

BOARD OF MASON COUNTY COMMISSIONERS PROCEEDINGS

NOVEMBER 13, 2001

The meeting was called to order at 9:00 a.m. by Chairperson Herb Baze. Commissioners Wesley E. Johnson and Bob Holter were in attendance.

APPROVAL OF MINUTES: Cmmr. Holter/Johnson moved and seconded to approve the October 16 minutes as presented. Motion carried unanimously. B-aye; H-aye; J-aye.

Cmmr. Johnson/Holter moved and seconded to approve the November 6, 2001 minutes as presented. Motion carried unanimously. B-aye; H-aye; J-aye.

C O R R E S P O N D E N C E

HARTSTENE POINTE SEWAGE TREATMENT PLANT

Washington State Department of Health expressed their commitment to meet with the County regarding the Hartstene Pointe Sewage Treatment Plant.

GROWTH MANAGEMENT

Notice was received that Ike Nwankwo will serve as interim managing director to replace Shane Hope at the Washington State Department of Community, Trade and Economic Development working with growth management.

SIDEYARD VARIANCE - KARPPINEN

A letter was received from Robert W. Johnson representing Richard Kelly who is the owner of property adjoining the Karppinen project site on Mason Lake. Copy referred to Community Development/Planning.

B U S I N E S S

CONSULTING CONTRACT – ENGINEERING SERVICES

A request was heard from Ron Henrickson, Community Development Director, to request proposals from consulting companies selected from the 2001 Consultant Roster to develop a methodology to establish a setback from the Skokomish River in conjunction with the Growth Management efforts related to Frequently Flooded Areas and also authorize approval to enter into contract with the selected consultant not to exceed \$3,000.

Cmmr. Johnson/Holter moved and seconded to authorize Department of Community Development to request proposals from companies selected from the 2001 Consultant Roster to develop a methodology to establish the setback from the Skokomish River. Motion carried unanimously. B-aye; H-aye; J-aye.

Cmmr. Johnson/Holter moved and seconded to authorize the Director of Community Development to enter into a contract with said consultant not to exceed \$3,000. Motion carried unanimously. B-aye; H-aye; J-aye.

ABCD PROJECT GRANT AGREEMENT

Steve Kutz, Public Health Services Director, presented a grant with the Washington Dental Services Foundation for the ABCD (Access to Baby & Children Dentistry). It is in the amount of \$21,000 for the period of January 1, 2002 – December 31, 2002. The matching funds for the grant come from Medicaid Administrative match. There is a possibility of securing a grant for three years for this project in conjunction with the Thurston/Mason Dental Society and Thurston County Health & Human Services Department. There are approximately 450 children enrolled in the Mason County ABCD program. It brings young children under the age of six that are medicaid eligible into a program that provides for early preventive services for the young children. It provides extra visits and encourages dentists to see children early on to reduce the number of older children with severe dental caries. He recommended the Board enter into the grant for the second year.

Cmmr. Baze/Johnson moved and seconded the Board approve and authorize the chair to sign the Washington Dental Services grant for \$21,000 to fund the ABCD program for the period of January 1, 2002 through December 31, 2002. Motion carried unanimously. B-aye; H-aye; J-aye.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
NOVEMBER 13, 2001 – PAGE 2**

RECESS

The Board recessed for seven minutes until the next scheduled item.

SHORELINE SUBSTANTIAL DEVELOPMENT/CONDITIONAL USE PERMIT - WARNOCK

Rick Mraz, Planner, presented the staff report for Stan Warnock's project which consists of installation of four steel sea anchors, a 30' metal ramp, and an 8' 4" X 20' recreational float located at Triton Cove on Hood Canal.

