

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 January 25, 2024, at 10:00 a.m. in Room 32 of the Yamhill County courthouse, and in a virtual meeting via Zoom, Commissioners Lindsay Berschauer, Kit Johnston, and Mary Starrett being present.

Also present were Ken Huffer, County Administrator; Christian Boenisch, County Counsel; Lindsey Manfrin, HHS Director; Greg Haffner, County Engineer; Ken Friday, Planning Director; Mark Lago, Public Works Manager; Jodi Gollehon, Assistant County Counsel II; and Lance Woods, Senior Planner.

Guests: Bubba; Matt Bunn; Missy Bunn; Craig Hennings; Kim Lanyon; Lisa Maynard; Greg/Debbie Poupard; Devin Radke; Lynda Mueller; Rob Hallyburton; McKenzie Rosenberry; Jerry Mullins; Frank Foti; Steve Elzinga; Heather Miller; Christopher Reiter; Bill Rosacker; and Theodore Kleikemp.

*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](mailto:bocinfo@co.yamhill.or.us).*

**Notice:** *There will be a Yamhill County Transit Area Board of Directors meeting prior to combined session beginning at 9:30 a.m. The BOC combined session meeting will begin at 10:00 a.m. or shortly thereafter.*

**A. CALL TO ORDER:** Commissioner Berschauer 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 Commissioners reviewed the joint schedule for the week of January 29 – February 4, 2024. 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.

- Matt Bunn thanked the Board for their continued support to Collective Wellness Center (CWC).

- Public comments were received via email regarding YCAP as brought forward by Commissioner Starrett.

- Newberg Mayor Bill Rosacker commented that there is limited communication between the City of Newberg and YCAP and seeks better communication to ensure better community services for homeless citizens. He noted that the Community Wellness Center was the only facility open during recent freezing temperature weather; CWC is not funded by YCAP. He asked the Board to assist the City of Newberg to raise the expectation that the funding given to YCAP be applied more effectively towards serving the homeless population.

**E. DEPARTMENT UPDATES:** None.

**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:**

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

Committees

1. **B.O. 24-10** - Approval to appoint Janet Redmond and Scott Miller to the Yamhill County Fair Board each to a three-year term to expire January 25, 2027.

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**H. OLD BUSINESS:**

1. **B.O. 24-11** - Consideration of approval of Amendment #2 to Agreement #20-096 between Yamhill County Transit Area and First Transit, Inc. (B.O. 20-96) updating agreement terms retroactive to December 1, 2023, through June 30, 2024, subject to review and approval by County Counsel. *[Continued from January 18, 2024].*

Commissioner Berschauer moved approval of item H1. The motion was amended to include “subject to review and approval by County Counsel”. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

2. **B.O. 24-12** - Consideration to authorize Yamhill County Health and Human Services to apply for American Rescue Plan Act (ARPA) funds in the amount of \$214,457 from the Oregon Department of Developmental Disabilities Services. *[Continued from January 18, 2024].*

Lindsey Manfrin assured the Board that the amount would not be spent entirely on administrative costs. The funding is intended to prioritize emergency preparedness for high medical need individuals which the county provides outreach and support to during emergency

situations. Public Health receives state funding for emergency preparedness planning consultation, but she may reach out to the county's Emergency Management Manager for equipment questions and direction. After discussion, Commissioner Starrett moved approval of item H2. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

3. **B.O. 24-13** - Consideration of approval of Amendment #5 to Agreement #180033 between Yamhill County and the Oregon Health Authority (B.O. 23-260) for Public Health Services adding funding in the amount of \$44,055 retroactive to November 1, 2023, through June 30, 2024. *[Continued from January 18, 2024].*

Lindsey Manfrin participated in continued discussion regarding data on the demand level of Covid-19 vaccines as requested by the Board. It was clarified that the requested funding is intended to cover administering costs of Covid-19 vaccines which is not funded due to federal regulations. The meeting was recessed at 10:53 a.m. due to technical difficulties and reconvened at 10:59 a.m. Commissioner Starrett moved approval of item H3. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

4. **B.O. 24-14** - Consideration of approval of Amendment #1 to the Local Mental Health Authority, Local Public Health Authority and Coordinated Care Organization agreement between Yamhill County and Yamhill County Care Organization (B.O. 23-04) updating data reporting language, increasing funding from \$350,140.05/year to \$360,644.25/year and extending the terms of agreement through December 31, 2024, subject to final review and approval of County Counsel's office. *[Continued from December 21, 2023].*

