water, quality, scenic landscape, and agriculture viability. He said he fears that it will impact the quality of life for citizens, businesses, farmers and our children's children. Mr. Krick stated that the Yamhill County Water Conservation District believes the applicant has failed to demonstrate the proposed expansion is compatible with adjacent agricultural lands, farm practices and operations, adding that in their own documents, Waste Management has stated its operational challenges with litter, nuisance birds and other issues. He encouraged the board to review the public testimony and records from December 4, 2014, which provides a different perspective, one that more accurately depicts the real and negative impacts to operations located adjacent to and in the landfill region. He stated that the county has the information and facts it needs to make the right decisions and urged them to deny the expansion.

Tom Abrego presented a PowerPoint presentation to illustrate his opposition to the expansion of the landfill. He said that runoff from the landfill has been drained directly into the tributary and water levels have been tested twice the limits for zinc, just this past year, adding that E.coli has been measured at up to six times the benchmark since 2002. He explained that this means farmers are drawing water from the river to irrigate their crops and these crops end up at our dinner table.

Susan Meredith spoke on behalf of Stop the Dump Coalition and submitted written testimony. She provided information on the impact of leachate on ground water and expressed her concern that it's been an issue for the past 20 years and DEQ is not willing to take the action necessary to require Riverbend to remediate the hazardous leakage. She urged the commissioners to take action to require the applicant to do what is necessary to stop the leaks detected at test wells and to provide independent test well sampling data where no wells show levels of toxic compounds above the DEQ limits. She suggested this be done prior to taking action on further expansion of the landfill.

Susan Watkins discussed legal interpretations. She stated she was the first president of Stop the Dump Coalition which was then known as Waste Not. She said she was very excited to hear that the board had put a green technology requirement into the rezoning of the landfill but now has concerns after reading a newspaper article and is convinced that it will not be honored in this case. She asked that the board take a new look at the green technology requirement and consider putting in a transfer station or some other facility that would better serve the county. She submitted written testimony for the record.

Sid Friedman, with the Friends of Yamhill County, said it's past time to stop dumping our garbage in flood-prone areas by rivers. He stated that most of the garbage generated and dumped is regional garbage; half of it being from metro, and only 25% from Yamhill County. He discussed why he believes the expansion is not needed, there being hundreds of years of existing capacity in other Oregon landfills and locations that are far less environmentally sensitive. Mr. Friedman said that other alternatives will have little, if any, impact on overall garbage rates and the expansion would have visual and odor impacts to both tourists and residents, impacts to water quality of both surface and ground water and that among other negative impacts to water, fecal contamination from gulls and other nuisance birds attracted to the dump result in the discharge of E.coli. He said the record shows that leachate contamination is a result of elevated chloride levels in ground water and that the volatile organic compounds detected in ground water are due to leakage from the landfill. He added that rather than trusting the applicant on the farm impacts, the county should instead rely upon the testimony of the real experts who are the local farmers who farm next to the landfill, the local Soil and Water Conservation District and the local farm bureau.

Kris Beldsoe stated that she is opposed to the approval of the expansion of the landfill. She said that coming from a family of farmers and being a farmer herself, she brings a combined understanding to the table. She objected to the Commissioners' way of opening meetings with prayer and said that she would normally never bring up religion in a public forum. She referenced a scripture from Genesis 1:26, explaining that to her this means that people are the guardians of the world and have that responsibility to preserve everything possible in order to make certain that the land far outlives all of us and that a pile of garbage on good farm land, on a river, or in a flood plain is not preserving anything. She stated that she had received a phone call that was a poll from Waste Management and felt it was volatile and unethical. Ms. Starrett asked Ms. Bledsoe to provide her with more information about the poll as she had not heard about it. Ms. Bledsoe said she would submit a copy for the record.

