

BOARD OF COMMISSIONERS

MINUTES OF THE BOARD SESSION – Regular Session

Wednesday, August 3, 2022

9:00 a.m.

Senator Hearing Room
555 Court Street NE
Salem, OR 97301

PRESENT: Commissioner Danielle Bethell, Commissioner Colm Willis, and Commissioner Kevin Cameron. Also present were Jan Fritz, chief administrative officer, Jane Vetto as county counsel, and Brenda Koenig as recorder.

Commissioner Bethell called the meeting to order at 9:00 a.m.

(Video Time 00:00:47)

PUBLIC COMMENT

David Beem:

- Mr. Beem requests that air conditioning be installed in the building's restaurant; and
- The request will be discussed with the building's condo association.

Keisha Martinez:

- Ms. Martinez had money stolen from her bank;
- She is being referred back and forth between the Woodburn police and the Marion County Sheriff's Office (MCSO):
 - The Woodburn police return her calls, but the MCSO does not:
 - She feels that the MCSO is discriminating against her.
- She wants to know if the board can ensure her equal rights and access for reporting crimes.

Board discussion:

- The public comment procedure was explained to Ms. Martinez; and
- Ms. Martinez was provided with some suggestions on how she might proceed.

(Video Time 00:08:55)

PRESENTATION

1. Strategic Economic Development Corporation (SEDCOR) of the Mid-Willamette Valley Quarterly Report. –Adam Franco, Marion County Community Services, Economic Development Specialist; Erik Andersson, SEDCOR President; and Nick Harville, SEDCOR, Marion County Business Retention and Expansion Manager

Summary of presentation:

Adam Franco:

- The county is in its fifth and final year of the contract with Strategic Economic Development Corporation (SEDCOR):
 - The contract expires on June 30, 2023.
- The contract is for \$160,000 per year; and
- The contract funds come from economic development funds for business retention and attraction.

Erik Andersson and Nick Harville, SEDCOR:

- SEDCOR leverages public and private partnerships to successfully grow, retain, and attract high value jobs and capital investment in the Mid-Willamette Valley;
- They work in Marion, Polk, and Yamhill counties;
- They have been heavily engaged in the Santiam Canyon wildfire recovery efforts, including assisting with the following:
 - Mr. Harville serves on the Santiam Canyon Long Term Recovery Group (LTRG);
 - An estimated 92 companies and groups contributed to the building of the community center:
 - It took over one year to complete the community center.
 - Mr. Harville works with several contractors who are building homes in the canyon, helping them work through the planning process;
 - Approximately 50 percent of the homes are rebuilt; and
 - Some individuals have decided not to rebuild.
- There are a large number of warehouse and distribution facilities around the county:
 - These facilities are challenged with finding enough workforce; and
 - SEDCOR worked with Chemeketa Community College to reintroduce a training program for warehouse and distribution workers, and they are looking for opportunities for Spanish language training.
- SEDCOR has been engaged in agricultural innovation work with the growers and processors in the region;
- They held a meeting with eight major agricultural producers from the valley and Yamasa, to learn Yamasa's criteria for wheat:
 - A lot of the wheat Yamasa currently purchases is from Canada; and
 - There is an issue with storage, as Yamasa does not have the storage and some of the local farms do not have proper storage.

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- SEDCOR worked with the Technology Association of Oregon to develop a dashboard for jobs in the technology and non-technology industries, including agriculture;
- There are well paying technical career opportunities in agriculture and food processing in the region:
 - Changes in technology are creating jobs in the county.
- An undisclosed company is considering building a new warehouse and distribution facility at Mill Creek that would create 500 jobs;
- Tillamook Country Smoker is moving into Silverton, and they are hiring:
 - They hired several local companies to help with property improvements.
- In the middle of June SEDCOR held the kickoff for the Latino Microenterprise Development Program at Chemeketa Community College:
 - The first offering will be a business leadership program.
- SEDCOR was awarded a regional innovation hub planning grant in the amount of \$140,000; and
- SEDCOR has recently updated their strategic plan to include the following:
 - Their main areas of work are expansion, retention, and targeted attraction of traded sector businesses;
 - Innovation and entrepreneurship;
 - Workforce development;
 - Supporting infrastructure development, including broadband;
 - Working on a mid-valley regional identity; and
 - Continued stakeholder engagement.

