

In recent weeks, myths designed to breathe life into the failed Yamhelas Westsider Trail have captured the imaginations of its advocates. But now disclosed emails from Yamhill County officials, Commissioner Kulla, and ODOT, tell a dark story demonstrating those myths are just that and that there is a deeper truth yet to be uncovered. The now-disclosed public records show that (1) by June 2020, the state had determined that the completion of the trail is “improbable” and was demanding its money back; (2) key County officials including Commissioner Kulla knew full-well that they were gambling with taxpayer dollars and chose to spend millions in grant dollars to establish a trail that lacked necessary legal approvals, based upon nothing more than the hope that they could somehow push it through; (3) Commissioners Starrett and Berschauer not only did not kill the trail (it was dead already), they have also been good stewards of taxpayer dollars by not voting – not even once – for spending money on the trail when it lacked *any* of the necessary land use permits and it is evident to anyone paying attention that necessary land use permits can never be approved; (4) Commissioner Kulla and county staff were privately coordinating with Friends of Yamhelas Westsider Trail and other private operatives - from PR campaigns, lobbying efforts, manufacturing public comments, trying to run a Yamhill County family out of business and attempting to transfer county assets to allied groups; and (5) county officials have been working their own agendas, keeping to themselves key information that should have been shared in real time with the full Board of Commissioners in public meetings.

We hope to help set the record straight below.

Myth: Under a new county commission, the trail can be approved.

False: There are numerous reasons why the trail cannot be approved, including: (1) the trail does not meet the farm impacts test despite three years of county and trail advocate-led efforts to demonstrate otherwise; (2) the Carlton Fire Chief told the county in no uncertain terms that the trail posed significant fire risk of harm to people on and around the trail; and (3) the trail is prohibited under the unequivocal terms of the county code on AF-20 and industrial zoned lands (the Belt’s). The trail was never approvable, regardless of what county officials portray. The same officials who now assert the trail can be approved are the ones who are shocked that their other wholly unmeritorious legal positions landed the county with a nearly \$50,000 attorney fee award.

Myth: Commissioners Berschauer and Starrett are costing the county millions in trail repayment obligations.

False: Wholly false. Neither Commissioner Berschauer nor Starrett have voted to spend money on the failed Yamhelas Trail. Moreover, the **county** triggered grant repayment obligations in **June 2020** for its flagrant violations of the Connect VI grant terms: On June 18, 2020, ODOT gave the county an ultimatum to either promise a date certain when the trail will be opened to the public or pay the ODOT grant back. The County could not then, as it cannot now, give ODOT a date certain **or any date that is even aspirational, for that matter**, for project completion because the project was then and is now illegal. The repayment obligations were triggered months before Commissioner Berschauer was a seated Commissioner. Blaming Commissioner

Berschauer and Commissioner Starrett is false, derogatory and deflects responsibility from the true culprits – the Commissioners who voted (1) to accept the federal and ODOT trail grant promising that the trail was lawful, before making any reasonable inquiry or having any idea if that were a promise the county could keep, and (2) to continue to spend said grant well after it became clear that doing so created, **at the least**, a serious risk of repayment liability. ODOT told the county the jig was up in 2020; but instead of discussing the problem openly – with the Board of Commissioners and public – Commissioner Kulla and aligned county officials tried to make the “problem” go away – from keeping secret ODOT’s position that the YWT cannot be approved, to a highly improper effort to try to get the Governor’s office to influence LUBA, to threatening to unleash Kulla’s “reporter friends” on ODOT and its director – for doing nothing more than enforcing clear grant terms the County accepted exactly as ODOT is required to do in its fiduciary role of protecting the public’s money ODOT administers:

From: HAVIG Erik M <Erik.M.HAVIG@odot.state.or.us>
Sent: Thursday, June 18, 2020 5:12 PM
To: martinc@co.yamhill.or.us
Cc: Zeigler Samuel B <Samuel.B.Zeigler@doj.state.or.us>; BROWN Cooper H <Cooper.H.BROWN@odot.state.or.us>
Subject: Yamhelas Trail

Dear Ms. Martin,

I understand that Yamhill County Chair Casey Kulla spoke with ODOT Director Strickler this morning.

ODOT's Position

To date, the County's effort to obtain land use approvals for the development of the Yamhelas Westsider Trail (the "Trail") and the Stag Hollow Creek bridge (the "Bridge") have together triggered no less than four appeals to the state Land Use Board of Appeals (LUBA) since 2018. While the County prevailed in one of these appeals, in all of the others LUBA remanded the County's land use decision to the County for further proceedings. And in the most recent LUBA proceeding, LUBA went further and stayed construction of the Bridge pending the outcome of that appeal. LUBA ultimately ruled in that proceeding that the County commenced the Bridge's construction without the necessary conditional use permit. In short, over the last three years LUBA has time and again repudiated the County's efforts to obtain the necessary land use approvals for the Trail and the Bridge. And we fully anticipate more LUBA appeals and hence more delays going forward.

The LUBA proceedings demonstrate the County's ongoing inability to successfully manage its own land-use approval process for the Bridge and the Trail of which it is a part. Given this demonstrated inability, ODOT is concerned that (i) the Project's successful completion—namely, the opening of the Bridge to the public as part of the Trail—is highly questionable if not improbable and (ii) the Project will not produce results commensurate with ODOT's further expenditure of limited Connect Oregon funds.

ODOT takes its responsibility of being good stewards of public dollars very seriously and, for this reason and the reasons listed above, the department offers the following proposal. If the county decides not to accept this proposal, ODOT will terminate the grant agreement.

From: [Casey Kulla](#)
To: [Sen Boquist](#); [Sen Roblan](#); [Sen Thatcher](#)
Subject: FW: ConnectOregon VI: Yamhelas Westsider Trail Bridge Project
Date: Wednesday, June 17, 2020 1:37:07 PM
Attachments: [ConnectOregon VI Executed_BO 17-075.pdf](#)
[ConnectOregon VI Amendment 1_executed_BO 19-251.pdf](#)

As requested, this is our contract and one amendment for the Stag Hollow Bridge, with more details below on the situation that ODOT has placed us in.