Walter Want stated he was a member of the board of Waste Not but comes as a private citizen, as well as a veteran and has revisited every place his crew bombed and sprayed with toxic chemicals and mortal weapons, 50 years ago. He explained that what we do now, will not only affect us immediately but it will also affect us in the future. He discussed the damage to the landfill, to the people and the earth in general. He said he was asked to attend a meeting held by the Environmental Quality Commission (EQC) that oversees DEQ and that in the meeting there was discussion about odor complaints to Waste

Management and their operation at Riverbend Landfill. He added that Waste Management had made the comment at one meeting, that they don't receive odor complaints and yet 37 present who all said that they had submitted complaint forms through DEQ and Waste Management, were interrupted by the head of WM who said they had never received a complaint of odor. He said he has submitted 19 reports and yet none of them have been recorded or action taken by Waste Management.

Sam Sweeney expressed his concerns regarding the polluted water that comes out of the landfill that could lead to E.coli contamination and strongly urged the commissioners to deny the application. He said that coming from a three-generation family farm, it's difficult for farmers to comply with food safety standards, when it's nearly impossible and could result in losing their market due to E.coli.

Margaret Cross stated that she objects to opening a public hearing with Christian prayers because Jesus is not a party of record in the proceedings. She requested that all the commissioners release any ex parte communications that relate to the Riverbend landfill application because it's only fair that the public have access to these records. She said that Mr. Ramsey brought up the key point that the county needs to focus on the legal matter and whether the site review or site design complies and meets the standards outlined in ORS 215.296. She stated that this issue has split the community in many ways and she believes that there is going to be more money spent on this and as stewards of the public need, the Commissioners need to take this into consideration before a decision is made. She encouraged the Commissioners and the Planning Commission to research Waste Management's record, stating that their record is not particularly good. She urged the board to deny the application.

Leonard Rydell stated he is a professional engineer land surveyor. He presented a picture for display during his testimony and pointed out the water surrounding the landfill, adding that the garbage and leachate doesn't have far to go before it ends up in the river. He presented a chart from 2013 showing where 19 million gallons of toxic leachate were hauled out of Riverbend that can't be treated in Yamhill County because it's toxic to the biological sewer treatment plants. He listed his recommendations and stated his opposition to the expansion.

Brian Doyle said he's lived outside of Newberg for 20 years and had lived in New York prior to moving to Oregon, where some of his professional work involved waste transfer, recycling and landfill. He added that he served on the Yamhill County Solid Waste Advisory committee for 11 years and felt that the county was very fortunate to have its own landfill but the impression changed as he became aware that the county's waste was just a small part of a total waste stream. He stated that he is also a member of the Stewardship Advisory committee and supports and strongly applauds the beneficial use of the buffer lands around the landfill and that any corporation should have an obligation to be a good corporate citizen. He applauds the good things that WM has done but does not support Riverbend. He added that waste doesn't have to go to Riverbend and the county should go with the alternative disposal which wouldn't necessarily cost any more. He stated that when Riverbend closes, it will lose the fees that are earned but this doesn't mean the county's revenue from garbage has to stop because it would be imposing tipping fees at a transfer station. He mentioned Forest Grove as an example, saying that they earn \$450,000 per year just for the waste going through their transfer station and when it goes to Riverbend, they earn 2/3 of the dollars of the current rate, per ton, and it is stored and managed forever. He added that Yamhill County could be earning more without the impacts and liabilities of Riverbend; leaving a better world to our children.

Neal Hulkower said that he and his wife became Oregon residents in 2011 and selected

McMinnville to be in a community that offered a serene and healthier quality of life. He respectfully requested that the Board of Commissioners stop dumping on the county, for if they don't, future generations in addition to us will not remember them fondly.

Ilsa Perse said she submitted written testimony and information about DEQ for the record and discussed that the definition of a landfill is self-explanatory in that it is a fill in the land, and the definition of a dump is what we currently have, it's where you pile it up. Ilsa added that when the site was originally developed by City Sanitary, it was a landfill and their plan was to bring it up to grade by doing 20 acres at a time, and convert it back to farmland, and then do another 20 acres. She said that rather than those opposed to the expansion being called opponents, they are in fact proponents as they are proponents of making the Yamhill County a safer and better place to live and propose that this be a new beginning by trying a different approach.

Patricia Faye Marshall said that her comments had been addressed by previous testimony.

