

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/informal session on May 21, 2020, at 10:00 a.m. in Room 32 of the courthouse, Commissioners Casey Kulla, Mary Starrett and Richard L. "Rick" Olson being present.

Also present were Ken Huffer, County Administrator, Christian Boenisch, County Counsel and Ken Friday, Planning Director

*Welcome! Due to COVID-19 and social distancing requirement, attending the meeting is discouraged. The public can view the meeting via YouTube link on the Yamhill County Meetings page. <https://www.co.yamhill.or.us/meetings>. See below for instructions regarding submitting general public comment or comments on agenda items.*

**A. CALL TO ORDER**

Commissioner Kulla called the meeting to order at 10:27 a.m.

**B. FLAG SALUTE**

**C. PUBLIC COMMENT:** *Due to COVID-19 and social distancing requirements, we encourage anyone wishing to submit general public comment or comments on agenda items to do so in written format via email at [cocinfo@co.yamhill.or.us](mailto:bocinfo@co.yamhill.or.us) or by mail at 535 NE Fifth St., McMinnville, OR 97128. Any comments received prior to the meeting will be shared with the Board of Commissioners and submitted to the record.*

There was no general public comment received.

**D. CONSENT AGENDA:** None.

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**E. OLD BUSINESS:** None.

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

1. **B.O. 20-156** - Consideration of approval to extend the completion date of the agreement between Yamhill County and John Sully dba Sully Construction (B.O. 20-65) to June 8, 2020 for the remodel of offices located at 330 NE Kirby Street, McMinnville.

Commissioner Starrett moved approval of item F1. The motion passed, Commissioners Kulla, Starrett and Olson voting aye.

2. **B.O. 20-157** - Consideration of approval of a contract between Yamhill County and Westlaw, a Thomson Reuters business, for online legal research services, in the amount of \$2,389.58 per month with a 3% increase each year, effective upon execution.

Commissioner Olson moved approval of item F2. The motion passed, Commissioners Kulla, Starrett and Olson voting aye.

3. **B.O. 20-158** - Consideration of approval of the 2020 Fund Exchange Agreement #34100 between Yamhill County and ODOT to exchange \$655,259.79 in federal funds for \$655,259.79 in state funds for the Newberg-Dundee Bypass Project, effective upon execution for two calendar years.

Commissioner Olson moved approval of item F3. The motion passed, Commissioners Kulla, Starrett and Olson voting aye.

4. **B.O. 20-159** - Consideration of awarding the construction contract to Haworth, Inc. for the Public Works Parking Lot Improvements project in the amount of \$336,592.54.

Commissioner Olson moved approval of item F4. The motion passed, Commissioners Kulla, Starrett and Olson voting aye.

5. **B.O. 20-160** - Consideration of approval to add \$150 to the existing petty cash account for the Deer Creek Transitional Treatment Recovery Services from \$100 to \$150 and decrease existing petty cash account for Community Support Services (CSS) from \$200 to \$150.

Commissioner Starrett moved approval of item F5. The motion passed, Commissioners Kulla, Starrett and Olson voting aye.

6. **B.O. 20-161** - Discussion of CARES Act.

Ken Huffer addressed an AOC notification from the Legislative Emergency Board noting that a portion of the state CARES Act funding is being made available to local governments. He noted upon reviewing expenditures to date related to COVID-19, the bulk of county costs incurred were related to Public Health / HHS responses, minus OHA funding. He verified that the YCAP homeless shelter funding was not included in this reimbursement because those funds have not been expended.

Mr. Huffer asked the Board for consideration of authorizing the county administrator to request direct payments from the State of Oregon allocation of the Coronavirus Relief Fund as created in the CARES Act. Commissioner Starrett moved approval of item F6 with language as recommended by staff. The motion passed, Commissioners Kulla, Starrett and Olson voting aye.

#### **G. PUBLIC HEARINGS:**

1. Planning Docket #G-01-18: Yamhelas Westsider Trail remand, (written testimony and evidence only). *[The record shall remain open until 10:00 a.m. on May 21, 2020, for all parties to submit written testimony or evidence to the Planning Department at 525 NE 4<sup>th</sup> Street, McMinnville. The Board shall reopen the hearing on May 21, 2020 at 10:00 a.m. in Room 32 for a representative of the applicant to provide oral testimony; a representative of the opponents to provide oral testimony; and a representative of the applicant to provide oral*

***rebuttal. The record shall remain open, for the applicant only, to submit final written argument, with no new evidence, until 5:00 p.m. on May 26, 2020, at that point the record shall be closed. The Board of Commissioners shall reopen the hearing at 10:00 a.m. on May 28, 2020, in Room 32 of the Yamhill County Courthouse at the point of staff recommendation].***

Commissioner Kulla opened the public hearing at 10:45 a.m. at the point of oral testimony by representatives of the opponents and the applicant.