From: Carrie Martin <martinc@co.yamhill.or.us>
Sent: Wednesday, June 17, 2020 10:33 AM
To: PUDEWELL Jae <Jae.PUDEWELL@odot.state.or.us>
Cc: CHRISTENSEN Jody *.GOV <Jody.Christensen@oregon.gov>; Casey Kulla <kullac@co.yamhill.or.us>
Subject: ConnectOregon VI: Yamhelas Westsider Trail Bridge Project

Hi Jae,

I have attached the original ConnectOregon VI grant agreement and amendment. To date, we have not received an official written notice of our options from ODOT, apart from the information inferred from the email received from Sam Ziegler (see below).

This situation is complex, and I would be happy to walk you through the details by phone. The short version is that Sam Ziegler spoke with County Counsel in a phone call Monday, June 15th in which he stated Yamhill County has two options: 1) the ConnectOregon VI grant will be revoked and the County will need to repay the reimbursements incurred to-date; 2) Yamhill County could provide ODOT with an exact date by which the Yamhelas Westsider Trail will be open to the public. We have been told that our relationship with ODOT is no longer "tenable" and to make our decision by end of business day Wednesday (today). As the project stands today, we are 15 days out from completion of construction with a final date of July 3, 2020.

I appreciate any thoughts or insights you can share.

Thank you,

Carrie

From: Christian Boenisch
To: Zeigler Samuel B.
Cc: Todd Sadlo; Posegate Stacy C
Subject: RE: Yamhelas Trail
Date: Tuesday, June 16, 2020 3:40:22 PM

Sam,

We will need more time than COB on Wednesday to discuss this request with our administration and our elected officials, to review the relevant grant documents and to consider our options. And, one of our commissioners is now out on medical leave for at least the next few days or possibly weeks. Also, I expect that one or more of our board (or administrative staff) may want the opportunity to meet with and hear from folks at ODOT in an attempt to better understand exactly how or when ODOT feels Yamhill County fell out of compliance and is now in violation of the grant agreement to the extent that ODOT is prepared to terminate. Please advise when we might be able to make this happen. Towards that end, could you also please memorialize in writing ODOT's latest concerns along with DOJ's legal position, including more details of our apparent breach, the basis for termination we briefly discussed yesterday and your proposed amendment request so that we can ensure that we have all the details we need for our internal discussions. Happy to discuss this further.

Thanks,

Christian

Christian F. Boenisch
Yamhill County
County Counsel

Myth: Commissioner Berschauer killed the trail.

False: This is wholly false. The trail was dead long before Commissioner Berschauer took office. It was dead after failing to meet the Oregon farm impacts standards – legal tests that everyone knows apply to it. Her predecessors ignored that elephant in the room and kept spending the public's money on the trail when it kept failing to meet legal tests. Commissioner Berschauer and Commissioner Starrett merely stopped the county's financial bleeding; recognizing what experts and LUBA had been saying for three years. This was acknowledged by ODOT to the previous BOC:

From: HAVIG Erik M <Erik.M.HAVIG@odot.state.or.us>
Sent: Thursday, June 18, 2020 5:12 PM
To: Carrie Martin <martinc@co.yamhill.or.us>
Cc: Zeigler Samuel B (Samuel.B.Zeigler@doj.state.or.us) <Samuel.B.Zeigler@doj.state.or.us>; BROWN Cooper H <Cooper.H.BROWN@odot.state.or.us>
Subject: Yamhelas Trail

[This email originated outside of Yamhill County]

Dear Ms. Martin,

I understand that Yamhill County Chair Casey Kulla spoke with ODOT Director Strickler this morning. Based on that conversation, I wanted to provide more information on our amendment proposal and clarify ODOT's rationale for moving in this direction.

ODOT's Position

To date, the County's effort to obtain land use approvals for the development of the Yamhelas Westsider Trail (the "Trail") and the Stag Hollow Creek bridge (the "Bridge") have together triggered no less than four appeals to the state Land Use Board of Appeals (LUBA) since 2018. While the County prevailed in one of these appeals, in all of the others LUBA remanded the County's land use decision to the County for further proceedings. And in the most recent LUBA proceeding, LUBA went further and stayed construction of the Bridge pending the outcome of that appeal. LUBA ultimately ruled in that proceeding that the County commenced the Bridge's construction without the necessary conditional use permit. In short, over the last three years LUBA has time and again repudiated the County's efforts to

1

obtain the necessary land use approvals for the Trail and the Bridge. And we fully anticipate more LUBA appeals and hence more delays going forward.

The LUBA proceedings demonstrate the County's ongoing inability to successfully manage its own land-use approval process for the Bridge and the Trail of which it is a part. Given this demonstrated inability, ODOT is concerned that (i) the Project's successful completion—namely, the opening of the Bridge to the public as part of the Trail—is highly questionable if not improbable and (ii) the Project will not produce results commensurate with ODOT's further expenditure of limited Connect Oregon funds.

ODOT takes its responsibility of being good stewards of public dollars very seriously and, for this reason and the reasons listed above, the department offers the following proposal. If the county decides not to accept this proposal, ODOT will terminate the grant agreement.

ODOT's Proposal

The county will set forth a timeline for opening the subject 2.78-mile segment of the trail to the public. Since the land-use approval process is at the county level, we're asking the county to set a reasonable date for the completion of the trail and subsequent opening to the public, by which time if said opening does not occur ODOT will have the right to recover all grant funds received by the county. This date of opening and potential recovery of funds will be amended into the current grant agreement.

Timeline for Decision

To allow adequate time for your commission to consider this amendment, we are asking for an agreement in principal to this amendment approach no later than 5pm next Friday (June 26, 2020) and a formal commission approval of this amendment no later than 5pm July 3, 2020.

Myth: The County was transparent

False: The County has not been transparent and the County officials' conduct in 2020 is especially appalling. But the problem with transparency is a long standing one for this trail. Commissioner Olson was concerned about the lack of transparency regarding the trail – in 2018:

As you know my frustrations are really that Stan does not keep the other Commissioners in the loop so a lot of what is happening takes us by complete surprise such as the formation of the YCTAP and my questions regarding the Board.

Although I do support the effort it is hard for me to get to excited when some are left out of the loop. The news blasts are excellent, but it does not make up for one of my fellow commissioners not updating us.

I expressed these same concerns with Carr when I met with him a couple of months ago so to find out there was actually a BOARD and not knowing how it was formed, what the legal makeup is, etc. is disturbing as an elected official. It is kind of the same as I have witnessed with the Trail Issue and the Friends of the Yamhelis Trail and I am still trying to make things more transparent and ensure things are done in a collaborative setting. I do not want to have to repeat the same process or undertaking for Tourism.

The emails expose considerable coordination and planning between Commissioner Kulla and aligned County officials regarding the trail, but few emails to Commissioner Starrett or Olsen explaining what Mr. Kulla and friends were up to on the County's behalf. That is not transparent. For Mr. Kulla, transparency is in the eye of the beholder – for those who cross him, he raises the flag; for himself, not so much.

From: Casey Kulla
To: Carrie Martin; Ken Huffer; Christian Boenisch
Subject: RE: NewsRegister Letter to the Editor
Date: Monday, December 28, 2020 9:18:30 AM

Thank you for bringing this up, Carrie, and I was disappointed to read this in the paper.

Harassment of staff and sharing emails in attempts to discredit staff and projects are both things that should be considered inappropriate and out of bounds for elected officials. That said, I also understand that we cannot make commissioners refrain from such behavior.

What *can* we do? Raise the issue in a public meeting, for one. Another thing is to provide clear expectations of lines of communication (though, I am the first to acknowledge that I don't do this) between staff, supervisors, and commissioners. I know that when I was a new commissioner, having Ken and Laura provide clear expectations was super-helpful; an example: "You are not the supervisor for staff; the county administrator is." Ken may have already done this level of initial orientation for Commissioner-elect.

Compare:

From: [steve wick](#)
To: "[Wayne Wiebke](#)"; "[Ken Wright](#)"; "[Stan Primozich](#)"; "[Casey Kulla](#)"; "[Phillip Higgins](#)"; "[V H](#)"
Subject: RE: Bus barn question
Date: Monday, November 23, 2020 2:39:00 PM

[This email originated outside of Yamhill County]

It should be noted that any discussions that we may possibly pursue re the Bus Barn should be handled with discretion, especially at the Bus Barn.

When Wayne and I went out with Jerod to the Bus Barn and trail, in late July, to inspect the Stag Hollow bridge access, we were immediately met with personnel from the bus barn asking what we were doing there. We told them we were just looking at the Trail ROW. Five minutes later one of the anti-trail farmers showed up, peppered us with questions, and then followed us on our inspection tour.

It is my opinion that the Bus Barn people are pretty tight with the anti-Trail people. IMHO anything we say or do around that Facility will immediately be forwarded.

Steve Wick

From: [Casey Kulla](#)
To: [Hannah Ray Lambert](#)
Subject: RE: KOIN question about Yamhelas grants
Date: Monday, February 8, 2021 10:07:13 AM

I am happy to talk more about it, either on or off record. The commissioners' decision to end the project now appears to be some kind of vendetta against staff, former commissioners, and me. So, not only payback of funds, but some form of political "payback." This is on top of the fact that 40% of Commissioner Berschauer's campaign funds came from trail opponents (and all of it came one day after she angrily posted on FB that she was determined to kill this project). Further, the level of bias on the BOC means that any land use decision would/could be challenged on bias alone.

It is a tangled and twisted web, and staff now have credible cases to make that they've been slandered and defamed. Feel free to call if you would like to chat!

Casey

In private, going extraordinary lengths, Commissioner Kulla attempted to use county assets to hurt his political/trail opponents.

On Friday, November 20, 2020, 10:53:09 AM PST, Casey Kulla <kullac@co.yamhill.or.us> wrote:

Board of Friends of YWT (plus Philip),

A question for you to consider: would you be interested in holding the lease

on the bus barn property on hwy 240? It would require you to be the property manager and to sublet the current bus footprint to the bus company. But the benefits: you have access to and control of the property that will be the key trail head, and it gives you a measure of standing for grants, legal claims, etc. The other buildings on site could be leased to other business partners that complement a future trail. Depending upon the details and rates, you might even generate a small cash income from the lease/sublease that could help with other projects moving the trail forward.

Obviously, a lease agreement would need to be approved and signed before the first Thursday in January, but we can move quickly if you can.

Casey

971-241-6585

On Tuesday, November 10, 2020, 1:30:30 PM PST, Todd Sadlo <sadlot@co.yamhill.or.us> wrote:

Steve,

No one on the Board has said they want to sell off the corridor, no sitting members and no Commissioners-elect. I'd prefer none of us talk about it, to avoid giving them ideas!

The Planning Commission is advisory and has no authority over county property. The Board can always overrule the Planning Commission. The Transportation Plan is an ordinance, and it requires a land use hearing to be amended. County property can be sold if it is declared "surplus." Selling any part of the corridor will result in ODOT 'clawing back' all of the money they have given us to purchase and develop it—more that \$2 million.

I hope this helps!

Todd Sadlo

From: Casey Kulla [mailto:kullac@co.yamhill.or.us]
Sent: Monday, November 23, 2020 8:34 AM
To: Philip Higgins; V H
Cc: stevenCarol.wick; Wayne Wiebke; Ken Wright; Stan Primozich; Patty Williams
Subject: RE: Bus barn question

I've sent these questions to the county management team. I've asked them to follow up with you.

From: Philip Higgins <phiggins@pacificcrestrea.com>
Sent: Monday, November 23, 2020 8:22 AM
To: V H <veronica4249@yahoo.com>
Cc: stevenCarol.wick <stevenCarol.wick@gmail.com>; Wayne Wiebke <shadypondacre@yahoo.com>; Casey Kulla <kullac@co.yamhill.or.us>; Ken Wright <ken@kenwrightcellars.com>; Stan Primozich <sgjlprimo@comcast.net>; Patty Williams <poorlydrawnheads@yahoo.com>
Subject: RE: Bus barn question

[This email originated outside of Yamhill County]

County should have a boiler plate lease they use. While I would be more than happy to review the Belt lease, I'm not sure they can share it as Friends is not a party to it.

Philip E Higgins
Principal Broker | OR & WA
OR Lic # 960900059 / WA Lic # 50197
Direct: 503-793-9039 | phiggins@PacificCrestREA.com
809 E. First St. Newberg OR 97132
Pacific Crest Real Estate Advisors
Commercial Real Estate Brokerage | Advisory Services

From: V H <veronica4249@yahoo.com>
Sent: Monday, November 23, 2020 8:13 AM
To: Philip Higgins <phiggins@pacificcrestrea.com>
Cc: stevenCarol.wick <stevenCarol.wick@gmail.com>; Wayne Wiebke <shadypondacre@yahoo.com>; Casey Kulla <kullac@co.yamhill.or.us>; Ken Wright <ken@kenwrightcellars.com>; Stan Primozich <sgjlprimo@comcast.net>; Patty Williams <poorlydrawnheads@yahoo.com>
Subject: Re: Bus barn question

Thank you for offering your help with this Phillip.

Those documents would be very helpful. Assuming it would take the County some time to draw up a new proposed lease for us, seeing the existing leases with Mr. Belt and the bus barn ASAP could get us started, as well as an idea of what the lease rate increase might be. I agree a walk-through is necessary, with someone who can identify potential issues.

Veronica

I floated this idea past Ken Huffer, Carrie Martin, Christian Boenisch and Todd Sadlo (and they were enthusiastic about me inquiring with you). It would have to be discussed in open session for Commissioner Olson to be involved. Mr. Belt currently leases the property, but I expect that our lease price going forward will result in him raising the lease price to the bus company, effectively ending their lease there. This would be very negative for the bus company and the school district and kids, so I suggested that we could ask you about taking on the lease of the whole property, with the requirement that you continue to lease to the bus company but with few other requirements. Mr. Belt was making a significant income off of the bus company lease.

I am happy to talk more in person if that is easier.

Casey

From: Wayne Wiebke <shadypondacre@yahoo.com>
Sent: Friday, November 20, 2020 1:32 PM
To: Ken Wright <ken@kenwrightcellars.com>; Stan Primozich <sgilprimo@comcast.net>; Veronica Haley Hinkes Haley Hinkes <veronica4249@yahoo.com>; steve wick <stevencarol.wick@gmail.com>; Casey Kulla <kullac@co.yamhill.or.us>; Patty Williams <poorlydrawnheads@yahoo.com>
Cc: Philip Higgins <phiggins@pacificcrestrea.com>
Subject: Re: Bus barn question

[This email originated outside of Yamhill County]

Thank you Casey thinking outside of the box. For right now I am going to defer to those you included with this offer plus Patty Williams our new Treasure. I see expertise there that I don't have. Have you consulted with Rick or county administration regarding this idea? Wayne

On Friday, November 20, 2020, 10:53:09 AM PST, Casey Kulla <kullac@co.yamhill.or.us> wrote:

Board of Friends of YWT (plus Philip),

A question for you to consider: would you be interested in holding the lease

on the bus barn property on hwy 240? It would require you to be the property manager and to sublet the current bus footprint to the bus company. But the benefits: you have access to and control of the property that will be the key trail head, and it gives you a measure of standing for grants, legal claims, etc. The other buildings on site could be leased to other business partners that complement a future trail. Depending upon the details and rates, you might even generate a small cash income from the lease/sublease that could help with other projects moving the trail forward.

Obviously, a lease agreement would need to be approved and signed before the first Thurs in January, but we can move quickly if you can.

On Nov 22, 2020, at 4:13 PM, Wayne Wiebke
<shadypondacre@yahoo.com> wrote:

We also have to think about how we respond to Phillip Higgen's; he seems to really want to get in the middle of this. WW

On Sunday, November 22, 2020, 2:29:35 PM PST, V H
<veronica4249@yahoo.com> wrote:

It's an amazing intriguing idea. I do have a lot of questions about numbers, condition of the buildings and who is responsible for their safety and upkeep, what insurance would cost us etc.

Does anyone mind if I bring my husband in on this question? He owns a large manufacturing building in Tualatin so would know more about what information we would need and what risks we would be taking on.

Veronica

Sent from and autocorrected by my iPhone

On Nov 22, 2020, at 11:25 AM, Casey Kulla
<kullac@co.yamhill.or.us> wrote:

Wayne, thanks for adding Patty (I couldn't remember her email address when I drafted this).

Myth: County staff just doing their job

Which Job? The answer depends upon what job we are talking about and whether staff performed at critical periods when the county's financial exposure was manageable. And then, after it was clear the trail was not approvable, or at the least there was serious risk, was staff acting on their own personal agenda or the County's? So, first, what is staff's job? To advise the county Board of serious financial risk? Did they do that, or did they view the concern as "bogus"? The latter is what the paper trail says. Is it staff's job to lobby a position that is not approved by the governing body? The record reveals no public meetings on the topics in the email chains of June to December 2020. So exactly whose interests were County staff pursuing trying to kick out the Belts, give the old ROW to private interests and bad mouth an incoming commissioner? Whose interests were staff pursuing in plotting ways to preserve the trail until a new BOC majority could be elected to thwart the one elected now from doing what they were elected to do? Was changing the facts to suit the message they wished to convey "doing their job"? Were trail PR campaigns and committees on public time part of their job? Just who was in charge?

So, for example, when answering how much longer it would take to finish the bridge, the answer depended upon the political position to advance. So it was:

From: [Carrie Martin](#)
To: [Christian Boenisch](#); [Ken Huffer](#); [Todd Sadlo](#)
Subject: Re: YWT Executive Session 012621
Date: Monday, January 25, 2021 8:50:40 AM

Here are my thoughts:

1. Do you want to add a question asking what will the impact of not completing the bridge have on the OPRD RTP \$75,000 grant
2. On the question of the stay and the bridge, I don't know if you want to mention there is approximately 10-days' work left in completing the COVI grant. The grant is 95% complete.

That's all I have!

Carrie

Carrie Martin
Yamhill County

From: Carrie Martin <martinc@co.yamhill.or.us>
Sent: Wednesday, February 3, 2021 6:17 PM
To: Lindsay Berschauer <berschauerl@co.yamhill.or.us>
Cc: Ken Huffer <hufferk@co.yamhill.or.us>; Christian Boenisch <boenischc@co.yamhill.or.us>
Subject: Re: Yamhelas photos

Commissioner Berschauer,

We have three separate subcontractors who can speak directly to the status of the pedestrian bridge. I stand by my assessment of the project and theirs. The grant project is at 95% completion and Farline Bridge Construction has indicated they need approximately 10 days to complete the construction.

VERSUS 75% done in representations to ODOT:



ConnectOregon
MONTHLY PROGRESS REPORT

Part A: Project Details

PROJECT NAME Yamhelas Westsider Trail: Bridge Construction		REGION NUMBER 2	IGA NUMBER 31632
RECIPIENT NAME Yamhill County			APPLICATION PROJECT NUMBER K21358
ADDRESS 535 NE Fifth Street			
CITY McMinnville	STATE OR	ZIP 97128	REQUIRED MONTHLY REPORT DATE 1 st Wednesday of the Month
PHONE 503-434-7501	FAX 503-474-4908	E-MAIL martinc@co.yamhill.or.us	DATE OF THIS REPORT 02/05/2021
RECIPIENT SIGNATURE		DATE	

a copy to ConnectOregon Program Manager.

Description (List each milestone as shown in the ConnectOregon Agreement.)	Estimated Due Date Shown in IGA, Exhibit A, Table 1	Anticipated Completion Date	Percentage Complete
1. Scoping and planning	05/31/2017	5/31/2017	100%
2. Right of way and land acquisition	11/10/2017	11/10/2017	100%
3. Permits	09/30/2019	09/30/2019	100%
4. Final plans/bidding engineering documents	10/16/2019	10/16/2019	100%
5. Construction contract award	12/02/2019	12/02/2019	100%
6. Project completion	05/19/2020	05/19/2020	75%

Part C: Provide a brief status update in the space provided below:

VERSUS **70 days** left per Farline, on March 23, 2021:

F



P.O. Box 149 * 1445 Miller Drive * Stayton, OR 9738

Cost to Finish by Item						Days to Complete
Bit Item	Description	UM	Units	Unit Price	Amount	
10	Mobilization	LS	1.00	\$ 27,000.00	\$ 27,000.00	3
20	Temp Work Zone Traffic Control	LS	1.00	\$ 1,000.00	\$ 1,000.00	
30	Construct & Remove Access Road	LS	1.00	\$ 3,500.00	\$ 3,500.00	3
40	Temp Work Access and Containment	LS	1.00	\$ -	\$ -	
50	Erosion Control	LS	1.00	\$ 1,000.00	\$ 1,000.00	
60	Plastic Sheeting	LS	1.00	\$ 400.00	\$ 400.00	
70	Matting, Type C	LS	1.00	\$ 6,000.00	\$ 6,000.00	
80	Sediment Fence	LS	1.00	\$ 1,440.00	\$ 1,440.00	
90	Pollution Control Plan	LS	1.00	\$ 320.00	\$ 320.00	
100	Work Containment Plan	LS	1.00	\$ 400.00	\$ 400.00	
110	Health & Safety Plan	LS	1.00	\$ -	\$ -	
120	Construction Survey Work	LS	1.00	\$ 3,000.00	\$ 3,000.00	
130	Removal of Structures & Obstructions	LS	1.00	\$ -	\$ -	
140	Clearing & Grubbing	LS	1.00	\$ -	\$ -	
150	Embankment In Place	LS	1.00	\$ 6,451.55	\$ 6,451.55	5
160	Riprap Geotextile	LS	1.00	\$ 300.00	\$ 300.00	
170	Loose Riprap, Class 50	LS	1.00	\$ 500.00	\$ 500.00	
180	Structure Excavation	LS	1.00	\$ -	\$ -	
190	Granular Structure Backfill	LS	1.00	\$ 6,000.00	\$ 6,000.00	2
200	Furnish Pile Driving Equipment	LS	1.00	\$ -	\$ -	
210	Furnish PP 16 x 0.5 Steel Piles	LS	1.00	\$ -	\$ -	
220	Drive PP 16 x 0.5 Steel Piles	LS	1.00	\$ -	\$ -	
230	PP 16 x 0.5 Steel Pile Splices	LS	1.00	\$ -	\$ -	
240	Furnish Steel Sheet Piling	LS	1.00	\$ -	\$ -	
250	Drive Steel Sheet Piling	LS	1.00	\$ -	\$ -	
260	Reinforcement, Grade 60	LS	1.00	\$ -	\$ -	
270	Foundation Concrete, Class 4000	LS	1.00	\$ -	\$ -	
280	General Structural Concrete, Class 4000	LS	1.00	\$ 25,000.00	\$ 25,000.00	15
290	30 Inch Precast Prestressed Slabs	LS	1.00	\$ 50,000.00	\$ 50,000.00	20
300	Pedestrian Rail, Modified	LS	1.00	\$ 10,000.00	\$ 10,000.00	10
310	Aggregate Base	LS	1.00	\$ 10,800.00	\$ 10,800.00	8
320	Permanent Seeding	LS	1.00	\$ 1,054.00	\$ 1,054.00	2
330	Plant Cuttings, Less Than 1 Inch	LS	1.00	\$ 450.00	\$ 450.00	2
Total					\$ 154,615.55	70

And then there were the county officials looking for opportunities to usurp the will of the voters with no regard for the financial risk this could create for county budgets and taxpayers ...

From: Todd Sadlo [mailto:sadlot@co.yamhill.or.us]
Sent: Monday, September 14, 2020 12:54 PM
To: Janice Primozych; Casey Kulla; 'Wayne Wiebke'; 'Ken Wright'
Cc: Carrie Martin; 'Veronica Haley Hinkes'
Subject: RE: Ownership transfer of YWT

Stan,

Friends did not intervene, and has no standing, and no basis for incurring legal fees, no matter which way the case goes. If the case is affirmed, the opponents can appeal to the Court of Appeals and the new Board can refuse to defend the decision on appeal. If the case is remanded, there is not enough time for a remand hearing, and the new Board has no obligation to conduct a hearing on remand. Current rules require that the remand be pursued within, approximately, 180 days. The application would be void after that. Again, in neither of these scenarios would Friends have standing to pursue an appeal or defend against one, because Friends did not intervene in the appeal. The goal would be for Friends to hold the property in the hope that a new Board in two or four years could pursue permits anew. The trail would not be the first worthwhile project to take years to accomplish under Oregon's land use system.

Todd Sadlo

Apparently, staff's job includes slandering two sitting members of the Board of Commissioners and going to "war" with the electorate:

From: Philip Higgins
To: Casey Kulla; Wayne Wiebke; Todd Sadlo; Ken Wright
Cc: carrie@carriemartinconsulting.com
Subject: RE: Yamhelas Westsider Trail
Date: Thursday, January 21, 2021 7:17:41 AM

[This email originated outside of Yamhill County]

Case in point – Friends should be broadcasting this type of data to the county:

> Subject: Bicycling for recreation contributed \$1.5 billion to Oregon economy in 2019 - BikePortland.org
> <https://bikeportland.org/2021/01/20/bicycling-for-recreation-contributed-1-5-billion-to-oregon-economy-in-2019-324967>

In my mind its an easy transition to:

2/3rd of the current BOC ***DOES NOT WANT YAMHILL COUNTY TO HAVE MORE JOBS*** and the fact of the matter is that not only do they want to decide ***for the market*** (picking the winners and losers for you) their decisions will mean less employment and the ***TAX BURDEN*** falls to the rest of us. Mary Starrett and Lindsey B want to ***Raise YOUR Taxes***.

Philip E Higgins
Principal Broker | OR & WA
OR Lic # 960900059 / WA Lic # 50197
Direct: 503-793-9039 | phiggins@PacificCrestREA.com
809 E. First St. Newberg OR 97132
Pacific Crest Real Estate Advisors
Commercial Real Estate Brokerage | Advisory Services

From: Philip Higgins <phiggins@pacificcrestrea.com>
Sent: Tuesday, January 19, 2021 6:42 PM
To: Casey Kulla <casey@caseykulla.com>; Wayne Wiebke <shadypondacre@yahoo.com>; Todd

Sadlo <sadlot@co.yamhill.or.us>; Ken Wright <ken@kenwrightcellars.com>
Cc: Philip Higgins <phiggins@pacificcrestrea.com>; carrie@carriemartinconsulting.com
Subject: RE: Yamhelas Westsider Trail

While I'm happy to write a letter of support, my lone voice – and anyone's lone voice – won't stand up to the 2/3 BOC contingent intent on bullying this Trail to its death and mishandling every economic development opportunity in the County for the next two to four years. You have to show them a unified front and push back.

If you want to get serious about a real honest war – and not this half truth hysteria one sided war that the Trail is losing - I'm happy to have a strategy session.

Philip E Higgins
Principal Broker | OR & WA
OR Lic # 960900059 / WA Lic # 50197
Direct: 503-793-9039 | phiggins@PacificCrestREA.com
809 E. First St. Newberg OR 97132
Pacific Crest Real Estate Advisors

From: [Carrie Martin](#)
To: [Todd Sadlo](#); [Casey Kulla](#); [Christian Boenisch](#); [Ken Huffer](#)
Subject: Re: Yamhelas Trail
Date: Friday, June 19, 2020 8:17:07 AM

I guess publicity is our only recourse.

Carrie Martin
Yamhill County
Grants & Special Projects
martinc@co.yamhill.or.us
503-474-4991 (o)
971-241-1007 (m)

From: Todd Sadlo <sadlot@co.yamhill.or.us>
Sent: Friday, June 19, 2020 8:12 AM
To: Casey Kulla <kullac@co.yamhill.or.us>; Christian Boenisch <boenischc@co.yamhill.or.us>; Ken Huffer <hufferk@co.yamhill.or.us>
Cc: Carrie Martin <martinc@co.yamhill.or.us>
Subject: RE: Yamhelas Trail

It looks like a non-land use lawyer and non-land use policy person have decided to oppose the trail. That e-mail can be the basis for Wendie's next campaign against us. It does seem like someone from the opposition is getting direct access to the now duo from DOJ/ODOT in railing against the project.

ts

Pursuing political positions and dreaming up ethics complaints against sitting commissioners is not often considered “staff doing their job.”

