

COMMISSIONERS PROCEEDINGS
MAY 12, 2009
CLARK COUNTY, WASHINGTON

The Board convened in the Commissioners' Hearing Room, 6th Floor, Public Service Center, 1300 Franklin Street, Vancouver, Washington. Commissioners Mielke, Stuart, and Boldt, Chair, present.

9:45 A.M.

PROCLAMATION – NATIONAL DRUG COURT MONTH

Commissioner Boldt read a proclamation declaring the month of May 2009 to be National Drug Court Month in Clark County, Washington.

Judge Richard Melnick accepted the proclamation and said a few words. He then introduced three of the participants of Drug Court to share their experiences.

Jim stated that the Substance Abuse Court has helped him a great deal, holding him accountable for his actions and providing structure and stability. He said he's now working to become a productive citizen and he thanked Judge Melnick and Lifeline Connection for their help.

Ken expressed thanks to Lifeline and the Drug Court Judges for the second chance he was given, along with as his wife and 7 children. He said the specialty courts are a good investment for the future.

Peter thanked the Board of Commissioners, the therapeutic courts, and Judge Melnick for their support. He said his life has changed drastically—he now has his family back and many opportunities before him.

Judge Melnick expressed appreciation to the board and presented them with a plaque.

Judge Diane Woolard thanked the board for their support of the program.

PROCLAMATION – MENTAL HEALTH AWARENESS MONTH

Commissioner Stuart read a proclamation declaring the month of May 2009 to be Mental Health Awareness Month in Clark County, Washington.

Vanessa Gaston, Director, Department of Community Services, accepted the proclamation and said a few words.

PROCLAMATION – PUBLIC WORKS WEEKS

Commissioner Boldt read a proclamation declaring the week of May 17 through 29, 2009 to be Public Works Weeks in Clark County, Washington.

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Pete Capell, Director, Department of Public Works, accepted the proclamation and commented on the good work by staff.

10:00 A.M.

PLEDGE OF ALLEGIANCE

The Commissioners conducted the Flag Salute.

BID AWARD CRP 370722

Reconvened a public hearing for Bid Award CRP 370722 – 134th Street Traffic Signal Optimization. Mike Westerman, General Services, read a memo recommending award of Bid CRP 370722 to the lowest bidder.

Stuart said it seemed like a good time to see how they're doing in terms of local purchasing. He pointed out that for the past few bids they have been gotten more bids from local companies and have awarded bids to more local companies.

Mielke said it was great to see this get underway.

There being no public comment, **MOVED** by Stuart to award Bid CRP 370722 to Mill Plain Electric, Inc. of Vancouver, Washington, in the total bid amount of \$1,308,581.70, including Washington State sales tax, and grant authority to the County Administrator to sign all bid related contracts. Commissioners Boldt, Stuart, and Mielke voted aye. Motion carried.

PUBLIC COMMENT

In addition to public comment, the Board drew names for the 78th Street community garden plots.

Sunrise O'Mahoney, Vancouver Food Coop, explained that they recently set up the 78th Street community garden plots and today they would be drawing 30 names of community members for the plots.

The board members each drew 10 names.

Mielke wanted to know how big the plots were.

O'Mahoney said 20x20, \$25 per plot, per season.

Speaker #1

Tom Armstrong commented on free speech, pointing out that it's a constitutional right. Mr. Armstrong then talked about confusion with the Fourth Plain Boulevard exit and suggested the board change the name to Obama Boulevard. Lastly, he spoke on behalf of

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Sandy Reimer, who is not able to speak due to illness. Armstrong asked for Mr. Reimer's 3 minutes at future meetings to speak on his behalf concerning property he owns in the county.

CONSENT AGENDA

Mielke had questions about consent agenda item 1 (Ordinance expanding the Clark County Civil Service Commission to five persons).

