

MINUTES

BOARD OF COMMISSIONERS – GRAYS HARBOR COUNTY REGULAR MEETING

April 9, 2007

The Commissioners met in regular session in the Commissioners' Meeting Room, Administration Building, Montesano, Washington, on Monday, April 9, 2007, at 2:00 p.m. Commissioners Bob Beerbower and Al Carter were present. Commissioner Mike Wilson was excused. Jim Baker, Senior Deputy Prosecuting Attorney was present. Also in attendance was Donna Caton, Clerk of the Board.

CALL TO ORDER AND FLAG SALUTE

Chairman Carter called the meeting to order with the pledge of allegiance.

MINUTES

April 2, 2007: Approval of the minutes of April 2, 2007 was postponed until the April 16, 2007 meeting.

BIDS

1. **County-wide Curve Improvement**: There was a bid opening for the construction of the following project: County Wide Curve Improvements/Hot Mix Paving Project, STPH-00S(179) TA-3015. The work to be performed under this contract consists of preleveling and paving at 17 different horizontal curve sites in Grays Harbor County. Plans and specifications were available from the Grays Harbor County Public Services Department, Administration Building, 100 West Broadway, Suite 31, Montesano, Washington. Notice of this bid was advertised in the Montesano Vidette on March 15 and 22, 2007. The Clerk of the Board opened and read the following bid received with bid bond attached:

Lakeside Industries, Aberdeen, WA \$660,022.50

The bid was referred to the Department of Public of Public Services for review and recommendation.

2. **Knuckle Crane, Cab & Chassis, Medium Size SUV**: There was a bid opening for the delivery of one (1) or more Knuckle Cranes, one (1) or more Cab and Chassis and one (1) or more Medium Size SUVs. The bid specifications were available from the Grays Harbor County Public Services Department, Administration Building, 100 West Broadway, Suite 31, Montesano, Washington. Notice of this bid was advertised in the Montesano Vidette on March 22 and 29, 2007. The Clerk of the Board opened and read the following bid received with bid bond attached:

2007 Knuckle Crane

No bid received

2007 Cab and Chassis

Kenworth Northwest, Inc., Aberdeen, WA \$66,224.00

2007 Medium Size SUV

Harbor C.J.D., Aberdeen, WA \$30,019.00

The bids were referred to the Department of Public Services for review and recommendation.

3. 2007 Pavement Striping: There was a bid opening for the construction of the following project: Grays Harbor County 2007 Pavement Striping, S-02080-00. The work to be performed under this contract consists of the installation of approximately 200 miles of skip center stripe; 100 miles of skip center stripe with no pass stripe; 175 miles of double yellow center stripe; and 500 miles of edge stripe and 3,000 raised pavement markers, all in accordance with the State of Washington Standard Specifications for Road and Bridge Construction. A set of plans and specifications for the project were available from the County Road Engineer's Office in Montesano, Washington. Notice of this bid was advertised in the Montesano Vidette on March 29 and April 5, 2007. The Clerk of the Board opened and read the following bids received with bid bond attached:

Stripe Rite, Inc., Sumner, WA \$284,900.00

Apply-A-Line, Inc., Pacific, WA \$346,750.00

The bids were referred to the Department of Public Services for review and recommendation.

PRESENTATIONS

1. 2-1-1 Information and Referral Center: Mike Wessels reported that he is representing the Planning Commission for the Western Counties 2-1-1 Information and Referral Center and serves as the Grays Harbor representation on the Planning Committee. Mr. Wessels presented a Memorandum of Understanding between Behavioral Health Resources, Operating the Western Counties 2-1-1 Information and Referral Center and Grays Harbor County Emergency Management. He outlined the

program and services offered by the Western Counties 2-1-1. Matt Hornyak, Director and Program Manager for Behavioral Health Resources 2-1-1 Information and Referral Center provided information and statistics from the 3-months that the center has been operational.

HEARINGS

1. Emergency Budget – Boundary Review Board: There was a public hearing to consider Emergency Budget as follows: Boundary Review Board #001-000-021 -- \$15,000. Notice of this hearing was advertised in the Montesano Vidette on March 29, 2007. Chairman Carter asked for a staff report. Rose Elway, Budget Director reported that the Board of County Commissioners established a Boundary Review Board on March 19, 2007 and it is necessary to have a separate budget for that Board as a department within the General Fund. The proposed resolution will allocate funding in that fund in the amount of \$15,000. The resolution considers establishing an office, operating supplies and Board operations for an estimated 28 days for five board members and a secretary at \$50/day. Chairman Carter asked for public comment. There was no public comment and the hearing was closed.

Action: A motion was made, seconded and passed to approve Resolution #2007-36 – Authorizing an Emergency Appropriation in the Budget of the Grays Harbor County General Fund Boundary Review Board #001-000-021.

2. Closed Record Hearing – Appeal Rezone Decision – Aloha Lumber Corporation: There was a public hearing to consider that the Aloha Lumber Corporation has appealed the Planning Commission's February 6, 2007 decision to deny its application to rezone approximately 39-acres. The request is to rezone the subject property from General Development 5 (GD-5) to General Development 1 (GD-1) for the purposes of a 24-lot residential subdivision. The proposal is located on Assessor's Tax Parcel #190935120040 at 4276 Wishkah Road approximately 9-miles north of Aberdeen. Notice of this hearing was advertised in the Montesano Vidette on March 29, 2007. The Clerk of the Board announced that this is a public hearing and the public is allowed to make public comment. Chairman Carter stated that this is considered a closed record hearing and that the Board is required to consider only material, exhibits and letters that were presented at the Planning Commission meeting held on February 6, 2007. For the record, the Commissioners have received numerous letters, but will only consider the items that were presented to the Planning Commission. Their findings and conclusions have been reviewed by the Board and will be used to make a decision. Chairman Carter asked for a staff report. Jane Hewitt, Grays Harbor County Planner reported that prior to this hearing the Board of County Commissioners received a packet containing the following contents:

1. Exhibit 1: Appeal form and narrative from the appellant.
2. Exhibit 2: All written evidence presented to the Planning Commission in making its February 6, 2007 decision:
 - a. Record of Action containing findings of fact, conclusions, staff recommendation and Planning Commission decision.
 - b. Original application, site plan, maps, other submitted materials, SEPA Checklist and associated Mitigated Determination of Non-Significance.
 - c. Agency notification form, mailing list, Affidavit of Public from The Vidette.
 - d. Personalized notice of public hearing and transmittal of documents to applicant.
 - e. Written comment received as of February 6, 2007.
3. Exhibit 3: Verbatim transcript of recorded proceedings of the Planning Commission public hearing for Case 2006-2414 on February 6, 2007.
4. Exhibit 4: Mailing list to surrounding property owners and parties of record and affidavits of publication.
5. Exhibit 5: Personalized notice of public hearing and transmittal of documents to appellant.
6. Exhibit 6: Grays Harbor County Code governing appeals of Planning Commission decisions.

Ms. Hewitt requested that one additional correspondence be entered into the record without reading. The correspondence is a letter of transmittal dated April 6, 2007 from Mike Daniels with Pacific International Engineering containing correspondence from Cushman Law Offices representing Aloha Lumber Corporation.

Chairman Carter asked for comments from the appellant. Mike Daniels of Pacific International Engineering, Olympia, Washington reported that he represents Aloha Lumber Corporation. Mr. Daniels reported that the original applicant, Phillip Roderick has passed away. Mr. Daniels stated that he has received from County staff the materials regarding the appeals process and this hearing. He understands that this is a closed

record hearing. The appeal is submitted based on the record established at the Planning Commission hearing held on February 6, 2007 and the result and decision rendered by the Commission on that date. The applicant believes that the justification for the decision made by the Planning Commission was inappropriate and not in accordance with due process as it relates to the purpose of the application, the intent of the County Comprehensive Land Use Plan and Zoning Codes as currently adopted, and the Findings of Fact, Conclusions, and Recommendation for approval as prepared by County staff. The record of hearing as established by County staff and the applicant clearly differentiate between the purposes of a rezone request as opposed to a request for a subdivision. Mr. Daniels referenced the hearing transcript staff report beginning on Page 6, line 14 ending on Page 8, line 25 – and the applicant presentation beginning on Page 11, line 19 ending on Page 17, line 12. Mr. Daniels stated that the Planning Commission deliberation and decision were based not on a rezone application but on the merits of a subdivision request that was not before them. Mr. Daniels reported that the Planning Commission decision was in no way germane to the Findings of Fact, Conclusions, or Recommendations prepared by County staff. Mr. Daniels quoted the un-contested facts as follows:

