



Working to enhance the life in the urban and rural communities of Yamhill County by protecting family farms and forests and conserving natural and scenic areas.

PO Box 1083 McMinnville, OR 97128

FYC is affiliated with 1000 Friends of Oregon.

WINTER 2020

NEWBERG MAYOR RICK ROGERS FEATURED AT FYC MEETING, TUESDAY, JANUARY 28



We're thrilled to have Newberg Mayor Rich Rogers as our featured speaker at this year's Friends of Yamhill County winter dinner and meeting. Rick was elected in 2018 on a platform that included the expansion of local business and family wage jobs, the development of adequate workforce housing, efficient and cost-effective city services, and the protection and promotion of community assets.

In addition to serving as mayor, Rick is the Executive Director of Newberg Habitat for Humanity and has spent years advocating and implementing practical solutions for housing options that local families can afford. Rick will give us the latest on issues like Newberg's potential urban expansion, meeting the housing needs of the community, and Riverfront District development/redevelopment.

In addition to our featured speaker, we'll elect board members and hear any new updates on other topics we're involved in. We are gathering at **La Sierra Mexican Grill in Dundee** and ordering individually off the menu.

Tuesday, January 28

5:30 - 6:00 Social time and no host bar

6:00 - 6:45 Dinner

7:00 Program/Speakers

La Sierra Mexican Grill

1175 Highway 99W, Dundee

Send dinner RSVP to llsaperse4@gmail.com by Friday, January 24

If you are unable to join us for dinner you are welcome to attend the meeting, but please arrive no earlier than 6:45 pm. The public is invited.



HUGE MEASURE 37 VICTORIES! DETAILS ON P. 4

Please Renew Your Membership

Your generous donations allow Friends of Yamhill County to continue the work of keeping our towns vibrant and protecting our prime farm and forest lands from over-development and sprawl. Even though FYC is a volunteer organization, we have considerable appeal fees, printing and other expenses.

Thanks to: Ellen Abrego, Tom Abrego, Carr Biggerstaff, Jeanne Biggerstaff, Sid Friedman, Kathryn Jernstedt, Craig Markham, Ilsa Perse, and Marilyn Walster for their contributions to this newsletter.

Riverbend Landfill in the Courts

The dump is still open, limping along, taking in a tiny fraction of what it used to, but still burying it by the river. Our goal is still complete closure.

In July, we reported that the Oregon Supreme Court and The Land Use Board of Appeals (LUBA) rejected Yamhill County's attempts to allow Waste Management (WM) to pay off unwilling farmers for the damage the dump causes. This should have been the end of the story. But there is no end with WM. They appealed the LUBA decision to the Oregon Court of Appeals.

We won in November! The ball is now in WM's court. Yamhill County will not take up the LUBA remand until WM asks them to. They have until mid-May to decide how to proceed. And so, we wait.

We also wait for a Court of Appeals decision on Yamhill County's approval of the vertical expansion that allows more garbage to be dumped on the landfill's oldest unlined, leaking cells.

In November, the Metro Council unanimously approved an ordinance that permanently prevents Metro from sending garbage to Riverbend Landfill. We even won over the one councilor who had voted against this decision 18 months ago!

FYC Election at January 28 Meeting

In accordance with our by-laws, we conduct an election at our meeting on January 28, 2020 for the positions of president, vice-president, treasurer, secretary, and board member-at-large. The terms are for two years.

The board has nominated the following slate of candidates:

President: Kathryn Jernstedt

Vice-President: Tom Abrego

Treasurer: Craig Markham

Secretary: Steve Iversen

Board Member-at-Large: Sid Friedman

Nominations can be made at the meeting, but the person must be present to accept and confirm their willingness to serve. The other members of the board are Ilsa Perse, Jim Parker, and Rane Solmonsson, whose terms expire next year.

FYC Tours Star Mooring Farm



On September 8th, more than thirty Friends of Yamhill County and guests gathered at Star Mooring Farm for our annual farm tour and potluck picnic. Oregon land use legends Henry and Ruth Richmond graciously accommodated the group despite the pouring rain. Their son, Christian, who now manages the operation, led the walking tour of this large, family-owned hazelnut operation on the banks of the Willamette River.

We were especially pleased to welcome the newer staff members from 1000 Friends, many of whom are focused on farm, forest, and natural resource issues important to FYC. One of the younger guests expressed surprise that no one seemed to be put off of the tour by the weather, but we were all glad to get under cover for the potluck and conversation.

Big Wins to End Measure 37/49 Battles



Twelve years of litigation over Measure 37/49 residential subdivisions in Yamhill County have come to a close with three more victories. Previous court decisions rejected the McClure and Youngman subdivisions. Now, after multiple trips to the Circuit Court, the Court of Appeals and a stop at the Oregon Supreme Court, the Court of Appeals has ruled that the Johnson, Gregg, and Cook subdivisions were wrongly approved by Yamhill County.

Measure 37 (M37) passed in 2005, allowing property owners who owned property prior to the enactment of land use laws a waiver to ignore these laws and build homes on their property to occupy or sell.

