

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 October 28, 2021, at 10:00 a.m. in a virtual meeting via Zoom, Commissioners Mary Starrett, Lindsay Berschauer and Casey Kulla being present.

Also present were Ken Huffer, County Administrator; Christian Boenisch, County Counsel; Colton Totland, Assistant County Counsel; Nohely Barajas-Montalvo, Legal Assistant; Carrie Martin, Grants and Special Projects; Ken Friday, Planning Director; and Jason Foose, County Surveyor.

Guests via Zoom: Angie Gardner, ORRICK; Michael Schrader, ORRICK; Vicki Piersall, George Fox University; John Bridges, George Fox University; B; Barbara Boyer; Dennis Bernards; Encompass Yamhill Valley; dgilbert; Erin Chen; Marvin Bernards; Ron/Leah Martin; Sharon Bregante-Candau; Beth Rankin; John Verd; Shorty Stahl; Franey; and Sheila Barnes.

*Welcome! Due to COVID-19 and physical distancing requirements, attending the meeting is discouraged. The public can view the meeting via the YouTube link on the Yamhill County Meetings page. <https://www.co.yamhill.or.us/meetings>. See below for instructions regarding submitting general public comment or comments on agenda items.*

**A. CALL TO ORDER:** Commissioner Starrett called the meeting to order at 10:00 a.m.

**B. FLAG SALUTE**

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

The Commissioner’s reviewed the joint schedule for the week of November 1 – November 7, 2021. No other county business was discussed.

**D. PUBLIC COMMENT:** *Due to COVID-19 and physical distancing requirements, anyone wishing to submit general public comment or comments related to a specific agenda item may do so in written format via email at [bocinfo@co.yamhill.or.us](mailto:bocinfo@co.yamhill.or.us) or by mail at 535 NE Fifth St., McMinnville, OR 97128. Any comments received prior to the meeting will be shared with the Board of Commissioners and submitted to the record.*

Public comments received via e-mail regarding agenda item I3, Commissioner Berschauer and the Treasurer position were submitted into record.

**E. 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 –

a. Review/discussion of American Rescue Plan Act (ARPA) Water & Sewer Infrastructure Grants.

Ken Huffer and Carrie Martin presented a competitive grant program draft proposal to invest ARPA funds towards water and sewer infrastructure. After discussion, the consensus of the Board was to direct staff to move forward with 25% match for planning grants.

**B.O. 21-435** – Consideration of approval of the Yamhill County American Rescue Plan Act (ARPA) Investing in Water & Sewer Infrastructure Competitive Grant program.

Commissioner Kulla moved approval of Item E1a. The motion passed, Commissioners Starrett, Berschauer and Kulla voting aye.

b. End of work session

**F. DEPARTMENT UPDATES:** None.

**G. CONSENT AGENDA:**

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

Contracts & Grants

1. **B.O. 21-436** - Approval of an agreement between Yamhill County and Tetra Tech, Inc. for consulting engineering services regarding the Yamhill County Mercury Total Maximum Daily Load Implementation Plan in the amount of \$70,060 effective upon execution through September 2, 2022.

2. **B.O. 21-437** - Approval of Amendment #7 to Agreement #166061 between Yamhill County and the Oregon Health Authority (B.O. 21-76) adding funding for Residential Treatment Services in the amount of \$5,000 retroactive to January 1, 2021 through December 31, 2021.

3. **B.O. 21-438** - Approval of Amendment #1 to Agreement #166964 between Yamhill County and the Oregon Health Authority (B.O. 20-406) for the Nurse-Family Partnership program awarding funding in the amount of \$170,788 for services from September 30, 2021 through September 29, 2022.

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**H. OLD BUSINESS:**

1. **B.O. 21-439** - Consideration of the adoption of written findings and conditions in the matter of upholding the Planning Director's approval of Planning Docket SDR-19-21: A site design review for construction of an awning to the existing brewery. Applicant: Christian DeBenedetti; Location: 30203 NE Benjamin Road, Newberg; Tax Lot: 3215-500; Appellant: David Wall.

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

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

1. **B.O. 21-440** - Consideration of approval of an FTE change to a Juvenile Probation Officer (PO) II position from .80 FTE to 1.0 FTE, effective December 2021 through June 2022.

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

2. **B.O. 21-441** - Consideration of approval of Intergovernmental Agreement #14735 between Yamhill County and the Oregon Youth Authority (OYA) for individual youth support services, retroactive to July 1, 2021 through June 30, 2023 in the not to exceed amount of \$7,500.

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

3. **B.O. 21-442** - Consideration of approval of an Attorney-Client Agreement between Yamhill County and Tyler Smith & Associates, PC, for outside counsel representation in case #21CV39270, the Petition for Judicial Review of Ordinance 913.

Mr. Boenisch addressed the recommendation of Mr. Tyler to provide outside counsel representation on behalf of Yamhill County in litigation regarding Ordinance 913. After discussion, Commissioner Berschauer moved approval of item I3. The motion passed, Commissioners Starrett and Berschauer voting aye, Commissioner Kulla voting nay.

4. **B.O. 21-443** - Consideration of approval of purchasing Windows 10 Enterprise licenses from TechHeads in the amount of \$38,815 for the 2021-22 Fiscal Year.

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

**J. PUBLIC HEARINGS:**

1. Receipt of public comment on a request by George Fox University to issue Revenue Bonds Series 2021 in a maximum aggregate principal not to exceed amount of \$48,000,000 for the purpose of refinancing prior debt obligations and financing additional projects.

a. **B.O. 20-444** - Consideration of approval in the matter of an order authorizing the issuance, sale, execution and delivery of Revenue and Refunding Bonds (George Fox University Project) in an aggregate amount not exceeding \$48,000,000 and approving an Intergovernmental Agreement.

Commissioner Starrett opened the public hearing at 10:06 a.m.

Mr. Schrader stated the public hearing was a requirement of the internal revenue code as a condition to the issuance of tax-exempt bonds by the county for the benefit of George Fox University.

No public comment was received, and the public hearing was closed at 10:09 a.m.

After discussion, Commissioner Kulla moved approval of item J1a. The motion passed, Commissioners Starrett, Berschauer and Kulla voting aye.

2. Docket RDI-23-21: A appeal of the Planning Director's approval of a replacement dwelling at 11940 SE Boyer Road, McMinnville; Applicant: Ronald Martin; Appellant: Barbara Boyer.

Commissioner Starrett opened the public hearing at 11:10 a.m. There were no abstentions or objections to the jurisdiction of the Board and there were no reports of site visits or ex-parte contact. Commissioner Kulla declared a potential conflict of interest due to ownership of farmland. Ken Friday read the "raise it or waive it" statement required by ORS 197.763(5).

Staff Report: Ken Friday presented the staff report stating the parcel is zoned EF-80 with access to Boyer Road and a manufactured dwelling on a rural residential lot. There was a previous action on the adjacent tax lot (#4432CD-00300) for a hardship dwelling in 1983.

Applicant: Mr. Martin stated he has invested approximately \$300,000 for the property and manufactured home to replace the dwelling to assist nearby family. Mr. Martin submitted written testimony into the record.

Dennis Bernards provided historical context of the tax lots 300 and 301, stating that the two lots were historically identified as separate properties purchased under the same deed. He asked the Board to consider approval of the replacement dwelling to keep the property in the family.

Appellant: Barbara Boyer stated Mr. Friday's findings were based on assumption, noting that a signed affidavit from a former neighboring resident identifying the mobile home in question was in fact a hardship dwelling. She also disputed the size of the acreage of lot #300, stating that lots 300 and 301 were not separate. She said that approval of the application would set a precedent of the county exploiting loopholes for development on farmlands.

Public Agency Reports: Mr. Friday stated there were no public agency reports received.

Applicant Rebuttal: Mr. Martin responded to Ms. Boyer's testimony regarding the lot size and asked the Board for consideration to approve the replacement dwelling.

Staff Recommendations: Mr. Friday stated staff recommendations were to approve the application based on the evidence presented in the Staff Report.

Commissioner Starrett recessed the public hearing at 11:56 a.m.

Deliberations: During discussion, it was discovered that a procedural step had been missed prior to closing the hearing of allowing the Appellant to state intent to request leaving the record open. At the will of the Board, the hearing was reopened at 12:16 p.m. at the point of recommendation

for process and receiving Mr. Friday’s recommendation of leaving the record open. Commissioner Starrett recessed the public hearing at 12:18 p.m.

Commissioner Kulla moved to recess the hearing as recommended by Mr. Friday. The motion passed, Commissioners Starrett, Berschauer and Kulla voting aye.  
***[The record shall be open to 5:00 p.m. on November 4, 2021, for all parties to submit written testimony or evidence to the Planning Department at 525 NE 4<sup>th</sup> Street, McMinnville. The record shall then be open until 5:00 p.m. on November 11, 2021, 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 p.m. on November 18, 2021. At that point the record shall be closed. The Board of Commissioners shall then reopen the hearing at 10:00 a.m. on Monday, November 22, 2021, in a meeting via Zoom at the point of Staff Recommendation.]***

**K. ANNOUNCEMENTS:**

1. For information on county advisory committee vacancies, please refer to the county’s website, <https://www.co.yamhill.or.us/content/board-commissioners-committees>, or call the Board of Commissioners’ office at 503-434-7501 or 503-554-7801 (toll-free from Newberg).
2. For questions regarding accessibility or to request an accommodation contact the Board of Commissioners’ office at (503)-434-7501 or (503)-554-7801 (toll-free from Newberg) or email at [bocinfo@co.yamhill.or.us](mailto:bocinfo@co.yamhill.or.us)
3. Electronic versions of all meeting agendas and meeting information packets can be found at the county’s website: <https://www.co.yamhill.or.us/meetings>

Following Commissioner announcements, the meeting adjourned at 12:24 p.m.

Carolina Rook  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

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Chair MARY STARRETT

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Commissioner LINDSAY BERSCHAUER

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Commissioner CASEY KULLA