Erin Rainey stated she is in opposition to the expansion of Riverbend landfill. She explained her involvement in the garbage process in Yamhill County for more than 20 years and membership on the Yamhill County Solid Waste Advisory committee for over ten years. She said she attended meetings about dump expansion since 2008 and has seen the tactics that Waste Management uses to distort the truth so that the voting public can continue to let them dump trash on the river valley, such as propaganda notices about the Riverbend hearings. She read the talking points and stated she doesn't want to continue to pollute, stink up and jeopardize livability of the community.

Ron Hutchison stated he concurs with everything that's been said and asked for the board's denial of the application.

Mark Davis stated he agreed with previous testimony and hopes that the Commissioners will pay special attention to what the farmers have stated about the impact of the landfill on their property values and their quality of life. He stated he is opposed to the proposed green technology plant and would like for that requirement to be dropped. He said that if it is built, it will lead to endless hearings like there have been for the last several years, adding that there will be truck traffic continuing to drive through the cities of Carlton through McMinnville, out to the dump as well as on Hwy 18, coming in both directions. He asked what will happen to the residue after the garbage is processed and what chemicals will be going up into the air. He said that in order to run a green plant, Waste Management has to have a pollution permit from DEQ and listed some of the harmful matter coming out from their facility such as 24 tons of particulate matter, 146 tons of nitrogen oxides, 204 tons of sulfur dioxide, 249 tons of carbon monoxide, and others, being blown towards McMinnville. He added that the only green the community will see if Waste Management builds a green plant, will be the cash flowing into their coffers. He urged the commissioners to turn down the landfill.

Craig Markham stated that he agrees with Mark's testimony. He said that the location of the landfill is in one of the worst places in Yamhill County and that the only thing worse than that is making more of it in the same place. He suggested finding a more suitable place. He referred to one of the slides from previous presentations that showed the floodplains and said that the cost that we're paying now is quality of life and it's happening at an accelerating rate.

Kathy Foster stated that studies over the past 25 years show a death rate of young people from

cancer that lived close to the Yamhill River.

Neysa Hays stated that her family has been buried in the Sheridan area, not far from the landfill. She referred to the pictures from previous presentations and expressed her concerns about the possibility of water being displaced by the berm and even after a successful capping of a landfill, there could still be problems with leaching into the lakes and contamination of the water.

Peter Gladhart said that at least as far back in time as the tenure of Commissioner Leslie Lewis, this commission has a history of favoring the interest of Waste Management over those of the citizens of the county. He stated he applauds the City of McMinnville for declining a grant from Waste Management. He requested a special election be held to choose separate limited service commissioners whose only role in county government would be to decide all matters dealing with Waste Management. He quoted newspaper articles stating that Stan Primozych testified in support of the re-zoning and as a candidate for commissioner, supported the dump expansion. He said he had read that Mr. Primozych also accepted campaign contributions of \$750 from Waste Management and that in October, Commissioners George, Springer and Starrett accepted \$150,000 from Waste Management and distributed it to all the cities in the county but that Commissioner Starrett passed up the opportunity to vote. Ms. Starrett clarified that if Waste Management wants to give money to a variety of cities in the county, that's their purview and that she had no input on how the money was dispersed.

(10 minute recess)

Jules Drabkin stated that he operates a farm outside of Dayton and expressed his concerns regarding the impact on farming and the destruction of roads that are already in bad shape and that partially contributing to that are the large trucks and garbage being hauled in to the county from Portland. He said we wouldn't be here today discussing to increase the landfill if conditions had been properly imposed years ago on Riverbend. He asked that the board impose a condition on the landfill expansion that Yamhill County no longer takes garbage in from Metro.

Stanley Arend stated that as a retired 40 year government finance officer and procurement officer, this is a procurement hearing and when there's a large change with an existing vendor, it goes out to bid again and in this case, there should have been a public scoping process for the board to consider to do a preliminary feasibility and preliminary cost benefit. He recommended not approving or denying the application but rather putting it on the table and doing the homework that should have been done initially.

Jolynn Moore stated that she is opposed to the expansion of Riverbend Landfill and that her statements had already been addressed.