In 2007, Oregon voters overwhelmingly passed Measure 49 (M49), reversing M37 and protecting farm and forestland from over-development. M49 passed in Yamhill County by a margin of 63% to 37%. Despite M49's passage, Yamhill County officials then approved over 50 applications claiming a "vested right" to develop under M37, while denying only one.

Friends of Yamhill County and affected neighbors challenged the most egregious "vested right" M37 subdivisions:

Johnson: Johnson and Brett Veatch's Coppergold Homes raced to construct 10' by 12' "placeholder" shacks in an effort to solidify their vested rights under M49 literally as it took effect - a 41-lot subdivision on 49 acres of prime agricultural land near Newberg. The Court of Appeals reversed that decision, but the county reapproved. That second approval was also remanded by the courts, but in 2014 the county reapproved for a third time. Now, the Court of Appeals has conclusively ruled that M37 allowed landowners to only build and sell homes, not bare lots. Johnson petitioned the Supreme Court for review, which was denied, ending the issue for good. Brett Veatch now sits on the Yamhill County Planning Commission.

Cook: The county's first approval of a vested right to a 10-lot subdivision on farm and forest land near Bald Peak State Park was reversed by the Oregon Supreme Court. Even though the zoning and subdivision laws in effect when Cook bought the property did not permit his subdivision, the county re-approved the development. The Court of Appeals decision to reverse the county's approval was based upon the Johnson ruling.

Gregg: The Greggs' first vested rights application was remanded by the Court of Appeals in 2010. Although M37 rights were personal to the claimant and the claimants had died, in 2013 the county awarded the Greggs' heirs a vested right to develop a 15-lot subdivision on Parrett Mountain under the zoning laws in affect in 1966. The Court of Appeals ruled that the heirs had no right to take over the Greggs' M37 waiver.

Measure 37/49 Continued on page 4

Not On Our Email List?

Between issues of the newsletter we occasionally send alerts and other notices via email. If you haven't received these notifications, but would like to, please provide a valid email address to friendsofyamhillcounty@gmail.com. We will not share your information and use the blind CC feature, so others are not able to see names on the distribution. Thank you.

Big Wins to End Measure 37/49 Battles, continued

Youngman: The county approved this 12-lot residential subdivision on 58 acres of farm and forestland in a remote area along the North Yamhill River, even though the claimant was no longer alive. The county's approval was reversed by the Land Use Board of Appeals (LUBA) and then the Court of Appeals. Regardless, the county subsequently approved a vested right to complete the subdivision. In 2010, Yamhill County Circuit Court remanded the vested rights application back to the county. In 2012, the county reapproved the waiver. In 2015, Circuit Court Judge Ronald Stone ruled that Youngman's heirs had no right to disregard modern zoning laws and develop a subdivision.

McClure: After this proposed 36-lot subdivision near Newberg was rejected in the courts, the McClures tried to annex their farmland into the City of Newberg, in violation of land use laws. LUBA rejected this attempt to annex. Subsequently, the county approved the problematic Wolves and People brewery and tasting room on this property.

Abrams: In a bundled 2008 decision, Circuit Court Judge John Collins ruled in favor of the Abrams, Johnson, Gregg, and Cook subdivisions. FYC reluctantly dropped our opposition to Abrams when the neighboring co-appellants elected not to appeal. This 50-lot subdivision is now largely complete on the edge of McMinnville. John Abrams has since been appointed to the Yamhill County Planning Commission.

We are grateful for the legal assistance we received in these cases from Charlie Swindells, TK Wyman, Isa Anne Taylor, and especially Ralph Bloemers and his team from CRAG, who ably represented us for twelve long years. As Ralph Bloemers summarized: "12 years of work to put about 25 vested rights claims to bed. We are 25 and 1/2 on them. We only partially lost one!"

Legislative Outlook

The 2020 short session of the Oregon Legislature will open February 3rd. Whether the discord that marked the 2019 regular session will continue remains unknown. What is clear is that many of the legislative issues that were thwarted by procedural delays remain. Topics we will be watching include rural and urban housing, clean energy jobs, and wildfire management. Because the short session is limited by statute to 35 days, much of the work is done in advance. January 13-15 legislators will be in Salem to hear invited testimony at committee hearings.

Competing ballot measures have been proposed on wildfire regulation and forest practices, subject to legal challenges to ballot titles and scope. Initiative 53 would effectively block any new regulatory actions in forest lands and is potentially more far-reaching than Measure 37. Please be thoughtful about signing any initiative petition presented to you. The sound bite may seem simple enough but the devil is in the details.

A significant area of concern after legislation passes is the rule-making and interpretation that follows. The Yamhill County Board of Commissioners has already identified some they need to address. Of particular interest is the addition of breweries to permitted uses on EFU lands. Brewery wastewater can be too high in particulates and have an improper pH for conventional treatment facilities. Breweries in urban settings have to either pretreat their wastewater or pay surcharges. Conventional septic systems are not able to handle this waste stream.

Your participation is essential to promote and protect what we value most.

The views and opinions in this newsletter are those of the various writers and may or may not reflect the views of Friends of Yamhill County.

To view previous Friends of Yamhill County newsletters, go to <http://www.viclink.com/~fyc/>.