



MINUTES

KITSAP COUNTY BOARD OF COMMISSIONERS September 22, 2008 – 7:00 p.m.

The Board of Commissioners met on the above-stated date. Present were Chair Steve Bauer, Commissioner Josh Brown, Commissioner Jan Angel, County Administrator Nancy Buonanno Grennan and Clerk of the Board Opal Robertson. *(The Board of Commissioners' public meetings is audio and video taped. By signing in or speaking at this meeting, you grant your permission to be taped. Minutes of this public meeting are posted on Kitsap County's webpage).*

7:00 PM) Meeting Called to Order with Pledge of Allegiance.

**OPPORTUNITY FOR THE PUBLIC TO ADDRESS THE BOARD ON REGULAR
BUSINESS AGENDA, INCLUDING CONSENT AGENDA & GENERAL ISSUES:
TOTAL TIME LIMITED TO 15 MINUTES**

(Please limit individual comments to **3 minutes**. Written comments may also be submitted to the Board, if this timeframe is insufficient.) Comments on items slated for public hearing will be deferred until the hearing.

1. Karl Duff, Kitsap Alliance of Property Owners, addresses the Board with concerns about a possible noxious weed assessment increase.
2. Jack Hamilton addresses the Board with concerns about a possible noxious weed assessment increase.
3. Vivian Henderson said she opposes any noxious weed fee increase and was disappointed that the courthouse café, Honey in the Rock will be closing.

CONSENT ITEMS AND OTHER BUSINESS:

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

- A. A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board approves Consent Agenda subject to removing item 4.A. off consent for further discussion. Motion carries unanimously.

1) MISCELLANEOUS ITEMS:

- B. Approve Minutes of September 8, 2008.
- C. Approve Warrant Nos. 3381767 – 3382759 in the amount of \$4,092,063.73.
- D. Approve Payroll Warrant Nos. 660766 – 660909 in the amount of \$1,913,157.05.
- E. Refer to the Prosecutor’s Office and Risk Manager: 1) Claim for Damages filed by Qwest; and 2) Amended Note for Motion Docket and Joint Motion to Vacate Stipulation and Order of Dismissal filed by M.B. Diddy Construction, Inc.

2) DEPARTMENT OF PERSONNEL & HUMAN SERVICES:

- A. A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board approves and executes the contract [amendment](#) with **Peninsula Community Mental Health Center (KC-385-07B)** increasing the contract amount by \$325,787 and clarifying the definition of a mental health care provider by providing minimum education requirements. **Fiscal Impact:** \$325,787 is 100% Grant Funded by DSHS. **Staff Contact:** Anders Edgerton, 337-4886. Motion carries unanimously.
- B. A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board approves and executes the contract [amendment](#) with **Peninsula Community Mental Health Center (KC-381-07B)** increasing the contract amount by \$113,312.57 and the definition of a mental health care provider by providing minimum education requirements. **Fiscal Impact:** \$113,312.57 is 100% Grant Funded by DSHS. **Staff Contact:** Anders Edgerton, 337-4886. Motion carries unanimously.
- C. A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board approves and executes the revenue [contract](#) with **WA State Dept of Social & Health Services (KC-379-08)** providing the Mental Health Federal block Grant revenue to pay for specific public mental health services not covered by Medicaid or state revenues. **Fiscal Impact:** \$313,379 is 100% Grant Funded by DSHS. **Staff Contact:** Anders Edgerton, 337-4886. Motion carries unanimously.
- D. A **motion** is made by Commissioner Brown and seconded by Commissioner Angle that the Board approves and executes the [Contract](#) with **Lutheran Community Services (KC-320-08)** for the Title XIX/COPES and Respite in home personal care services to qualifying persons, 18 years of age and older. **Fiscal Impact:** \$400,000 is 100% Grant Funded by DSHS. **Staff Contact:** Linda Hanna, 337-7068. Motion

carries unanimously.

