

Barn: Smith intends to file a response to city's motion



R.J. Marx/Seaside Signal

Neacoxie Creek Barn was the site of a wedding this month. The city of Gearhart seeks to prohibit future events until the owner acquires a conditional use permit for the property.

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The city says the merits of the case aren't worth disputing and they're entitled to summary judgment before reaching trial.

The city won a temporary injunction to prohibit events in the barn earlier this year, and "now we're going for a permanent injunction," City Administrator Chad Sweet said.

"Basically the city has no evidence or facts to make this claim," Smith countered. "This will be dismissed accordingly."

Smith successfully argued before Gearhart Municipal Court that her

wedding business was not a prohibited use under the city code, and as a result, penalties against her for zone code violations were dismissed.

With the passage of a zoning amendment in August, the city sought to close that loophole. "If a use is not listed as a permitted use, it may be held to be a similar unlisted use," reads the amended code, which goes into effect in October.

Smith had an event Saturday, but no violations were issued. "It was not in the barn, it was on her property," Sweet said.

"Short-term rentals were not allowed in the zone code either,"

Sweet said. "Previously Gearhart has chosen to allow them by not addressing the issue, so Shannon used that same loophole to say she is allowed to hold her future events in residentially zoned property. As of the first week of October, she won't be able to hold those events."

Since a wedding is not a permitted use inside or outside the barn, Sweet said, under the new zoning Smith would be required to obtain a conditional use permit. The certificate of occupancy is required for using the barn.

Smith said she intends to file a response to the city's motion.

Security: Talks will continue after Roden trial concludes

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Marquis acknowledges that Circuit Court judges have authority over security in their courtrooms, and he agrees the strict security measures are needed for the death penalty trial.

After the Roden trial, however, Marquis plans to continue the discussion with the court.

"Presumably, when the trial is over we will have a long conversation about this," Marquis said.

Staffing concerns

The Sheriff's Office is in charge of security at the courthouse. Before this week, usually one deputy roamed the building. The new security plan requires four to five deputies on duty while the courthouse is open. At least two deputies are stationed at the metal detector inside the one secure entrance.

Bergin said his office received state funds to cover the labor costs during the death penalty trial, which could last two months. After the trial, Bergin said, he simply does not have the budget to keep multiple deputies at the courthouse. More courthouse deputies would put a strain on other responsibilities in the Sheriff's Office.

"As far as a permanent lockdown, I'm not in favor of that nor will I until we

have the appropriate amount of personnel," Bergin said.

Bergin hopes to keep an open dialogue with the court. His deputies were surprised when they heard about the plan late last week.

"The way it was addressed and approved this time was a little bit hurried," Bergin said.

Shared responsibility

Although the Circuit Court houses state business, the building is owned and maintained by the county.

"The courts are instruments of the state, but they operate in a county facility," County Manager Cameron Moore said. "My understanding is judges have a great deal of authority and discretion in terms of security in their specific courtrooms, but the courthouse security is a shared responsibility."

Moore, who was hired earlier this year, said he was not aware of a security change, since it was never brought up at recent court security advisory committee meetings. He is concerned there was never any public outreach, and no outreach to his office.

"The question becomes is this the best decision for the public, as well as those that work there that want to be safe," Moore said. "We may revisit this decision. We may find out it makes perfect sense."

Cormorants: Nearly 2,400 killed this year

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Battaglia wrote that there was no connection between San Diego and the actions giving rise to the animal welfare group's lawsuit. Steve Hindi, executive director of Showing Animals Respect and Kindness, which is based in Illinois, said the case was filed in San Diego because the group has a lawyer there working pro bono.

Hindi said having the case moved to Portland will put an undue strain on the financially limited group. In his ruling, Battaglia wrote that if the group could send a boat to Oregon to document the shooting of cormorants, having the case there would not be unduly burdensome.

Documenting shooting

In mid-April, the animal welfare group sent a Kodiak skiff called the Bob and Nancy — funded by celebrity couple and animal welfare activists Bob Barker and Nancy Burnett and equipped with a drone — to the Port of Astoria's West Mooring Basin. Activists spent three weeks trying to document the shooting of cormorants from boats moored next to East Sand Island near Chinook, Washington.