Lindsey Manfrin clarified that the data reflecting the needle count retrieved included needles (approximately 14,000) found either through exchanges or by staff sweeps in parks. Ms. Manfrin responded to Board inquiries that the needle exchange van was engaging in peer-to-peer services which includes Narcan administration in addition to needle exchange. Commissioner Berschauer raised concerns about the color of the van saying she has received feedback that it creates an impression of distress. Ms. Manfrin added historical context saying that the van was a donation in 2019 following the denial of a funding proposal to purchase a new vehicle and while she would welcome a funding stream to purchase a new van to suit current outreach needs, the current vehicle is serving the purpose. After discussion, Commissioner Berschauer moved approval of item H4. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

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

1. **B.O. 24-15** - Consideration of approval in the matter of granting an easement and accepting an Equitable Servitude for County Property located at 2060 NE Lafayette Avenue, McMinnville, OR 97128, Tax Lot No. R4415 01600.

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

2. **B.O. 24-16** - Consideration of approval of Amendment #1 to an agreement between Yamhill County and Data Cloud Solutions (B.O. 18-382) updating language to a software license renewal and related professional appraisal services agreement in the not-to-exceed amount of \$65,000 and extending the agreement through June 30, 2030.

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

3. **B.O. 24-17** - Consideration of approval of Agreement #DOR-285-23 between Yamhill County and the Department of Revenue to establish GIS digitized boundaries for taxing districts in the amount of \$30,000, effective upon approval through December 31, 2024.

Commissioner Berschauer moved approval of item I3. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

***[Note: Commissioner Berschauer requested moving agenda Section K (Announcements) prior to agenda Section J (Public Hearings)].***

The meeting was recessed at 11:25 a.m. and reconvened at 11:33 a.m.

**J. PUBLIC HEARINGS:**

***[Commissioner Berschauer announced a request to combine items J1 and J2. Hearing no objections, the combined public hearing for Dockets # C-14-23 and C-15-23 proceeded].***

1. Docket C-14-23: An appeal of the Planning Director's approval of a request for the operation of a commercial activity in conjunction with farm use to allow the tasting of locally produced wine and the sale of locally produced wine, beer, and other malt beverages, and cider at the existing approved onsite farmstand. Applicant: Carlton Hub, LLC. / Appellant: Friends of Yamhill County. Tax Lot: 3409-00101.

2. Docket C-15-23: An appeal of the Planning Director's approval of a request for the operation of a commercial activity in conjunction with farm use to allow the sale of locally produced wine, beer, cider, and other malt beverages at the existing onsite farmstand. The Farmstand was approved on June 20, 2023, by Docket SDR-12-23. Applicant: Ground 152, LLC. / Appellant: Friends of Yamhill County. Tax Lot: 3523-02400.

Commissioner Berschauer opened the combined public hearing at 11:35 a.m. There were no abstentions or objections to the jurisdiction of the hearing. There were no reports of ex-parte contact or site visits. Commissioners Berschauer and Starrett disclosed potential conflicts of interest stating that they have both received legal representation from the Applicant's attorney Steve Elzinga but assured that it would not impact their decisions in the matter. Ken Friday read the "raise it or waive it" statement required by ORS 197.763(5).

Staff Report: #C-14-23 - Lance Woods stated the subject lot has operated a farm stand for several years back to its prior owner. The surrounding EFU lots consist largely of nut orchards, grass seed, alfalfa, hay, and some livestock.

#C-15-23 – Lance Woods stated the subject lot has operated a farm stand since June 2023. The lot is split-zoned with a majority located in the EF-80 zone with a smaller portion in the AF-20 zone. The farm stand is in the EF-80 zone area.

Applicant: Applicants for both applications, Frank Foti and Heather Miller, presented an overview from The Ground which is a farm harvesting both vegetables and livestock also running a farmstand on Highway 47. They seek approval allowing commercial activity to include the sale of beer and wine.

- Applicant attorney Steve Elzinga provided a legal analysis citing a case standard in conjunction with farm use allowing commercial activity if it occurs together with the agricultural activity in the local community. He added that both applications meet the legal standard and asked the Board to uphold the application.

- Christopher Reiter provided comments in support of the application.
- Linda Mueller provided comments in support of the application.