3) DEPARTMENT OF EMERGENCY MANAGEMENT:

- A. A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board approves and executes the [Contract](#) with **WA State Patrol (KC-362-08)** providing participation in the *Diablo Bravo Exercise* (a national exercise program Tier II, nuclear weapons incident exercise sponsored by the U.S. Dept of Energy National Nuclear Security Admin). **Fiscal Impact:** \$27,488 – is 100% Grant funded through the K-PREP 106 Fund. **Staff Contact:** Phyllis Mann, 307-5870. Motion carries unanimously.
- B. A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board approves and executes the [Contract](#) with **Intergraph Corporation (KC-361-08)** providing I/Mobile, I/Tracker, I/Mobile PDA Middleware and Hardware components of the program to implement a mobile data network. **Fiscal Impact:** \$701,691- COPS Grant. **Staff Contact:** Phyllis Mann, 307-5870. Motion carries unanimously.

4) DEPARTMENT OF PUBLIC WORKS:

- A. Discussion is held, comments received and hearing no objection, a **motion** is made by Commissioner Angel and seconded by Commissioner Brown that the Board approves and executes the Interlocal [agreement](#) with the **City of Bremerton (KC-261-08)** to form the *Kitsap Peninsula Clean Runoff Collaborative*. **Fiscal Impact:** \$521,717 – SSWM Funds. **Staff Contact:** Jayna Erickson, 307-4277. Motion carries unanimously.

5) PARKS & RECREATION DEPARTMENT:

- A. A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board approves and executes the [Contract](#) with **NW Abatement Services (KC-386-08)** for abatement services preparing the buildings at Kingston Village Greens for demolition. **Fiscal Impact:** \$104,527 – Parks Capital Project Fund. **Staff Contact:** Matt Keough, 337-5357. Motion carries unanimously.

6) COMMISSIONERS/COUNTY ADMINISTRATOR'S OFFICE:

- A. Discussion is held, comments received and hearing no objection a **motion** is made by Commissioner Angel and seconded by Commissioner Brown that the Board adopts [Resolution No. 175-2008*](#) implementing a spending freeze for specific accounts in the general fund. **Staff Contact:** Nancy Grennan, 337-7146. Motion carries unanimously.

7) **DEPARTMENT OF COMMUNITY DEVELOPMENT:**

- A. A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board approves and executes the [Contract](#) with **Ted Hunter, Sound Law Center (KC-387-08)** to provide Hearing Examiner services for the period of October 1, 2008 – September 30, 2009. **Fiscal Impact:** \$72,000 – DCD Fund. **Staff Contact:** Larry Keeton, 337-5683. Motion carries unanimously.
- B. A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board approves and executes the contract with **ESA Adolfson (KC-382-08)** providing an environmental impact study for Ueland Tree Farm for the period of October 1, 2008 – February 28, 2009. **Fiscal Impact:** \$75,000 paid by Ueland Tree Farm. **Staff Contact:** Dave Greetham, 337-4225. Motion carries unanimously.

PUBLIC HEARINGS:

**** Please note that start times are estimates and may be impacted by the amount of public input. Unless otherwise announced by the Chair of the Board, public comments will be 3 minutes per person.**

- A) Public hearing to consider a [Resolution](#) adopting the Final Assessment Roll for **Utility Local Improvement District #8** in South Kitsap, Commissioner District #2. Staff Contact: Stella Vakarcs, 337-5777 x3660.

Stella Vakarcs, Public Works, gave an overview and chronology of the proposed project stating Utility Local Improvement District #8 would provide installation of wastewater collection mains to 47 properties along the Colchester Drive and Miracle Mile areas of Manchester in South Kitsap.

Discussion is held, comments called for and hearing no objection, a **motion** is made by Commissioner Angel and seconded by Commissioner Brown that the Board adopts [Resolution No. 176-2008*](#) approving the Final Assessment Roll for Utility Local Improvement District #8 in South Kitsap, Commissioner District #2. Motion carries unanimously.

- B) **SAID MATTER FOR DECISION ONLY:** Closed Record hearing to consider an **Appeal** filed by Ryan Vancil on behalf of the **Beaver Creek Conservation Group** of the Hearing Examiner's decision to deny the appeals of the *State Environmental Policy Act (SEPA) determination and Site Development Activity Permit (SDAP)* issuance to allow site preparation for 78 residential units on existing platted lots within a 12.6 acre parcel in the plat of Manchester Heights (**Woods View**), located along the east side of Woods Road, east of the intersection of Woods Road and Farmer Dell Road in South Kitsap, Commissioner District #2. **Staff Contact:** David Greetham, 307-4225.

