

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

APRIL 10, 2007

1. Call to Order – Chair Lynda Ring Erickson called the regular meeting to order at 9:01 a.m.
2. Pledge of Allegiance – The chairperson led the flag salute.
3. Roll Call - Present: Cmmr. Dist. 1 – Lynda Ring Erickson; Cmmr. Dist. 2 – Tim Sheldon; Cmmr. Dist. 3 – Ross Gallagher was on an excused absence attending a Forest Products Conference.
4. Correspondence and Organizational Business
 - 4.1 Correspondence
 - 4.1.1 Jean Gall forwarded current information pertinent to the state of Menard's Landing.
 - 4.1.2 The Washington State Community Economic Revitalization Board sent their 2006 Legislative Report. (On file with the Clerk of the Board.)
 - 4.1.3 Charles and Valerie Johnson wrote in support of liquor license approval for Cameo Boutique in Union.
 - 4.1.4 Bill Barker expressed his concerns regarding the lack of leash laws in Mason County.
 - 4.1.5 The Washington State Liquor Board sent notice of establishments in Mason County with liquor licenses due to expire on July 31, 2007.
 - 4.1.6 Kenneth L. Oberg commented on the rezone request of John & Marylou Borgert (Item 9.2 on agenda)
 - 4.2 John Keates, Parks & Trails Director, presented the news release inviting the public to a workshop on April 26th at 6 p.m. regarding the future planning and usage of Foothills County Park.
 - 4.3 Barb Adkins, Community Development, presented the news release inviting everyone to an Earth Day celebration on Friday, April 20th at 10 a.m. at the Civic Center.
 - 4.4 Tom Moore, Utilities & Waste Management, announced that Northwest Water Systems has been selected for the Hartstene Pointe Water System Well #2 arsenic reduction project. The cost is not to exceed \$6,000. This is natural occurring arsenic.
5. Open Forum for Citizen Input
No public input.
6. Adoption of Agenda
Cmmr. Sheldon/Ring Erickson moved and seconded to adopt the agenda as presented. Motion carried. RE-aye; S-aye; G-absent
7. Approval of Minutes – regular meeting minutes for March 27 and April 3, 2007.
Cmmr. Sheldon/Ring Erickson moved and seconded to approve the regular meeting minutes for March 27 and April 3, 2007. Motion carried. RE-aye; S-aye; G-absent.
8. Approval of Consent Agenda:
 - 8.1 Approval of the amendment to the Local Agency Standard Consultant Agreement with Kenyon Disend, PLLC, referred to as Exhibit B-3, amending the scope of work with regard to updating the County's Cable Regulatory Ordinance. This amendment increases the contract by \$1,295 and is budgeted.
 - 8.2 Approval of the resolution authorizing the Utilities Director to execute the consultant contracts and scope amendments consistent with projects that are grant funded to complete wastewater planning activities to improve the water quality in Hood Canal. **Resolution No. 41-07 (Exhibit A)**
 - 8.3 Approval for the Utilities Director to sign Amendment #1 to existing agreement with Aspect Consulting for hydrogeologic services for the Webb Hill Monitoring and hydrogeologic investigation project. The cost is \$13,846 and is funded from Puget Sound Action Team (PSAT) grant monies.

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- 8.4 Approval for the Chair and Utilities Director to sign the contract agreement with Boart Longyear/Holt Drilling for drilling, construction and development of four monitoring wells at the Webb Hill biosolids application facility. This project is \$54,000 and is funded with grant monies from the Puget Sound Action Team.
- 8.5 Approval for the Equipment Rental & Revolving Fund Manager to call for bids to furnish Mason County with one new Mechanic Service Truck for the Equipment Rental & Revolving Fund Central Shop. Date and time of opening to be May 9, 2007 at 9:00 am.
- 8.6 Approval for Public Works to advertise, interview candidates, and hire for the Environmental Coordinator and GIS Technician positions that are vacant.
- 8.7 Approval of the Design and Construction Management Contract Amendment #3 between Mason County and Gray and Osborne, Inc for the Hartstene Pointe Outfall project.
- 8.8 Approval of Veterans Assistance Fund applications for: Vincent Weber - food \$600.00; Ron Anderson - housing \$600.00; Randy Wimbley - housing \$600.00; Lisa Smith - utilities \$99.11 for a total of \$1,899.11 as recommended by the Veterans Assistance Fund Screening Committee.
- 8.9 Approval of Warrants
Claims Clearing Fund Warrant #s 120971-121135 \$554,446.84
Salary Clearing Fund Warrant #s 165974-166484 \$1,480,566.33
Cmmr. Sheldon/Ring Erickson moved and seconded to approve the Consent Agenda items 8.1 through 8.9 as read. Motion carried. RE-aye; S-aye; G-absent.