The Planning Staff recommended approval with the following conditions:

- 1) The pier, ramp, float, and associated moorings shall be located to avoid shading of eelgrass and other aquatic vegetation.
- 2) Floation for the structure shall be entirely enclosed and contained to permanently prevent the breakup or loss of the flotation material into the water.
- 3) Debris or deleterious material resulting from construction shall be removed from the beach area and project site and shall not be allowed to enter waters of the State.
- 4) Developers and individuals shall be required to control erosion during construction. Removal of vegetation should be minimized and any areas disturbed should be restored to prevent erosion and other environmental impacts.
- 5) The surface of floating structures shall be a minimum of eight inches above the surface of the water.
- 6) All floating structures shall include intermittent supports to keep structures off the tidelands at low tide.
- 7) Pressure treated wood must be completely dry prior to placement in water. Use of creosote or pentachlorophenol is prohibited.
- 8) All other necessary permits from Mason County, Washington State and/or Federal Agencies that are required for this proposed development and construction must be obtained PRIOR TO SAME DEVELOPMENT AND CONSTRUCTION and adhered to upon completion of the development.

Allan Tahja, Applicant's Agent, indicated he is a Professional Engineer and has been working on this project for over a year. Although he is an employee of Public Works, this is a project he is working on his vacation time. Initially, the client wanted to place the dock out past the end of the pier. They were staying within the 100' shoreline requirement and discovered they were beyond the -3' shoreline. Next, the Corps of Engineers was going to require a biological assessment, which has been prepared. Also, environmental issues kept pushing the project landward until now the dock, when it lands during the low tide, will be at the -1 tide elevation. They have almost cut in half the distance out that they originally wanted to go. The owner hoped to land a boat and employ the dock during the low tide, but they are not able to accomplish that. This project conforms to all the requirements by the County and State.

Cmmr. Holter expressed concern about the appearance of fairness regarding a private project, but would address this at a later time.

It was noted the applicant does not have a permit yet from Washington Department of Fish & Wildlife (WDFW).

The Board questioned if the numerous revisions and the time taken has been an attempt on the part of the County to meet the requirements that WDFW has required.

Mr. Mraz noted that a couple of the earlier drawings did not meet the County's master program. The initial approach was to create a parallel ramp and float which would parallel the existing dock. That proposal exceeded the width dimension standards. It was revised by creating a perpendicular ramp down to a float. It was at the midpoint of the existing dock which would not be allowed because the regulations state a ramp and float can be attached to the end of the dock and not at the midpoint. The third proposal was to cut off the last 18' of the dock and that created the end attachment. Shapes of the float have been reconfigured in response to WDFW. The County was ready to approve at that point.

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
NOVEMBER 13, 2001 – PAGE 3**

Cmmr. Holter/Johnson moved and seconded the Board conditionally approve the substantial development/conditional use permit with the findings of fact for permit number SHR2001-00013. The proposal is to conduct a project consisting of installation of 4 steel sea anchors, a 30' metal ramp and an 8' 4" X 20' recreational boat dock. The project includes reinforcing 2 existing pier columns and footings with concrete and construction of a wooden stair near the MHHW elevation on the beach. The project also includes the removal of approximately 18 feet of the water section of the pier. Motion carried unanimously. B-aye; H-aye; J-aye.

SHORELINE VARIANCE - KARPPINEN

Rick Mraz, Planner, presented the staff report for a proposal to site a hydraulic boat lift within the five foot sideyard setback located at Mason Lake for Kim Karppinen.

The Planning Staff recommended denial of the proposal as it is inconsistent with several of the criteria.

The Board questioned if the applicant could notch the dock to accommodate it in the same basic location. It was questioned if the dock is wide enough to accommodate and meet the variance.

Mr. Mraz stated the dock is 8' 2" wide.

A question was raised if the boatlift is 54" wide and if the boatlift could be adjacent to the dock up against it.

Mr. Mraz responded it was not clear if there needed to be space between boatlift and dock. It would have to be notched to meet the sideyard setback.

Darren Nienaber, Deputy Prosecutor, asked if the end of the "L" that is perpendicular to the dock is physically attached.

Mr. Mraz replied that it is not a float, but is a separate section of dock. The main 8' walkway is constructed of 2 X 4 X 8 and goes straight out 50' and then there is a second 2 X 4 X 8 square that is fixed that forms the "L."

