

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Order Transferring the)
Yamhill County Ambulance Service Area #1)
Franchise from the Newberg Fire Department) BOARD ORDER 16- 241
(City of Newberg) to Tualatin Valley Fire and)
Rescue, Effective July 1, 2016)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of county business in formal session on June 16, 2016 Commissioners Mary Starrett and Allen Springer being present, and Commissioner Stan Primozych excused.

THE BOARD MAKES THE FOLLOWING FINDINGS:

- A. By intergovernmental agreement dated March 15, 2016, the City of Newberg and Tualatin Valley Fire and Rescue (TVF&R) entered into a functional consolidation, under which TVF&R will assume responsibility for all fire services and Emergency Medical Services (EMS), effective July 1, 2016. In order to consolidate, the city’s franchise allowing it to provide emergency medical services in ASA #1 must be transferred to TVF&R;
- B. Section 16 of Ordinance 751 allows a service area franchise to be transferred. It states:

“1. Transfer of Franchise. A franchisee may transfer his/her franchise to another person only upon the Board’s written approval of a written request to transfer the franchise. Review of an application for transfer of a franchise shall be conducted in the same manner as for a franchise application pursuant to Sections 9, 11 and 12 of this Ordinance.”
- C. On May 4, 2016, the Ambulance Service Area Advisory Committee met and reviewed the proposal by the City of Newberg and TVF&R for transfer or subcontracting of ambulance service responsibilities in ASA #1. The Committee then voted unanimously to support the transfer of the franchise as requested, and to authorize the ASA administrator (Silas Halloran-Steiner) to review materials to be submitted by TVF&R in support of the transfer, and to make a final recommendation to the Board whether to transfer ASA #1 from the City of Newberg to TVF&R.
- D. Section 9 of Ordinance 751 contains a list of information that must be submitted to the Administrator in support of an application for transfer of an ASA franchise. On June 1, 2016, TVF&R submitted information required by Section 9. Following review of the application submitted, by memo dated June 3, 2016, the ASA administrator recommended that the Board adopt an order transferring ASA #1 to TVF&R, effective July 1, 2016.

E. Throughout the discussion of the transfer of ASA #1, it has been noted that the initial term of the Intergovernmental Agreement between the City of Newberg and TVF&R is for a 24-month period. The Board recognizes this arrangement, but also recognizes the desire of the parties to continue their contractual arrangement beyond the initial 24-month term if to do so is in the best interest of both parties. If the initial arrangement is terminated after two years, the Board will consider an application to replace TVF&R as the ASA #1 franchisee, or to transfer the franchise back to the City of Newberg, to ensure that services meeting the requirements of the Yamhill County Ambulance Service Area Plan continue to be provided in ASA #1 without interruption. NOW THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

Effective July 1, 2016, the franchise for providing Emergency Medical Services in Ambulance Service Area #1 (Newberg) is transferred from the City of Newberg to Tualatin Valley Fire & Rescue (TVF&R). TVF&R shall comply with all applicable requirements of Ordinance 751, 843, other applicable county ordinances, the county's Ambulance Service Area Plan, and all other applicable local, state and federal laws, for as long as the franchise remains in effect.

DONE at McMinnville, Oregon on June 16, 2016.

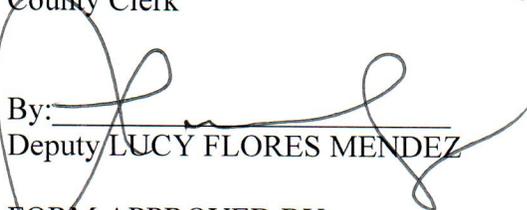
ATTEST

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN
County Clerk


MARY STARRETT

Unavailable for signature

By: 
Deputy LUCY FLORES MENDEZ

(excused)
STAN PRIMOZICH

FORM APPROVED BY:

TIMOTHY S. SADLO
Senior Assistant County Counsel


ALLEN SPRINGER

Accepted by Yamhill County
Board of Commissioners on
6-16-16 by Board Order
16-240