9. 9:30 a.m. Public Hearings and Items Set for a Certain Time

- 9.1 Public hearing continued for Road Vacation File No. 354, continued from March 20, 2007.
Vacation of a portion of Fourth Street in the Plat of Hood Canal Land Improvement Company's Plat of Union City.
Rick Brush, Public Works, requested the hearing be continued to May 8th, per the request of Douglas Moore (petitioner), to allow additional time to hire professional assistance with a geotechnical study of the petitioners property, the contested right of way and a structure the petitioner wishes to build in the vacated right of way.

A notice of objection to this petition has been received by the County asserting that this area of Fourth Street is vacated by operation of law and that the neighbors adjacent to it on the opposite side have been occupying it for several years, giving rise to a claim of ownership by adverse possession. Mr. Moore is attempting to negotiate a settlement.

TJ Martin, Deputy Prosecuting Attorney, recommended the Board not take any public comment today and wait until a staff report has been presented.

Cmmr. Sheldon/Ring Erickson to continue the hearing to May 8, 2007 to allow time for the petitioner and those objecting to the petition to negotiate a settlement of a dispute related to the area to be vacated. Motion carried. RE-aye; S-aye; G-absent.

- 9.2 Public hearing to review the request by John and Marylou Borgert to rezone three parcels totaling 69.64 acres, from Rural Residential 10 to Rural Residential 5 zone.
Allan Borden presented the staff report. This is a request to rezone three parcels, totaling, 69.64 acres, currently designated as Rural Residential 10 (RR10) to Rural Residential 5 (RR5), located at the end of Scarlet Road. The Borgerts also own two other small parcels contiguous with the three subject parcels. The properties have direct access from Scarlet Road. Melaney Creek, a type 3 stream, flows through part of the parcels. Any development would have to meet proper setbacks, which is a 150-foot vegetation buffer plus 15 foot building setback. Currently there is no septic or well service on the property.

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When the staff report was prepared, staff recommended that all rezone criteria were met including no damage to public health, consistent Comprehensive Plan designation and no pressure to change land use designations of other lands. The recommendation from staff was approval when the Planning Advisory Committee (PAC) heard this request and they did question critical areas and access. Public comment was received from a neighbor about available water in the vicinity. The PAC recommended approval, they felt the health and safety issues were met and county regulations would protect critical areas during the subdivision process.

Mr. Borden explained that currently under the RR10 zone, conventional zone subdivision practices, the applicant could develop eight lots. Under the subdivision process when the property is zoned either RR10 or RR10 density, an applicant could subdivide their property through a performance subdivision process. This is not available under RR5. By undergoing the performance subdivision process, the applicant would be able to devote areas to protect critical areas and provide open space. The applicant could double their density, essentially subdividing at a 1 to 5 density. If he had a 70-acre piece of property under RR10 conventional, he could get three lots. Under RR10 with a performance subdivision, he could get seven lots.

Under RR5, the property could be divided but a lot couldn't be created less than two acres in size.

Under the performance subdivision, the applicant has the possibility of creating lots that are actually as little as 20,000 square feet in size. That provides a clustering mechanism of homesites and creating open space.

This proposal involves 69.64 acres and a 1.5-acre piece and a 1.7-acre piece of property, totaling 72.85 acres. Under RR10 conventional subdivision, he could get eight lots if he combined the two lots to get over 70 acres; they would have seven lots plus the smaller lot.

Under RR10 performance subdivision they could get as many as 15 lots. Under RR5 they could still get 15 lots but they would have to create lots at least two acres in size and they wouldn't be committed to open space, except for the stream buffer areas.

In evaluating this, staff has revised their recommendation that the RR10 zone, which is the current zone, can actually accomplish what the applicant wishes and provide for open space and critical area protection. That is Criterion 2. In Criterion 7, pressure to change land use designation, staff has also concluded that if this rezone was approved, there is a greater chance it would serve as a precedent for other applications, either in the vicinity or in other areas of the county that have a similar situation. Staff has concluded that Criterion 7 would not be met.

