

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 session on January 11, 2018, at 10:00 a.m. in Room 32 of the courthouse, Commissioners Mary Starrett, Richard L. “Rick” Olson and Stan Primozich being present.

Also present were Laura Tschabold, County Administrator; Christian Boenisch, County Counsel; Todd Sadlo, Assistant County Counsel; Mikalie Frei, County Counsel staff; Ken Friday, Planning Director, Lance Woods, Asst. Planner; Dave Adams, KLYC Radio; Nicole Montesano, News-Register; and others as listed on the sign-in sheet.

Commissioner Starrett called the meeting to order at 10:00 a.m. The invocation was offered by Rex Smith.

*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 agenda 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.*

**A. PUBLIC COMMENT:** This thirty-minute 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. Unless extended or restricted by the Chair or majority of the Board, public comment will be limited to three minutes per person.

**B. CONSENT AGENDA:** Commissioner Primozich moved approval of the consent agenda. The motion passed, Commissioners Starrett, Olson and Primozich voting aye.

Contracts/Grants

1. **B.O. 18-09** - Approve the agreement between Yamhill County and A & E Safe & Alarm Co. for the installation of an access control system for the Kirby St. building, in the amount of \$25,643.54.

2. **B.O. 18-10** - Approve the agreement between Yamhill County and Parametrix, Inc. to update the May 2009 Post-Closure Maintenance Cost Analysis and financial assurance reports (B.O. 09-110) for the Whiteson and Newberg Landfills, to be completed by March 31, 2018.

Financial

3. **B.O. 18-11** - Approve the transfer of funds and appropriation authority in the amount of \$60,000 from the discretionary revenue account (010-002-699.01) to the Courthouse Campus Security budget (010-086) for additional personnel costs related to operational changes required by recent case law.

---

**C. OLD BUSINESS:** None.

**D. OTHER BUSINESS** (Add-ons and non-consent items): None.

**E. PUBLIC HEARINGS:**

1. Docket C-18-17/SDR-28-17: An appeal of the Planning Commission's approval of a conditional use/site design review for a 12 acre solar utility facility. Appellant: Atticus Wines, LLC. *[Continued to January 18, 2018 at 10:00 a.m. in Room 32 of the courthouse at the point of staff recommendation; record is closed as of January 11, 2018 at 2:00 p.m. No new testimony will be accepted regarding this matter.]*

Commissioner Starrett opened the public hearing at 10:08 a.m.

There were no abstentions or objections from staff, Commissioner Primozich stated that he is a member of the YCWSD board but no decisions have been made during any board meetings that he attended. Site visits were completed individually by each Commissioner who were accompanied by planning staff. Mr. Sadlo read the land use statement regarding the requirements that all parties must raise all issues at the public hearing or waive their right to raise the issues on appeal.

Staff Report: Lance Woods presented the staff report regarding the parcel of land being considered for the 12-acre solar utility facility. The land is all zoned farm use and the surrounding properties are orchards, hazelnuts and grass seed. Ken Friday, Planning Director made a statement regarding the Planning Commission's motion to "Initiate the process to amend the ordinance to prohibit solar farms on Class 1 through 4 soils." He indicated that the Planning Commission motion was approved 6-2. The Planning Dept. has been working on the amendment and the difficulty to review an ordinance request like this one is the required public notice. In 1998 voters passed Measure 56, a landowner notification requirement. It requires cities and counties to send out notices to affected property owners whenever a more restrictive land use regulation is adopted. This would relate to all properties in the farm and farm forestry zones, which equates to around 7700 accounts, with some duplicates planning staff estimates that around 6,000 notices will need to be sent. The Planning Department has drafted the language, and sent the required 35-day notice to the State of Oregon and are currently working on how to efficiently send out the public notice. The goal is to hold a March hearing at the Planning Commission, but this will depend upon sending out the public notices and the availability of the Planning Commission. The proposed restriction has no effect on the application being discussed

today since the application now before the Board was reviewed under regulations that were in place when the application was submitted.

Proponents: Damien Hall and Troy Snyder presented a power point presentation giving an overview of the proposed solar facility site. Mr. Hall explained that this site is not high valued farmland because of the soil type. Mr. Snyder explained the different requirements needed in order to select a solar site and why this site met the requirements. He explained the anticipated impacts during construction and addressed concerns regarding glare once the solar panels are installed. Mr. Snyder stated that community outreach is very important to his company and that they want to be a good neighbor. Mr. Hall explained state regulations and potential impacts to adjacent neighbors and indicated that with the proposed site there are no impacts to farming practices currently being conducted on the surrounding land. He noted that the appellant has made the suggestion that the proposed solar site is not compatible with farm use of the land. Mr. Hall referred to the comprehensive plan and applicable standards, which outlines all of the goals and requirements that they have considered and met indicating that the surrounding area will not be affected by the proposed facility. He indicated that the proposed use meets all applicable requirements and complies with local and state law. Additional county land use laws and state laws also ensure that the land is preserved for farm land use in the event that the solar facility is decommissioned and returned to its original use. The concerns that have been raised have been mostly aesthetic in nature and speculative concerns regarding customers visiting the appellant's vineyard.

