



MINUTES

**KITSAP COUNTY
BOARD OF COMMISSIONERS
June 5, 2006**

NOTE: The Board of Commissioners met on the above-stated date. Present were Chair Jan Angel, Commissioner Chris Endresen, Commissioner Patty Lent, County Administrator Cris Gears and Clerk of the Board Opal Robertson. (THE BOARD OF COMMISSIONERS' PUBLIC MEETINGS AND PUBLIC HEARINGS ARE AUDIO AND VIDEO TAPED).

10:00 AM) Meeting Called to Order with Pledge of Allegiance.

PROCLAMATIONS/RESOLUTIONS/RECOGNITION:

PUBLIC HEARINGS:

**** Please note that starting times are estimates and may be impacted by the amount of public input.**

10:10) Closed Record hearing to consider an **Appeal** filed by **David Horton on behalf of Richard & Helen Asche** of the Hearing Examiner's decision to deny the appellant's request regarding the Department of Community Development's determination concerning the calculation of structure height for the Chobot/Bloomquist property located at 2555 Alaska Avenue East in South Kitsap, Commissioner District #2. **Staff Contact:** Jeff Smith, 337-7022.

Chair Angel explains the guidelines for a Closed Record hearing.

Eric Baker, Department of Community Development, gave an overview of the proposed appeal stating it is based on a Departmental determination regarding structure height and whether a boundary line adjustment for the project was legal. He states Chobot/Bloomquist owns property consisting of three legally-established lots, two of which were non-conforming. He said the permit includes all three properties within this project area. Baker further states the proposed structure was reviewed by County staff to assess its compliance with the 28-foot height limitation of the Manchester Sub-Area. He said the 28-foot height limitation is measured from the mid-slope point of a property's buildable area and the areas considered unbuildable, are wetlands and steep slopes. He said the average elevation is determined from these two points with 28-feet added to that elevation. The structure may not be higher than the average elevation plus 28 feet. During construction of the single-family residence the appellants questioned the height of the structure and

whether it was consistent with the approved plans. After the appellants brought this to staff's attention, the county had a third-party survey the property's elevation and found the concerns to be valid. The county posted a "stop-work" order on the property requiring all construction cease until the height issue was resolved. Additionally, Baker said the appellants contends that the boundary line adjustment dated June 28, 2005 created a non-conforming lot which is in violation of RCW 58.17.033 and 58.17.040. He said the property in question contains three separate lots, two of which were non-conforming in terms of the dimensional requirements of the zone. The boundary line adjustment did not "create" a non-conforming lot but adjusted the lot lines of the non-conforming lots already in existence. He said the condition of the property is no different after this boundary line adjustment with one conforming and two non-conforming lots. Baker said the appellants also contends that since, the two lots were contiguous, non-conforming and in common ownership, the three lots in question should have been aggregated consistent with Kitsap County Code 17.321.C.030. He said in the Manchester area, contiguous, non-conforming lots in common ownership may be developed in 8,712 square feet increments and any lot smaller than this would need to be combined into others to meet this minimum. He said Chobot/Bloomquist owns approximately 21,000 square feet of lot area when the lots are combined and under this section, they would be allowed two single family building permits on their three lots.

Discussion is held between the Board and Baker regarding the location of the house, when did the boundary line adjustment take place, was the house planned to be higher than the permitted height, was this height depicted on the approved plans and which documents were used for approval.

Chair Angel discloses that she received a telephone call from Ashe prior to this appeal to the Board but she referred call to staff. She states she did not believe this would be a conflict of interest for her to rule on this issue.

David Horton, representing Richard and Helen Ashe, said the Manchester Community Plan was enacted in part to preserve the breath-taking view of Mt. Rainier and specifically recognizes the protection of these views. Relative to how the height is calculated, he said the ordinance states of the buildable area - the buildable area for this project was calculated from the boundary of the property to boundary of the property and not the builable area. He said the structure is over 40-feet tall and approximately 10,000 square feet and questions whether this is consistent with the goals of the Manchester Plan. Relative to the boundary line adjustment, Horton questions why there was a waiver included and a "Notice to Title if everything was completely proper. According to the third clause in the statute, Horton said it states *nor creates any lot, tract or parcel that's non-conforming*. He said new parcel "B" is any lot and was created by the boundary line adjustment and by the clear language of the statute, the boundary line adjustment is improper.

Dave Hedger, representing Chobot/Bloomquist, said his clients are dentists and not land developers and rely upon what the county tells them as it relates to building. He said in February of this year, the Asches requested from staff an interpretation of average height

and the response was the calculations mentioned earlier by Eric Baker. He said there was no notice to his clients that this interpretation had been made until the stop-work order was received. He said they did not appeal but did an internal boundary line adjustment and that these lots were not aggregated into one single lot. He said the applicants are trying to build a house, have relied on what the county staff has told them in order to arrive at the average height to build the house and have made an adjustment that fits within the law to continue construction of the house.