Discussion is held by the Board and a **motion** is made by Commissioner Angel and seconded by Chair Bauer that the Board deny the Appeal and concur with the Hearing Examiner. Motion carries. Commissioner Brown abstains.

- C) Closed Record hearing to consider an **Appeal** filed by Ryan Vancil on behalf of Sean Sullivan, et al of the Hearing Examiner's decision to grant subject to conditions the request for a *Shoreline Substantial Development Permit* to build a 206 foot long dock (**Bergquist/Harris Joint Moorage Facility**) that would serve as a private moorage facility on the property line between 1225 and 1235 Darling Road in Central Kitsap, Commissioner District #3. **Staff Contact:** Lisa Lewis, 337-4697.

Chair Bauer explains the guidelines for a Closed Record Appeal.

Lisa Lewis, Community Development, said the applicants have applied for a *Shoreline Substantial Development Permit* to build a 206-foot long dock in the Fairview neighborhood southeast of Silverdale and on the east shore of Dyes Inlet. She said the structure will serve as a shared, private, moorage facility on the property line between the two adjoining parcels. She said the parcels are 3.19 and 0.69 acres respectively and gradually sloped from Darling Road downward to the existing single-family residences and the low-bank shoreline. Lewis said the parcels are vegetated with lawn grasses and some ornamental shrubs and trees. She said both the Bergquist and Harris properties have a private boat ramp and except where the ramps are located, the entire width of their shoreline properties is armored with a 5-foot high by 250 foot long concrete bulkhead. She said this project was before the Hearing Examiner in May of this year and his decision of approval was issued in June with ten conditions. Lewis said a timely appeal was filed and the appellants asked the Board to deny the Shoreline Substantial Development Permit and reverse the Hearing Examiner's decision citing compatibility issues with surrounding environment and land and water uses.

Commissioner Angel discloses for the record that she knows Byron Harris but did no transactions with him when she served as a real estate agent.

Ryan Vancil, questions whether the Board is accepting additional briefing submitted by the applicant's attorney in response to his notice of appeal. He said this would give them the opportunity to cite case law which is not usually done in notice of appeal. He would like a chance to respond. He also asked whether the Board would allow new evidence (letter from the Suquamish Tribe) he submitted to staff earlier.

Chair Bauer notes for the record that the Board has not read the briefing information submitted prior to the hearing. He said if the Board makes its decision tonight it is not an issue but if they do not, the Board would need to be clear on how they will handle the information in the future.

Relative to the new evidence, Chair Bauer said the Board would hear Vancil's presentation and then make that determination.

Vancil said County Code 22.28.190 (2) (j) requires the proposed size of the structure and intensity of use/uses of any pier/float should be compatible with the surrounding environment and land and water uses. He said the Hearing Examiner's decision was based on compatibility with the local zoning code instead of the existing uses. Vancil said pursuant to County Code 22.28.190 (4)(g) in areas identified by the WA Dept of Fish & Wildlife or Natural Resources as having a high environmental value for shellfish, fish life or wildlife, piers and docks shall not be allowed except where functionally necessary to the propagation, harvesting, testing or experimental of said marine fisheries or wildlife; unless it can be established conclusively, as determined by the shoreline administrator, that the dock or pier will not be detrimental to the natural habitat or species of concern. He said the Examiner's decision is erroneous because he failed to consider that the approval of this project will result in additional docks in the project area and he failed to adequately consider the availability of alternative mooring and dock facilities in the context of Shoreline Management Act policy. Vancil said County Code states piers and docks should be sited and designed to minimize possible adverse environmental impacts, including cumulative impacts on littoral drift, sand movement, water circulation and quality and fish and wildlife habitat. He said this item was not addressed by the Examiner or staff. He said impacts were mentioned but not cumulative impacts. Vancil said the Hearing Examiner's decision was erroneous because he failed to consider the approval of the project would result in additional docks in the project area and he failed to adequately consider the availability of alternative mooring and dock facilities in the context of the Shoreline Management Act Policy. He asked the Board to follow the Kitsap County Code and be mindful of the proliferation of docks, failure to look at cumulative impacts, failure to comply with a fairly stringent requirement that there be no detrimental impacts to fish areas and that the project should be compatible with surrounding environment and land uses.

