

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 combined session on July 14, 2022, at 10:00 a.m. in Room 32 of the courthouse and a virtual meeting via Zoom. Commissioners Lindsay Berschauer and Casey Kulla participated in person; Mary Starrett participated via Zoom.

Also present were Ken Huffer, County Administrator; Christian Boenisch, County Counsel; Jodi Gollehon, County Counsel II; Gary Wertz, Fair Manager; Lance Woods, Associate Planner; Tim Svenson, Sheriff; Ken Friday, Director of Planning; Carolina Rook, BOC Staff.

Guests: Kit Johnston, Heather Miller, Garrett Stephenson, Rob Hallyburton, Kathryn Jernstedt, Pam Kindel, Kellan Lancaster, Madison Bingman, Kaydence Vertner, Cheyanna Kelly. State 3, McKenzie Rosenberry, and Frank Foti joined via Zoom.

***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 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. NEW – Public participation also includes the ability to attend Formal Session via Zoom. For attendees that are attending the meeting via Zoom, the Chair will ask if any Zoom attendees wish to provide public comment in same manner as provided above. At that time, attendees will be asked to use the “raise hand” function in Zoom and staff will unmute the participant. Meetings will also continue to be available for view via a live stream on the Commissioners’ You Tube channel. Written public comments may be submitted via email at bocinfo@co.yamhill.or.us.*

Notice: The Board of Commissioners will hold an Executive Session immediately following combined session pursuant to ORS 192.660(2)(e) – Executive session to consult with legal counsel regarding real property.

- A. **CALL TO ORDER:** Commissioner Berschauer called the meeting to order at 10:00 a.m.
- B. **FLAG SALUTE**
- C. **CALENDAR SESSION:** This time is reserved for the review of the commissioner’s joint schedule (if needed).

The commissioners reviewed the joint schedule for the week of July 18 – July 24, 2022. No other county business was discussed.

D. PUBLIC COMMENT: This 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. The Chair may limit the length of individual comments.

Public comments were received via email regarding the Street of Dreams permit.

E. PRESENTATION: 2022 Yamhill County Fair Ambassadors

The Fair Ambassadors introduced themselves and discussed their accomplishments in High School as well as their future plans for continuing their education. They then rotated answering questions from each of the Commissioners discussing different topics such as free market economy, their experiences as a fair ambassadors, and bringing youth into farming and ranching.

F. DEPARTMENT UPDATES: None.

G. WORK SESSION: This time is reserved for topics of discussion scheduled for the Commissioners in advance. If a work session is not needed, the balance of the meeting will begin at 10:00 a.m.

1. Work Session – None.

H. CONSENT AGENDA:

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

Contracts & Grants

1. **B.O. 22-231** - Approval of Amendment #1 to an intergovernmental agreement between the Department of Community Justice and Chehalem Parks & Recreation District (B.O. 15-374) for work crew services in the amount of \$10,420 per month with CPI percentage increases, retroactive to July 1, 2022 through June 30, 2022 with annual renewal.

Authority

2. **B.O. 22-232** - Approval of 1.0 FTE positional authority reallocation and funding from (010-043-401.27) Captain to a prior position, Undersheriff, and 1.0 FTE positional authority reallocation and funding from (010-086-401.14) Corrections Sergeant to a prior position Lieutenant (010-041-401.09 and 010-043-401.39) to facilitate an organizational restructure in the Sheriff's Office.

I. OLD BUSINESS:

1. **B.O. 22-233** - Consideration of the adoption of the written decision, findings and conditions in the matter of an application for an outdoor mass gathering permit by the Home Builders Association of Metropolitan Portland ("Applicant"): Approving an outdoor mass gathering permit for the 2022 NW Natural Gas Street of Dreams at 16561 NE Koss Dr., Sherwood, Oregon and at 15299 NE Quarry Rd., Newberg, Oregon on July 20th and from July 23rd through August 14, 2022. *[Continued from July 7, 2022].*

Commissioner Berschauer addressed the public comment received via email regarding one of the homes in McMinnville and explained the reason for not submitting a mass gathering permit for this location citing that it is not expected to receive a large volume of traffic for this event but something to the equivalent of an open house. They expressed their appreciation of the event organizers response to the neighbors concerns.

Commssioner Kulla moved approval of item I1. The motion passed, Commissioners Berschauer, Kulla, and Starrett voting aye.

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

1. **B.O. 22-234** - Consideration to authorize Yamhill County Health and Human Services to submit application(s) for American Rescue Plan Act (ARPA) Infrastructure Funding for Contracted Case Management Entities administered by the Oregon Department of Human Services (ODHS).