Dave Horton said the law is the statute and what is happening here is that applicants are taking a conforming lot and making a non-conforming lot which is prohibited by the RCW. Relative to the law of WA (Nycrum Case 105 WA App 339), Horton said this case was overruled because the Supreme Court found that the LUPA was not complied with. He said the portion of the Nycrum case that is relevant here wasn't overruled in that the court stated because none of the new lots were of sufficient area to meet minimum zoning requirements for width and area, the boundary line adjustment was improper. He said Nycrum is exactly this case and for that reason, the Hearing Examiner's decision is erroneous.

Dave Hedger said he believes the language speaks for itself when it states "*nor create any lot*" – there has not been a creation of a lot, there has been adjustments of three lots, there are still three and are still within the same original boundary. He said the Nycrum Case applies to Whatcom County and their procedure is different than Kitsap.

Eric Baker said the Manchester Community Plan also states that the Manchester heights requirements are not meant to remove all cases of view blockage but an attempt to minimize to the best of its ability. He said no lot was actually created, the boundary lines were just moved around. He said relative to the initial approval of the building permit, the architect submitted drawings that indicated that they were in compliance with the Manchester height requirements and they were approved by staff. Baker said subsequent modified drawings were submitted at the end of the project without any notice to any of the other parties.

Chair Angels closes the public comment portion of the hearing.

Discussion is held among the Board regarding possibly revisiting the Manchester Plan, building plans submitted v. building plans approved, potential innocent purchaser issue, the difference between combining v. aggregating and the timeframe of when the stop work was issued and the boundary line adjustment taking place.

This matter is continued June 12, 2006, the next regular Board meeting; said matter for decision only.

PUBLIC COMMENTS ON REMAINING AGENDA ITEMS ONLY:

(Please limit comments to 3 minutes or less. Written comments may also be submitted to the Board if 3 minutes is insufficient.)

CONSENT ITEMS AND OTHER BUSINESS:

Note: Unless otherwise noted, all expenditures for the remaining agenda items have been included in the 2006 Biennial Budget.

A. A motion is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves the Consent Agenda. Motion carries unanimously.

1) MISCELLANEOUS ITEMS:

B. Approve Minutes of May 22, 2006.

C. Approve Warrant Nos. 3238443 – 3239228 in the amount of \$4,573,656.77.

D. Approve Payroll Warrant Nos. 639065 – 639195 in the amount of \$1,752,574.44.

E. Refer the following to the Prosecutor’s Office and Risk Management: 1) Claim for Damages filed by Anastasia “Stacie” Amende; 2) Declaration Disputing Facts in Support of Motion For Summary Judgment filed by Michael H. Mahle and Kenna L. Robson; 3) Summons and Complaint to Quiet Title filed by Judy Mentor Eagleson; and 4) Claim for Damages filed by William Thomas Johnson.

2) DEPARTMENT OF ADMINISTRATIVE SERVICES:

A. Discussion is held, comments called for and hearing no objection, a **motion** is made by Commissioner Endresen and seconded by Commissioner Lent that the Board approves and executes the Interlocal agreement with the **City of Bremerton (KC-124-06)** for Bremerton Kitsap Access Television services. **Fiscal Impact:** \$37,500 to be paid from General Admin & Operations Fund. **Staff Contact:** PJ Ramos, 337-4481. Motion carries unanimously.

3) DEPARTMENT OF EMERGENCY MANAGEMENT:

A. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves and executes the contract with **WA State Military (KC-200-06)** to receive funding for emergency planning and preparation for Kitsap County and its four cities. **Fiscal Impact:** \$76,273 received from a Federal Grant. **Staff Contact:** Phyllis Mann, 307-5870. Motion carries unanimously.

4) SHERIFF’S OFFICE:

A. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board adopts **Resolution No. 102-2006*** increasing the Felony Investigation Fund from \$1,500 to \$5,000 for purchase of tools, supplies, travel and other miscellaneous expense. **Staff Contact:** Dennis Bonneville, 337-3211. Motion carries unanimously.

B. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen

that the Board approves and executes the contract with **United Pacific Structures, Inc (KC-217-06)** for construction of an impound yard for the Kitsap County Sheriff's Office including all equipment, material, labor and permits as required. **Fiscal Impact:** \$173,706 to be paid from the Sheriff's Office Patrol Division. **Staff Contact:** Dennis Bonneville, 337-3211. Motion carries unanimously.

