

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 November 10, 2022, at 10:00 a.m. in Room 32 of the courthouse and a virtual meeting via Zoom, Commissioners Lindsay Berschauer, Casey Kulla and Mary Starrett being present.

Also present were Ken Huffer, County Administrator; Christian Boenisch, County Counsel; Kris Bledsoe, Treasurer; Keri Hinton, Interim County Clerk; Jodi Gollehon, Assistant County Counsel II; and Jessica Beach, Community Justice Director. Nohely Barajas-Montalvo, Legal Assistant participated via Zoom.

Guests via Zoom: Abisha Stone; Wendie Kellington; Tom Hammer; Alice Patridge; Damien Hall; Kathryn Jernstedt; Celine McCarthy; Heidi McNelly; Jenna DeJong; Cindy Christenson; Dorothy Losli; Barbara Strangham; Tami Fuller; and Lee Schrepel. Peter Coughlin; Joseph Huddleston; Kevein White; Andrew Mulkey; Ladywaterwood; and Annette Frank participated via Zoom.

***Welcome!** Thank you for attending today’s meeting. Public participation is encouraged. If you wish to address the Commissioners on any item not on the agenda, you may do so as part of the public comment period at the beginning of the meeting. If you desire to speak on any item, please raise your hand to be recognized after the Chair announces the agenda item. Please fill out a public comment card to indicate your intent to speak. NEW – Public participation also includes the ability to attend Formal Session via Zoom. For attendees that are attending the meeting via Zoom, the Chair will ask if any Zoom attendees wish to provide public comment in same manner as provided above. At that time, attendees will be asked to use the “raise hand” function in Zoom and staff will unmute the participant. Meetings will also continue to be available for view via a live stream on the Commissioners’ You Tube channel. Written public comments may be submitted via email at bocinfo@co.yamhill.or.us.*

NOTICE: The Board of Commissioner’s Formal/Informal Session schedule has been changed for the month of November. There will be no sessions on November 17th or 24th, 2022. Regular session schedules will resume in December.

A. CALL TO ORDER: Commissioner Berschauer called the meeting to order at 10:02 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 14 – November 20, 2022. No other county business was discussed.

D. PUBLIC COMMENT: This 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. The Chair may limit the length of individual comments.

There were no in-person public comments received. A public comment was received via email about the scheduling of a public hearing regarding psilocybin.

E. DEPARTMENT UPDATES:

a. Clerk’s Office – Keri Hinton

Keri Hinton provided an election update and addressed the status of ballot processing and addressed the increased influx of received ballots on November 8th and the delay in result reporting.

b. Treasurer – Kris Bledsoe

Kris Bledsoe stated the Feds announced the consumer price index decrease of 7.7% resulting in a slight decrease of inflation and did not affect the job market. She highlighted the quarterly change of county investments, stating US Bank percentage rates are under review for opportunities to increase the interest rate. She also noted the ARPA funds are showing increased dividends. The 2022-23 interest earnings are on track to increase.

F. WORK SESSION: This time is reserved for topics of discussion scheduled for the Commissioners in advance. If a work session is not needed, the balance of the meeting will begin at 10:00 a.m.

1. Work Session – None.

G. CONSENT AGENDA: None.

H. OLD BUSINESS: None.

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

1. **B.O. 22-341** - Consideration of approval of an agreement between Yamhill County and Oregon Health & Science University (OHSU) for the Nutrition Oregon Campaign in the amount of \$5,100, effective upon approval through December 31, 2023.

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

2. **B.O. 22-342** - Consideration of approval of Amendment #10 to Agreement #169533 between Yamhill County and the Oregon Health Authority (OHA) (B.O. 21-248) for the

financing of Public Health Services moving unspent funds from fiscal year 2021-22 into fiscal year 2022-23.

Staff clarified that this amendment did not change the program element language of the agreement and only moved unused funding to the current fiscal year. After discussion, Commissioner Starrett moved approval of item I2. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

3. **B.O. 22-343** - Consideration of approval of grant agreement #Q22002 between Yamhill County and the Oregon Business Development Department through the Oregon Brownfields Cleanup Fund program for the demolition, decommissioning, removal and disposal of building material, tanks, hoists and other miscellaneous hazardous substances from the former Carol Glover BP station at 185 S. Maple St. in Yamhill, Oregon (Tax Lot R3404AC-01500) in the amount of \$260,000, effective for 36 months upon approval.

Christian Boenisch stated this will allow DEQ to contract remediation work and demolition of the standing building to access underground tanks for lot clean-up. Commissioner Berschauer moved approval of item I3. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

4. **B.O. 22-344** - Consideration of approval of the recommendations for the Yamhill County Supply Chain Localization Grant program.

Abisha Stone presented the recommendations of recipients of the grant program (ARPA funded) as approved by the grant review committee. After discussion, Commissioner Berschauer moved approval of item I4. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

5. **B.O. 22-345** - Consideration of approval in the matter of an order regarding the sale of tax foreclosed property on November 1, 2022; accepting the Sheriff's return following sale; approving the deeds; and ordering distribution of proceeds.

Commissioner Berschauer moved approval of item I5. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

6. **B.O. 22-346** - Consideration of approval in the matter of an order declaring certain tax foreclosed property as surplus, authorizing the sale of the property back to the former owner, and ordering distribution of proceeds.

Commissioner Berschauer moved approval of item I6. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

7. **B.O. 22-347** - Consideration of approval of a quote and purchase of audio-visual equipment from Klasstech in the amount of \$48,713.14 for improvements in the Annex Building Center Room and to authorize the County Administrator to finalize the contract, subject to review by County Counsel.

Ken Huffer stated the project is connected to COVID-19 grant funding; he asked the Board to authorize himself and county counsel to approve the final contract pending final review.

Commissioner Starrett moved approval of item I7. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

8. **B.O. 22-348** - Consideration of ratification of the 2022-25 collective bargaining agreement between Yamhill County and the Federation of Oregon Parole & Probation Officers (FOPPO).

Christian Boenisch stated this is the final agreement and has been voted on and ratified by the union and would make this retroactive to July 1, 2022. Commissioner Berschauer moved approval of item I8. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

9. **B.O. 22-349** - Consideration of extending provisions of the 2022-25 FOPPO collective bargaining agreement to non-bargaining employees of the Department of Community Justice.

Commissioner Kulla moved approval of item I9. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

10. **B.O. 22-350** - Consideration of approval of a Voluntary Cleanup Letter Agreement between Yamhill County and the Department of Environmental Quality (DEQ) for remediation work at the foreclosed property located at 185 S. Maple St. in Yamhill, OR., Tax Lots #R3404AC-01500 and R3404AC-01501.

Commissioner Berschauer moved approval of item I10. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

11. **B.O. 22-351** - Consideration of a letter of support for the City of Yamhill's grant application for finished water storage tank. (Commissioner Kulla).

Commissioner Kulla moved approval of item I11. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

The meeting was recessed at 11:30 a.m. and reconvened at 11:42 a.m.

J. PUBLIC HEARINGS:

1. A public hearing to hear objections to the transfer of certain tax-foreclosed real properties to the City of Lafayette pursuant to the provisions of ORS 271.330. The specific properties to be transferred are:

- 1) Tax Lot No. R4401DA 00800; Tax Account No. 521461
- 2) Tax Lot No. R4401DA 00814; Tax Account No. 521503
- 3) Tax Lot No. R4412AA 03700; Tax Account No. 128882

The public hearing was opened at 11:43 a.m. to hear objections. Receiving no objections, the public hearing was closed at 11:44 a.m.

a. **B.O. 22-352** - Consideration of approval in the matter of an order declaring certain tax foreclosed properties as surplus and authorizing a purchase sale agreement with the City of Lafayette.

Commissioner Berschauer moved approval of 1a. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

2. Docket #C-27-18/SDR-34-18: A request for an extension of a conditional use and site design review approval to site a commercial solar facility consisting of approximately 10 acres. Applicant: Manchester Solar, LLC.

The public hearing was opened at 2:47 p.m. There were no abstentions or objections to the jurisdiction to the hearing of the matter. Commissioners Berschauer and Starrett stated they received an ex-parte email regarding the matter that was submitted into the record.

Commissioner Kulla disclosed his potential conflict of interest as an owner of farmland.

Ken Friday read the “raise it or waive it” statement required by ORS 197.763(5).

Staff Report: Ken Friday provided an overview stating the attorney for Manchester Solar requested an extension of their land use approval after it had expired, which was denied. He clarified that the hearing was noticed as a remand.

Applicant: Damian Hall stated the applicant has vested right to complete the project as his client has initiated development. There was no additional testimony in support of the application.

Commissioner Kulla moved approval to allow new evidence and testimony into the record. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye. There was clarification after the motion that it would apply to both the Applicant and Appellant sides.

Opponent: Jenna DeJong gave oral testimony in opposition of the extension application.

Kathryn Jernstedt provided written testimony in opposition of the application.

Andrew Mulkey provided oral testimony in opposition noting the lapse of the permit and extensions. There was no additional testimony in opposition of the application.

Public Agency Reports: There were no public agency reports received.

Applicant Rebuttal: Mr. Hall stated the applicant has initiated a development action of the complete construction of the project.

Ken Friday recommended that the record shall be open to 5:00 p.m. on November 17, 2022 for all parties to submit written testimony or evidence to the Planning Department at 525 NE 4th Street, McMinnville. The record shall then be open until 5:00 p.m. on Monday, November 28, 2022, 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 December 1, 2022. At that point the record shall be closed. The Board of Commissioners shall then reopen the hearing at 10:00 a.m. on December 8, 2022, in Room 32 of the Yamhill County Courthouse at the point of Staff Recommendation. Commissioner Berschauer moved approval of the recommended hearing schedule as read by Mr. Friday. The motion passed, Commissioners Berschauer, Kulla and Starrett voting aye.

3. Docket #G-01-22: A proposal to update sections for the Yamhill County Zoning Ordinance to add “Roads, highways and other transportation facilities and improvements: as a permitted use to the following zoning districts:

Parks, Recreation, Open Space District – Section 405 (PRO)

Rural Residential Districts – Sections 502 (VLDR), and 503 (DR)L

Public Assembly Institutional District – Section 801 (PAI)

And adding “Roads, highways and other transportation facilities and improvements” as a conditional use to the following zoning districts:

Mineral Resource District – Section 404 (MR)

Rural Residential District – Section 501 (AF-10)

Commercial Districts – Sections 601 (R C), 602 (NC) and 603 (HC) Industrial Districts –

Sections 701 (RI), 702 (LI) and 703 (HI) Public Works/ Safety District – Section 802 (PWS)

Public Airports/ Landing Fields District – Section 803 (PA) LF

Applicant: Yamhill County. *[Continued from October 27, 2022].*

The legislative public hearing was reconvened at 11:46 a.m.

Public Comments:

Tom Hammer opposed the proposed code amendments stating it would lead to “back door” attempts to facilitate a trail on abandoned rail lines and asked the Board to deny the proposed zoning updates.

Wendi Kellington, representing farmers with concerns of the code changes provided testimony, offering code amendment recommendations.

Alice Patridge provided testimony in opposition of the code changes.

Celine McCarthy stated her opposition in zone changes and restated accusations and asked the Board to deny the zone changes and to hire a planning consultant to finish the ODOT project.

Kathryn Jernstedt expressed frustration related to the notification processes and that the codes should allow conditions.

Lee Schrepel asked the Board to reflect on code recommendations and the received comments presented during the hearing.

The meeting was recessed at 12:41 p.m. due to technical difficulties and reconvened at 12:59 p.m.

Dan Fricke of ODOT stated their interests are limited to the scope of moving elements of the bypass project forward based on available funding and offered assistance to staff as needed. There was no additional public testimony.

Ken Friday provided feedback related to the received comments; he expressed concern related to making changes within the corridor or ordinance related to the overlay but did provide recommended language specifically related to the bypass for consideration.

After discussion, Commissioner Berschauer recommended remanding the proposal back to the Planning Commission to develop zoning language to allow the bypass and to create language that would make conditional uses to roads and highways.

The consensus of the Board was to direct the Planning Commission to a) Modify the bypass overlay district to allow for roads, highways and bypasses and b) Ensure the underlying zoning conforms to the overlay district. Commissioner Kulla expressed his continued support to the original zoning updates as presented by the Planning Director. Commissioner Berschauer moved approval to direct the Planning Commission to modify the bypass overlay district to allow for roads, highways, and expressways and to make sure that the underlying zoning conforms to the overlay district. The motion passed, Commissioners Berschauer and Starrett voting aye.

Commissioner Kulla voting nay.

Commissioner Berschauer moved approval to direct the Planning Commission to provide justification as to why amendments are needed in each zone for roads and highways; provide clarification as to why it's conditional and why it's permitted; and to define "other transportation facility and improvements". Commissioner Kulla again expressed his continued support to the original zoning updates as presented by the Planning Director. The motion passed, Commissioners Berschauer and Starrett voting aye, Commissioner Kulla voting nay.

The meeting was recessed at 2:38 p.m. and reconvened at 2:47 p.m.

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
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 3:52 p.m.

Carolina Rook
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair LINDSAY BERSCHAUER

Commissioner CASEY KULLA

Commissioner MARY STARRETT