Jennifer Forbes, Attorney representing the Applicants, said relative to her brief, she was advised that there would be ten minutes total to respond to the appeal and knew that that would not be adequate time due to there being over 15 items of issue identified; she therefore provided a written response to each point. She asked that the Board consider her brief. Relative to supplementing the record, she said the applicants object to the submittal and do not believe the letter changed the appeal issue.

Forbes said this project has the backing of a marine biologist expert who has rendered an opinion regarding the environmental impacts of this proposal whereas the appellants provided no expert testimony at the hearing. She said a Mitigated Determination of Non-significance (MDNS) was issued by the county and was not appealed. She said this is a joint use dock and it meets the county's policy for joint use facilities and is the best option in this particular circumstance

for the eco-system in this area of shoreline. Forbes said this project is of a high quality design with high quality materials and a Hydraulic Project Approval (HPA) has been issued by the Dept of Fish and Wildlife. She said there is nothing in the record that shows that the Dept of Fish and Wildlife has determined that this particular area of shoreline has a high environmental value for shell fish, fish life or wildlife. Forbes said the proposed pier/dock has minimum impacts on the environment and what impacts there might be will only be during the construction phase. Relative to the compatibility issue, she said the appellants failed to focus on the entirety of the Hearing Examiner's decision which dealt with all of those issues. She said when the county's Master Shoreline Master Program determined that piers and docks were permitted uses in this particular area of the shoreline. She said there is nothing about this proposal that suggest it would prevent or prohibit the other uses in the area and it was not any longer than the current buoy systems that are already in place. Relative to cumulative impacts, Forbes said there is no evidence in the record that rebuts the expert testimony presented to the Hearing Examiner that showed that any environmental impacts would be minimized. She said it does not state that there can be no impacts or cumulative impacts; it states they should be minimized and they are. Regarding proliferation, she said there are other docks in the area and there are no cumulative impacts by approving this particular dock. She said this proposal meets all of the requirements of the county code.

Vancil reiterated that according to the code, areas identified by the Dept of Fish and Wildlife or the Dept of Natural Resources having a high fish and wildlife or shell fish value, piers and docks shall not be allowed unless it can be established conclusively as determined by the shoreline administrator that the piers or docks will not be detrimental to natural habitat or species of concern. He said staff has cited areas of high value and there may be temporary adverse affects. He said the determination must be conclusive that there will not be detrimental affects. He said there is nothing in the record regarding cumulative impacts from the experts, staff or the Hearing Examiner...they simply did not look at it. Vancil said the criteria used by staff in the county code, is not the same as that used by the state.

Discussion is held between the Board and Vancil regarding cumulative impacts compatibility issues, permitted uses and the Shoreline Management Act.

Forbes said this is an appeal of a decision in front of the Hearing Examiner and some of the issues that have been raised before the Board were never raised before the Examiner and should be waived in particular, the issue of cumulative impacts in terms of littoral drift, impacts to the environment, sand movement and water circulation. She said the environmental impacts are minimal, an MDNS was issued with no appeal filed and a HPA was granted. Forbes said this is not a shoreline of statewide significance and there is nothing in the record that states this is an area designated by Fish and Wildlife as having important environmental value. She said all the experts and all the biologists testified that the impacts

were minimal.

Discussion is held between the Board and staff relative to whether cumulative impacts were addressed during hearing before the Hearing Examiner.

Board recesses into executive session from 8:35 – 8:50 pm. to discuss existing litigation.

Public meeting reconvenes at 8:50 pm.

Commissioner Angel notes for the record that the Board's policy has been that new evidence is not to be introduced and believes the Board should be consistent with its policy. She also notes that the new information (Suquamish Letter) submitted by the appellant had not be given to the Board for review.

A **motion** is made by Commissioner Angel and seconded by Commissioner Brown that the Board not accept the new evidence as submitted by Ryan Vancil, Attorney to the Appellant. Motion carries unanimously.

A **motion** is made by Commissioner Brown and seconded by Commissioner Angel that the Board continues this matter to October 13, 2008; said matter for decision only. Motion carries unanimously.