5) **DEPARTMENT OF PUBLIC WORKS:**

- A. Discussion is held, comments received and hearing no objection, a **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board **Resolution No. 103-2006*** authorizing temporary street closures on July 28-30, 2006 for the annual *Whaling Days Festival* in Central Kitsap Commissioner District #3. **Fiscal Impact:** \$500 to be paid from the Road Fund. **Staff Contact:** Steve Johnson, 337-3114. Motion carries unanimously.
- B. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves the Quit Claim Deed with Bainbridge Island Metropolitan Park & Recreation District to incorporate a portion of tax title property into the Island's Park and Trail system located in North Kitsap Commissioner District #1. **Staff Contact:** Suzie Pride, 337-3638. Motion carries unanimously.
- C. Discussion is held, comments received and hearing no objection, a **motion** is made by Commissioner Endresen and seconded by Commissioner Lent that the Board Contract with **WA State Dept of Transportation (KC-193-06)** for the preliminary engineering phase of the Mosquito Fleet Trail Extension project (Miller Bay Road Bike/Pedestrian Trail) in North Kitsap Commissioner District #1. **Fiscal Impact:** \$460,000 to be paid from WSDOT Federal Funding. **Staff Contact:** Jon Brand, 337-4893. Motion carries unanimously,
- D. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves and executes the contract with **WA State Dept of Transportation (KC-198-06)** for the preliminary engineering phase of the Waaga Way Extension project in Central Kitsap Commissioner District #3. **Fiscal Impact:** \$125,000 to be paid from Road Fund. **Staff Contact:** Jon Brand, 337-4893. Motion carries unanimously.
- E. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves the access easement agreement with the City of Bainbridge Island for access over an existing road that serves the Kol Shalom Congregation Cemetery in North Kitsap Commissioner District #1. **Staff Contact:** James Roda, 337-3127. Motion carries unanimously.
- F. Discussion is held, comments called for and hearing no objection, a **motion** is made by Commissioner Endresen and seconded by Commissioner Lent that the Board Contract with **Northern Con-Agg, Inc. (KC-210-06)** for construction improvements to Hansville Road NE at Little Boston Road NE in North Kitsap Commissioner

District #1. **Fiscal Impact:** \$318,768 to be paid from Road Fund. **Staff Contact:** Dick Dadisman, 337-3556. Motion carries unanimously.

- G. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves and executes the contract amendment with **Aspect Consulting (KC-131-06A)** to provide additional geotechnical services for repair to a section of Sawdust Hill Road due to roadway embankment failure in North Kitsap, Commissioner District #1. **Fiscal Impact:** \$222,800 to be paid by the Road Fund. **Staff Contact:** Jon Brand, 337-4893. Motion carries unanimously.
- H. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board adopts **Resolution No. 104-2006*** accepting contract KC-267-05 as complete (NW Newberry Hill Road Widening & Resurfacing project). **Staff Contact:** Jacques Dean, 337-4671. Motion carries unanimously.

6) DEPARTMENT OF PERSONNEL AND HUMAN SERVICES:

- A. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves and executes the contract with **Olympic Consortium & Peninsula College (KC-201-06)** to provide two, 3-day frontline supervisory/leadership courses in Port Angeles and Bremerton for the period of May 1, 2006 through June 30, 2006. **Fiscal Impact:** \$15,000 is 100% Grant Funded via Workforce Investment Act Local Demand Grant II. **Staff Contact:** Leif Bentsen, 337-4883. Motion carries unanimously.
- B. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves and executes the Mental Health Revenue Contract amendment with **WA State Dept of Social & Health Services (KC-475-05D)** increasing the contract amount by approximately \$89,000 to provide public mental health services in Kitsap, Jefferson and Clallam Counties for the period of June 27, 2006 – August 31, 2006. **Fiscal Impact:** \$89,000 is 100% grant funded through DSHS. **Staff Contact:** Anders Edgerton, 337-4886. Motion carries unanimously.
- C. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board adopts **Resolution No. 105-2006*** changing a .75 Full Time Employee Planner II position in the Department of Community Development to Full Time. **Fiscal Impact:** 2006 – approximately \$7,919 at step 3 including salary/associated benefits costs and in 2007 – approximately \$13,914 at step 4 including salary/associated benefit costs paid through budget appropriation. **Staff Contact:** Lynn Flanig, 337-3536. Motion carries unanimously.
- D. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves and executes the contract with **WA State Department of Social & Health Services (KC-223-06)** providing a 2-month cash advance for the Substance Abuse, Development Disabilities and Aging and Long Term Care programs to alleviate cash flow problems associated with the time lag between

payment by the County and receipt of payment from DSHS. **Fiscal Impact:** An estimated \$774,630 to be paid by DSHS. **Staff Contact:** Allen Sharrett, 337-3526. Motion carries unanimously.