Commissioner Berschauer moved approval of item J1. The motion passed, Commissioners Berschauer, Kulla, and Starrett voting aye.

2. **B.O. 22-235** - Consideration of a grant agreement between Yamhill County and the State of Oregon’s Secretary of State Office for election modernization in the amount of \$82,000, effective upon approval through July 31, 2023.

Commissioner Kulla moved approval of item J2. The motion passed, Commissioners Berschauer, Kulla, and Starrett voting aye.

3. Discussion regarding Measure 109.

Commissioner Berschauer started the conversation by explaining Measure 109 and reading an overview of the measure. Jodi Gollehon explained that the rules are still being drafted but that psilosybn must be consumed on sight of a service center or manufacturer until the individual is “sober” and that the service centers will not be permitted in residential zones. Ken Friday discussed his concerns on where these facilities would be located as far as land use issues. With the State’s rules not set to be complete until December 31st, Director Friday suggested the Board could put on the ballot to opt out for a period of time to give the county time to prepare and determine where to place the service centers along with what rules the state will provide. He also clarified that his concerns are mostly based around the service center, not the growing operations. Director Friday explained the difference between a LUCS (Land Use Compatibility Statement) and a conditional land use permit. Commissioner Kulla explained the OLCC’s role in issuing permits across the county for locations that could potentially provide an individual means to be intoxicated and hold that location somewhat responsible for allowing someone to leave intoxicated. Attorney Gollehon explained what decisions need to be made during the meeting; whether to put on the ballot to opt out for a period of time or opt out completely and whether or not to go forward with time place manner restrictions. She also explained the 4 different licenses one would need to run a full location. There was discussion of the land use for the grow operations and service centers and where they would be permitted. They discussed the licensing and permit process for this in relation to adopting the ordinance on potentially the same day. Director Friday clarified the direction he needs from the Board in order to move forward. After discussion of all the options, it was the consensus of the Board to have the Planning Committee

discuss this at their meeting on August 4th and then bring back any findings to the Board on August 11th, and to have Ms. Gollehon draft an ordinance banning service centers and also to put a 2 year moratorium on the ordinance. There was no action taken.

4. Discussion regarding Secure Rural Schools 2022 Election and Archie Creek Fire Damage Claim. (Commissioner Berschauer).

Commissioner Berschauer explained how the county could accept funds for the Archie Creek Fire payout and provided an update that there will not be a choice but it will be awarded via Secure Rural Schools (SRS). There was no action taken.

5. **B.O. 22-236** - Consideration of approval in the matter of an order declaring certain tax foreclosed property as surplus and authorizing a purchase sale agreement with the Yamhill County Affordable Housing Corporation.

Commissioner Berschauer moved approval of item J5. The motion passed, Commissioners Berschauer, Kulla, and Starrett voting aye.

6. **B.O. 22-237** - Consideration of a contract employee agreement between Yamhill County Health and Human Services and Andrew Nye-Jaimes to provide professional psychiatric behavioral services in the amount of \$80.00 per hour effective August 9, 2022 through June 30, 2023 with automatic annual renewal.

Commissioner Starrett moved approval of item J6. The motion passed, Commissioners Berschauer, Kulla, and Starrett voting aye.

K. PUBLIC HEARINGS:

1. An appeal of the Planning Director's approval of Docket #C-28-21: A conditional use request to operate a nine (9) guestroom Bed and Breakfast facility as a home occupation. Applicant; Kellan Lancaster for 15660 Ground, LLC., Appellant – Friends of Yamhill County.

Commissioner Berschauer opened the hearing at 11:43 a.m. There were no abstentions or objections to the jurisdiction of the Board and there were no reports of site visits. Commissioner Kulla disclosed his potential conflict of interest as an owner of farm land. Ken Friday read the "raise it or waive it" statement required by ORS 197.763(5).

Staff Report: Lance Woods read the staff report highlighting the EF-80 zone the majority of the land is zoned at, the surrounding land use, and the intentions for the dwelling on the property as a 9 guestroom bed and breakfast as a home occupation.

Applicant: Attorney Garrett Stephenson addressed the board by stating that the staff report encapsulated the applicants intent for land use. He explained that they have been receptive of concerns that have come forward from neighbors in the surrounding area and that they have made changes and accommodations to address those concerns. He also detailed the farm impacts analysis they had performed by a land use planner along with the traffic study that concluded this project would not significantly impact the traffic in the area. Kellan Lancaster explained that the

previous home was on a different tax lot and how the new tax lot is set up. He also explained the timeline for removing the existing home and decommissioning it first.