ADMINISTRATION
ADULT PROGRAMS
PUBLIC HEALTH PROGRAMS
FAMILY AND YOUTH PROGRAMS
DEVELOPMENTAL DISABILITIES

HEALTH AND HUMAN SERVICES DEPARTMENT

ADMINISTRATION

627 N.E. Evans – McMinnville, OR 97128 – Phone 503-434-7523 – Fax 503-434-9846 – TTY 1-800-735-2900

To: Ambulance Service Area Committee

From: Silas Halloran-Steiner 
ASA Administrator

Re: Agenda Item #5, May 4, 2016 meeting
Newberg/Tualatin Valley Fire and Rescue Agreement

Date: May 3, 2016

I have consulted with county legal counsel regarding Item #5 of the Ambulance Service Area Committee's May 4, 2016, meeting agenda. It concerns the possible transfer of a franchise for Ambulance Service Area #1 from Newberg EMS to Tualatin Valley Fire and Rescue (TVFR). County Ordinance 751 and Ordinance 843 are relevant to this discussion. Ordinance 751 governs an application for a private or public ambulance service franchise or for a designation of a public entity as a franchisee. Section 9 states, in relevant part:

"1. Any person desiring to provide ambulance service within Yamhill County shall submit to the Board of Commissioners an application to be assigned an ASA in a form approved by the Administrator. Private providers may be franchised but not designated. Public providers may be franchised or designated. When a provider is franchised, the term of the franchise is a fixed term as provided in this Ordinance. When a provider is designated, there is no fixed term of the designation, but the performance of the provider is reviewed regularly as provided in this ordinance. A designation may be removed by the Board if the Board, with the advice of the ASA Committee, finds that the provision of ambulance services by the public provider is no longer in the public interest."

Section 16 of Ordinance 751 allowed franchises to be transferred. It states:

"1. Transfer of Franchise. A franchisee may transfer his/her franchise to another person only upon the Board's written approval of a written request to transfer the franchise. Review of an application for transfer of a franchise shall be conducted in the same manner as for a franchise application pursuant to Sections 9, 11 and 12 of this Ordinance."

B.O. 16-241

Ordinance 843 amended Section 16 to add a process for subcontracting by a franchisee with a public or private provider within the franchisee's ASA. A subcontract can be approved by the Administrator, without the Board of Commissioners approval, but only if the Administrator finds that several criteria are met, including that: "The contract may be terminated at will by action of the Board by its own motion or upon recommendation of the Ambulance Service Area Advisory Committee or the Administrator."

Following the adoption of Ordinance 843, there appear to be four options for changing the provider within an established ASA:

1. Issue a new franchise;
2. Designate a new public franchisee;
3. Allow the existing franchisee to transfer its franchise; and
4. Allow the existing franchisee to subcontract for services within the franchisee's ASA;

Under Section 9 of Ordinance 751 (quoted above), since TVFR is a "public provider," the Board can designate TVFR as the provider in an established ASA. However, it seems apparent from other text in the ordinance and from the history of the establishment of the ASAs in Yamhill County, that the purpose of the designation authority was to provide an expedited way to approve the existing public providers in the county to operate in the areas in which they were already operating, at known service levels. It may be that the authority to designate public franchisees was not intended as a method of approving a public entity from outside of the county to replace a public entity from inside the county.

The agreement entered into between the Newberg Fire Department and TVFR as of March 15, 2016, appears to be a subcontract of the kind that could be approved by the Administrator under Section 16, as revised by Ordinance 843. However, the agreement does not currently provide that it can be "terminated at will by action of the Board," and would need to be amended in order to be approved by the Administrator under Section 16.

If TVFR and the City of Newberg do not intend to amend their agreement to include a 'terminate at will' section, it would seem most appropriate to review the proposed arrangement as a transfer of a franchise from the City of Newberg to TVFR. Review of the franchise transfer would be "in the same manner" as review of a franchise application under Sections 9, 10 and 11 of Ordinance 751. Section 9 of Ordinance 751 contains a list of materials that an applicant for a franchise must provide for review by the Committee. Although any, or all, of the requirements can be "waived in a particular circumstance by the Administrator as unnecessary," requiring that TVFR produce most, or all, of the materials listed would provide the most transparency, and is therefore recommended.

Please let me know if you have additional questions or concerns.