The Board asked if the "L" of the dock could be removed.

Mr. Mraz stated, yes, it could be removed. The water depth, at that point, is deeper by an inch than where they are currently attaching the boat.

There is a non-conforming dock that extends into the property.

It was noted the "L" is an 8 X 8.

The Board expressed concern about fairness. The property that is making the move toward the variance lost 11' by adverse possession. It is compounded by the dock that is non-conforming. There are alternatives that the property owner could put in place.

It was also noted that on the Kelly property line (adverse possession) which was taken. From the property line it runs out into the water and when the judge ordered the property line changed it was questioned if they addressed the property line from the shoreline into the water or just to the shoreline.

Mr. Mraz responded that in the Findings of Fact and Conclusions of Law signed by Judge Sawyer noted that "Together with second class shorelands in front of and abutting upon the above described uplands." That was the point of confusion for the advisory board what if the property line jogged back to the original location. Then the dock would be conforming and the lift would be conforming and inside the sideyard setback. Staff was instructed to consult with the County attorney and find out if this was the case. It specifically states they do own the shoreland as it extends out into Mason Lake or the depth that is considered the second class shorelines.

Rob Johnson noted that the adverse possession lawsuit was originally filed in 1991 which brings the period of adverse possession at least 10 years prior to that period of time. This is the case where the Kellys had their property measured and constructed improvements out into the lake. Mr. Weaver originally owned the property and he had no dispute with where Mr. Kelly placed the boundary line. The boundary line was in place when the Kellys purchased

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
NOVEMBER 13, 2001 – PAGE 4**

The Board commented that the findings have indicated there are alternatives which could be pursued.

Cmmr. Holter/Johnson moved and seconded to deny the variance permit #SHR 00027. Motion carried unanimously. B -aye; H-aye; J-aye.

RECESS

The Board recessed at 10:10 a.m. until 10:15 a.m.

REMOVAL OF SIX YEAR FOREST PRACTICES DEVELOPMENT MORATORIUM - SPRINT PCS

Michael MacSems, Planner, stated that the project is to locate a cell tower on a 37 acre parcel north of Anthony Road and south of Krabbenhof Road on State Route 3. The tower would be larger than the ordinance would allow. It is a 1600 sq. ft. site on a 37 acre parcel which is subject to a forest practice six year moratorium. The moratorium is automatic whenever anybody cuts anything other than a class IV general permit. It is necessary to have the piece of land removed from the six year forest practices development moratorium. The Planning Commission has recommended approval of the project.

The Board questioned about the evaluation which is limited to the portion of the project that has to do with the six year moratorium from the parcel. All concerns with the actual construction of the communication power are subject to a different permit that are not discussed.

Mr. MacSems stated they are not dealing with the building permit issue, but the fact the applicant wants to place the project on property that they could not issue a permit for unless they go through the process of removing it from the six year moratorium. The actual construction of the tower is a separate process that will be dealt with at a later time.

There were no public comments.

Cmmr. Holter/Johnson moved and seconded the Board approve the removal of 1600 sq. ft. from the 37.4 acre parcel from a forest practices six year moratorium for the purpose of locating a cellular communication tower and that the request be in compliance with all of the findings of fact included in the staff report. Motion carried unanimously. B-aye; H-aye; J-aye.

RECESS

The Board recessed at 10:20 am until 10:30 a.m.

HEARING - GAMBLING TAX

The Board held a public hearing to consider adopting a gambling tax.