Bill Barron, County Administrator, stated that item 1 was a request to adopt an ordinance to expand the Civil Service Commission from 3 members to 5, pursuant to new legislation that was signed into law and will be effective July 26, 2009. He explained that the Civil Service Commission was a body that takes care of all of the civil service aspects for Sheriff's deputies and certain other Sheriff's employees in county governments throughout the state and the Board of County Commissioners appoints members to that board. Mr. Barron stated that because it's a voluntary and unpaid position, it's oftentimes difficult to get a quorum and the legislature felt it appropriate to allow those counties who wanted to expand membership to 5 to do so. On April 13 the Sheriff directly requested the Board of County Commissioners to expand to 5 and at the direction of the Board, Barron said he coordinated with the Prosecutor's Office to draft the ordinance.

Boldt wanted to know what the Civil Service Commission did.

Barron said they basically run all of the promotional and grievance systems for the various rank and file of the Sheriff's Department.

Boldt asked if there was information on the web site.

Barron said people could call the Sheriff's general number. He added that Kathie Back, Human Resources, is the Civil Service Chief Examiner.

Mielke had a question pertaining to item 2 (Coordinated Prevention Grant Fund Agreement with Washington Department of Ecology).

Mike Davis, Department of Public Works-Solid Waste, stated that the grant was funded through the local Toxics Control Account and was a fee at the wholesale level on chemicals and petroleum. He said this particular one was for Washington Green Schools where they are working with a number of counties to develop educational programs within the schools, as well as a web site.

Boldt asked if they had been doing this for a couple of years.

Davis said this was in addition to the Save our Scraps (SOS) Program.

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Mielke said he had a concern with the cost to the county. He said they seemed to be funding a great deal of money for the program, almost the equivalent of a FTE. He said it appeared to be two parts, one for \$46,000 and one for \$16,000.

Davis said it was in two phases. He said in most cases the grants are 75/25, in which the county provides a 25% match. Since this one was working with a number of jurisdictions, the county would not be providing any monetary match; it would come through in-kind services provided by the other jurisdictions and the county.

Mielke said his concern was that the county is in a dilemma right now with keeping staff employed and he didn't see where this could be a higher priority than that. He said grants are good, but the problem was when they come up and match to the sum of another employee's wages and benefits, he didn't think this was the time to continue it—perhaps next year or the year after.

Pete Capell, Director, Department of Public Works, responded that this was related to the food waste program that they have in the schools and provides an educational benefit. He said young people are learning to recycle and there was an excellent Save Our Scraps (SOS) Program that takes all of the food waste from the cafeterias and recycles it. In this particular case some of the match is for Erin Rowland, who's one of their Public Works employees who works on the program, as well as the other participating jurisdictions, so there's very little expense to Clark County.

Stuart said the match uses existing employees' salaries to create the local match for a \$138,900 grant from the Department of Ecology.

Capell said that was correct.

Davis added that they were in the process of developing interlocal agreements with the other jurisdictions in which they would utilize their in-kind services to provide the match so they wouldn't really see any internal match on this particular grant.

Mielke said there's the \$185,000 figure for the total project.

Davis said there are two phases to the project and if the funds become available for Phase 2, then they would move onto that phase, but Phase 1 was the main phase.

Stuart wanted to know if completing Phase 1 would satisfy the requirements of the grant.

Davis said it would.

There being no public comment, **MOVED** by Stuart to approve consent agenda items 1 and 3 through 10. Commissioners Boldt, Stuart, and Mielke voted aye. Motion carried.

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There being no public comment, **MOVED** by Stuart to approve consent agenda item 2. Commissioners Boldt and Stuart voted aye. Commissioner Mielke voted nay. Motion carried.

PUBLIC HEARING: RAILROAD INDUSTRIAL ZONING DISTRICT

Held a public hearing to consider adoption of development regulations for the railroad industrial zoning district.

[See separate verbatim transcript by Cindy Holley, Rider & Associates]

PUBLIC HEARING: INFILL ORDINANCE

Held a public hearing to consider adoption of a revised Residential Infill Ordinance.