Board discussion:

- The Commissioners would like SEDCOR to work with the county’s economic development team to study the impact of private investment in the community;
- SEDCOR does a good job of connecting private citizens with the government in collaborative ways;
- Marion County has an agricultural heritage, and by adding value to the agricultural community individuals benefit with increased standards of living;
- The Commissioners would like to know how much the storage needed by Yamasa would cost; and
- The county is working on developing an agricultural processing area in the Brooks-Hopmere area.

(Video Time 00:49:26)

CONSENT

HEALTH AND HUMAN SERVICES

2. Approve an order increasing the fees referenced in Exhibit A, effective January 1, 2023; and Exhibit B, effective January 1, 2024; and Exhibit C, effective January 1, 2025, for the Marion County Health Department for environmental health licensing and inspection activities.

TAX OFFICE

3. Approve an order for a property tax refund in the amount of \$28,207.12 for Kerr Concentrates, Inc., tax account number 349645.

MOTION: Commissioner Cameron moved for approval of the consent agenda. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

(Video Time 00:50:17)

ACTION

BOARD OF COMMISSIONERS

4. Consider an ordinance referring a measure to the electors to prohibit the establishment of psilocybin product manufacturers and psilocybin service center operators within unincorporated Marion County. –Tanisha Bush and Jane Vetto

Summary of presentation:

- Approval of the measure would prohibit the establishment of these facilities within the unincorporated areas of Marion County;
- This is a second reading of the ordinance; and
- If the ordinance is adopted today, it will be referred to the Clerk’s Office for placement on the ballot for November’s general election.

Board discussion:

- The voters in Marion County opposed these types of facilities when the measure was originally on the ballot; and
- This does not prohibit cities within Marion County from allowing these types of facilities:
 - This is only for the unincorporated areas of Marion County.

MOTION: Commissioner Willis moved that the chair read the ordinance referring a measure to the electors to prohibit the establishment of psilocybin product manufacturers and psilocybin service center operators within unincorporated Marion County by title only twice. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

Commissioner Bethell read the ordinance by title only twice.

MOTION: Commissioner Willis moved to approve an ordinance referring a measure to the electors to prohibit the establishment of psilocybin product manufacturers and psilocybin service center operators within unincorporated Marion County. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 00:53:42)

PUBLIC WORKS

5. Consider approval of the incoming funds American Rescue Plan Act (ARPA) Coronavirus State Fiscal Recovery Fund Grant Agreement with the Oregon Business Development Department in the amount of \$50,000,000 for the North Santiam Canyon Sewer Project through September 1, 2026. –Brian Nicholas

Summary of presentation:

- The purpose of the project is to construct sewer and interim septic improvements in the canyon in Mill City, Gates, Detroit, Idanha, and rural areas outside city limits that were affected by the 2020 wildfires;
- There are two projects, plus some additional funding identified in the agreement;
- Project A, the Mill City and Gates Sewer Expansion will include the following:
 - New sewer plant and collection system expansion for City of Mill City; and
 - Extend collection to the City of Gates.
- Project B, the Detroit and Idanha Sewer System will include the following:
 - Design a new sewer plant to serve the cities of Detroit and Idanha; and
 - Get the project staged and ready to receive additional funding for construction.
- Interim septic solutions include the following:
 - An estimated \$6 million for the construction of commercial septic systems for downtown City of Detroit; and
 - An estimated \$2 million for a residential septic grant program.
- An estimated \$40 million has been allocated to the City of Mill City and the City Gates project;
- An estimated \$2 million has been allocated for the design of the City of Detroit and the City of Idanha sewer system; and
- Following is the project schedule:
 - Consultant selection is complete;
 - Design and permitting will be completed by December 2024;
 - Property acquisition will be completed by December 2024; and
 - Construction will be completed by December 2026.

Board discussion:

- The commercial septic system project will start in approximately three weeks;
- The residential septic grant program is retroactive to March 2021, and is for residential properties impacted by the 2020 wildfires; and
- This is a large project that will have a positive generational impact on the Santiam Canyon.

