

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 May 9th, 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; Jodi Gollehon, Assistant County Counsel II; Ken Friday, Planning Director; Tiffany Willis, Associate Planner; and Bailey Barnhart, BOC Staff. Nohely Barajas-Montalvo, Legal Assistant and Mark Lago, Public Works Director participated via Zoom.

Guests: Bubba David King; Marilyn Wells-Kramer; Lynn Norris; Gary Norris; and Mike Connors. Bryan Mullen; Lee Schrepel; Aubrey Nichols, Andrew Anderson, and Nicole 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@yamhillcounty.gov.

Notice: The Board of Commissioners will hold an Executive Session at 9:00 a.m. prior to combined session pursuant to ORS 192.660(2)(d), executive session to conduct deliberations with persons designated carry on labor negotiations & ORS 192.660(2)(e), executive session to deliberate with persons designated to negotiate real property transactions. 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 10:26 a.m. The meeting began late due to a prior executive session.

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 May 13 – May 19, 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.

There were no public comments received.

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: None.

H. OLD BUSINESS: None.

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

1. **B.O. 24-130** - Consideration of approval of Service Element Prior Authorization #94241157 under the agreement between Yamhill County and the Oregon Department of Human Services (B.O. 23-367) for the financing of Community Developmental Disabilities Services in the amount of \$118,067.00. #HHS24006IGA.

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

2. **B.O. 24-131** - Consideration of approval of the lease agreement between Yamhill County and Yakima Valley Farm Workers Clinic doing business as Women, Infants and Children Nutrition Program (WIC) in the amount of \$1,576.66 per month retroactive to October 24, 2023, through October 23, 2025. #HHS24043GS

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

3. **B.O. 24-132** - Consideration of approval of Amendment #7 to Agreement #180033 between Yamhill County and the Oregon Health Authority for Public Health Services (BO 23-260) removing \$23,914.00 in funding for fiscal year ending June 2024. #HHS24013IGA

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

4. **B.O. 24-133** - Consideration of approval of Amendment #1 to Agreement #026028 between Yamhill County Health and Human Service and the Oregon Health Authority (OHA)

(B.O. 24-29) removing funding in the amount of \$290,261.27, retroactive to January 1, 2024, through June 30, 2025. #HHS24037IGA.

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

5. **B.O. 24-134** - Consideration of approval of Amendment #2 to Agreement #026028 between Yamhill County Health and Human Services and the Oregon Health Authority (B.O. 24-29) adding funding in the amount of \$10,000 for Mobile Crisis retroactive to January 1, 2024, through June 30, 2025.

Commissioner Starrett noted that funding is being added for new enrollment services. Commissioner Starrett moved approval of item I5. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye.

6. **B.O. 24-135** - Consideration to authorize Brandon Bowdle to sign the ODOT DUII Deputy Grant (ENF_AL-24-14-16-00) between Yamhill County and the Oregon Department of Transportation retroactive to April 1, 2024, through September 30, 2024, in the amount of \$140,000. # SO24012GA

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

7. **B.O. 24-136** - Consideration of approval of Intergovernmental Grant Agreement #G259-25-044 between Yamhill County and the State of Oregon / Department of Public Safety Standards and Training for Crisis Intervention Training (CIT) in the amount of \$1,500 effective upon full execution through June 30, 2025.

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

J. PUBLIC HEARINGS:

1. Docket #M-02-24/SDR-02-24: A sight design review for the construction and operation of a new wireless communications facility consisting of a 125-foot monopole tower with associated equipment cabinets, emergency diesel generator, and cabling. Applicant: Mike Unger representing ACOM Consulting for Verizon Wireless. Tax Lot: 4408-00201.

Commissioner Berschauer opened the public hearing at 10:39 a.m. There were no abstentions or objections to the jurisdiction of the hearing. There were no reports of site visits or ex-parte contact. Ken Friday read the “raise it or waive it” statement required by ORS 197.763(5).

Staff Report:

Tiffany Willis presented the staff report stating the subject parcel is within EF-80 zone. The request is for a site design review for the construction and operation of a new wireless communication facility including a 125-foot monopole, and associated equipment cabinet and cabling.

Applicant Testimony:

Mike Connors representing Verizon Wireless and Harmoni Towers summarized a response to the appeal. He began by addressing the state and federal level statutes imposing restrictions on the county's review of the application. Mr. Connor explained that under state law, the project qualified as a utility facility necessary for public service and was a permitted use in the EF-80 zone. He added that the Federal Telecommunications Act categorized wireless network as part of the national infrastructure which should not be impeded on by local government restrictions.

