

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 session on March 28, 2019, at 10:00 a.m. in Room 32 of the courthouse, Commissioners Richard L. “Rick” Olson, Mary Starrett, and Casey Kulla being present.

Also present were Ken Huffer, County Administrator; Christian Boenisch, County Counsel; Josephine Ko, Assistant County Counsel; Mikalie Frei, County Counsel staff; Carrie Martin, Grants and Special Projects; Catherine Lindberg, Public Works Office Manager; Ron Panschow, Road Supervisor; Ken Friday, Planning Director; Matt Vogt, Associate Planner; Stephanie Armstrong, Associate Planner; Dave Adams, KLYC Radio; Nicole Montesano, News-Register; and others as listed on the sign-in sheet.

Commissioner Olson called the meeting to order at 10:00 a.m.

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 agenda 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.

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.

Barry Lilly asked the Board to fully fund budgets for mental health programs. He commented on the suicide rates in Oregon.

Stan Primozich spoke regarding his disappointment regarding the ending of invocations at Board meetings.

B. CONSENT AGENDA:

Commissioner Starrett moved approval of the consent agenda items B1 through B3. The motion passed, Commissioners Olson, Starrett and Kulla voting aye.

Contracts/Grants

1. **B.O. 19-88** - Approval of a contract employment agreement between the Yamhill County Planning Department and Katherine Planque for electrical and building inspection services at the

rate of \$35/hour, retroactive to March 4, 2019 through July 1, 2020, with automatic renewal for succeeding fiscal years.

2. **B.O. 19-89** - Approval of Amendment #2 to the agreement between Yamhill County Health and Human Services and Jeff & Leona Reed (B.O. 17-145), effective April 1, 2019 at the rate not-to-exceed \$525 per month per bedroom.

Committees

3. **B.O. 19-90** - Approval of the reappointment of Tim Duerfeldt, Marie Vicksta and Bill Pallotto to the Parks and Recreation Board Advisory Board, each to a four-year term to expire March 28, 2023.

C. OLD BUSINESS: None.

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

1. **B.O. 19-91** - Consideration of approval of the Public Works 2019 Maintenance Improvement Project Road list with alternates total base amount \$1,385,885.

Commissioner Kulla moved approval of item D1. The motion passed, Commissioners Olson, Starrett and Kulla voting aye.

2. **B.O. 19-92** - Consideration of adopting a resolution recognizing April as Child Abuse Prevention and Awareness Month.

Russell Mark commented on the services provided by Juliette's House and noted the need for continued community services. Commissioner Starrett read Resolution #19-03-28-1 in its entirety. Commissioner Starrett moved approval of item D2. The motion passed, Commissioners Olson, Starrett and Kulla voting aye.

E. PUBLIC HEARINGS:

1. **B.O. 19-93 - Docket #G-01-18:** Consideration of the remand of Ordinance 904, relating to the Yamhelas Westsider Trail [*Continued from March 7, 2019, at the point of staff recommendation. No additional public testimony will be received*].

Commissioner Olson opened the public hearing at 10:15 a.m. at the point of staff recommendation.

Staff Recommendation - Ken Friday thanked the farming community for their detailed testimony and concern during the process regarding the establishment of a transportation corridor. He stated that the potential impacts to farms can be minimized through appropriate conditions, design and management. Mr. Friday stated that based on the findings, the proposal meets the conditional use criteria and would not significantly impact farm or forest practices or costs on surrounding lands. The staff recommendation was to approve the application with the proposed conditions and the findings with an additional condition regarding the expiration date of final approval.

Commissioner Olson closed the public hearing at 10:18 a.m.

Deliberations - Commissioner Kulla moved approval of the conditional use permit. Commissioner Starrett commented regarding the FDA farm food safety inspections. She stated the corridor will increase the difficulty of compliance to these inspections with the increase of the close proximity of increased traffic. She stated her opposition to the corridor. Commissioner Olson responded stating that he does not believe that this trail will have homelessness issues and believes that the trail will be a benefit to the economy of Yamhill County. Commissioner Kulla commented on the conditional use permit process. He noted concern that if farmers continue to voice concern about the pesticide application exclusion zones it may be interpreted in a way that really does conflict with spraying practices. Mr. Boenisch noted the process to consider the repeal Ordinance 904 then to consider Ordinance 908. Mr. Boenisch gave the second reading of Ordinance 908.