Ione Siegler, Budget & Finance Director, stated that counties are authorized to collect taxes on gambling activities within specified limits. The state does not impose a gambling excise tax. The county tax would only apply to activities that occur within the unincorporated areas. The maximum allowable county levies on gambling activities by commercial stimulant operators for profit business are bingo (up to 5% net receipts), growth receipt less cash and merchandise prizes; raffle (up to 5% of net receipts); amusement games (up to 2% net receipts); punch boards, pull tabs (up to 5% of grocery receipts or up to 10% of net receipts); social card rooms (up to 20% of gross receipts); the charitable or non-profit: maximum rates are: bingo (no tax on first 5,000 of net receipts then up to 5,000 of net receipts) raffles (no tax on first 10,000 of net receipts then up to 5% of net receipts); amusement games (no tax on the first \$5,000 of net receipts then up to 2% of net receipts); punch board, pull tabs (up to 10% of net receipts); social card rooms (up to 20% of grocery receipts). It was noted this is authorized by RCW 9.46.110. State law requires that jurisdictions levying gambling taxes use the funds primarily for enforcement of gambling laws.

Fred Jones stated he is a non-compensated tax collector for Pickering Storage & Spencer Lake Resort. On an annual basis he has collected over \$400,000 per year in taxes and distribute to various federal, state, and county agencies. He stated he owns four businesses in the County, a pull tab bar, a Class H bar, a mini storage complex and full service family restaurant. He stated the gambling tax will affect his business. He stated he uses the money from the bar and pull tabs make, in the winter, to subsidize the restaurant. If that money is not available he was concerned the restaurant will have to close.

He felt the pull tab, gambling tax is unfair as there is no way to collect the tax from the consumer of the product. It

**BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
NOVEMBER 13, 2001 – PAGE 5**

September 11 incident people don't seem to be spending money like they used to. The current month is down 46% approximately for the same period last year. The income from pull tabs supports the employees, rent, and taxes. He felt this is the worst time for this.

Rick Malone, Owner of Hoodspout Inn, stated after working seven days a week for seven years with no vacation, now they have a restaurant and no home, old cars and social security. If they give 5% of the gross on the gambling. He is giving away social security.

Hank O'Sullivan, Owner of Hank's Country Inn, stated they have 60 employees who have been given notice they may shut down the business. They showed a \$67,000 tax credit last year from IRS. They are in the small town trying to compete with the big cities. They can't compete with Little Creek Casino.

John Post, Former Owner of Spencer Lake Resort, stated he has been retired for five years and is concerned about this as he doesn't want to get the business back. He noted that last year the pull tab, punch board revenue for the state was down \$13 million. The County is down 7.9% in one year on gross pull tab and punch board revenues. About five years ago the ticket was 25 cents and the gross was dropping so fast that with the casinos coming in and the gambling commission to stay in business and the City and counties to get a little tax they increased the ticket to \$1 instead of \$0.25. The gross is declining even though they have gone from \$0.25 to \$1. Four years ago there were approximately 23 taverns in the county and now there are two taverns as the rest have tried to stay in business by converting to restaurants and putting in cocktails.

Mason County is one of the few counties in the State of Washington that does not collect the gambling tax. He noted that he did represent the Police Chiefs and Sheriffs at the hearings in Olympia when the law was enacted. The tavern owners at that time advised it was something they encouraged the state to pass and it would be great for the business.

Mr. Post stated if the County does consider the gambling tax on the 17 licensees that the County does not impose the tax until the licensees current license runs out and they have the option of continuing gambling. Or if established and it is 10% of net, they might start at a lower level to give a chance for evaluation.

It was noted the tribal casinos are exempt from this tax. They do contribute a percentage of funds to counties and cities impacted by their presence.

A comment was received from an individual who works with a distributing company of pull tabs who has been driving in Mason County for 13 years. He indicated he would be one of the first employees to be let go if the gambling tax goes through.

Cmmr. Holter/Johnson moved and seconded to close the public hearing and testimony. Motion carried unanimously. B-aye; H-aye; J-aye.

HEARING SET - 2002 BUDGET

The Budget & Finance Director requested the Board set a public hearing to schedule the 2002 budget.

Cmmr. Johnson/Holter moved and seconded the Board set a public hearing on Monday, December 3, 2001 at 9:00 a.m. for the 2002 budget. Motion carried unanimously. B-aye; H-aye; J-aye.

ADJOURNED

The meeting adjourned at 11:08 a.m.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Herb Baze, Chairperson