“The proposal is consistent with the goals, objectives, and policies of the Comprehensive Plan as the proposed rezone area is adjacent to existing residential uses.” County staff testimony, hearing transcript Page 8 lines 1 through 4, and;

“The Comprehensive Plan, which is set forth in Washington State Law as the primary guiding document and rezone decisions per the Revised Code of Washington, the Comprehensive Plan designates the majority area of the subject property as General Development. The General Development designation set forth by the Comprehensive Plan map enables either General Development 5 or General Development 1. The appropriateness of the General Development 1 designation is dependant upon the availability of public utilities. As City of Aberdeen water will be provided on the site enabling both water and fire hydrants, the requested General Development 1 designation is appropriate.” County staff testimony, hearing transcript Page 8, lines 8 through 22.

Mr. Daniels reported that the applicant’s application materials and hearing presentation clearly defined the difference between the subject rezone application and yet to be submitted subdivision application. Mr. Daniels quoted the following:

“At the outset, we would like to note, as the Commission is aware this is a rezone hearing and not a hearing for a subdivision. A subdivision application cannot be made unless and until a determination is made on the zoning request. The conceptual non-binding site plan submitted with the application was prepared only to depict the maximum density that could occur if the rezone was approved and site conditions were ideal. Given site

conditions and what we have learned so far in the process, it would indicated something more than current zoning would allow but something less than what was depicted on the conceptual plan is a probable outcome of a preliminary platting process, assuming the rezone is granted.” Applicant testimony, hearing transcript Page 12, lines 8 through 21.

Mr. Daniels stated that virtually all of the public testimony received during the hearing after the staff report and applicant presentation were given were based entirely on the merits of a subdivision that has not been submitted for consideration. At the conclusion of the hearing and during Commission deliberations Board Member Haglund appropriately observed that (Mr. Daniels quoted the following):

“We’ve heard some pretty passionate statements tonight and we – I certainly value those as far as how people feel about where they live and how long they have lived there. Unfortunately it doesn’t have anything to do with the decisions that we have to make.” Hearing transcript Page 57, lines 16 through 21.

Mr. Daniels stated that the applicant concurs with Commissioner Haglund’s statement. The rezone request should be judged on the merits set forth in the County Comprehensive Plan and applicable state law regarding rezones, neither of which were challenged at hearing or in any way referenced in the ultimate decision by the Commission. The final decision by the Commission was inappropriately based on testimony regarding a subdivision request not yet submitted versus the record established at hearing and the process prescribed by law relating to considerations of rezone requests. Mr. Daniels summarized and stated that the applicant therefore requests that the County Commissioners overturn the decision of the Planning Commission in Case No. 2006-2414 as presented.

Mr. Daniels stated that they also had the record reviewed by legal counsel and the Board of Commissioners have been provided with that legal review memorandum. If the hearing is continued Mr. Daniels requested that the hearing remain open for Commissioner Wilson to hear comment and for questions to be answered.

Chairman Carter reported that this is a public hearing and he asked for public comment. He stated that no new testimony would be allowed at this closed hearing.

Annette Lang, Wishkah Road, Aberdeen, spoke in opposition to the rezone appeal.

Archie Santford, Wishkah Road, Aberdeen expressed concern regarding lack of infrastructure to support the rezone.

Mike Ransdell, Wishkah Road, Aberdeen, spoke in opposition to the rezone appeal and commented that the community does not want this rezone.

Kelly Matthews, Wishkah Road, Aberdeen, expressed concern with the fire district and volunteers not being able to handle an increase in the Wishkah Valley. He discussed the lack of infrastructure.