Commissioner Olson moved approval to repeal Ordinance 904. The motion passed, Commissioners Olson and Kulla voting aye, Commissioner Starrett voting nay.

Commissioner Kulla moved approval of Docket G-01-18. The motion passed, Commissioners Olson and Kulla voting aye, Commissioner Starrett voting nay. Mr. Boenisch gave the second reading of Ordinance 904.

2. **Docket #C-38-18/SDR-44-18:** An appeal of the Planning Director's approval of a conditional use and site design review for the construction of a winery, tasting room and accessory uses. Applicant: Cyler Varnum.

Commissioner Olson opened the public hearing at 10:38 a.m.

Mr. Friday read the statement required by ORS 197.763(5). There were no abstentions or objections to jurisdiction.

Staff Report - Matt Vogt read the staff report outlining the site review.

Applicants – Taralyn Varnum commented on their application to create a winery and tasting room in Amity. Ms. Varnum stated that the opponents have not submitted sufficient appeals to the application. She stated that their application complies with county zoning ordinances and asked the Board to deny the appeal and support the application.

James McGuire stated he agrees with the Ms. Varnum's testimony. He stated that the Varnum's water usage will fall into compliance of state water usage rights. He asked the Board to deny the appeal and approve the application.

Opponents – Sid Friedman, Friends of Yamhill County representative, spoke in opposition of the application. He noted the proposed site is on a very small parcel and stated that it is located in a ground water limited area. He asked the Board to deny the application and to uphold the appeal. He stated the conditions proposed do not limit the number of dinners, events, etc. Mr. Friedman noted there has been open communication with the applicant and that there were several items of agreement, however twelve additional unspecified events with no end time were not agreed upon. He asked the Board to consider whether the site is suitable for the proposed use. He noted some conditions are not related to the statute.

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Tom Abrego stated the proposal does not meet requirements of zoning ordinance section 1202.02. It is not suitable due to its size or natural features and is in the groundwater protection zone and asked the Board to deny the application.

Susan Meredith read testimony delivered by Jason Lett to deny the application. Testimony was submitted to Planning. Ms. Meredith stated she agrees with Mr. Lett's testimony and noted that the minimal conditions set by the Planning Commission are too lenient. She stated the operation is economically too small and their business model is dependent on tourism and not on sustainable farming practices. The number of events the applicant is requesting is an industry condition set for larger properties and not meant for smaller sites.

Ilsa Perse stated her concern regarding fire and noted no conditions for onsite fire suppression water storage. She stated the increased impacts of helicopters and the potential impacts on smaller sites.

Susan Karp commented regarding conflicts in the staff findings. She asked why the application did not warrant a hearing from the Planning Commission. She believes that the applicant has intention to hold outdoor events; she noted five other similar small parcels within five miles of the proposed site. She stated the hours requested (10:00 a.m. – 6:00 p.m.) by the applicant exceed the hours of other surrounding wineries. She stated her concern of setting a precedent to allow small parcels for conditional uses such as hospitality and not farming aspects. She asked the Board to reject the application. Commissioner Kulla responded he does not believe that an approval of the application would set a precedent.

Kathryn Jernstedt noted this is one of three applications currently open requesting wineries on otherwise outright permitted parcels. She said the integrity of the application of zoning ordinance is questionable when applicants are able to leverage to building on outright permitted parcels. She noted permitting outliers encroaching with smaller parcel wineries is a disadvantage to smaller communities whereas economically supportive business such as restaurants would be better for communities.

Ed Ferrar submitted written testimony and declined to speak.

Michelle McMillan thanked the Friends of Yamhill County for funding the filing of appeal. She expressed concern with the increase of conditional parcel usage from developers that do not follow or understand farm use conditions on agricultural land. She is concerned with water usage and the risks of intoxicated tourists. She asked the Board to deny the application. She said area wells should be limited to control ground water usage.