- E. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves and executes the contract with **WA State Department of Social & Health Services (KC-224-06)** providing a 2-month cash advance to the Peninsula Regional Support Network Mental Health program to alleviate cash flow problems associated with the time lag between payment by the County and receipt of payment from DSHS. **Fiscal Impact:** An estimated \$45,520 to be paid by DSHS. **Staff Contact:** Allen Sharrett, 337-3526. Motion carries unanimously.
- F. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves and executed the contract amendment with **WA State Department of Social & Health Services (KC-474-05C)** increasing the contract amount by \$204,196 for public mental health services in Kitsap, Jefferson and Clallam Counties for the period of June 27, 2006 through August 31, 2006. **Fiscal Impact:** \$204,196 in revenue to be paid by DSHS. **Staff Contact:** Anders Edgerton, 337-4886. Motion carries unanimously.

7) **PROSECUTOR'S OFFICE:**

- A. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves the Settlement Agreement and Release of Claims in Kitsap County Superior Court Cause No. 05-2-01884-6, Harold & Chris Rieland v. Kitsap County. **Staff Contact:** Lisa Nickels, 337-4974. Motion carries unanimously.

8) **DEPARTMENT OF COMMUNITY DEVELOPMENT:**

- A. A **motion** is made by Commissioner Lent and seconded by Commissioner Endresen that the Board approves the Final Plat of Coyote Ridge on the west side of Ramsey Road SE in South Kitsap Commissioner District #2. **Staff Contact:** Jim Barnard, 337-4544. Motion carries unanimously.

9) **OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD:**

(Please limit comments to **3 - 5 minutes**. Written comments may also be submitted to the Board if this timeframe is insufficient.)

10) **COUNTY ADMINISTRATOR'S COMMENTS:**

- A. Cris Gears announces the Board would tour the new building at 1:00 PM and at 2:00 PM the Board would be in its regularly scheduled afternoon briefing.

11) **BOARD OF COMMISSIONER'S COMMENTS:**

- A. Commissioner Endresen said she attended/participated in or will be attending the following: Comprehensive Plan 10-year Update meetings, HWY 305 meetings,

NASCAR debate at the NK High School, attending her graduation ceremony from the Daniel J. Evan School of Pubic Affairs at the University of WA and Emergency Mgmt training in Emmitsburg, MD.

- B. Commissioner Lent said she attended/participated in or will be attending the following: canvassed recent election, Human Rights Council meeting, Comprehensive Plan 10-year Update meetings, Puget Sound Partnership meeting, Leadership Kitsap Regatta, Soap Box Derby, Kitsap Regional Coordinating Council and Health District meeting, National Incidence Mgmt meeting, Government to Government calls regarding ISC/NASCAR debate, Growth Management Act reception and the Puget Sound Regional Coordinating Council.
- C. Chair Angel said she attended/participated in or will be attending the following: Citizens breakfast meeting, Puget Sound Regional Council 2020 Briefing, Kitsap County Supervisors Graduation Ceremony, South Kitsap School District Leadership luncheon, Kitsap Regional Coordinating Council Spring Legislative Dinner, NK Road Crew luncheon, unveiling of the new Sheriff's Dept car, Memorial service for Chuck Jeu, Comprehensive Plan 10-year Update meetings, Senate and House Economic Development Committee meeting, Homebuilders Association breakfast, South Kitsap Family Fun Day and the ISC/NASCAR debate.

The public meeting adjourned at 11:20 AM.

**BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY WASHINGTON**

JAN ANGEL, CHAIR

CHRIS ENDRESEN, COMMISSIONER

PATTY LENT, COMMISSIONER

ATTEST:

OPAL ROBERTSON
Clerk of the Board

DATE APPROVED

* See Resolution Journal Volume No. 61
** See Ordinance Journal Volume No. 15

OTHER MEETINGS ATTENDED BY THE BOARD:

6/05/06	1:00 PM	Tour of New Admin Bldg
	2:00 PM	Admin Briefing – BOCC Conference Room
6/06/06	8:00 AM	KRCC/Health Dist Board Meeting
	12:30 PM	Dept of Emerg Mgmt Luncheon Meeting – Emerg Mgmt Bldg
6/07/06	8:30 AM	Work Study Session-Public Works Conf Room 3 rd Floor

(The Board of County Commissioners public meetings are televised on public access television BKAT (ComCast Ch.12 and Wave Broadband Ch. 3) Monday nights at 5 PM, Tuesdays at 8 PM and Wednesday at 1 AM).

Next Board of Commissioners public meeting will be held **June 12, 2006.**

NOTE: Kitsap County does not discriminate on the basis of disability. Individuals who require accommodations should contact the Commissioners Office at (360) 337-7146 or TDD (360) 337-7275 or 1-800-816-2782. (Please provide five business days notice for interpreter services).