Appellant: Rob Hallyburton representing Friends of Yamhill County outlined their opposition stating the sale of alcohol in an EFU zone is illegal clarifying that wine is a manufactured product, not a farm or agriculture product. He asked the Board to reverse the application approvals and noted initial written objections contained objections to some of the conditional use criteria that could be further used as objections in a LUBA case. There were no other comments received in opposition of the applications.

Public Agency Reports: Lance Woods stated the county sanitarian reported no conflicts and the City of Carlton commented on the applicant's access to city water which is only intended for residential use and not for commercial use. The applicant has assured the City of Carlton that it will not be used commercially.

Applicant Rebuttal: Steve Elzinga responded to Mr. Hallyburton's statement that wine is not a farm product. He expressed appreciation of public testimony in support of the applicant's requests.

Staff Recommendation: Lance Woods read the staff recommendations for C-14-23 and C-15-23 stating the applicant had met all review criteria and recommended approval of both applications with conditions.

The meeting was recessed at 12:17 p.m. due to technical difficulties. The meeting reconvened at 12:25 p.m.

The public hearing was closed at 12:25 p.m.

Deliberation: After discussion, Commissioner Berschauer moved approval to uphold the Planning Director's approval of the application for Docket #C-14-23. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye. A Board Order with findings will be ready on February 8, 2024, for consideration of adoption.

Commissioner Berschauer moved approval to uphold the Planning Director's approval of the application for Docket #C-15-23. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye. A Board Order with findings will be ready on February 8, 2024, for consideration of adoption.

3. A public hearing in the matter of installation of a gate on Smith Road (County Road No. 142) pursuant to ORS 368.056; Applicant: Ron Fennern.

The public hearing was opened at 12:35 p.m. Commissioner Starrett recused herself from participation declaring herself as a road resident and relation to the Applicant. There were no objections to the jurisdiction of the hearing and no reports of site visits or ex-parte contact.

Staff Report: County Engineer Greg Haffner gave an overview of the permit application received requesting a gate on a public road (Smith Road) and limiting nighttime access.

Applicant:

- Craig Hennings provided comments in support of the application to gate Smith Road during nighttime hours citing concerns of nighttime traffic, crime, and illegal dumping. He noted he was also speaking for other road residents that are in support of the application. Mr. Hennings said that there has been discussion with other area residents in opposition of a gate to provide them with a gate code to access during closure hours. He added that the Clackamas County portion of the road has been maintained by residents. Mr. Hennings said several concerns have been addressed to provide access to local neighbors, emergency vehicles, deliver services, etc. Responding to the question of consideration by the residents to vacate the road, Mr. Haffner clarified that the road maintenance would fall on the residents and would allow them to gate the road without county approval which he noted was suggested to road residents by Clackamas County in 2017. Mr. Hennings said residents have not contacted the county regarding a road vacation but would take it under consideration.
- Theodore Kleikemp commented in support of the gate construction citing an increase of traffic and crime activity. He mentioned the road is now seeing an increase of heavier vehicles that are impacting the road conditions to which he added that residents are paying for maintenance to repair. Mr. Kleikemp addressed increased speeding and trash along the road and estimated that approximately 35% of the road is not paved.
- Matthew Hammond commented via Zoom in support of a gate noting an increase of traffic and garbage. He said that installing a gate would help mitigate some maintenance costs which residents have agreed to do themselves. There was no additional testimony in support of the application.

Appellant:

- Jerry Mullins commented in opposition of a gate on a county road stating that it would not address the problems addressed by the proponents and that the issues Smith Road residents are experiencing are not unique to it but are like other public country roads. Mr. Mullins said a gate would not stop the dumping or speeding traffic and would only relocate it to another road location. He asked the Board to deny the application request.
- Commissioner Berschauer noted there were 5 or 6 comments in opposition of the application received via email. There was no additional testimony in opposition of the application.

The public hearing was closed at 1:04 p.m.

Deliberation: After discussion, Commissioner Berschauer moved to deny the application. The motion passed, Commissioners Berschauer and Johnston voting aye. Commissioner Starrett recused herself from participation in the hearing.

THE RECORDS FOR PUBLIC HEARINGS CAN BE FOUND AT: <https://www.co.yamhill.or.us/content/public-hearing-notices>

**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 1:14 p.m.

Carolina Rook  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS



Chair LINDSAY BERSCHAUER



Commissioner KIT JOHNSTON



Commissioner MARY STARRETT

Accepted by Yamhill County  
Board of Commissioners on  
3/28/24 by Board Order  
# 24-87



LB KJ MS