Scott Cunningham, owner of Community Plate restaurant in downtown Third Street and Vice President of the McMinnville Downtown Association, asked that if the board makes the decision to move forward with approving the expansion, that the commissioners be thoughtful in their decision in what they ask of Waste Management in what they need to do for our community, adding that it may be denying the green technology or putting in a transfer station. He asked that they look at the agreement that Arlington has made with Waste Management and to put the same type of restrictions and requirements that Arlington has done on Waste Management in our community to keep it beautiful and clean. Ms. Starrett said that there was a push for green technology and now that there is an offer for green

technology as a condition for the application, asked why he would be against it. Scott explained that based on his information, the incinerators of the technology would need to go up to about 10,000 degrees or so and added that people don't have the actual material on this planet yet to withstand that high of temperature. He said cracks would end up happening in the incinerators, releasing dioxins into the atmosphere, hurting the environment one way or another and leaching into the soils where we grow our food.

Marilyn Walster stated that Waste Management has provided a lot of numbers and information to make people believe that they are good neighbors and good responsible corporate citizens but that there are a lot of things they don't tell you. She listed a few of the accusations against Waste Management including the 13 felony accounts in Hawaii of their two managers who were indicted by a federal grand jury for conspiracy and lying to state and federal officials as well as violating the federal Clean Water Act. She said Waste Management is not interested in the health of the Yamhill River or neighboring farmers, local residents or communities. She asked the board to deny the application

Public Agency Reports – Mr. Friday stated that the only additional public agency report is a letter received earlier that morning from the Department of Agriculture and distributed a copy to the commissioners.

Rebuttal - Mr. Brooks restated his previous statement about the context of the application and the decisions the county already has made and the decisions that still need to be made. He said that the application presented to the board is a distinct application with its own distinct criteria and much like at the Planning Commission, a lot of the testimony was either inaccurate or irrelevant to the criteria. He added that the floodplain presentation showed outdated FEMA map lines going through the landfill and Waste Management is now asking for a floodplain development permit. He addressed some of the opposition statements that were implied such as that the outcome was preordained and other small inaccuracies including the removal of poplar trees, which he said were in the record, but made as part of a separate submittal to describe the poplars that would be coming out from the berm, along Hwy 18. He stated that it had been implied that they had failed to include the screening of the road that will be temporarily on top of the berms so that the trucks can access the waste, but that is in fact a part of the application and a condition of approval that requires screening of the road so that headlights from the trucks won't shine straight down the highway. He stated that these concerns have been addressed thoroughly and deliberately by the Planning Commission and added that their decision is highly defensible based on the evidence before the board. He indicated that leachate is not uncontrollable and said it's the reason we have regional landfills; because of the subtitle D requirements at federal levels that state that leachate has to be controlled, and the reason there are multiple layers of liners is for the exact reason—to control and collect it. He stated that Riverbend had a permit to develop into the floodplain and did that but the waters are on the south side of the facility and they are going away from the flooded areas in accordance with the county's floodplain development requirements which do not prohibit developing the floodplain, but allow it if you can meet the criteria and Riverbend has met those criteria.

Mr. Springer closed the public hearing.

Ken Friday read the staff proposal for the open record period. Mr. Springer made a motion to continue the hearing to March 26th, 2015, in Room 32 of the courthouse at the point of Staff Recommendation, with the record left open until 5:00 p.m. on March 17th, 2015 for submission of written

testimony by any party, and until 5:00 p.m. on March 20th, 2015, for submission of written rebuttal by any party. Commissioner Primozich moved to approve the motion. The motion passed, Commissioners Springer, Starrett, and Primozich voting aye.

F. **ANNOUNCEMENTS:**

1. For information on county advisory committee vacancies, please refer to our website, www.co.yamhill.or.us/content/volunteer-opportunities, or call the Board of Commissioners' office: 503-434-7501 (from McMinnville) or 503-554-7801 (toll-free from Newberg).

The meeting adjourned at 3:29 p.m.

Lucy Flores Mendez
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair ALLEN SPRINGER

Commissioner MARY STARRETT

Commissioner STAN PRIMOZICH