

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 formal/informal session on May 15, 2018, at 10:00 a.m. in Kent Taylor Civic Hall, Commissioners Mary Starrett, Richard L. “Rick” Olson and Stan Primozych being present.

Also present were Laura Tschabold, County Administrator; Ken Huffer, Deputy County Administrator; Christian Boenisch, County Counsel; Todd Sadlo, Senior Assistant County Counsel; Mikalie Frei, County Counsel staff; Ken Friday, Planning Director; Stephanie Armstrong, Associate Planner; Nicole Montesano, News-Register; and others as listed on the sign-in sheet.

Commissioner Starrett called the meeting to order at 10:00 a.m. The invocation was offered by Fr. Zani Pacanza.

A. PUBLIC COMMENT: This thirty-minute time period is reserved for public comment on any topic other than: 1) agenda items, 2) a quasi-judicial land use matter, or 3) a topic scheduled for public hearing. Unless extended or restricted by the Chair or majority of the Board, public comment will be limited to three minutes per person.

B. AGENDA:

1. Leave With Out Pay (LWOP) – Desiree Lundeen, Human Resources/Risk Manager. Ms. Lundeen outlined guidelines related to FMLA regarding a recent county employee LOWP request. She noted that each incident carries its own needs and is determined with standing county policies.

Committees

2. **B.O. 18-152** - Consideration of approval of the following changes to the RIAC Committee:

a. Reappoint Adam Zabinski, term to expire April 16, 2021.

Commissioner Primozych moved to approve item B2. The motion passed, Commissioners Starrett, Olson and Primozych voting aye.

Contracts

3. **B.O. 18-153** - Consideration of approval of the draft of the Phase 1 Environmental Site Assessment between Yamhill County and Hahn & Associates, Inc. for the property at 335 NE 6th Street in the amount of \$2,000.

Commissioner Olson moved to approve item B3. The motion passed, Commissioners Starrett, Olson and Primozich voting aye.

Personnel

4. **B.O. 18-154** - Authorize Leave Without Pay (LWOP) for #1413 from May 4, 2018 to June 8, 2018.

Commissioner Primozich moved to approve item B4. The motion passed, Commissioners Starrett, Olson and Primozich voting aye.

C. OLD BUSINESS: None.

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

1. **B. O. 18-155** - Consideration of extending an offer for the position of County Administrator to applicant Ken Huffer.

Commissioner Primozich moved to approve item D1. The motion passed, Commissioners Starrett, Olson and Primozich overwhelmingly voting aye. Commissioner Primozich commented on the extensive vetting process which included the participation of community members, stakeholders and staff panels. Mr. Huffer verbally accepted the position.

E. PUBLIC HEARINGS:

1. Docket G-01-18, Proposed Amendment to the Transportation System Plan for the Rails-to-Trails Project

Commissioner Starrett opened the public hearing at 10:12 a.m.

Mr. Friday noted that this was a legislative hearing, Mr. Sadlo outlined the items of the public hearing being discussed; Transportation Planning and Farmland Impacts. Mr. Sadlo gave historic background with regard to transportation planning for the Yamhelas Westside Trail which included the acquisition of property from Union Pacific Railroad in 2017 and intent to update the corridor as stated in the original policy of 2012. Mr. Sadlo stated the goals of trail improvements and maintenance as part of upkeep obligations.

Mr. Sadlo outlined non-farm uses permissible in farmland zones. He noted that overspray is not at the center of concern at this time. Mr. Sadlo stated the Van Dyke family shares a critical farm zone which includes crossing impact issues. In the revised ordinance, Mr. Sadlo outlined an addition to Section 3: (A) Fencing installation along the trail corridor; (B)

Signage for all public entry areas, noting agricultural activity/delays; (C) Master plan to be approved by the Board regarding management/stewardship of the trail.

Staff Report:

Ms. Armstrong provided a background of the project and amendment plans to the TSP ordinance. Mr. Friday added that this is a legislative hearing, testimony can be taken in any order.

