

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 Ordinance Establishing)
Financial Assurance for the Closure, Post-)
Closure and Corrective Actions at) ORDINANCE No. 859
Newberg Landfill; Declaring an)
Emergency; Effective August 18, 2010.)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of county business in formal session on August 18, 2010, commissioners Kathy George, Mary P. Stern and Leslie Lewis participating.

THE BOARD MAKES THE FOLLOWING FINDINGS.

A. The Newberg Landfill, located adjacent to the City of Newberg in Yamhill County, was a privately owned and operated municipal waste landfill that closed after it ceased accepting solid waste in 1984. In 1985, the former owners transferred the property upon which the landfill was located to Yamhill County. Yamhill County accepted the landfill to assure proper closure. Since it obtained possession of the Newberg Landfill, the County has engaged in oversight of closure and post-closure activities at Newberg Landfill pursuant to Oregon Department of Environmental Quality (DEQ) permit number 97.

B. Oregon Administrative Rule 340-094-0145 requires closure and post-closure permittees such as the County to provide adequate financial assurance “so that the financial resources may be used only to guarantee that closure, post-closure or corrective action activities will be performed, or that the financial resources can be used only to finance closure, post-closure or corrective action activities.” OAR 340-094-0145(1).

C. Oregon Administrative Rule 340-094-0145(6) specifies “Allowable Financial Assurance Mechanisms.” Included are financial assurance mechanisms described by OAR 340-094-0145(i):

(i) Alternative Financial Assurance. Alternative forms of financial assurance, such as state-approved trust fund or a pledge of revenue, may be reposed by the permittee, subject to the review and approval of the Director. The applicant must be able to prove to the satisfaction of the Department that the level of security is equivalent to subsections (a) through (h) of this section, that the criteria of OAR 340-094-0140(4)(e) and sections (1)

through (4) of this rule and the performance standards in 40 CFR, §258.74(1) are met, except that the pay-in period of a state-approved trust fund for closure or post-closure care may be over the remaining life of the municipal solid waste landfill unit. Submittal of an alternative financial assurance mechanism to the Department for review and approval shall include third-party certification as specified in OAR 340-094-0140(7).

D. Each year, the County contracts with a qualified engineer to obtain an estimate of funds necessary to guarantee compliance with the DEQ closure permit for the Newberg Landfill for the following 10 years. The County then budgets a reserve within its Solid Waste Fund to assure the availability of those funds.

E. The County is proposing that this ordinance be accepted as Alternative Financial Assurance as allowed by OAR 340-094-0145(6)(i) and that the funds identified by this ordinance are sufficient to assure financial assurance for post-closure of the Newberg Landfill as required by OAR 340-094-0145(1). NOW, THEREFORE,

The Yamhill County Board of Commissioners hereby ordains as follows:

Section 1. Identification and Establishment of the Funds Necessary for 10 Years of Post-Closure Care of the Newberg Landfill.

(a) Beginning with the budget for fiscal year 2010-2011, the annual Yamhill County Budget will contain a line item in the Solid Waste Fund, Fund Number 17, labeled "Newberg Landfill Post-Closure."

(b) The fund amount established within this line item will be equal to, or greater than, the upcoming 10 year post-closure care cost estimate for the Newberg Landfill, as prepared and stamped by, a qualified registered professional engineer.

(c) Funds within the line item may be used solely to provide financial assurance for the post-closure care of the Newberg Landfill as required by the Department of Environmental Quality.

Section 2. Rules Governing Use of the Funds Described in Section 1. The following rules established by OAR Chapter 340, apply to the use of funds from the Newberg Landfill Post Closure fund as described in Section 1.

(a) The funds identified in Section 1 may be used only to guarantee that post-closure care activities at the Newberg Landfill are performed or for coverage of actual post-closure care costs at the Newberg Landfill.

(b) The Department of Environmental Quality is the sole beneficiary of the funds identified in Section 1 for the purposes of guaranteeing post-closure care activities at the Newberg Landfill.

(c) The County may utilize funds from the Newberg Landfill Post Closure Fund for the costs of post-closure care, subject to the written review and approval of the Department prior to the withdrawal and expenditure of any funds from the "Newberg Landfill Post Closure Fund."

Section 3. Notice Required Before Repeal or Amendment of Ordinance. Before this ordinance is repealed or amended, the Oregon Department of Environmental Quality must be provided as least 30 days advance notice of the Board's consideration of the repeal or amendment.

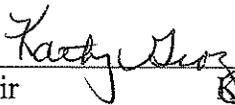
Section 4. Effective date; emergency clause. The first and second readings of this ordinance were made August 18, 2010. To carry out the intent of this ordinance an emergency is hereby declared to exist. In accordance with ORS 203.045(4) this ordinance shall take effect on August 18, 2010.

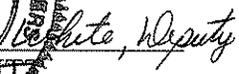
DONE at McMinnville, Oregon on August 18, 2010.

ATTEST

YAMHILL COUNTY
BOARD OF COMMISSIONERS

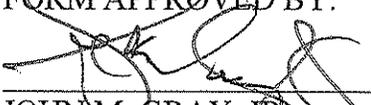
REBEKAH J. DOLL
County Clerk

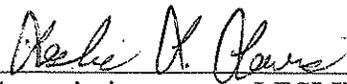

Chair KATHY GEORGE

By:  Anne Britton, Deputy
Deputy County Clerk


Commissioner MARY P. STERN

FORM APPROVED BY:


JOHN M. GRAY, JR.
Yamhill County Legal Counsel


Commissioner LESLIE LEWIS

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