From: Todd Sadlo <sadlot@co.yamhill.or.us>

Sent: Friday, June 19, 2020 9:36 AM

To: Casey Kulla <kullac@co.yamhill.or.us>; Carrie Martin <martinc@co.yamhill.or.us>; Ken Huffer <hufferk@co.yamhill.or.us>; Christian Boenisch <boenischc@co.yamhill.or.us>; Jarod Logsdon <logsdonj@co.yamhill.or.us>

Subject: RE: Yamhelas Trail

Sounds like it is a done deal. So, agree to a timeline that includes the next election for county commissioner or two? That must be the calculation they are making, regardless of their claim that it is LUBA that bothers them.

ts

From: Carrie Martin <martinc@co.yamhill.or.us>

Sent: Monday, February 1, 2021 8:37 AM

To: Ken Huffer <hufferk@co.yamhill.or.us>; Christian Boenisch <boenischc@co.yamhill.or.us>; Todd Sadlo <sadlot@co.yamhill.or.us>

Subject: Ethics investigation

Good morning,

I understand an ethics complaint has been filed against Commissioner Berschauer that alleges

a conflict of interest on the YWT project. This complaint concerns the significant number of LUBA litigants who were also donors to Commissioner Berschauer's campaign.

Is this something that would create a delay to any vote on Thursday?

Thanks,

Carrie

Carrie Martin

Yamhill County

County & Council District

From: [Todd Sadlo](#)
To: [Carrie Martin](#)
Subject: Re: Lindsay's Facebook post today:
Date: Friday, February 5, 2021 5:15:25 PM

Thanks Carrie. Good job yesterday. A lot of false nonsense swirling around. Some are more susceptible to conspiracy theories than others. Like most other dogmatic new commissioners, she thinks she is on a mission from god. Hopefully, like most before her, she will figure out that a lot of political mumbo jumbo is not what is needed to effectively run a municipal corporation.

ts

Myth: County staff advised the Commissioners of the significant risk of spending millions of state and federal dollars on a project before it had land use approval.

Hard to know: We have been unable to find any meeting minutes or correspondence where County Counsel or Administrator advised the Board of Commissioners of their significant exposure. The Connect VI grant is clear:

- a. **Use of Grant Funds.** The Grant Funds shall be used solely for the Project described in Exhibit A and shall not be used for any other purpose. No Grant Funds will be disbursed for any changes to the Project unless such changes are approved by ODOT by amendment pursuant to Section 11.c hereof.

- a. **Prerequisites for Reimbursement of Costs – General**
 - i. **Prior approvals.** Recipient shall provide documentation of having met all pre-construction requirements, including, but not limited to, meeting all public agency conditions of Project approval and obtaining all Project-specific land entitlements and permits, including in-water work permits, prior to any construction costs (labor and material) being considered eligible for reimbursement or reimbursed. Project Costs will be reimbursed from Grant Funds only through the design phase of Project until all applicable documentation is received by ODOT. Recipient shall provide this documentation to ODOT's ConnectOregon Program Manager.

The lawyer for farmers adjoining the trail pointed out on numerous occasions that the County had significant liability if the County continued to spend state and federal money on the trail before land use approval was secured:

Further, we understand that County staff is asking the Board of Commissioners to authorize letting even more contracts to oblige the County to spend the 2016 ConnectOregon VI

grant to Yamhill County for the trail for a whopping \$1 million plus, even though the County must know that at this point there is no legal basis for such expenditures:

Yamhill County	Yamhelas Westsider Trail: Bridge Construction	\$1,012,185.71	The project will encompass the planning, design and engineering of three new pedestrian bridges and the construction of a bridge over the Stag Hollow Creek. All proposed bridges will be located along the future Yamhelas Westsider Trail near Yamhill, Oregon. The project area is parallel to OR 47 and this is the first phase of development creating Yamhill County's first multi-modal regional trail.
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If the Board of Commissioners did so, that would seem to expose them to the consequences of spending public money on a project known to be unlawful – whatever those consequences are – but seemingly to include having to repay the money, pay any indemnification or defense of a grantor, being liable to pay the contractors per their agreements with the County, and whatever other liabilities there are.

The Board should not authorize expending any public money on the Yamhelas Trail until and unless it is known that the trail can be lawfully constructed. Our clients, who are the owners and operators of large and small commercial farms – the ones who are adversely affected

Thus, the applicant for the trail is in no better position than *any developer* who elects to take a very big risk and to move forward, knowing full well that the project may be appealed and the approval may be lost, where it is appealed and it is lost, which is what happened here. The only difference is there, the risk-taking developer is probably spending a *bank's private money* and here, the County staff applicant is spending *federal, state and local public money*.

County Counsel, Mr Sadlo, characterize those concerns as “bogus,” acting on the county’s behalf:

I suppose that you will keep manufacturing bogus legal analysis and asking the county to follow it, as long as your clients keep paying you to do so, but some of your analysis is painfully hard to swallow, and looks like it is calculated to deceive. That’s your prerogative, to circulate unsupported theories about what the county can and cannot do with its property. I am simply asking that you follow the rules regarding *ex parte* contacts, and stop encouraging your clients to make *ex parte* contacts. In the future, you and your clients should submit your/their testimony to the Planning Department for inclusion in the remand record and delivery to the Board through established channels.

The farmers’ attorney again pointed out to Mr. Boenisch that he ought to advise the Board of Commissioners and not dismiss the concern:

On that, before joining Mr. Sadlo’s name calling that the concern that the Board of Commissioners are on the hook for authorizing the county to spend public state and federal money on an illegal project as “bogus”, you might consider giving or seeking a legal opinion on the extent of the Commissioners’ and county’s exposure. I think you will find that it is a long way from “bogus,” hovering somewhere between serious and extreme. Thank you.

Myth: Staff and decision makers respectful to members of the public.

False: One need only read the latest county decision that LUBA remanded December 2020 to see this myth is false. The “findings” are a collection of personal attacks upon the public participants and little more. Other examples:

From: Wayne Wiebke <shadypondacre@yahoo.com>
Sent: Thursday, October 22, 2020 10:03 AM
To: steve wick <stevencarol.wick@gmail.com>; Todd Sadlo <sadlot@co.yamhill.or.us>
Subject: Re: oral argument

[This email originated outside of Yamhill County]

I am a nerdy birder and know that Western screech owls have 7 some what distinctive calls so I am hoping her's was one of the several alarm or distress calls. In general, other than the satisfaction of getting under Wendie's feathers, how did you feel about your presentation?