Carla Chambers noted her farming history. She stated the size of the Varnum parcel is an issue for her as well as water usage. She believes the aquifer will be impacted if limits are not implemented and enforced. She asked a condition be added to ensure the applicant's well would be able to produce water for winery and private property use. She asked the Board to either deny the application or set water restriction conditions. Commissioner Kulla asked if there were less intensive water use. Ms. Chambers noted some examples. Commissioner Starrett asked Mr. Friday if the water issue can be put aside because the Board does not have authority to make water condition decisions. Mr. Friday agreed with Commissioner Starrett stating that it is a state Water Resources Department decision. Mr. Friday responded to earlier concerns about fire suppression and noted that they do meet applicable regulations.

PO

Public Agency Reports - Mr. Vogt stated the Amity fire chief reported it will meet the commercial driveway requirements.

Commissioner Olson called a recess at 12:10 p.m. at the request of the applicant. The public hearing resumed at 12:20 p.m.

Rebuttal by Proponent – Taralynn Varnum made comments regarding the scope of the application. She stated their purpose is very specific-to produce wine. They currently produce 600 cases in a season. Currently they are not ready to purchase more land to expand but are restoring the site from disrepair. They are willing to agree to fewer hours as proposed by the Friends of Yamhill County. They are attempting to scale their production according to their size. Commissioner Starrett stated their efforts should not be minimized just because they don't compare to larger scale operations. Commissioner Kulla encouraged creativity in the marketplace. Commissioner Olson asked the applicant about the condition they negotiated with Friends of Yamhill County regarding the number of additional events. He expressed concern about setting precedent for smaller parcels and the impact it would have on smaller entrepreneurs. Mr. McGuire noted the application meets the comprehensive plan.

Commissioner Kulla asked if the capacity of events can be scaled down to meet conditions. Ms. Varnum responded the hours can be reduced from 11:00 a.m. to 6:00 p.m. Thursday through Monday as well as limiting larger events. Mr. Varnum stated the concept of tastings by appointment is pretentious and stated the hours reflect the availability of he and Ms. Varnum to staff the tasting room appropriately without having to schedule tastings. Ms. Varnum continued to address conditions of concern. Commissioner Starrett asked Mr. Friday about having a mobile water supply and whether it would be a considered condition. Mr. McGuire asked that the question be referred to the local fire department to guide recommendations or requirements which the applicants were open to.

Commissioner Olson asked if there was any opposition by either side to closing the record, or if they wished for the record to remain open. There was no request made.

Staff Recommendation – Mr. Vogt stated the Planning Department recommends approval with the 15 conditions as presented as well as any additional conditions that the Board finds appropriate.

Commissioner Olson closed the public hearing at 12:45 p.m.

Deliberation – Commissioner Starrett stated that the Planning Department does a good job at weighing agri-buisness requests. She supports the additional conditions. Commissioner Kulla thanked both sides for communicating and working together to negotiate conditions. He noted he would be more comfortable if the scale of the events stay within the scale of the operation. Commissioner Olson questioned if the applicant can change a conditional use permit. Mr. Friday responded yes based upon proportional acreage.

Commissioner Starrett moved to deny the appeal and uphold the application. Mr. Sadlo asked for clarification. Commissioner Starrett amended her motion to deny the appeal, uphold the application and to include the additional recommended conditions. The motion passed unanimously. Mr. Sadlo stated the final written decision, conditions and findings to be adopted will be brought back to the Board on April 18, 2019.

MS

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).

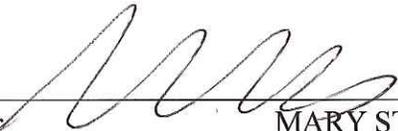
For questions regarding accessibility or to request an accommodation contact the Board of Commissioners' office at (503)-434-7501 or (503)-554-7801 (toll-free from Newberg) or email at bocinfo@co.yamhill.or.us

Following Commissioner announcements, the meeting adjourned at 12:57 p.m.

Carolina Rook
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS
Unavailable for signature

Chair RICHARD L. "RICK" OLSON

Commissioner  MARY STARRETT

Commissioner  CASEY KULLA

Accepted by Yamhill County
Board of Commissioners on
5/16/19 by Board Order
19-149

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