MOTION: Commissioner Cameron moved to approve the incoming funds American Rescue Plan Act (ARPA) Coronavirus State Fiscal Recovery Fund Grant Agreement with the Oregon Business Development Department in the amount of \$50,000,000 for the North Santiam Canyon Sewer Project through September 1, 2026. Seconded by Commissioner Willis; motion carried. A voice vote was unanimous.

(Video Time 01:03:57)

**PUBLIC HEARINGS
9:30 A.M.**

PUBLIC WORKS

A. Public hearing to consider amending the Marion County Rural Zone Code to permit an event business as a home occupation. –Brandon Reich and Lindsey King

Summary of presentation:

- On April 15, 2022, staff met with the board and interested citizens to discuss the code that permits home occupations on farmland;
- The board directed staff to work with stakeholders to develop a code that would permit an event business as a home occupation:
 - Staff has developed a draft code.
- On June 29, 2022, the board-initiated consideration of the amendment to the county's zoning code;
- The code includes many health and safety measures including the following:
 - Standards for traffic and parking; and
 - Standards for event signage.
- Property owners will be required to obtain all health department permits associated with the event business, including food and potable water;
- Property owners will be required to obtain other required permits, including those for serving alcohol;
- Property owners will be required to provide evidence that the required permits are being renewed;
- New and existing structures that will be used for the event business will be required to meet applicable building, septic, and fire codes to ensure that they are safe for customers at the property;
- The code is designed to minimize an event business's impact on neighboring properties, while still allowing an event business to be operated as a home occupation;
- The code includes standards for the following:
 - Fencing;
 - Landscape buffers;
 - Lighting;
 - Noise; and
 - Parking.
- The maximum number of events in one year is 18:

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- This is the same as the annual maximum number of allowable agritourism events.
- The maximum number of participants is 750:
 - Larger events must obtain a mass gathering permit from the county.
- The code requires that the event contract contain language regarding compatibility with the surrounding resource uses of the land, including farming;
- The event business home occupation would be approved only for the property owner applying, except for the following:
 - A subsequent property owner could review and accept the conditions that are placed on the operation of the business.
- To ensure that the home occupation event business continues to meet the qualifications, the property owner must be the occupant of the property and the business operator;
- The property must be receiving the farm special assessment to ensure that the land is being farmed, and that it is a part of the local farming community;
- The event business must take place substantially indoors:
 - Tents are considered “outdoors” for purposes of this code; and
 - By requiring that events take place primarily indoors, neighboring properties will be less likely to be affected by the events, and the customers of the event business will be less likely to be affected by any farm or forest uses within the area.
- When an event is not taking place, any items associated with the event business must be stored inside so the appearance of the property as a homesite is not altered.

Board discussion:

- Marion County code allows for the following:
 - Three events per week in the summer;
 - One event per week in the winter; and
 - A maximum of 18 events per year.
- 750 attendees are the maximum allowed:
 - The number of attendees is also limited by the maximum occupancy of the structure used by the home occupation.
- 80 percent of an event has to take place indoors.

Testimony:

Support:

Kristina McNitt:

- Marion County code specifically prohibits the following:
 - The use of barns on high value farmland in conjunction with a home occupation; and
 - Weddings, except if conducted in conjunction with farm activities.
- These limitations are more restrictive than what is allowed in other Oregon counties, and they are an impediment to local wedding businesses;

- The amendment provides a legal pathway for hosting weddings and similar functions on resource lands in the county;
- The code language maintains a general prohibition on the use of barns for existing home occupations, but the code adds a new home occupation section for event businesses that allows the following:
 - Hosting weddings, family reunions, class reunions, company picnics, memorials, and similar gatherings.
- The amendment includes standards for operating an event business that cover the following areas:
 - Time and frequency, building and safety code retrofit upgrades, traffic control and parking plans, and minimizing conflicts of use with neighboring farm operations.
- The group that worked on the amendment spent a large amount of time debating how to balance a new economic opportunity with protecting the production capacity of impacted resource lands;
- The amendment is not an unrestricted opportunity to repurpose resource lands into event centers;
- The amendment is limited and provides a complimentary income and business opportunity for agriculturalists:
 - It helps small acreages that are subject to smaller and smaller margins, poor economies of scale, and limited market opportunities for their products; and
 - According to the latest census, 46 percent of the farms in Marion County have a sales value of \$2,500 per year.
- The following key elements in the amendment balance economic development opportunity with resource protection:
 - Farm use assessment- the property where the event business will operate must be subject to the farm use assessment;
 - Number of events- limited to a maximum of 18 per year;
 - Outdoor area- 80 percent of the event business must be indoors, not including parking;
 - Other uses- the event business shall not unreasonably interfere with other uses permitted in the zone in which the property is located;
 - Other uses- the property owner shall provide evidence that all contracts include the requirement that the customer has signed and agreed to the following statement:
 - “This event business is situated in or near a farm or forest zone or area in Marion County, Oregon where the intent is to encourage, and minimize conflicts with, farm and forest use. Specifically, residents, property owners, and visitors may be subjected to common, customary, and accepted farm or forest management practices conducted in accordance with federal and state laws that ordinarily and necessarily produce noise, dust, smoke, and other impacts. I do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of using this venue. I acknowledge the need to avoid activities that

conflict with nearby farm and forest uses and practices, signatories will not pursue a claim for relief or course of action alleging injury from farming or forest practice for which no action is allowed under ORS 30.936 or 30.937.”

- Transfer of property- the approval goes with the operator, not with the property; and
- Annual submittal- operators have to submit documentation to the county that they are meeting the requirements.
- The amendment is progressive, protective, and pro-land use; and
- The amendment represents a balance of interests, protecting Oregon’s unique land use system while allowing Oregonians to engage on their farms in a very contemporary manner.

Jill Rodriguez Lopez:

- Ms. Rodriguez lives in northern Marion County on ten acres zoned exclusive farm use (EFU):
 - She owns a plant rental business.
- The amendment supports economic development in the local event industry, and allows the continuation of agricultural and farm use:
 - The amendment allows those struggling to make an income off of farming with an additional option.
- There is a big difference between small farms and big farm operations that have access to many more resources;
- All property designated exclusive farm use does not have the ability to make a living income off of just their land; and
- The amendment gives Ms. Rodriguez and others the opportunity to increase their income and to provide employment to others in the county.

Zach Thomas:

- Mr. Thomas is the founder of a local events company;
- Current venues are often booked:
 - There are private properties in the area that would make good event venues;
 - Having more event venues will help to bring down the cost of booking a venue; and
 - A lot of venues went out of business during the pandemic.
- The amendment will provide an economic boost to the event businesses in the county.

Mark Nichols:

- Mr. Nichols lives on a historic farm in Marion County that was established in the late 1800s:
 - His wife is the fourth generation to farm the property; and
 - His son is the fifth generation to farm the property.

- Mr. Nichols read a statement from his wife, Sue Nichols, who was one of the stakeholders that worked with Marion County Planning Staff to help develop the draft code:
 - Ms. Nichols thanked the commissioners and planning staff for all their hard work developing this amendment;
 - Ms. Nichols has worked in economic development for many years, including being the Director of the Stayton Sublimity Chamber of Commerce, the Community Development Director for Travel Salem, and a small business owner;
 - The new code will have a strong economic impact for Marion County within the many hospitality sectors that work with event venue businesses;
 - Her historic farm, like many other large farms from the past, has been parceled off over the years:
 - The farms are now small to medium sized farms; and
 - Many of the farms were left with outbuildings that were functional for a large farm, but they are no longer needed for the downsized farm.
 - It is important to develop non-traditional income sources for these farms including:
 - Renovating barns so they are safe for public use, so they can be used for events that can supplement regular farming income:
 - This will help ensure that heritage farms are here for future generations.

Edna Graham:

- Ms. Graham and her husband have a Christmas tree farm in east Marion County:
 - They have been raising and selling Christmas trees for 32 years; and
 - They have a 20-acre parcel of land, and grow Christmas trees on approximately seven acres:
 - The seven acres is about all the farmable property on their 20 acres.
- She and her husband support the amendment because they believe the interests of farmers should be protected, as well as support for other, non-traditional business opportunities on local farm properties;
- Local farms will benefit from additional ways to provide income for their families and sharing the heritage of some of the amazing land and buildings in the area;
- They have had many friends and community members enjoy coming out to their farm, escaping the stresses of life:
 - Friends and community members enjoy their farm, property, animals, scenery, and the experience of county life.
- The amendment will allow these types of experiences to be provided for the community, and it will give the farming community new opportunities to utilize their farms and property.