He indicated that an extensive site selection process outlined the purpose of coverage of a capacity gap that exists in the north and west ends of McMinnville and the surrounding county area. Mr. Connors explained that the site selection process took into consideration the City of McMinnville's restrictive wireless communication facilities zoning codes which limits towers to industrial zoning properties of which there were no suitable sites found in the search area. He noted there were also efforts of selecting a site that would mitigate visual impacts to the surrounding area. Mr. Connors stated the issue raised on appeal regarding property value impacts was not relevant to the application due to state law not including impacts on property value criteria and added that LUBA cases have determined that for property value impacts to be considered, it would need to be relevant to the criteria under state or city codes. Lastly, Mr. Connor explained the Federal Telecommunications Act as it related to appellant concerns regarding radio frequency emissions. He asked the Board to reject the appeal and affirm the Planning Director's decision. Mr. Connor also requested to provide supplemental findings in the event the Board votes in favor of the Appellant, and a party appeals the decision to LUBA.

Appellant Testimony:

Gary Norris provided testimony in opposition of the application stating he and other neighbors have recommended the cell tower be moved to another section of the property and disagreed that an additional service road would be required. He suggested that a site review be commissioned (at the owner's expense) to identify alternative sites. He asked the Board to deny the application and support the appeal. He added that he would be willing to speak collaboratively with the applicant but noted he has not engaged in any conversation to date. He requested to keep the record open for two weeks to follow up on responding to testimony in favor of the application.

Marilyn Wells-Kramer stated she is concerned about road safety at the proposed cell tower location near Westside Road stating that the road is dangerous and there have been several accidents. that the construction will increase traffic. Additionally, she said the tower will be placed by the "historic" barn on the Menard's property will impede on photographic opportunities.

Lynn Norris stated that the cell tower would impede on one of the most beautiful entrances into the city adding that it would ruin the scenery and be an eyesore.

Public Agency Reports:

Tiffany Willis stated there were no public agency reports received.

Applicant Rebuttal:

Mike Connor rebutted that coverage and capacity that cell towers provide can become over capacitated over time which is why new towers continue to be raised. The proposed site was vetted thoroughly and determined to have the least impact. The site was determined to minimize farming impacts. He added that the access road traffic would be limited to one or two visits per month. Mr. Connor asked that all parties submit rebuttal response to the record with an opportunity for the applicant to respond during the two-week open record period. He confirmed that there was no lighting requirement as raised by Ms. Norris during the appellants testimony. Commissioner Berschauer requested that Mr. Connor provide a review of an alternative property site as part of the rebuttal findings. He additionally agreed to take steps towards exploring mutual consensus among neighbors and the applicant.

Ken Friday proposed a motion that the record shall be open to 5:00 PM on May 23, 2024, for all parties to submit written testimony or evidence to the Planning Department at 400 NE Baker Street, McMinnville. The record shall then be open until 5:00 PM on May 30, 2024, 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 PM on June 6, 2024. At that point, the record shall be closed. The Board of Commissioners shall then reopen the hearing at 10 AM on June 13, 2024, in Room 32 of the Yamhill County Courthouse at the point of Staff Recommendation. Commissioner Berschauer moved approval of the recommended motion. In discussion, Commissioner Johnston concurred that he would like the neighbors and applicant to engage in discussion in hopes they will come to a mutual agreement. He also recommended that the applicant consider moving the tower behind the barnyard area to avoid losing a highway entrance. The motion passed, Commissioners Berschauer, Johnston, and Starrett voting aye. The public hearing was recessed at 11:40 a.m. until its continuation on June 13, 2024 at the point of Staff Recommendation.

THE RECORDS FOR PUBLIC HEARINGS CAN BE FOUND AT:

<https://www.yamhillcounty.gov/1190/Public-Hearing-Notices>.

K. ANNOUNCEMENTS:

1. For information on county advisory committee vacancies, please refer to the county's website, <https://www.yamhillcounty.gov/765/Boards-and-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@yamhillcounty.gov.

3. Electronic versions of all meeting agendas and meeting information packets can be found at the county’s website: <https://www.yamhillcounty.gov/AgendaCenter>.

Following Commissioner announcements, the meeting adjourned at 11:54 a.m.

Carolina Rook
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair LINDSAY BERSCHAUER

Commissioner KIT JOHNSTON

Commissioner MARY STARRETT