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

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

- A. Paul Nuchims, South Colby resident, addresses the Board with concerns about legacy lots in the county.
- B. Gary Mahan addresses legacy lots in the Manchester area and opposes the decision on the Woods View, LLC project.
- C. Leslie Hassett addresses legacy lots in the Manchester area and opposes the decision on the Woods View, LLC project.
- D. Celia Johnson opposes the decision on the Woods View, LLC project.
- E. Jim Sommerhauser cautions the Board on commissioner comments made at the end of each public meeting and during the election season to not use it as an opportunity to campaign using county equipment.
- F. Jeff Miller addresses legacy lots in the Manchester area and opposes the decision on the Woods View, LLC project.

The Board expresses their thoughts and concerns on the Woods View project.

8) COUNTY ADMINISTRATOR’S COMMENTS:

- A. Nancy Grennan comments on why the *Honey in the Rock Café* must close and a possible solution to that closure. She also introduces the new Director of Administrative Services, Shawn Gabriel.

9) BOARD OF COMMISSIONER’S COMMENTS:

- A. Commissioner Angel comments on the recent unveiling of the South Kitsap Regional Park Plan. She also states the Gorst Estuary is now complete.
- B. Chair Bauer said he attended the change of Command Ceremony for Capt Bradley Johansson.

Public meeting adjourned at 9:30 p.m.

**BOARD OF COUNTY COMMISSIONERS
KITSAP COUNTY WASHINGTON**

STEVE BAUER, CHAIR

JOSH BROWN, COMMISSIONER

JAN ANGEL, COMMISSIONER

ATTEST:

OPAL ROBERTSON, Clerk of the Board

DATE APPROVED

* See Resolution Journal Volume No. 62

** See Ordinance Journal Volume No. 16

OTHER MEETINGS ATTENDED BY THE BOARD:

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| 9/22/08 | 12:00 p.m. | Lunch with Elected Officials |
| | 2:00 p.m. | Admin Briefing -Port Blakely Conf Room |
| | 7:00 p.m. | BOCC Public Meeting – BOCC Chambers |

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| 9/23/08 | 1:00 p.m. | “Keller House” Groundbreaking |
| 9/24/08 | 8:30 a.m. 11:00 a.m. | Work Study Session – Port Blakely Conf Room Executive Session pursuant to RCW 42.30.110 (i) |
| 9/27/08 | 11:00 a.m. | NAACP Forum – 1201 Park Ave, Bremerton |
| 9/29/08 | 10:00 a.m. | Phase II Code Dev Deliberations – Bd. Chambers |
| 9/30/08 | 9:00 a.m. 1:30 p.m. | Budget Meetings - Port Blakely Conf Room Budget Meetings - Port Blakely Conf Room |
| 10/01/08 | 8:30 a.m. 2:00 p.m. | Work Study Session – Port Blakely Conf Room Budget Meetings - Port Blakely Conf Room |
| 10/06/08 | 10:00 a.m. 12:00 p.m. 2:00 p.m. | Admin Briefing - Port Blakely Conf Room Lunch with EOM, K. Ashcraft Budget Meetings - Port Blakely Conf Room |
| 10/07/08 | 8:00 a.m. | KRCC/Health Dist Board Meetings, Gov Center |
| 10/08/08 | 8:30 a.m. 9:00 a.m. | Work Study Session – Port Blakely Conf Room Budget Meetings - Port Blakely Conf Room |
| 10/09/08 | 11:30 a.m. | P. O. Chamber of Commerce, West Bay Center |
| 10/11/08 | 5:00 a.m. | Kitsap Reg. Library Gala/Auction, Kitsap Conf Center |

(The Board of County Commissioners public meetings are televised on public access television BKAT (ComCast Ch.12 and Wave Broadband Ch. 3) Mondays at 7:00 PM and Tuesdays at 11:00 AM and 1:00 AM).

Next regular Board of Commissioners public meeting will be held **October 13, 2008 at 7:00 p.m. in the Board of Commissioners Chambers.**

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).

UPCOMING TIMED AGENDA ITEMS:

(PLEASE NOTE: These dates and times are tentative and subject to change)

OCTOBER 13, 2008: