

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 April 13, 2017, at 10:00 a.m. in Room 32 of the courthouse, Commissioners Stan Primozych, and Richard L. Olson being present Commissioner Mary Starrett being excused.

Also present were Laura Tschabold, County Administrator; Ken Huffer, Deputy County Administrator; Christian Boenisch, County Counsel; Todd Sadlo, Senior Assistant County Counsel; Mikalie Frei, County Counsel staff; Ken Friday, Planning Director, Stephanie Armstrong, Associate Planner, Lance Woods, Associate Planner and Nicole Montesano, News-Register.

Commissioner Primozych called the meeting to order at 10:03 a.m.

A. **PUBLIC COMMENT:** This thirty-minute time period is reserved for public comment on any topic other than a quasi-judicial land use matter or other 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.

David Wall expressed his concerns regarding the appeal of Docket E-06-16 but because it is subject to appeal, he was not able to continue his statement.

Rebekah Wallace of Family Pet Partners discussed the use of social media pages in assisting with lost and found pets, and getting lost animals back to their homes. She stated that the Salem page has over 12,000 members and Yamhill County’s has a little over 5,000. Ms. Wallace expressed the interest in extending the use of their services to Yamhill County, all of which is on a volunteer basis. She stated Family Pet Partners would purchase the software subscription for access to owner information at their expense. Ms. Wallace stated that because of their relationships with different organizations, Family Pet Partners is able to complete tasks and give medical attention at a third of the price of what a member might pay.

Sharon Smith discussed the \$90,000 that is currently budgeted for dog beds or kennel space in the 2017-18 budget. She stated that the amount is high and if the county were to work within the community with local rescues, veterinary offices and private citizens where the animals can temporarily be placed maybe it could be lowered.

Kimball Kiess thanked the Board for acknowledging social media sites and groups as a great asset to the community. Ms. Kiess stated in the discussion of the new program for dog control she would like to see strong public involvement, stating the public could be a voice for restructure and help in educating the community. She pointed out that the social media sites, groups and organizations are a great free marketing tool. Ms. Kiess suggested the county purchase a scanner for law enforcement, who would then allow representatives from each site the ability to utilize the dogs' owners' information to help return the dog-eliminating the need or use of a deputy's time. Ms. Kiess would like to see the county amend the surrender fee and address it on a case by case basis and implement public access to online licensing.

Rod Platt would like to see a place established where potential dog owners could go to see dogs needing homes instead of having to make an appointment.

Randy Freeman, owner of Pets Stop Inn, shared his concern if dog control enforcement action is taken away. He also discussed quarantines, stating there is no supervision or recourse when the quarantines are implemented by the owners.

Donny Layman, founder of Yamco Watch, discussed giving dispatchers and deputies authority to message his page specific details on the dogs and where they are located. Mr. Layman said that with that information community members would be able to retrieve the dogs without the help of law enforcement. He stated Yamco Watch works with many lost and found page owners who have chip readers and one of their administrators has a holding kennel that is available for use. Mr. Layman would like to see animals returned to their owners safely and wants the Board to know that Yamco Watch is here to utilize for all areas of public safety.

B. CONSENT AGENDA:

Contracts

1. **B.O. 17-119** - Approval of Amendment #13 to Agreement #148033 (B.O. 15-216) between Yamhill County HHS and the Oregon Health Authority Oregon for the financing of Public Health Services.
2. **B.O. 17-120** - Approval of an amendment to the agreement between Yamhill County HHS and Cynthia Steinhauser, PhD (B.O. 16-415), not to exceed \$19,300, effective through February 24, 2018.
3. **B.O. 17-121** - Approval of a distribution agreement between Mid-Valley Behavioral Care Network (MVBCN) on behalf of the Mid-Willamette Acute Care Region for \$185,753.38 for regional acute psychiatric services, effective upon approval.

Authority

4. **B.O. 17-122** - Authorize Silas Halloran-Steiner on behalf of Yamhill County HHS to apply for a Comprehensive Opioid Abuse Site-based program grant administered through the U.S. Department of Justice.

Miscellaneous

5. **B.O. 17-123** - Denial of YCEA Step 2 Grievance of Article 16.6 of the CBA and uphold the County Administrator's Step 1 response.

Commissioner Olson moved approval of the consent agenda. The motion passed unanimously, Commissioners Primozych and Olson voting aye.

C. **OLD BUSINESS:** None.

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

1. Request approval of an agreement between Yamhill County Transit Area (YCTA) and PF Consulting for contract services from April 15, 2017 to June 30, 2018.

Laura Tschabold suggested the item be removed for future discussion.

2. **B.O. 17-125** - Request approval of an intergovernmental agreement between Yamhill County and Oregon Department of Transportation (ODOT) for the Continuous Operations Variance Permit Authorization program.

Commissioner Olsen moved to approve D2. The motion passed unanimously, Commissioners Primozych and Olson voting aye.

3. **B.O. 17-126** - Authorization from the Board to designate the County Administrator to respond to the Yamhill County Employee Association (YCEA) Step 2 grievance of March 1, 2017.

Commissioner Primozych moved to approve D3. The motion passed unanimously, Commissioners Primozych and Olson voting aye.

E. **PUBLIC HEARINGS:**

1. **Docket PAZ-01-16:** Approval of a Comprehensive Plan amendment from Very Low Density Residential to Commercial and a zone change from VLDR-1, Very Low Density Residential to HC, Highway Commercial. Applicant: Nash Investments LLC.

Commissioner Primozych opened the public hearing at 10:32 a.m.

There being no abstentions or objections to jurisdiction, Mr. Sadlo, Senior Assistant County Counsel, read the land use statement required by ORS 197.763(5) regarding the requirement that parties must raise all issues at the public hearing or waive their right to raise the issues on appeal. He also requested that if any commissioners had any ex parte or site visits to report those at this time. None were reported.

Staff Report - Stephanie Armstrong provided the staff report describing the request and applicable standards. She also stated that the request had been reviewed and approved by the Planning Commission at their hearing on March 2, 2017.

Proponents - John Bridges, attorney for the applicant Chris Nash, discussed the history of the property. He described to the board past uses and surrounding businesses. He addressed the criteria for the zone change and stated his client could make this property an attractive economic engine for the community. Mr. Bridges commended county staff for encouraging the applicant to speak to ODOT and the City of Newberg for feedback on the application.

Stephanie Armstrong stated that there were no additional public agency reports.

The public hearing was closed at 10:47 a.m.

Commissioner Olson moved to approve the application with the conditions recommended by staff. The motion passed unanimously to approve the application, Commissioners Primozich and Olson voting aye. Final written decisions, findings, and conditions to be adopted on May 4, 2017.

2. **Docket SDR-01-17:** An appeal of The Planning Director's approval of a marijuana processing facility. Applicant: Richard E. Wagner Appellants: Harihara Mahesh, et. al.

Commissioner Primozich opened the public hearing at 10:49 a.m.

There being no abstentions or objections to jurisdiction, Mr. Sadlo asked if all present heard the reading of the land use statement required by ORS 197.763(5) at the beginning of the public hearing for docket PAZ 01-16, all present agreed. He also asked if any commissioners had any ex parte or site visits to report. Commissioner Primozich reported he had completed a site visit.

Staff Report – Planner Lance Woods provided the staff report describing the request and applicable standards. He also stated that the request had been reviewed and approved by the Planning Director.

Proponents – Richard Wagner discussed his farming practices and stated he feels his organic grow embodies what being a good steward of the land is all about. He said he believes there will be no negative impact on the environment. Mr. Wagner discussed increased stability of operations through reduced waste stream by being able to utilize parts of the plants that he would otherwise have to throw

away. He stated his method of processing involves only all natural materials including ice and cold water.

Logan Leichtman, attorney for the applicant, reminded the Board of Commissioners that the purpose of today's hearing is to discuss processing only, not the grow operation which is an allowed use. Mr. Leichtman emphasized that his client does not use solvents as part of his extraction process. He discussed his client's contact with the Sheridan Fire District and their process of compliance for fire safety. Mr. Leichtman discussed air and water quality, security, water table depletion, and the potential impacts on neighboring home values. He also stated his client's business will not be commercial in nature but similar to standard residential use yielding a maximum of 1,000lbs per year.

Opponent - John Bridges, attorney for the opponents, requested that the record remain open. He encouraged all the commissioners to make a site visit stating then they would get a true understanding of the dangers of Dusty Drive and that it in fact is not safe to handle commercial activity. Mr. Bridges asked the board to take the time to read the statues and rules that address marijuana grows in the State of Oregon. He proceeded to give examples of potential harvest, farming and processing, should the application be approved resulting in over 600 trips to and from Mr. Wagner's property. Mr. Bridges stated the applicant has no waste disposal plan and that he feels the board could deny the application for insufficient information.

Moe Momtazi, owner of Momtazi Vineyard, stated his opposition to the application because of its potential threat and impact on his 532 acres of property where he has a biodynamic vineyard. Mr. Momtazi discussed micro and macro organisms, the indigenous yeasts and fermentable properties of the grapes. He shared the wine making process from growing the grapes to harvest, the quality and importance of the yeast and how it being greatly influenced by surrounding plant life. Mr. Momtazi said the nitrogen toxicity released by the marijuana plant can and will affect the flavor and life of the grapes. He shared the practice of spiritual farming stating it is part of their whole ecosystem and is very important to his business. Mr. Momtazi discussed his concerns about his water getting contaminated. He stated it took over two years and working with an engineer going through eighteen separate government agencies for water right permits and if his water is contaminated he will lose his biodynamic certification.

Harihara and Parvathy Mahesh are in agreement with Moe Momtazi's statement. Mr. and Mrs. Mahesh are also opposed to the application due to concerns they have regarding safety, the proximity of the potential commercial operation to their property, the security cameras that they feel will be an invasion of their privacy and the exposure and safety of the children that live on Dusty Drive. Mr. Mahesh stated a processing facility is not organic farming and should fall under the umbrella of an industrial business. Mrs. Mahesh is concerned about who is going to monitor the processing facility should Mr. Wagner's application be approved.

Richard Ponzi, founder of Ponzi Vineyards, spoke in opposition to the application and shared his concerns regarding the potential effects of marijuana production on local vineyards such as Momtazi

Vineyards. Mr. Ponzi agreed with Mr. Momtazi's testimony and added that he feels it is more than just a local matter. The decision could potentially effect what other vineyards do and the wines that come out of this region. Mr. Ponzi asked the board to take the time to research this new industry of marijuana grows and processing plants and their impacts on surrounding vineyards.

Dave Coelho, owner of a 22 acre vineyard off of Dusty Drive, asked that the record remain open. Mr. Coelho stated he concurs with all previous testimony in opposition.

Mr. Sadlo confirmed there had already been a request for the record to remain open, and it would.

Naseem Momtazi, national sales representative to Momtazi Vineyards, concurred with testimony given by her father Mr. Momtazi. Ms. Momtazi stated Momtazi Vineyard has spent years achieving their prestigious status of biodynamic certification and she is concerned if Mr. Wagner's application is approved they will be in danger of losing their ability to maintain the special certification. Ms. Momtazi stated that while a sufficient buffer between Mr. Wagner's grow and Momtazi Vineyard may be enough to save the grapes from potential contamination, she does not want her family vineyard to be the test vineyard to see if it will work.

Glenda and Van Keck, residents and organic farmers on Dusty Drive since 1974 are also in opposition. Mrs. Keck stated she has been a master gardener since 1974, she and her husband have put in underground power, planted numerous vegetable gardens, fruit trees and other plants. She stated the sale of their property is going to be the financial contribution to their retirement and is concerned that if a marijuana processing plant is next door no one will want to buy their property. Mrs. Keck shared that she suffers from migraines and the smell of marijuana triggers them. Mr. Keck is concerned about safety, the wear and tear on the road, and the issue of there being no water source on the hill in case of a fire.

Willie Levy agreed with previous testimony and is also in opposition. Mr. Levy is concerned about the condition of the road, which he maintains at his own expense; the potential contamination of Mr. Momtazi's Vineyard; and the safety of his son who walks up and down Dusty Drive to catch the school bus.

Dixie Hancock, broker for the Mahesh family, stated Dusty Drive is not a suitable location for a marijuana grow and processing plant.

Harold Levy stated the property Mr. Wagner is proposing to open a processing plant on is not big enough to allow any sufficient buffers for neighbors.

David Beck past member and chair of the Oregon Wine Board and fellow vineyard owner, also opposes the application. Mr. Beck discussed "taints" and the hyper-sensitive nature of the wine grapes. He talked about the different kinds of taints and where they come from: hops, lady bugs, stink bugs and how each taint affects the flavors of the wine. Mr. Beck stated taints can be dangerous because they travel several miles. He discussed the research conducted by OSU and stated Mr. Momtazi's concerns

are not hypothetical but factual and are backed by current research. Mr. Beck said the Oregon wine industry is a 4 billion dollar industry and Yamhill County is the largest producer of that revenue. He urged the board to consider the potential impact to the wine industry if the application is approved.

Public Agency Report - Lance Woods read the statement from Sheridan fire district discussing their requirements for Mr. Wagner to have a 32,000 gallon water tank on the property.

Rebuttal - Mr. Wagner stated the THC from the marijuana plant cannot run down to the lake, and will not contaminate Mr. Momtazi's water source. He restated that he will not be using solvents in his processing facility. Mr. Wagner said he respects his neighbors' concerns regarding potential fire danger and is complying with Sheridan Fire District with their requirements for a 32,000 gallon water tank to be filled and on his property as a condition of their approval. Mr. Wagner discussed the beginning of the wine industry in Oregon stating citizens used to fear Oregon turning into California but now the wine industry is the life blood of Yamhill County.

Logan Leichtman restated testimony heard regarding Mr. Wagner's grow operation and reminded The Board that that issue is not before them. Mr. Leichtman stated his client has complied with fire safety and continues to work with other agencies to obtain approvals and other necessary permits and or licenses.

Staff Recommendation - In response to the request by a party that the record remain open, staff recommended a schedule for submittal of additional written testimony and evidence. The public hearing will be continued to May 25, 2017 at 10:00 a.m., Room 32 of the Yamhill County Courthouse at the point of staff recommendation. ***Record to remain open until May 4, 2017 at 5:00 pm. for submittal of written argument and evidence from any party; record to remain open until May 11, 2017 at 5:00 p.m. for submittal of written rebuttal by any party of testimony received during the open record period; and record to remain open until May 18, 2017 at 5:00 p.m. for written final argument from the applicant only.***

The public hearing closed at 12:45 p.m.

Commissioner Olson moved to keep the record open until May 25, 2017 as stated by staff. The motion passed unanimously, Commissioner Primozech and Olson voting aye.

The meeting adjourned at 12:47 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, 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 coxcr@co.yamhill.or.us

Crystal Cox
Secretary

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Commissioner Richard L. "Rick" Olson