[See separate verbatim transcript by Cindy Holley, Rider & Associates]

PUBLIC HEARING: JACKIE'S LANDING DEVELOPMENT AGREEMENT

Held a public hearing to consider amendments to the development agreement for the subdivision known as Jackie's Landing, specifically addressing the phasing of the project and the timing of traffic signal construction at the intersection of NE 107th Street and SR-503 (NE 117th Avenue)

Marty Snell, Director, Department of Community Development, presented. He explained that this item had been brought forward by a proponent of the Jackie's Landing Development that was approved with a development agreement in the Orchards Urban Holding area in April 2007. He said several development agreements were approved by the board for proposed projects in the Orchards area. They were used to address the criteria to release properties from urban holding, which had been in place since the 2004 Comprehensive Plan. He said areas of emphasis in the agreements included transportation improvements and impact fees—Sections 4 and 8 provide for payment of transportation and school impact fees. Specifically, Section 4 provides a schedule for transportation impact fees that generally splits the payments between preliminary approval and the time of building permit. Snell stated that Section 13 does allow for minor modification to the provisions of the agreement that are mutually agreed upon by the parties. The proponents of Jackie's Landing have submitted a change in the timing of a signal installation that was part of the hearing examiner's decision. He said the applicants would need to submit for a post decision review and he talked with Mr. Rademacher a month ago about that requirement and they are adding some phasing and want to change the timing of the signal installation at SR-503 and 107th Street. Any changes to the development agreement

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would be required to be consistent in the hearings examiner's decision, which is done through a post decision review.

Steve Schulte, Department of Public Works, said the developer encountered a concurrency failure at the intersection of 107th Street and SR-503 and the mitigation is a traffic signal installation. Mr. Schulte said the developer volunteered to make the improvement, along with two other developers in the area—Living Hope Church and Serena Estates were both conditioned to do the signal. He explained that if the timing for the improvement was allowed to slip for Jackie's Landing, the other two developers might have to do it and they would like to avoid that situation, if possible. The request is to slip the timeline for completing the concurrency condition that would possibly obligate the other two developers to do it first. In addition, the proposal would allow the developer to pay the county \$300,000 towards completing the work. Schulte said that may or may not be enough and if the obligation slipped to the county they would have the cost risk, permitting risk, and delivery responsibility. He said historically they have always required that developer mitigation be done by developers. Also, in terms of Traffic Impact Fees (TIF) right now in the developer agreements the first 50% of the TIF owed would be due within 60 days of preliminary plat approval and the second 50% due within 60 days of final plat approval. The developer was asking that the timelines be slipped and they wanted to delay paying their second 50% up until the 86th lot is built. So before they pull the building permit for the 86th lot they would pay their second 50% TIF, which Schulte thought was about \$270,000. Schulte said when they formulated the urban holding developer agreement they established an arrangement that the urban holding developers who pay earlier than at time of building permit—the thinking was that those early payments would provide seed money so the county could go out and get grants to complete the capital projects on 119th Street. So if the timeline for the TIF receipt slips, the county has less seed money and less ability to obtain those grants.

Stuart referenced the second to last paragraph on page 1 of the staff report where it reads – “The proposed amendment would delay this requirement and allow the final platting of the first 73 lots on the site without the signal being installed.” He wanted to know where the 73 number came from.

Schulte said he didn't know the derivation of the 73, but it was in the proposed amendment that was submitted to the county.

Mielke said he recalled it was a cash flow issue to help the developer.

Stuart asked where the \$300,000 cost estimate came from.

Schulte responded that it was a proposal as part of the amendment before the board. He said historically a signal costs between \$250,000 and \$300,000. There could be some complexities with this particular signal because it's on a state route and they might need

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state approval and there might be state standards, so there is uncertainty as to what the true cost could end up being.

