

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of an Order Allowing Construction     )  
and Maintenance of a Gate on a Public Road,         )     BOARD ORDER 17-496  
Smith Road (County Road # 142), Under Authority    )  
of ORS 368.056; Applicant: Ron Fennern             )

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (“the Board”) sat for the transaction of County business in formal session on December 7, 2017 Commissioners, Stan Primozych and Richard L. “Rick” Olson being present, and Commissioner Mary Starrett present, but having recused herself.

THE BOARD MAKES THE FOLLOWING FINDINGS:

A.     ORS 368.056 states:

“**368.056 Permit for gate construction on public road.** A county governing body may issue a permit to a person to allow construction of a gate or stock guard on a public road under the jurisdiction of the county governing body. The county governing body may impose any conditions or specifications on the permit it determines advisable to preserve the purposes of the public road. Conditions on a permit under this section may include a requirement that the person issued the permit shall bear all costs of construction and maintenance of the gate or stock guard.”

B.     Ron Fennern, a resident of Smith Road (County Road #142), has requested permission for the residents and owners of property along and/or accessed by Smith Road to install and to maintain a gate on the road, at a location approximately 300 feet from the intersection of Smith Road with Parrett Mountain Road. All residents and owners of property accessed by or abutting Smith Road, with the exception of three owners, have consented to the construction and maintenance of the gate at the proposed location.

C.     Smith Road terminates at its intersection with Heater Road, in Clackamas County. County staff has determined that Clackamas County has not vacated the end of Smith Road over which it has jurisdiction, and has not received an application to either vacate the Clackamas County portion of the road, or to allow installation of a gate at Heater Road.

D.     As required by law, a public hearing was held on this matter on November 9, 2017, to accept testimony regarding the proposal, and whether any conditions are necessary to “preserve the purposes of the public road.” Before and during the hearing, the Board heard opposition from Donald Gregg, and Steven and Linda Gregg, who own property on both sides of Smith Road at its intersection with Parrett Mountain Road. The Greggs also sought assurances that future owners

of their property and of individual lots within their subdivision would have access to Smith Road.

E. Based upon the record of the public hearing, the Board finds that placement of the gate as proposed by the applicant is appropriate, with conditions. NOW, THEREFORE,

IT IS HEREBY ORDERED BY THE BOARD AS FOLLOWS:

1. The applicant is hereby granted permission to install a gate on Smith Road near its intersection with Parrett Mountain Road, within the right-of-way of Smith Road. When open, the gate must have at least 20 feet of clearance for the passage of vehicles. The gate will utilize Knox System or equivalent technology, acceptable to fire and rescue providers with jurisdiction over the property, to allow access by emergency vehicles. Access by others shall be managed and controlled by the residents and property owners who use Smith Road to access their homes or property. The Greggs, as owners of Tax Lots 3224-00200 through 00214, their successors and assigns, shall be provided access codes and otherwise provided full access to Smith Road.

2. The permission to install a gate as specified in section 1 of this order is conditioned upon approval by Clackamas County of the installation of a similar gate (under similar conditions, allowing access to the Greggs, their successors and assigns) at Heater Road, or the vacation of a portion of Smith Road in Clackamas County and the closure of the road at or near its intersection with Heater Road. No gate shall be installed at or near the Parrett Mountain Road intersection until the approvals specified in this section have been granted, and any appeal periods have expired without an appeal, or until all appeals have been resolved allowing the gating or vacation of Smith Road in Clackamas County. The exact location of the gate shall be established by the Public Works Director following approval by Clackamas County as specified in this section.

3. Maintenance of the gate installed pursuant to this order shall be solely the responsibility of the applicant and of the residents and owners of property accessed by Smith Road. Payment of installation and maintenance costs shall be voluntary.

4. The permission granted by this Order may be revoked by the Board at any time, with or without cause, following notice and opportunity for a hearing.

DONE at McMinnville, Oregon on December 7, 2017.

ATTEST:

YAMHILL COUNTY BOARD OF COMMISSIONERS

BRIAN VAN BERGEN  
County Clerk

  
Chair STAN PRIMOZICH  
Vice Chair MARY STARRETT

By: Keri Hinton  
Deputy

(recused)  
MARY STARRETT

FORM APPROVED BY: Timothy S. Sadlo  
Senior Assistant County Counsel

Richard L. Olson  
Commissioner RICHARD L. "RICK" OLSON

Accepted by Yamhill County  
Board of Commissioners on  
12-7-17 by Board Order  
# 17-496