

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 formal/informal session on August 20, 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; Todd Sadlo, Senior Assistant County Counsel; Lance Woods, Associate Planner; and others as listed on the sign-in sheet.

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 10:01 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 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.*

General public comments received via email regarding Yamhill County’s employee health insurance benefits.

D. CONSENT AGENDA:

1. Minutes

- a. **B.O. 20-276** - February 4, 2020, Informal Session;
- b. **B.O. 20-277** - February 6, 2020, Formal Session;
- c. **B.O. 20-278** - February 11, 2020, Informal Session;
- d. **B.O. 20-279** - February 13, 2020, Formal Session;
- e. **B.O. 20-280** - February 18, 2020, Informal Session;
- f. **B.O. 20-281** - February 20, 2020, Formal Session;
- g. **B.O. 20-282** - February 25, 2020, Informal Session; and
- h. **B.O. 20-283** - February 27, 2020, Formal Session.

Commissioner Olson moved approval of item D1. The motion passed, Commissioners Kulla, Starrett and Olson voting aye.

E. OLD BUSINESS:

1. **B.O. 20-284** – Consideration of the adoption of written findings for Docket #SDR-16-14/FP-03-14 (remand): Remand of an expansion of Riverbend Landfill. The original application was for a site design review for the development of 37 acres proposed for landfill expansion and ancillary facilities. The Land Use Board of Appeals remanded the County’s decision approving the request (with conditions), as set forth in Board Order 15-115, for the express purpose of addressing issues identified in the remand relating to ORS 215.296. See public notice for specific hearing parameters. The hearing will be limited to written or electronic argument only. *[Adoption of written findings only. The motion to deny the application on remand was passed on August 6, 2020].*

Commissioner Kulla moved approval of item E1. The motion passed, Commissioner Kulla and Olson voting aye, Commissioner Starrett voting nay.

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

1. **B.O. 20-285** - Consideration of authorizing Public Works to submit an application for funding from the Oregon Department of Transportation’s (ODOT) 2025-2027 Local Bridge Program (LBP).

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

2. **B.O. 20-286** - Consideration of approval to accept the Planning Commission’s recommendations for the selection of one (1) candidate by the Board of Commissioners to fill a Planning Commission vacancy.

a. Appoint Kit Johnston to a four-year term to expire on July 1, 2024.

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

3. **B.O. 20-287** - Consideration of approval to appoint Greg Smith to the Housing Authority of Yamhill County Board to serve the remaining term of Phil Griffin, term to expire December 31, 2024.

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

4. **B.O. 20-288** - Consideration of adopting Resolution 20-08-20-1 requesting reaffirmation of previously issued guidelines for the reopening of private schools.

Commissioner Starrett addressed the topic of reopening private schools as was discussed at last week’s BOC session. Commissioner Kulla raised issue with a portion of the language and preferred to see language that emphasized unilateral reopening guidelines in all schools. He requested that the item be pulled from the agenda to allow time to review guidelines.

Commissioner Olson agreed with Commissioner Starrett noting that due to the limited number of students that private schools enroll, they are more likely to be able to implement and comply with state guidelines. Commissioner Starrett moved approval of a resolution to allow private schools to open under the guidance that was given under the June 10th ODE guidelines. Commissioner Kulla asked that Commissioner Starrett amend her motion to include language specifying private schools be open for in-person classes. Commissioner Olson agreed with Commissioner Starrett, noting the social aspects of learning that children lack through online learning. The motion passed, Commissioners Starrett and Olson voting aye, Commissioner Kulla voting nay.

Commissioner Kulla called for a recess 10:55 a.m. The meeting resumed at 11:01 a.m.

G. PUBLIC HEARINGS:

1. Docket #NFD-01-20: An appeal of the Planning Director's approval of a dwelling not in conjunction with farm use (non-farm dwelling). Tax Lot: 2427-200; just east of 22064 NW Russell Creek Road, Yamhill and approximately 0.3 miles NE of the junction of NW Russell Creek Rd. and NW Goodrich Rd. Applicant: Steven Belt; Appellant: Elliott Rector.

Commissioner Kulla opened the public hearing at 11:02 a.m. There were no abstentions or objections to the jurisdiction of the hearing. There were no acknowledgments of any ex-parte contact or site visits. Commissioner Kulla stated that he and the appellant, Mr. Elliot Rector, are friends, but it would not create a conflict of interest. He also acknowledged a potential conflict of interest, as he is a landowner of exclusive farm use (EFU) land. Lance Woods read the statement required for land use hearings, relating to the requirement that parties must raise all issues at the hearing or waive their right to raise the issues on appeal (ORS 197.763(5)).

Staff Report: Mr. Woods read the staff report into record, stating the dwelling was not in conjunction with farm use (a nonfarm dwelling). The parcel located in the EF-20/EF-40 zones had not received farm or forest tax deferrals.

Applicants: Andrew Stamp, representing the applicant, gave a property overview of the undeveloped 5.46-acre parcel (EF-20 zoned) west of Cove Orchard. He stated it was previously part of a 20-acre track lot originally platted in 1909 with the lots remaining in their original sections. The applicant was seeking approval for a non-farm dwelling. He made previous attempts to apply for the zone change without representation in 1989 and 1995; neither were approved due to lack of substantial evidence.

Mr. Stamp addressed five appellant arguments related to approval criteria; they raised issues related to negative impacts on water availability, study size area of stability of land of use pattern standard, herbicidal use for weed suppression, soil assessment and road access. He requested the Board deny the appeal and affirm the Planning Director's approval. The applicant, Steve Belt, added that the parcel was perc tested in 1989 for septic feasibility and was confident that it was acceptable.