Stuart referenced the paragraph pertaining to Traffic Impact Fees on page 2 of the staff report, where it states – “this situation would allow 85 lots on the site to be built...” and asked if there was a particular reason for that amount of lots.

Schulte said he believed the 85 lots would be half of the 170 lots subdivision.

Mielke asked at what point they would drop from concurrency and require the improvement, such as the traffic light—how many houses in a new area?

Schulte said they don't have a de minimis standard and this was in failure before the subdivision made application.

Mielke said his experience with that intersection was that with the exception of Sundays the traffic is very light. With the development it could become heavier. He said they were requiring a \$300,000 fee separate from the TIF and looking at 170 lots and he was concerned that it was quite a bit per lot to tack onto the cost of affordable housing. He said the TIF was in addition to the \$300,000, which is \$570,000 in Traffic Impact Fees and he thought that seemed a bit ridiculous. He said they're going to take the money that they collect from the development on 107th and add that to the funding source of 119th Street.

Schulte said the TIFs that would be collected from Jackie's Landing would go for future capital projects in the entire north Orchards district. So 119th Street, 99th Street—all of that was using TIF monies.

Mielke said the total cost is actually \$570,000 to the 170 homes.

Schulte said in the county's process they have Traffic Impact Fees that pay for area wide improvements in the Traffic Impact Fee district, in this case north Orchards.

Mielke asked if the traffic light should be paid with the TIF.

Schulte said it's not in the county's Capital Facilities Plan (CFP). He stated that many of their failing intersections in which the improvement needs will be traffic signals are not on the county's CFP. They anticipate developers will step up to the plate and make those improvements.

Mielke said on SR-503 through that area the traffic speed is 40 MPH and then 50 MPH farther north and when they add the traffic signal, they would lower the level of service. He expressed concern with the cost to develop the homes and affordable housing going away.

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Schulte provided history of the intersection stating that Serena Estates took that intersection into concurrency failure; Living Hope Church came in and added traffic and so they were tagged for concurrency; and Jackie's Landing was the third, so all three have it as a condition of approval before occupancy or final plat meant the signal needs to be installed. About a year or year and a half ago those developers were forming a partnership to fund the improvement and his understanding was that given the economic conditions they were seeing today, that partnership hasn't successfully come together. He said Jackie's Landing has been the active party that has been trying to put the partnership together.

Chris Horne, Prosecuting Attorney's Office, commented that the state law (RCW 36.70B.180) that allows developer agreements requires that they be executed in compliance with the county's code and applicable state law. He said to the extent post decision is required for the project, they would recommend the board either incorporate that as part of the amendment or sign it subject to their going through the process. Since it's part of the county code requirements, it's part of the state law that is applicable to the developer agreement.

[public comment opened]

Gary Rademacher, Developer, Jackie's Landing, stated that they realized they needed to do the Type I. He said they have a "chicken and the egg" syndrome if they can't come to some agreement on the light.

Ed Fogg, Developer, Jackie's Landing, said it's \$540,000 of TIFs they agreed to paid plus the \$300,000 for the light, so it totals around \$800,000. He said they understand they have to contribute to the project; however, coming up with the \$800,000 to put in 8 building lots is challenging. He said they are asking to be able to pay it over time and be able to contribute on an equalized basis as they go through it.

Rademacher added that in their first phase they originally had 73 lots and are proposing to break that into 3 phases—Phase 4, Phase 1, and Phase 5, which is 8, 32, and 33—because it's not economically feasible to bring on 73 lots in this market. Also, he noted that they had already paid 50% of the TIF fees already. He said they are also asking to postpone the light until the 74th lot and they wanted to set aside \$4,100 per lot to ensure the \$300,000 is set aside for the light. Mr. Rademacher said he wasn't sure that intersection was failing even at this point; he thought traffic counts had been done recently.