Todd Sadlo presented testimony as the representative of the applicant, Yamhill County. He noted that in 1872, the Oregon Central Railroad purchased the right-of-way that is now owned by the county. After running trains through the corridor for over 100 years, the tracks were removed, because the alternate route over Parrett Mountain had heavier rails, capable of accommodating heavier rail shipments. The property, 12.48 miles of corridor, runs just south of Gaston to just south of Gun Club Road. He recounted the history of the proceeding before LUBA and noted that the county has supported rails to trails since 1996 through its comprehensive plan, and specifically identified the corridor as the appropriate site of a trail, and future rail with trail. He noted that there is concerted opposition by farmers in the area, but also a great deal of support county wide. Detailed conditions have been proposed with the goal of minimizing potential impacts to farmers adjacent to the trail. He said fence design will be determined through the master plan and that the county is willing to negotiate in good faith with corridor neighbors to resolve access issues. No trail use is allowed until the fence is installed. The county owns the property and, like every other property owner, is not required to accommodate someone else's pesticide label buffers, which the record shows does not exceed 10 feet. Mr. Sadlo stated the trail is transportation infrastructure, connecting two cities, in addition to preserving the corridor for future railway uses. The segment in question may one day be part of a regional trail, but is not now, and approximately 75% of its usage would come from the local area.

Wendy Kellington stated the county did not have jurisdiction to proceed on the remand because of the bridge decision. She said the county is committing a "fraud" with regard to its federal grants for purchase of the trail and construction of the bridge. She repeatedly stated that LUBA is "not stupid," and that the county should "start running." She repeatedly mocked Mr. Sadlo, repeatedly referred to him as the "applicant," (the county is the applicant) and said that he must think everyone is "stupid." She objected to the process. She stated the impacts to accepted farming practices included preventing farmers from aerial spraying and using certain chemical sprays on land abutting the trail, which are imperative for pest control. Raising her voice repeatedly, she indicated that farmers would be foreclosed from using herbicides. She told the Board, "do not be fooled," and "you're not stupid." Ms. Kellington accused the county of proposing to build two culverts which she claimed would increase the amount and velocity of water in the corridor and "dump" it on the farmers. She said the county must "denude" the entire corridor "of all vegetation," or risk "incinerating" farmers, trail users, and the cities of Carlton and Yamhill. Doing so will allow poisons from the corridor to flood farmers' fields. She said fences will not prevent impacts to farmers, and that the trail should be put somewhere else. Ms. Kellington then answered numerous questions from the Board.

The public hearing was recessed at 1:01 p.m. and reconvened at 1:12 p.m.

Rebuttal: Mr. Sadlo stated the trail can be approved under the farm impact standard—if it could not, LUBA would have reversed the county. The county must prevent “significant” impacts, not all potential impacts. The conditions seek to do that. He explained the trail decision was based on whether or not the segment of county ownership between Yamhill and Carlton could be used for a public trail; its public trail use was contingent upon all of the conditions being met and a master plan being approved by the Board. He explained that at the time he told LUBA bridge construction would be subject to further land use approval, it was to be located in a designated floodplain, requiring a floodplain permit. The county has since obtained a letter of map revision from FEMA showing the bridge project location outside of FEMA floodplain boundaries. This allowed the project to move forward with the understanding that the bridge would not be used for a public trail without public trail approval. As for culverts, he stated that culverts do not create water, they convey the water that is already present. Mr. Sadlo disagreed with Ms. Kellington’s use of invective and negative hyperbole to denigrate the county and its representative. He stated that fences have minimized the impacts of trespass for hundreds of years, and rebutted other statements made by Ms. Kellington. He noted that his final submittal would include draft findings for consideration by the Board on May 28, 2020.

Commissioner Olson clarified that although Mr. Sadlo is an attorney for the county, the Board does not talk to him off the record about this case. He stated that he appreciated Ms. Kellington’s efforts, and he has known many of the farmers involved for many years. He objects to her negative characterization of the county and its employees. She talks about working with the county, but what she is saying is not a sign of cooperation.

Commissioner Starrett asked Mr. Sadlo about jurisdiction. He stated that resolution of the floodplain issue and the Board’s pledge not to allow the public to use the bridge for a trail pending trail approval led staff to conclude the county could go forward with the bridge so long as it was not used for a trail until the trail obtained final approval. It is behind two gates, and property that the county controls (the Bus Barn property).

Commissioner Kulla read the names of citizens that provided testimony and public comment on the trail remand. He stated that the record shall remain open, for the applicant only, to submit final written argument, with no new evidence, until 5:00 p.m. on May 26, 2020, at that point the record shall be closed. The Board of Commissioners shall reopen the hearing at 10:00 a.m. on May 28, 2020, in Room 32 of the Yamhill County courthouse at the point of Staff Recommendation.

The public hearing was recessed at 2:04 p.m.

## H. 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 2:04 p.m.

Carolina Rook  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

  
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Chair CASEY KULLA

  
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Commissioner MARY STARRETT

  
\_\_\_\_\_  
Commissioner RICHARD L. "RICK" OLSON

Accepted by Yamhill County  
Board of Commissioners on  
10/1/20 \_\_\_\_\_ by Board Order  
# 20-342  
# \_\_\_\_\_