Any land divisions would have to meet water, septic and critical area standards. There are commercial timber lands to the east so there would be a concern that intensive development in the east part of the property should be buffered from that resource related activity.

Cmmr. Ring Erickson asked Mr. Borden to review Criterion 7.

Mr. Borden explained that Criterion 7 deals with there being no pressure to change land use designation to other lands or to cause greater than projected population increases in rural areas. The premise is that if a rezone request were approved, then there would be the pressure that subsequent applications could then be approved, under these conditions.

Cmmr. Sheldon noted the pressure and cumulative effect have to be considered.

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Cmmr. Sheldon confirmed the property is currently growing Christmas trees and asked the tax classification.

Ken Oberg, neighboring property owner, understood RR5 are five acre lots, and asked about the comment they can go as low 20,000 square feet.

Mr. Borden stated that RR5 does not have to do with lot size, it has to do with the density of the number of lots created. He gave the example that if there is a 40-acre size piece of property, and it is RR5, you have eight development credits on that 40 acres. Under the current subdivision process, you can create lots as little as two acres in size. You are limited to eight lots, but they can be varying sizes, but no less than two acres in size.

John Borgert, applicant, said this property is not in an Open Space Tax Classification and never has been. With regard to setting a precedent, he asked the Board to consider that you can change from RR10 or RR20 to RR5 if you land has never been filed in a lower tax rate, which would apply to these parcels. He believes growing timber or Christmas trees would be considered incidental, it's not done to meet any forest management plan requirement. As far a construction home sites, the amount of home sites in RR10 and what we are proposing for RR 5, are basically the same. He believes on the market, there is more response for marketing RR5 lots than clustering homes. He thinks when considering rezoning, the Board should consider if it has been in a lower tax classification.

Cmmr. Ring Erickson asked how long Mr. Borgert has owned the property.

Mr. Borgert replied it was purchased during the period of 1970 – 1974.

Ken Oberg voiced concerns with the water run off due to the type of soils, which are clay and gravel. He is also concerned the density will damage surrounding properties. With regard to pressure for the zone changes to increase, he referred to lots along Agate Road, which is a black top road with ditches. Scarlet Road is not paved. He believes this will lead to pressure to change other property zones and he doesn't believe this property can handle this amount of density.

The hearing was closed.

Cmmr. Sheldon noted it is an interesting proposal. He stated his question about the tax status has nothing to do with the criteria being considered. One of the items that Mr. Borden pointed out, is that under the performance zoning, RR10, quite a bit of flexibility is allowed and with that comes additional responsibility with clustering and considering critical areas as well as designation of open space. He believes this allows more protection for adjacent property owners. Some of the surrounding properties are RR10. He noted Criterion 7, the cumulative impacts and pressure created for density on adjacent properties, the GMA requires the Board to protect those areas and to consider cumulative impact and precedent setting changes that might occur. For those reasons, he is not inclined to approve the zone change.

Cmmr. Sheldon/Ring Erickson moved and seconded to deny the request by the applicants to rezone three parcels totaling 69.64 acres from Rural Residential 10 to Rural Residential 5 and to have the Chair sign the Findings of Fact for this decision. Motion carried. RE- aye; S-aye; G-absent.

Cmmr. Ring Erickson spoke to the motion. She said it has to do with the specifics of this property and she believes there are opportunities to do some innovative things. She also referred to "death by a 1,000 cuts". This is a rural county and the property has been in the same ownership under RR10

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for some period of time. She believes there are opportunities to develop this property that is sensitive both to the rural character of the area and also the Melaney Creek/Oakland Bay area which is very fragile.

10. Other Business (Department Heads and Elected Officials)
Charlie Butros, Public Works, announced Simrow Construction of Montesano, WA has been selected as low bidder for CRP 1854, Beeville Loop Road culvert replacement project, for the low bid of \$149,500.

Betty Wing, Central Operations, reminded everyone that this Saturday, April 14th, is the grand opening at Sandhill Park starting at 10 a.m. and she encouraged everyone to attend.
11. Board's Reports and Calendar
Cmmr. Sheldon reviewed various legislative budget items and Cmmr. Ring Erickson reported on meetings attended the past week and announced her calendar for the upcoming week.
12. Adjournment. The meeting adjourned at 9:58 a.m.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

Lynda Ring Erickson, Chair

ATTEST:

Tim Sheldon, Commissioner

Absent 4/10/07

Rebecca S. Rogers, Clerk of the Board

Ross Gallagher, Commissioner