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IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

89-095

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Ordinance)	
Establishing a Yamhill County)	
Voters' Pamphlet For County)	ORDINANCE NO. 474
City, and District Measures)	
and Candidates, Effective May)	
17, 1989)	

FILED
 YAMHILL COUNTY, OREGON
 1989 FEB 17 PM 1:10
 CHARLES STERN
 COUNTY CLERK

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) on the 9th day of February, 1989, sat for the transaction of county business in special session, Commissioners Ted Lopuszynski, David E. Bishop and Dennis L. Goecks being present.

WHEREAS, on January 29, 1986, the Board adopted Ordinance 425 which established the Yamhill County Voters' Pamphlet; and

WHEREAS, on February 11, 1987, the Board adopted Ordinance 440 which made certain amendments thereto; and thereafter amended Ordinance 440 by Ordinance 459, adopted on February 17, 1988; and

WHEREAS, Ordinance 459 expired on January 20, 1989; and

WHEREAS, Ordinance 473, adopted January 25, 1989, expires on May 16, 1989; and

WHEREAS, said ordinances were enacted on a trial basis to determine whether a Yamhill County Voters' Pamphlet was necessary or desirable to aid the electors in making informed decisions on local county issues; and

WHEREAS, the Board finds that the Yamhill County Voters' Pamphlet is an important device in informing voters of county measures and therefore finds the continuation of a county voters' pamphlet to be in the best interests of the citizens of Yamhill County; and

WHEREAS, the Board finds that the inclusion of publication of a voters' pamphlet containing, at a minimum, a sample ballot for all local and county elections held within Yamhill County, is in the best interests of the citizens of Yamhill County and that, at a minimum, a sample ballot should be published; and

WHEREAS, the Board finds that the expense generated in publication of the county voters' pamphlet beyond the minimal

expenses generated by publication of a sample ballot should be proportionately borne by a city, district or candidate who elects to be included in the voters' pamphlet; NOW THEREFORE,

THE YAMHILL COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1. Definitions.

- 1.01 "Board" means the Yamhill County Board of Commissioners.
- 1.02 "City" means any incorporated city lying wholly or partially within Yamhill County.
- 1.03 "Clerk" means the Yamhill County Clerk or the clerk's designee.
- 1.04 "County" means Yamhill County.
- 1.05 "District" has that meaning given by ORS 255.012 (1987 replacement part).
- 1.06 "Elector" means an individual qualified to vote under Article II, Section 2, of the Oregon Constitution.
- 1.07 "Measure" means any of the following submitted to the people for approval or rejection at an election:
- (a) A proposed ordinance.
 - (b) Legislation referred by the governing body.
 - (c) A proposition or question placed on the ballot by the governing body.
 - (d) A proposition or question placed on the ballot by referendum or initiative petition, which proposition or question directly affects the county, city, or district involved.
 - (e) The term "measure" as utilized in this ordinance does not include the question of whether a person should be recalled from public office.
- 1.08 "Registered voter" means an elector duly registered with the Yamhill County Clerk to vote.

Section 2. Voters' Pamphlet.

2.01 When published.

- (a) A voters' pamphlet shall be published by the clerk for each election date specified in ORS 255.345(1) (1987 replacement part) for which a county, city or district measure has been submitted or for which a candidate for county, city or district office has filed a statement of candidacy.
- (b) The clerk shall mail the voters' pamphlet to all households of electors registered to vote in Yamhill County who are qualified to vote on the measure or candidate appearing on the ballot.

2.02 Consolidation of measures; additional notice.

- (a) Nothing in this section requires the clerk to send out separate voters' pamphlets for each measure; rather all measures may be combined into one pamphlet and mailed to all affected voters.
- (b) The clerk may use such additional means of distribution as the clerk determines necessary to make pamphlets available to the voters.

2.03 Time for mailing or otherwise transmitting voters' pamphlet.

- (a) In a vote-by-mail election, the clerk shall mail or otherwise deliver the voters' pamphlet on or before the date on which the clerk mails the ballot to the voters.
- (b) In a poll election, the clerk shall mail or otherwise deliver the voters' pamphlet within the time specified by law for transmittal of notice of election.

2.04 Mandatory Contents of the Voters' Pamphlet. The clerk shall include in the voters' pamphlet:

- (a) Requirements for a citizen to qualify as an elector.
- (b) Requirements for registration of an elector.
- (c) Instructions explaining how to obtain and use an absentee ballot.

- (d) Statement on the cover that the pamphlet may be used to assist the elector at the polls.
- (e) Instructions to electors including the rights of a registered voter to request a second ballot if the first ballot is spoiled; the right of a registered voter to take into the voting booth a cancelled ballot marked in advance; and the right of a physically disabled registered voter to seek the assistance of the election board clerk or someone of the voter's own choosing in marking the ballot.
- (f) The ballot title of the measure. The ballot title to be printed in the voters' pamphlet shall be as set forth in the notice of election filed with the clerk, unless the court certifies a different ballot title than that filed with the clerk. In such a case, the clerk shall print the ballot title as modified by the court.
- (g) The candidates for county, city, or district office.
- (h) Notice to the registered voter as to the manner in which the election will be conducted, i.e., whether the election will be by mail or at the polls.

2.05 Optional Contents of the Voters' Pamphlet.

(a) Measures.

- (i) At the request of the governing body of the applicable county, city, or district, an explanatory statement submitted in accordance with the requirements of Section 3 shall be included in the voters' pamphlet. A filing fee shall accompany each explanatory statement submitted by a city or a district. The fee shall be \$200 for a city or district comprised of less than 1000 registered voters, \$600 for a city or district comprised of 1000 to 5000 registered voters, \$800 for a city or district comprised of 5,001 to 10,000 registered voters and \$1,200 for a city or district comprised of more than 10,000 registered voters.
- (ii) At the request of a registered voter qualified to vote on the measure, an argument submitted in accordance with the requirements

of Section 4 shall be included in the voters' pamphlet. Except as provided in Section 4.01(a)(ii), a filing fee shall accompany each argument submitted. The fee shall be \$100 where the measure effects a city or district comprised of less than 1000 registered voters, \$200 where the measure effects a city or district comprised of 1000 to 5000 registered voters, and \$300 where the measure is a county measure or where the measure effects a city or a district comprised of more than 5000 registered voters.

(b) Candidates.

- (i) Any candidate for county, city or district office may elect to submit one statement not to exceed 100 words upon a form approved by the clerk for inclusion in the voters' pamphlet. When a statement has been submitted, the candidate may also submit a photograph taken no more than two years prior to submittal in the size and form approved by the clerk.
- (ii) A filing fee shall accompany each statement. The fee shall be \$50 where the candidate is seeking an unpaid office and \$100 where the candidate is seeking a paid office.

(c) Additional information. The clerk shall publish additional information in the voters' pamphlet as directed by the county governing body subject to the following conditions:

- (i) The information is in the public interest as determined by the county governing body.
- (ii) Publication of the information will not result in an increase in the number of pages necessary to publish matters otherwise required to be included in the voters' pamphlet.
- (iii) The information does not directly relate to any measure or candidate appearing in the voters' pamphlet. The clerk shall have the sole authority to determine whether the proposed information "directly relates" to a measure or candidate.

(iv) The information is timely submitted to the clerk, as determined by the clerk.

2.06 Ballot Title. The ballot title to be printed in the voters' pamphlet shall be as set forth in the notice of election filed with the clerk, unless the court certifies a different ballot title than that filed with the clerk. In such a case, the clerk shall print the ballot title as modified by the court.

Section 3. Explanatory Statements

3.01 Filing Deadline. Not later than the filing date for the measure, the governing body of the election authority whose measure is to appear in the voters' pamphlet may submit in accordance with Section 2.05 an impartial, simple, and understandable statement explaining the measure and its effect.

3.02 Contents of Explanatory Statement. The explanatory statement shall consist of words or numbers only, shall not exceed 325 words and shall be an impartial, simple, and understandable statement explaining the measure and its effects. The explanatory statement set forth in this ordinance shall be in addition to the ballot title requirement as set forth in state statute.

3.03 Availability of Proposed Explanatory Statement to the Public. The clerk shall keep available to the public in the clerk's office a full and complete copy of all explanatory statements filed pursuant to this ordinance.

3.04 Challenge and Review of Explanatory Statements.

(a) Any Yamhill County resident who is an elector or registered voter within a jurisdiction whose measure is to appear in the voters' pamphlet may, not later than the 5th working day after the last day on which a notice of election may be filed, petition the clerk for an administrative review of an explanatory statement relating to that measure, filed for inclusion in the voters' pamphlet. A filing fee of \$50 shall accompany each petition. The filing fee shall be refunded if any modification of the challenged explanatory statement is ordered by the clerk.

(b) The petition filed under this section shall contain a statement of reason why the explanatory statement is not impartial, is insufficient, or unclear.

- (c) Upon receipt of a petition, the clerk or the clerk's designee shall schedule a hearing at the earliest possible date at which the petitioner and the filing body shall have opportunity to present evidence and argument on the question of impartiality, sufficiency, or clarity of the explanatory statement. At the conclusion of the hearing, the clerk may modify such explanatory statement to comply with the requirements of this section in a manner which reflects the drafter's intent as closely as possible. The modified explanatory statement, or the original explanatory statement if not modified by the clerk, shall be certified by the clerk and included in the voters' pamphlet.

Section 4. Arguments.

4.01 Who May File.

- (a) Arguments may be filed pursuant to this section and in accordance with Section 2.05 by an elector registered to vote in Yamhill County who is qualified to vote on the measure and who complies with either of the following criteria:
- (i) Payment of the filing fee required by Section 2.05(a)(ii); or
 - (ii) The submittal to the clerk, not later than the third business day after the last day on which the notice of election may have been filed, of a petition requesting a specific argument be included in the voters' pamphlet which has been signed by at least 100 Yamhill County residents who are electors qualified to vote on the measure. The specific argument must comply with Section 4.03 and must be filed with the county clerk prior to signatures being obtained by the petitioner, who must be an elector qualified to vote on the measure. The clerk shall provide an original form of petition which shall contain the text of the argument as submitted by petitioner on the reverse of the petition.

- 4.02 Filing Deadline. Arguments supporting or opposing the measure must be filed not later than the fifth business day after the last day on which the notice of election may have been filed.

4.03 Form of Argument.

- (a) The argument filed shall be in words and numbers only, shall be typewritten, and shall consist of no more than 325 words.
- (b) The clerk shall reject any argument which:
 - (i) Contains any obscene, profane, scandalous or defamatory language.
 - (ii) Incites, promotes, or advocates hatred, abuse, violence or hostility toward or which tends to cast ridicule or shame upon any person or group by reason of race, color, religion, or manner of worship;
 - (iii) Contains any language which may not legally be circulated in the mails.

4.04 Requirement for Argument and Disclaimer. Each argument submitted shall be subscribed and sworn to before a notary or the clerk, and the subscription shall be in the following form:

"I HEREBY SUBSCRIBE AND SWEAR UNDER PENALTY OF LAW THAT THE ABOVE-SUBMITTED ARGUMENT IS TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF."

The argument shall also contain the name of the person submitting; the name of the organization the person represents, if any; whether the argument supports or opposes the measure; and a disclaimer in substantially the following form:

"THE PRINTING OF THIS ARGUMENT DOES NOT CONSTITUTE AN ENDORSEMENT BY YAMHILL COUNTY NOR DOES THE COUNTY WARRANT THE ACCURACY OR TRUTH OF ANY STATEMENTS MADE IN THE ARGUMENT."

4.05 The language referred to in Section 4.04 shall not be included in the 325 word limitation set forth in Section 4.03.

Section 5. Miscellaneous Matters.

5.01 Spacing and Type Size. The clerk shall have authority to determine type size and spacing to be used in the printing of explanatory statements and arguments. The

clerk shall exercise this authority only for the purpose of ensuring that each explanatory statement or argument occupies no more than one page of the printed voters' pamphlet. A page for the purposes of this ordinance means 46 1/2 square inches.

- 5.02 **Deadline Interpretation.** A measure, explanatory statement, or argument, together with the required fee, must be filed with the county clerk not later than 5:00 p.m. of the day the document or fee is due. If the day the document or fee is due is a Saturday, Sunday, or holiday, the document or fee must be filed by 5:00 p.m. on the next business day. If a person is physically present in the county clerk's office and is in line waiting to deliver the document or fee, the person shall be considered as having begun the act of delivering the document or fee and shall be permitted to file it so long as that person does not leave the county clerk's office.
- 5.03 Except as provided in Section 4.01(a)(ii), the clerk shall reject for publication in the voters' pamphlet any item submitted where the item is not submitted with the applicable filing fee.

Section 6. Notice of Election.

- 6.01 The publication and distribution of the Yamhill County Voters' Pamphlet shall be accomplished under the authority of the Yamhill County Clerk and may provide the notice provided in ORS 255.215 (1987 replacement part).
- 6.02 (a) To the extent State law imposes a duty upon the clerk to publish a sample ballot or notice of election, the publication of the voters' pamphlet shall be considered a cost of the election, provided however, that the costs charged to the applicable district shall not exceed the cost of the sample ballot or notice of election had no voters' pamphlet been published.
- (b) If the clerk elects pursuant to ORS 255.215 to transmit notice required by ORS 255.085 or 255.095 by mail, the cost of the mailing of such notice shall be charged to any affected district up to the maximum amount as could be charged had such notice been mailed without a voters' pamphlet.

6.03 Revenues derived pursuant to this ordinance shall be utilized to offset the cost of producing the Yamhill County Voters' Pamphlet and offset the costs of the election.

Section 7. Short Title.

7.01 This ordinance may be referred to as the "Yamhill County Voters' Pamphlet Ordinance."

Section 8. Sunset Clause.

8.01 This ordinance shall expire at 11:59 p.m. on January 20, 1991, and shall thereafter have no further force or effect.

Section 9. Effective Date.

9.01 This ordinance shall become effective on May 17, 1989.

First Reading: January 25, 1989.

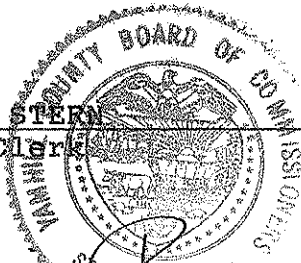
Second Reading: February 9, 1989.

DONE at McMinnville, Oregon this 9th day of February, 1989.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

CHARLES STERN
County Clerk



Ted Lopuszynski
Chairman TED LOPUSZYNSKI

By: *Elaine Pearcy*
Deputy ELAINE PEARCEY

DAE Bishop
Commissioner DAVID E. BISHOP

APPROVED AS TO FORM BY:
John M. Gray, Jr.
JOHN M. GRAY, JR.
Yamhill County Counsel

Dennis L. Goecks Voted Nay
Commissioner DENNIS L. GOECKS