Public Testimony:

Dana Gray, commented as a city councilor for the City of Yamhill. She stated support noting the benefits to community economic development. Ms. Gray also commented that the trail would provide safety to pedestrians and cyclists, away from traffic on Hwy 47.

Todd Hammer and Scott Bernards offered comments in opposition. Mr. Bernards' concerns included numerous instances of the public trespassing in his fields without permission; he is concerned about the safety and liability of trespassers who have allergic reactions to field crops and may imply the use of field spray chemicals. Mr. Bernards is also concerned about marijuana crops growing unfenced near his fields.

Brian Schmidt stated his concern about the lack of a farming impact study. He gave rebuttal comments to Mr. Sadlo's report including comments about smells from car exhaust and wanting definition of farm fencing.

Lauri Schanche, Eric Witherspoon, Cheryl Nangeroni, Steve Harloff and Wayne Webke all provided comments in favor of the trail.

CK Tueuhella provided comment card. No side given.

Lee Schrepel's comments related to issues about continuation of the trail site going into Yamhill. He noted trail safety; as a food processing farm which is subject to FDA guidelines and inspections, traffic would be counterproductive to his agricultural progress citing litter, traffic, defecation, etc. which could have impact on his agricultural site certifications. Mr. Schrepel stated concern for the safety of employees, visitors and deliveries in the parking lot adjacent to the trail site. He stated concern about the potential of food contaminations, noting that these negative impacts could affect his food processing and pointed out the intersection on Highway 47 provides no visitor facilities.

Chad Olson – City Manager of the City of Carlton, Karen Brock, David Brock and Steve Bunock all provided comments or provided comment cards in favor of the trail.

Ron Hutchison spoke in opposition of the trail. He stated he would like Yamhill County to do a comprehensive farm impact study.

Veronica Hinkes – Board member of Friends of Yamhelas Westsider Trail spoke in support of the trail.

Jim Van Dyke commented about concerns including safety; Mr. Van Dyke stated that the farms along the trail have farming equipment that could potentially be a hazard to trespassers who may injure themselves or others. He noted that fire is also an issue; potential field fires are also a hazard to people that may be on the trail. Mr. Van Dyke stated that a farm impact study should be done by a mutually selected entity. He reiterated the concerns regarding about food processing impacts.

John Peterson – Peterson & Prause, attorney representing the Van Dyke family farm. Mr. Peterson gave testimony in opposition regarding previous railroad ownerships/titles.

The public hearing recessed at 11:30 a.m. and reconvened at 11:42 a.m.

Ed Fredenburg, Peter Higbee and Jeff Knapp submitted comment cards and/or commented in support.

Jim Affolter gave no comment and didn't select a side but submitted a comment card.

Gary Shult, Paul Sullivan and Joel Kiff provided comment in support. Karen Hoyt and Grant Hoyt provided written support.

Billie Jean Matthews noted several family farms being impacted. She noted trail repositioning and stressed the importance of public trail education and the input of impacted farmers.

Suzanne Ridley, James Herzberg and Steve Wick provided comments in support.

Nick Marrant gave comment regarding river frontage between Willamina and Sheridan. He would like to see interest in connecting the Yamhelas Westsider Trail but has concerns with the direction of Yamhill County's development plan. Mr. Marrant stated he would like to see a farm/environment impact study.

Ken Wright gave comment in support. Mr. Wright addressed the maintenance of the trail. He stated that once the trail is built, he would support its maintenance from Gun Club road to Yamhill in perpetuity.

Marlene Belt and Gene Belt submitted comment cards in opposition. Mr. Belt stated he owns property where the Mid-Columbia bus company is. He notes that the income supports him financially. Mr. Belt feels that the project is expensive and doesn't justify the cost. He would like to see a user's fee implemented to help support its maintenance.