Andy Gallagher a certified soil analyst provided a summary of the soil survey requested by Mr. Belt which reflected that the soils were predominantly Class 6 with remaining soils as Class 4.

Chris Hyatt, hydrogeologist, detailed a groundwater balance study about the amount of water demand on wells. He explained that while the survey area encompassed a quarter mile, it also included any surrounding tax lots if any portion of a tax lot touched the survey radius. The total studied radius equaled a half mile based on those guidelines. His survey concluded that adding an additional well in the area would not likely have a negative impact on water availability in the area.

Appellants: Elliot Rector stated he has submitted written testimony. He responded to comments made by the applicant and disagreed with the water survey by saying there is not a surplus of water. He commented regarding Mr. Belt's splitting of the tax lot and that the approval of a non-farm dwelling would present problems to wildlife, road access and water among other issues; he asked to uphold the appeal to deny the non-farm dwelling application.

William Gettler provided written testimony for the record. He commented on the property line platting of Cherry Road. He is concerned that if the application is approved, it will change the value of his property and the surrounding properties and create negative impacts to Cherry Road.

Sarah Rector stated that Mr. Belt bought the property as a 20-acre tax lot. She questioned how the lot was divided into four lots with three being sold. She questioned how tax lot 2427-200 was legally created. She commented on the soil analysis' and took issue with results reflecting the lot was not viable farmland. Mr. Rector stated Mr. Belt has received several offers from residents to buy back the tax lot to preserve it as farmland which he has refused.

Albert Xthona submitted written testimony and commented on how much of his tax lot would be lost due to the development of Woodside Drive if developed according to fire department standards. He commented on his water well which runs dry in the summer.

Shauaghn Petraitis was concerned about his access to their driveway on Cherry Road. She stated she has existing buildings and was concerned about access. She and other residents pay to maintain the driveway but said there is no other funding resource if it is turned into a road for Mr. Belt to access. She said that currently they run three gallons per minute from two wells on a reverse osmosis system, which would be impacted further from an additional dwelling.

Commissioner Kulla called for a recess at 1:05 p.m. The meeting resumed at 1:11 p.m.

Pamela Kirsch commented they were not in favor of the dwelling and disagreed with the hydrologist report that there was sufficient water for the residents and adding another well would

negatively impact the water supplied to the current households. She expressed additional concerns about opening their driveway and for the local elk herds that frequent the area.

Sandi Wodarczak questioned what the differences were between this approval and the last two denials. She also asked why a zone change wasn't requested instead of a farm dwelling request. She said they would lose approximately 6.2 acres of zoned farmland. She expressed concern if the farm zoning was removed then it is lost. Based on the last county survey, Cherry Street did not exist. She expressed concern about sewer and sanitation. She requested additional time before the record was closed to collect additional information, also due to the fact that many of the appellants were unable to participate in the meeting room.

Irene Green submitted a card for public comment in opposition of the applicant but was not available to speak.

Public Agency Reports: Mr. Woods stated staff received reports from the county engineer indicating that there were buildings encroaching on the east Cherry Road right of way in 1996. Mr. Woods would verify with the Yamhill Valley Fire Department regarding receipt of notice and response. Commissioner Starrett asked Planning staff why this parcel was subdivided into smaller tax lots. Mr. Friday commented that they were subdivided in 1909 and the lots continued to exist; the right of ways were still platted as a parcel. He commented on the two denied applications stating they were under different standards prior to 1998. He stated he did not anticipate further development due to the high value soils in the surrounding area which would not allow additional dwellings.

Rebuttal by Applicant: Mr. Stamp commented on future development patterns in the study area, noting that only two potential non-farm dwellings could be built and the others could not because of the soil grades which he stated his client has poorer soils at the top of the hill where his client resides. He responded to landowner's comments about water pressure. He discussed legal lot of record compared to a tax lot, stating that there was a misunderstanding of applicable land use law among the neighbors. He stated that there was sufficient space on Cherry Street to expand the right of way. He stated a zone change was not done because was more difficult. A non-farm dwelling was easier if the soils are Class 6 due to the shallowness of the soil. Ken Friday responded to the question of zone change for a non-farm dwelling, noting they are difficult to qualify for.

Chris Hyatt responded to the question of each of the domestic wells; there was no exempted use for irrigation. He believed it would be illegal to use the domestic well for unlimited irrigation and livestock watering.

Mr. Woods read the motion, recommending the record remain open until 5:00 p.m. on August 27th, 2020 for all parties to submit written testimony or evidence to the Planning Department at 525 NE 4th Street, McMinnville. The record shall remain open until 5:00 p.m. on September 3, 2020 for all parties to submit to the Planning Department, written rebuttal to what

was submitted during the first open record period. The record shall remain open, for the applicant only, to submit final written rebuttal, until 5:00 p.m. on September 24, 2020. At that point the record shall be closed. The Board of Commissioners shall reopen the hearing at 10:00 a.m. on October 1, 2020, in Room 32 of the Yamhill County Courthouse at the point of staff recommendation.

The motion passed, Commissioners Kulla, Starrett and Olson voting aye. Commissioner Kulla recessed the public hearing at 2:12 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
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 2:15 p.m.

Carolina Rook
Secretary

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair CASEY KULLA

Commissioner MARY STARRETT

Commissioner RICHARD L. “RICK” OLSON