Schulte said on the road it may not be in failure, but in their computer models when Serena Estates, Jackie's Landing, and the Living Hope Church are put in, along with all the other residential developments that have been approved, all that traffic puts it into failure.

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Rademacher said they're not asking to get out of the light and as far as the second half of the TIFs, they were willing to pay the second half at permit stage as they go versus all at once.

Mielke asked if the other two developers were going to go forward at a later date.

Rademacher said they were both on hold.

Mielke said he was looking for a mechanism for latecomers to pay their share.

Horne stated that state law has provisions in Title 35.91 that they have historically used and he believed there was a provision in Title 36 that allows for latecomers agreements for transportation agreements. It requires a hearing; notice is given to affected property owners; a benefit area is created and, yes, [the original developer] can be repaid on a pro rata basis for their share of the cost of constructing those improvements.

Mielke asked how they would reimburse the developer for their share.

Horne said when new property owners within a benefit area come in for development applications, the county charges an amount based on whatever formula is generated as a result of this hearing process. That amount of money is then paid back to the original developer who incurred the expense.

Stuart pointed out that they would be limited to the parcels adjacent to the improvement.

Mielke commended the developer's efforts on this.

Boldt asked if they were at \$4,100 a lot.

Rademacher said they would agree to set aside \$4,100 per home sale out of the first 73 lots to assure the county that the \$300,000 is available for the light.

Fogg added that they would pay their TIF per lot at the time of building permit going forward on each one.

Stuart stated that the language Mr. Rademacher spoke to as far as when impact fees would be paid, the set aside amount per home, etc., wasn't in the draft proposal before the board.

Schulte verified that it was not.

There being no public comment, **MOVED** by Stuart to approve the Developer Agreement for Jackie's Landing with the terms as identified by Mr. Rademacher.

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Schulte wanted to review the terms. He said \$4,100 per lot would be set aside to fund the \$300,000 for the signal. In the event the money doesn't reach \$300,000, he wanted to know who would be obligated to build the signal.

Rademacher and *Fogg* responded [comments inaudible].

Schulte said under this arrangement then, it would become the county's obligation to complete installation of the signal.

Stuart said yes.

Mielke said that's only if they elect to move forward with that need before the other two developments happen.

Schulte explained that the way concurrency works is that developer mitigation has to be done by the time of occupancy or final plat. If the county takes it on as a project, then it has to go on their CFP and they would then have six years to get that improvement built. He said during that time they could encounter safety issues at that intersection and because it's a state route they would have to work with the state on what they would do in that instance. He summarized that it becomes a county obligation and they would collect \$4,100 into some sort of a fund that would be Jackie's Landing's share. He asked about the TIFs.

Stuart said they would pay at the time of pulling building permits.

Horne said if the cost of the signal is more than \$300,000, he asked if it would be paid for out of the Road Fund or would the applicant make up that difference.

Stuart said no. The applicant is offering up \$300,000 as a fronted share, with \$64,000 worth of design work having already been done. He anticipated they should be well within budget.

Commissioners Boldt, Stuart, and Mielke voted aye. Motion carried.

Boldt asked if the proposal would be brought back on consent.

Horne said the proposal was that the actual resolution would come forward when the post decision review is approved.

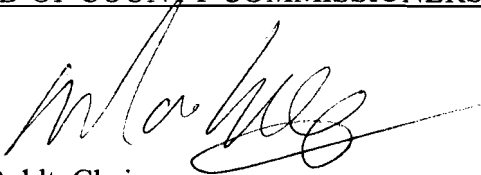
Snell said it will go back to staff.

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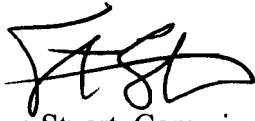
COMMISSIONER COMMUNICATIONS

There were no comments.

BOARD OF COUNTY COMMISSIONERS



Marc Boldt, Chair



Steve Stuart, Commissioner

Tom Mielke, Commissioner

ATTEST:


Clerk of the Board

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