Ben Van Dyke stated that he feels the impact study was incomplete and inadequate. He stated that it did not contain any details with regard to the financial responsibility to area farmers. Mr. Van Dyke stated concerns about food processing impacts and safety. He suggested that the outcome of last week's Planning meeting be given weight in this decision.

Craig Mattson stated his opposition of the amendment. He questioned why Yamhill County was not given title insurance. Commissioner Starrett responded that question this will be addressed by staff and counsel.

Rebuttal:

Mr. Sadlo provided rebuttal and gave definition to the process of farm studies. He reiterated the due diligence of the county towards the planning of the Yamhelas Westsider Trail. Mr. Sadlo assured that the findings will be shared with the landowners.

Mr. Sadlo noted that in the event of field fires, it may be easier to get first responder's access faster with established trail access. He noted there are no "reverter" clauses in deeds created between owners and railroads and generally included "precatory" language with the expectation by the railroads for future improvements upon the land in rail locations. Mr. Sadlo responded to Ben Van Dyke's comments noting that the county is in compliance with the law and required impact studies.

Commissioner Starrett asked if the findings that counsel provides are incumbent to support the Board's decision. Mr. Sadlo stated that the reviewed findings are from the applicant; the purpose of the findings are to establish evidence to support the conclusion of the Board action being considered.

Commissioner Primozich outlined the concerns of the citizens. He assured that all the concerning issues will be addressed.

Commissioner Olson asked Mr. Sadlo about mitigation of the farm impact study. He asked Mr. Sadlo if the Board were not introducing the area of farm impact, what factors would Mr. Sadlo move forward with, without mentioning the farm impact study? Mr. Sadlo replied that he would respond with the required legal procedures. Commissioner Olson asked if Yamhill County followed the Department of Land and Conservation Department (DLCD)'s comprehensive plan procedures. Mr. Sadlo responded in the affirmative and noted the adopted findings are in compliance as instructed by the DLCD. Mr. Sadlo stated that the study results are "factual" and not based on "neutral" findings.

Commissioner Starrett closed the public hearing at 12:48 p.m.

Commissioner Primozich made a motion to accept the findings and mitigation as presented by county counsel and move forward with developing a master plan for the trail.

Commissioner Olson stated that creating and vetting a master plan should have come prior to the application of grant funding. He stated that the pursuance of a TSP amendment was precipitated by the risk of losing grant funding to build the bridge. Although Commissioner Olson supports the trail, he stated that he finds additional issue with regard to county counsel acting as attorney for both the owner and the applicant, which is questionable in appearance. Commissioner Primozych addressed the transportation planning. He stated that a master plan is not needed to amend the transportation plan, the public hearing was an opportunity for citizens to address concerns but it doesn't have direct impact on the transportation planning segment. Mr. Sadlo responded to stating that this is the first step to give compliance to address the impact issues, to keep grant money to continue to build a master plan. It provides a continuous grant financial flow to continue the building of a master plan before the creation of the trail. Ms. Tschabold addressed the master plan funding. She clarified that grants are not given on properties not owned; identifying ownership had to be established by Yamhill County before the grant award. Commissioner Starrett was recorded to state that (inaudible) was told there was no significant opposition to the trail as part of the process of approving the grant even though there has been significant opposition.

Staff Recommendations:

The Board held a vote to accept the proposed amendment to Yamhill County's Transportation System Plan as part of the transportation element of the comprehensive plan. The motion failed, Commissioner Primozych voting aye, Commissioners Starrett and Olson voted in the negative.

No further action taken on this amendment at this time.

F. ANNOUNCEMENTS:

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

For questions regarding accessibility or to request an accommodation contact the Board of Commissioners' office at (503)-434-7501 or (503)-554-7801 (toll-free from Newberg) or email at bocinfo@co.yamhill.or.us

Following Commissioner announcements, the meeting adjourned at 1:05 p.m.

Carolina Rook
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair

MARY STARRETT

Commissioner

RICHARD L. "RICK" OLSON

Commissioner

STAN PRIMOICH