Testimony:

Opposition:

Aileen Kaye:

- If passed, this amendment would further erode the protection of farmland and the ability of farmers to move their goods to market;
- The types of events which would be allowed often lead to trespassing, damage to neighboring farm properties, drunkenness, noise, car accidents, blockage of roads, and other problems;
- This year the Board has consistently voted against planning staff, county counsel, the Hearings Officer, and the majority of citizens who testified at hearings:
 - The Board has been voting to allow whatever the applicant wants, in spite of the fact that the allowed use violated local codes and state law;
 - Proof of this is in recent approved cases that ended up in court, and the county lost the cases; and
 - The Board's votes have cost thousands of tax dollars and wasted the time of county staff and citizens of Marion County.
- If the nature of the county is changed by allowing large events under the guise of a home occupation, the county continues towards further urbanization of some of the best farmland in the United States; and
- Ms. Kaye is worried that people who have farms and are currently farming will make so much money off of events that they are not going to want to farm their property anymore, and they will try to get their property out of EFU.

Bruce Chapin:

- Mr. Chapin is a third-generation farmer in an area just north of Keizer;
- The Oregon Farm Bureau 2022 policy book makes a strong statement against additional uses in EFU land:
 - There is a section that addresses weddings and other events.
- The majority of Oregon Farm Bureau membership is strongly in favor of land use planning and not expanding it:
 - Mr. Chapin is not representing the Oregon Farm Bureau.
- Commercial events are not a good fit for being included in the home occupation use:
 - A major criterion for a home occupation is no retail sales, and a very limited number of people coming and going to the house;
 - What is being proposed is up to 750 retail customers per day coming and going; and
 - These customers may not be paying the entry fee themselves, but someone is, and the event center will be focused on serving those 750 customers in exchange for money:
 - The event center is like any other retail business and should not be considered a home occupation.

- The amendment allows 18 events per year, with a maximum of three events per week, with each event being up to three days long:
 - This creates a potential for 54 days in a row.
- Farmers need to be able to raise and harvest crops without having to alter schedules to avoid conflicts with an event center:
 - Many farmers would try to accommodate their neighbor, but that would likely not be possible if events are scheduled for several days in a row throughout the summer.
- If a gathering wants to use a facility for three days, that should be counted as three events;
- The requirement that the event permit be only a temporary one-year permit resembles the Marion County code for approving farm labor camps except for the following:
 - The amendment fails to require that all buildings constructed for the event be designed to have an alternate beneficial use for the farm, and that they be constructed close to the owner's residence.
- The temporary permit should clearly state that the county has the right to not renew the permit if there is evidence of a conflict with farm businesses, forest businesses, or the neighborhood, or the applicant's property no longer meets the criteria for the farm use assessment;
- Indoor space needs to be better defined in the amendment as a building with a roof, walls, windows, and doors:
 - This will help protect participants from farm dust, noise, and odors; and
 - An open-air structure with a shade roof is popular for summer events but would do little to minimize conflicts with agriculture.
- All new event structures should have the same required minimum setbacks from property lines as other non-farm buildings;
- Mr. Chapin is sincerely concerned about the farmer or farm employee getting physically assaulted in response to a dust drift:
 - To help prevent these conflicts there needs to be at least a 6-foot fence around the event area unless there is at least a 660-foot setback from the property lines.
- The boundaries of the event area need to be defined so the attendees know where they are supposed to be; and
- Although farming practices are often smelly, noisy, and dusty, farmers have the right to farm without fear of some impulsive event attendee or organizer attacking a farmer or employee for making dust, noise, or odors.

Roger Kaye:

- Mr. Kaye is president of Friends of Marion County:
 - Friends of Marion County is an independent farmland protection organization.
- The proposed changes to the rural zone code conflict with the use of these zones;
- Events could be held during the important planting and harvesting season;

- The amendment seeks to circumvent permitting issues by removing standards that protect farm uses;
- The amendment does not protect neighboring farm uses;
- The amendment specifies the number of employees as no more than five full-time or part-time persons at any one time:
 - An event hosting up to 750 persons cannot be managed by five employees.
- Friends of Marion County oppose the amendment, and they urge the county to reject it.