On Thursday, October 22, 2020, 9:08:14 AM PDT, Todd Sadlo <sadlot@co.yamhill.or.us> wrote:

Hey, did either of you catch oral argument last Tuesday? I got Wendie Kellington to do her screech owl routine!

It's been great working with the two of you on this. Hopefully I'll still be around in two years to pick up the fight again!

Todd Sadlo

From: Todd Sadlo <sadlot@co.yamhill.or.us>
Sent: Thursday, April 16, 2020 12:16 PM
To: Christian Boenisch <boenischc@co.yamhill.or.us>
Cc: Ken Friday <fridayk@co.yamhill.or.us>; Ken Huffer <hufferk@co.yamhill.or.us>
Subject: Fw: Board Order 19-94 April 30, 2020 Remand Hearing

She creeps me out, but the letter doesn't concern me for its substance. It is basically about scheduling. The part about attacking me personally and claiming ex parte contacts seems a bit ex parte to me--she is commenting on the applicant to the proceeding, in an effort to affect the review of the application, and that is not about scheduling.

About a well-respected Yamhill County farmer, Mr. Sadlo offered the following:

From: [Todd Sadlo](#)
To: [Ken Huffer](#); [Carrie Martin](#); [Christian Boenisch](#)
Subject: RE: Yamhelas Westsider Trail: farmers and property owners feedback
Date: Friday, December 18, 2020 10:49:17 AM

Bitterness, sourness, no sense of community, just as he has been through this long process. He's winning though, so bully for Mr. Schrepel

Mr. Kulla, a quasi-judicial decisionmaker, on how farmers really do not know anything and cannot think for themselves:

From: [Casey Kulla](#)
To: [Todd Sadlo](#)
Subject: RE: Response to new stay request
Date: Tuesday, June 16, 2020 3:18:04 PM

Agreed. My position is usually something like this, "the evidence shows that farmers will not be impacted negatively by the trail; when people tell farmers that they will be hurt by it, they are misleading the farmers." I realize that some farmers are pushing this narrative, also, but I saw this mostly strongly from opposition counsel.

The latest trail decision dismissed even the concerns of the Carlton Fire Chief:

6.2.11 The Board specifically rejects the Carlton Fire Chief's various assertions, that fire hydrants are necessary in the corridor, that all vegetation must be removed from the corridor, and all other such assertions made by the Fire Chief. The county will at all times comply

Myth: Until 2021, the Board of Commissioners supported the trail.

False: First, we do not know whether the trail would have gotten as far as it did if all commissioners were fully informed. It appears likely that not all commissioners along the way were informed.

Second, Commissioner Starrett always opposed the county incurring any obligations or spending public money on the trail until and unless it was shown to be lawful, including to meet the farm impacts test. She continually warned the county that it should not be spending public grant money on the trail before it was approved because there would be liability to repay.

Third, the trail was DOA in May 2018 when a majority voted against it – it was only revived after an hours-long *ex parte* contacts meeting with staff arm-twisting Commissioner Olson to change his vote. Had they left this elected official alone, the trail would never have gotten as far as it did. To recap, after the May 2018 public hearing, Commissioner Olson voted against the trail. With Commissioner Starrett being of similar mind, it was denied in May 2018.

Commissioner Olson believed that the County should not move forward with spending grant

money on the trail until it was known if it was lawful. It was only after he was strongarmed for hours by County Counsel and potentially other County officials that he relented to change his vote.

> On Wednesday i met with county counsel for several hours to go over the findings which were flawed and they understood why i felt they were flawed. New findings and changes to the text have been created that will hopefully minimize the chance for an appeal.

Commissioner Olson noted that he felt bad about “disappointing Ken [Wright]”:

I have to say I know I upset some friends and supporters such as yourself, veronica, and Ken. I really did not want to disappoint Ken since he has been so gracious toward myself and the trail .

I look forward to the 31st so i can put forth the motion for the reconsideration of the vote and vote yes in support.

Thanks for reaching out

Rick

So, in a highly unusual “reconsideration” vote that took place when Commissioner Starrett was on vacation (but participated by telephone even so), Commissioner Olson changed his vote and 2-1 the trail was approved. That beginning is not a strong endorsement and should have signaled the serious problems that lay ahead.

Former Commissioner Kathy George testified she never would have supported the trail while she was commissioner had she known the true facts about it:

Yamhill County Commissioner from 2003 to 2014. I wish to set the record straight on my position during this time. I would never have given my support to the conversion of the old abandoned rail right- of- way to the Yamhelas Trail, had I been truthfully advised of certain facts that have since been made available.

Lesson: The lesson is that the trail has converted a variety of county officials to trail acolytes who have been and still apparently are, unwilling or unable to see the truth about the trail, let it go, and work on a constructive way out. How far they will go to get their way about the trail is unknowable. The best thing the Commission can do is get good advice from a non-trail acolyte about how to (1) repay the money the acolytes exposed the county to repay, (2) sell or vacate the old ROW to repay some of that money, (3) audit how the county got to this place so it can never happen again, and (4) in no uncertain terms stop paying for a master plan for this trail that can never happen.

The County must establish controls so that it never again allows itself to take on such an enormous financial liability promising to establish a project it has no idea if it can legally establish and without consulting its constituents who are the most adversely affected. Had clear minds prevailed, the County would never have accepted the Connect VI grant - it could not

promise to build a trail on land zoned EFU unless and until the adjoining farmers were consulted and it was seen if it could ever pass EFU zone laws. After an audit, the county can learn the extent of the failures and institute appropriate controls to put in place, so this debacle does not happen again.