Mr. Hall asked that the conditions imposed by the Planning Commission be reworded to allow some winter site visits but limit it to only as necessary and not allow heavy equipment during these months. In reference to Condition 3 requiring a post-construction soil analysis, Mr. Hall pointed out that this is in the plan, but the requirement states that a Dept. of Agricultural professional must perform the analysis and there are only four in the state of Oregon. Mr. Hall is asking that a Civil Engineer be able to perform the same analysis. With regard to Condition 5, the landscaping requirement, his client is proposing to landscape the eastern/northern side—other boundaries are not visible. Condition 16 is a bond requirement and Mr. Hall stated that he does not feel this is necessary or required by state law.

Mr. Hall also addressed questions regarding long-term impact to the soil and glare from the panels and the concern that the glare could affect neighbors. He explained that the angle and height of the panels are designed so that the panels do not reflect directly into neighboring properties or ground transportation. The panels are made of silicone and aluminum. Chemicals or toxic materials are not used in the manufacturing process, native grasses are planted to ensure that erosion does not occur in the soil and weed control is addressed in the comprehensive plan.

Gordon Dromgoole the current owner and farmer of the property stated that the farm has been in the family since 1883. Currently, his sons do not wish to continue farming and that is the reason he is pursuing the solar facility option so as to keep the farm in the family and still earn income without farming all of it. He also stated that he had listed part of the land with a realtor

and received no offers for the purchase of this parcel. He stated that the land is not prime vineyard land, it is secondary.

The public hearing recessed for a 10 min. break at 10:26 a.m. and reconvened at 10:31 a.m.

Opponents: Adam Campbell, owner of Elk Cove Vineyards testified in opposition to the solar project on farmland. He is a grape farmer, a board member of the Carlton AVA, and has lived in Yamhill County his whole life. He is a fifth generation Oregon farmer and they have been growing grapes for almost 50 years. Wine related tourism is key to their business and the local economy. He agrees that solar power is great and a good use of roof space. He stated that aesthetics are important, but the larger issue of protecting farmland in general and its development is even more important than aesthetics.

Jennifer Brager, the attorney for the appellant, gave a brief overview of the appellant's property overlooking the parcel of land of the proposed solar facility and also reviewed the similarities between the proposed solar array and the Mill Creek solar project. She pointed out the deficiencies of the applicant's plan. Ms. Brager also expressed her client's concerns regarding the impact of the proposed solar facility on nearby neighbors and the preservation of the character of rural farmland. She stated that whether or not the energy source will be used in Yamhill County is not certain and the compaction soil report does not include recent findings. Growing wine grapes require a consistent environment to ensure growth and a high yield harvest. Ms. Brager stated that the solar facility site impacts could alter the wine country area, the economic impact of the solar facility will not produce more jobs, construction hours will impact daily lives, and the direct view of the solar plant will impact the winery, and asks that the Board deny the application.

Ximena Orrego owner of Atticus Wines, LLC (the appellant) read a letter from her husband since he could not be here today stating the current and future plans of their winery, and the impacts the proposed solar facility would have on their land and business. Ms. Orrego explained that Atticus Wines, LLC is interested in expanding on their current property and whether or not they expand in the future and acquire neighboring property will depend on if the proposed solar facility is approved or not. Currently they own 50 acres but they are expanding slowly. They recommend the denial of this application.

Tom Abrego representing the Friends of Yamhill County stated that they are deeply concerned that the county is allowing the use of farmland for the purpose of a solar facility. Applications in Yamhill County for solar facilities have been escalating and are taking land away from agricultural use. He strongly opposes and recommends the denial of this application.

Scott Shull founder and wine grower at Raptor Ridge Winery. He agrees with the previous comments made and has specific concerns regarding the site in question but also with taking high valued land out of production and changing the aesthetics and the aspects of what

bring people here to visit our county. He is concerned about this type of use conflicting with the agricultural character of the area; he feels it doesn't conserve agricultural land and most likely will take it out of production; it does not ensure open space; and it doesn't preserve the outstanding scenic views that people love when visiting our county.