Attorney Stevenson addressed Commissioner Kulla's question regarding Panther Creek Road's capacity and the applicant's potential to put the traffic situation at fully capacity. He explained how the traffic study that was conducted came to its conclusion and that the traffic would not significantly impact or increase in the area as a result of this project. He also addressed Commissioner Kulla's concerns regarding the farm impacts in the area citing results from both the farm impacts analysis and the traffic study. Mr. Lancaster clarified the areas of the traffic study and the specific location of the driveway that will be used on the property.

There was no additional testimony in support of the application.

Opponent: Kathryn Jernstedt and Rob Hallyburton provided statements in opposition to this matter. Ms. Jernstedt addressed her inability to respond to concerns Director Ken Friday raised on a similar application last week after their initial testimony. Ms. Jernstedt discussed the applicant's intent for this land and believes it to be a home occupation and not a single family dwelling engaged in farming. She discussed reasons why a bed and breakfast is not to be permitted on this land. She asked that the application be denied based on inconsistencies in the application. Rob Hallyburton discussed the debate of the dwelling on the property and referenced both building codes and zoning codes. He read from the staff report and pointed out what Friends of Yamhill County disagrees with. He provided a definition of a dwelling and believes that the bed and breakfast proposed should be more accurately classified as a Motel/Hotel and therefore denied. He also requested to be able to speak once the applicant has provided a rebuttal or to keep the record open. Ken Friday provided clarification on the definition of a dwelling and the decision to approve the application as a single family dwelling as a bed and breakfast.

Pam Kindel provided testimony in opposition citing concerns regarding the guest access on Panther Creek Road and the additional traffic. She discussed her concerns over Red Shot Lane and the impact this project would have on it. She confirmed with Public Works that Red Shot Lane is classified as a private road. She informed the Board she has submitted previous comment and has received responses both from staff and the applicant's attorney. She believes that the traffic count provided in the traffic study is not accurate due to the placing of the counters. She discussed her experience with fumes in the area that can be bothersome and her concern it was coming from the applicant's property. She also expressed concern over the already increased traffic on Meadow Lake Road and the potential of more traffic on Red Shot Lane with the completion of this project.

There was no additional testimony in opposition of the application.

Public Agency Reports: Lance Woods provided a report citing the county sanitarian had issued a permit for the septic system installation. He also noted reports he received from the soil and water conservation district regarding the applicants responsibility with water quality

management as well as noxious weeds on the property. He mentioned that Pubic Works found no issues with the proposed use.

Applicant Rebuttal: Garrett Stephenson provided clarification for the procedure for leaving the hearing open. Mr. Stephenson spoke to Ms. Kindel’s concerns and addressed Red Shot Lane and the potential traffic issues. He indicated this will not be affected due to the guest access being on Panther Creek Road. He also addressed her concerns for fumes and construction in the area but assured her and the Board that it was not coming from this property as no construction has been started yet. He appreciated the privacy concerns but noted that is not a criterion in this situation. He discussed the traffic count and traffic analysis provided in the record. He also discussed the Friends of Yamhill County’s opposition to allowing a bed and breakfast on this land citing the county’s codes allowing such a dwelling. He took issue with Friends of Yamhill County’s comments that the applicant changed its application as they did so to address concerns raised by neighbors. He clarified for the Board what the criteria is for the resident running the bed and breakfast and what the intention of the applicant is for the operation. After questioning from Commissioner Kulla regarding the traffic concerns, Kellan Lancaster explained the process of the traffic study conducted and the improvements they have already made on Red Shot Lane like widening the road (Road Shot Lane) and adding mirrors. He also mentioned that the contractors for the build and the guests will be using the new access on Panther Creek Road thus eliminating the traffic issue on Red Shot Lane. There was further clarification on the traffic study surrounding the traffic count in the area.

Ken Friday proposed that the record shall be left open until 5:00 p.m. on July 21, 2022 for all parties to submit written testimony or evidence to the Planning Department at 525 NE 4th Street, McMinnville. The record shall then be open until 5:00 p.m. on July 28, 2022 for all parties to submit to the Planning Department written rebuttal to what was submitted during the first open record period. The record shall then be open for the applicant only to submit final written argument with no new evidence until 5:00 p.m. on August 4, 2022. At that point the record shall be closed. The Board of Commissioners shall then reopen the hearing at 10:00 a.m. on August 11, 2022 in Room 32 of the Yamhill County courthouse, at the point of staff recommendation. Commissioner Berschauer moved approval of the recommendation. The motion passed, Commissioners Berschauer, Kulla, and Starrett voting aye.

The public hearing was recessed at 1:56 p.m.

L. 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

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 1:57 p.m.

Megan Marasco
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair

LINDSAY BERSCHAUER

Commissioner

CASEY KULLA

Commissioner

MARY STARRETT