The Army Corps of Engineers contracted last year with agents with the U.S. Department of Agriculture's Wildlife Services to thin a colony of cormorants on East Sand Island from 13,000 to 5,600 over a four-year period, as well as oil their nests, to reduce their predation on federally endangered salmon headed downstream. The Corps has estimated the island holds 98 percent of the breeding population in the Columbia estuary, and that the colony has eaten about 12 million salmon.

So far this year, Wild-



Roy Western/For EO Media Group

A cormorant grooms itself, an important process that facilitates its ability to dive in pursuit of small fish.

life Service agents have killed nearly 2,400 cormorants and oiled nearly 1,100 nests. Last year, the Corps shot more than 1,700 birds and oiled more than 5,000 nests.

In April, the Coast Guard created a 500-yard exclusionary zone around the shooting on behalf of Wildlife Services. Several days later, the animal welfare group filed suit to gain a temporary restraining order from the exclusionary zone, a request later turned down.

The Coast Guard has claimed the exclusionary zone was about the safety of nearby mariners. The animal welfare group has claimed the zone

violated their First Amendment rights to collect footage of the shooting, and that officers with Wildlife Services lied to the Coast Guard about the Bob and Nancy causing wakes around the agents shooting the cormorants.

In mid-May, activists released a video showing the killing of cormorants. The culling was suspended around the same time, after independent observers noticed the cormorants on East Sand Island had abandoned their nests, the eggs falling prey to eagles, crows and seagulls. Many of the cormorants later turned up nesting on the Astoria Bridge.

Audubon case

In April, the Audubon Society of Portland filed suit against the Corps, along with the Center for Biological Diversity, Animal Defense Fund, Friends of Animals and Wildlife Center of the North Coast, a coastal bird and mammal shelter based in the Lewis and Clark neighborhood. The groups sought a preliminary injunction to stop the shooting and hazing of cormorants.

U.S. District Court Judge Michael H. Simon in Portland ruled last month that the Corps' cormorant-culling program could continue "because it provides some benefit to salmonids that are listed as endangered or threatened under the Endangered Species Act," while cormorants are not listed. Simon did find that the Corps violated the National Environmental Policy Act by not considering alternatives, such as changing the amount of water released from dams, before culling cormorants.

Hindi said his group's lawsuit would continue, and that he hopes the Audubon Society is ultimately successful in stopping the culling program. He said the dams are the main problem facing salmon, and that the Corps is unfairly scapegoating cormorants.

"The judge should stop the program because it's absolutely wanton killing," Hindi said.

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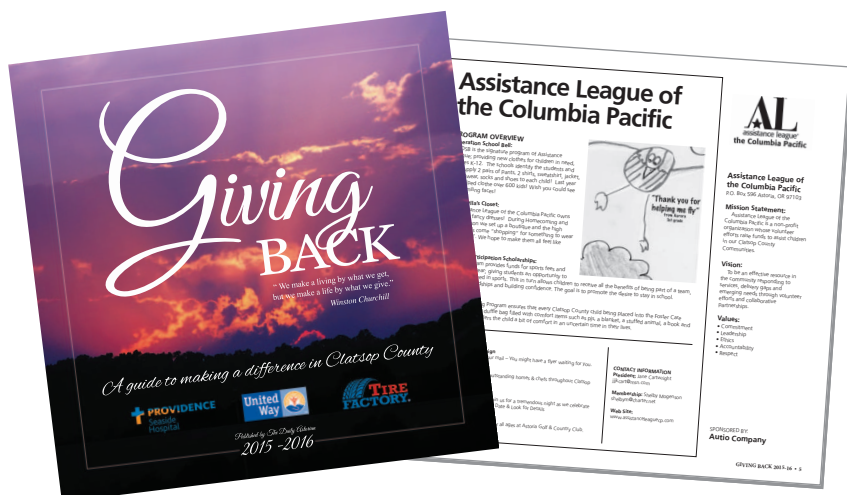
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Anna Stamber
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astamber@dailystorian.com

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lcadonau@dailystorian.com

Brandy Stewart - Seaside
and Cannon Beach
503-738-5561 • 503-791-7769 Cell
bstewart@dailystorian.com

Andrew Renwick - Long Beach
360-642-6703, Ext. 229 • 503-791-2780 Cell
arenwick@chinookobserver.com

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