Sid Friedman referred to the staff report, specifically pg. 9 and indicated that solar arrays do not need farmland. He is in support of renewable energy, including solar arrays, but he does not agree that they need high value farmland. He does not see any economic benefits of the proposed site, and stated that the surrounding wineries have more potential economically. He recommends the denial of the application.

Jane Baer is a resident living next to the Mill Creek solar project. She explained what she personally has experienced with having this kind of a facility in her backyard. She expressed her frustration with the construction of the Mill Creek solar project and the challenges that the workers and residents had to deal with. Ms. Baer explained that the metal racks holding the solar panels is what creates the glare and there is a constant hum from the inverter. She recommended that conditions be added to the current application to change the hours of construction to minimize noise impacts, and to ensure that site access is completed before the project begins. She also asked that the county ordinances be revised to not allow farmland to be used for this purpose.

Daniel Fey is a grape farmer and is concerned about herbicide. He is a proponent of renewable energy, but in the right location and believes that land should be handed off to the next generation in better shape than it was before.

Joel Kiff is the president of the Yamhill County Wine Growers Association stated that the board is unanimously disappointed that this solar facility is being proposed. Their members rely on the character of this county to attract visitors. Yamhill County is a tourist destination and the character and beauty of this area needs to be maintained.

Kevin Rockwell indicated that he bought acreage near the site, east/south, that no one has talked to him about it, and that he recommends denial of the application.

Public Agency Reports: Lance Woods stated that the public agency reports are in the staff report and statements from the reports received back are included.

Rebuttal: Mr. Hall noted that site concerns/impacts besides visual concerns/impacts were not heard. The report that was referred to regarding microclimate impacts was presented to the Planning Commission and they found that it was not relevant to this project. The conclusion of the report and its author was that as long as plants are planted below the solar panels, there are no microclimate issues. No farming practices will be impacted. Future uses and visibility are what people have testified to today. Specific points were made regarding the testimony received today, but no site-specific impacts have been identified. What his client is proposing could be

characterized as ‘industrial’ but it is a use allowed on farm land. Mr. Hall stated that the energy generated is not sent outside of the geographic area of the substation as is documented in writing by the utility company (PGE). He stated that solar facilities are compatible with wineries and many of them have solar installations of a smaller grade. This speaks to the fact that wineries are not incompatible with this process and solar can be next to wine grapes. Compatibility should not be determined by the perception of neighbors whether one proposed use can preclude another proposed use. Mr. Hall addressed concerns regarding the construction of the project and stated that they have received professional site-specific updated plans to meet the requirements of weed mitigation and soil conservation. The weed mitigation plan includes construction and ongoing site inspections and upkeep. The use of herbicides would be limited to weed specific areas and would not include wide use spraying. He addressed some of the concerns regarding the Mill Creek site stating that construction hours have already been reduced from the county’s standard. He stated that the concerns raised regarding the Mill Creek site are not site specific to this project, they are limited to the Mill Creek site. He also addressed the concerns regarding the scenic views of the surrounding area, and noted that, pursuant to county code, there are no site specific regulations regarding scenic views.

In conclusion, Mr. Hall stated that state law allows for 12-acre sites of solar facilities on high value farm land. This also allows farmers to diversify, and would provide Mr. Dromgoole consistent reliable income as he would like to keep this farm in the family. He requested that the Board of Commissioners uphold the Planning Commission decision and approve the solar facility application.

Commissioner Primozych asked about Yamhill Creek Solar, LLC’s involvement in the Mill Creek project. Mr. Snyder stated that he was a consultant to the Mill Creek project early on with Cypress Creek, but Yamhill Creek Solar, LLC is solely owned by him and has not had any involvement with the Mill Creek project.

Staff Recommendation: Mr. Sadlo stated that we are running against a timeline and the deadline of the 150 days. He recommended bringing this back before the board on January 18, 2018 for deliberation and a vote, and the adoption of findings on January 25, 2018.

Commissioner Primozych made a motion to continue the public hearing next week at the point of staff recommendation, with no further testimony being received. The motion carried, Commissioners Starrett, Olson, and Primozych voting aye.

Commissioner Starrett closed the public hearing at 1:57 p.m.

## **F. ANNOUNCEMENTS:**

1. For information on county advisory committee vacancies, please refer to the county’s website, [www.co.yamhill.or.us/content/volunteer-opportunities](http://www.co.yamhill.or.us/content/volunteer-opportunities) , or call the Board of Commissioners’ office at 503-434-7501 or 503-554-7801 (toll-free from Newberg).

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)

The meeting adjourned at 1:58 p.m.

Keri Hinton  
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair

MARY STARRETT

Commissioner

RICHARD L. "RICK" OLSON

Commissioner

STAN PRIMOZICH