Kathleen Carl:

- Ms. Carl is the co-owner of a 475-acre farm that has been in her family for 107 years;
- Home occupations are supposed to be small businesses:
 - When they get too large, they are meant to be moved into town to expand.
- Ms. Carl expressed that 750 people can be hard to control:
 - Alcohol is a problem;
 - Trash left after an event is a problem;
 - Music and noise can scare farm animals;
 - Five employees cannot control 750 guests; and
 - Large parking areas would be required for 750 guests.
- This type of operation should be under agritourism or another similar area.

Laurel Hines:

- Ms. Hines lives in an area that is zoned acreage residential;
- Allowing these events would endanger acreage residential zones;
- Following are some of Ms. Hines concerns if these large events are allowed:
 - All of the additional cars that would be traveling on country roads that the drivers are not familiar with:
 - Large farm equipment travels on these roads.
 - Increased fire risk; and
 - Trespassing risk.
- Having 750 people at an event is not a home occupation; and
- This amendment would cause a big disruption to farming and to individuals who live near farm properties.

Marlene Meyer:

- Ms. Meyer read a statement from George Meyer:
 - Mr. Meyer owns a farm in the Jefferson area;
 - A lot of people affected by the amendment are not able to attend today's hearing as it is harvest season;
 - Most events would be held during the spring, summer, and fall, at the same time that farmers are trying to bring their crops to harvest;
 - Moving farm equipment on county roads has become increasingly dangerous;
 - Mr. Meyer is very concerned about the fire danger:

- Unknowing drivers could start a fire by driving into a dry field, or parking alongside the road.
 - He is concerned that there will be no checks and balances to protect the farmer; and
 - He asks that the commissioners protect the farmers of Marion County.

Board discussion:

- Two work sessions were held regarding this topic, and they were publicly noticed:
 - Everyone attending the work sessions was invited to work with county staff.
- This is not an as-of-right use;
- This home occupation requires a property owner to go through the conditional use process:
 - Recertification evidence is required to be provided annually:
 - If conditions are not being met the Planning Director can revoke the conditional use.
- One of the main conditions of the amendment is that the event business may not interfere with neighboring property:
 - If an event business interferes with neighboring property, planning staff would work with the property owner and neighbors to identify ways to address the conflict:
 - If it is not possible to address the conflict, or there is an unwillingness to address the conflict, then the conditional use could be revoked.
- Wineries and breweries located in EFU zones already have the same provisions as this amendment:
 - Weddings and other events are currently allowed at wineries; and
 - There are limits on the number of events that can be held at a winery that are similar to this amendment.
- If this amendment is approved farms would be given the same opportunity to hold events as wineries;
- What is being considered here today is not the same as the music festival that was referenced several times during the public testimony:
 - The Board denied the music festival.
- Commissioner Cameron respects, and wants to preserve, the agricultural heritage of Marion County;
- Building codes and the fire marshal would limit occupancy and how large events could be:
 - For an event to have 750 people there would have to be a really big event building and a very large parking area; and
 - 751 people would be considered a mass gathering.
- Clackamas County has had a similar code for approximately 20 years;
- The board does not always allow whatever an applicant wants:
 - The board is often faced with very difficult decisions deciding what is best for the people in Marion County.

- The board has concern for Oregon land use laws;
- Marion County has the best farm ground in Oregon, and some of the best farm ground in the country:
 - The board cares a lot about the county's farmers and what is best for them.
- There have been no private meetings on this topic;
- Farmers want to be able to hold large family and community events on their farms; and
- This amendment requires the property owner to obtain a conditional use permit:
 - Surrounding properties are notified when a conditional use permit is applied for.

MOTION: Commissioner Willis moved to close the public hearing, close the record, and direct staff to return with an ordinance to approve the amendment. Seconded by Commissioner Cameron; motion carried. A voice vote was unanimous.

(Video Time 02:15:49)


Commissioner Bethell adjourned the meeting at 11:16 a.m.



CHAIR



COMMISSIONER



COMMISSIONER

Board Sessions can be viewed on-line at
<https://www.youtube.com/playlist?list=PLSUQ1gg6M78UsBE3q6w4rdf59Z5rXkEi5>