Cheri Marbin, Wishkah Road, Aberdeen, spoke in opposition to the rezone appeal.

Dave Busz, Wishkah Road, Aberdeen, commented that the Wishkah Valley is not and probably will never be incorporated. He stated that the Board of Commissioners decision regarding this case is monumental.

Kay Busz, Wishkah Road, Aberdeen, outlined reasons that she is in opposition to the rezone appeal. Ms. Busz asked for a copy of the Comprehensive Plan for Grays Harbor County. She commented on the negative impact that the rezone would have on the Fire Department.

Matia Haskey, Wishkah Road, Aberdeen, spoke in opposition to the rezone appeal. Ms. Haskey commented that the map is outdated and that people listed as owners are long ago deceased.

M'Liss Hay Hansen, Wishkah Road, Aberdeen, spoke in opposition to the rezone appeal. Ms. Hansen asked questions regarding the reasons for a "closed record" hearing. For the record all letters received will be included and considered as public comment at this hearing.

Ardith Christensen, Wishkah Road, Aberdeen, expressed concern with water wells. Ms. Christensen spoke in opposition to the rezone appeal.

Rick McGuire, Hoquiam/Wishkah Road, Aberdeen, spoke in opposition to the rezone appeal.

Guy Dahlstrom, Wishkah Road, Aberdeen discussed concern with the volunteer fire department and that they that cannot handle additional homes. Mr. Dahlstrom spoke in opposition of the rezone appeal.

Martha Bodnar, Wishkah Road, Aberdeen, commented regarding the volunteer fire department. Ms. Bodnar expressed opposition to the rezone appeal.

Greg Dineen, Wishkah Road, Aberdeen, reported that he is a volunteer at the fire department. Mr. Dineen spoke in opposition to the rezone appeal.

Mike Daniels, of Pacific International Engineering, Olympia, stated for the record that the applicant has not made contact with the PUD at this time and that action would be part of the subdivision process. Mr. Daniels reported that the County Engineer has a 6-year road program and curb realignment for that area. He explained that if the project moved forward the applicant would be required to contribute financially to that road improvement cost. Mr. Daniels clarified that his quote "...some pretty passionate statements tonight..." was made by Planning Commissioner Haglund during the hearing process and not Mr. Daniels. He requested that the hearing record remain open for the return of Commissioner Mike Wilson.

Jeri Allen, Wishkah Road, Aberdeen, spoke in opposition to the rezone appeal.

Gail Harrell, Wishkah Road, Aberdeen, commented on reasons to deny the rezone appeal and requested that the request be denied.

Metia Haskey, Wishkah Road, Aberdeen, made comment regarding a Veterinary Hospital in unincorporated Thurston County and how the business is impacted due to surrounding homes.

Ken Allen, Wishkah Road, Aberdeen, made comment in opposition to the rezone appeal.

There was no additional public comment.

Written comments have been received and hereby incorporated as part of this record in Attachment A (Attachment A to these minutes).

Action: A motion was made, seconded and passed to close the hearing and review information and make a decision next week.

COMMISSIONERS

1. **Human Services Advisory Board – re-appointment for Rick Scott:** A motion was made, seconded and passed to approve the re-appointment of Rick Scott for a new three year term to the Grays Harbor Human Services Advisory Board.

DEPARTMENTS

AUDITOR

1. **Request Approval, March 2007 Expenditures:** A motion was made, seconded and passed to approve expenditures for March 2007 as follows: Claims \$3,481,219.18. Salary \$2,169,835.09, for a total of \$5,651,054.27.

FORESTRY

1. **Request Approval, Easement Agreement – John K. TO, Rayonier Forest Resources, L.P., Leland & Caroline Day, and Tod L. and Sonja R. Reichert:** A motion was made, seconded and passed to approve an Easement Agreement between Grays Harbor County, John K. To, Rayonier Forest Resources, L.P., Leland and Caroline Day and Tod L. and Sonja R. Reichert. This agreement provides permanent access to County property in the Ocean City area. The easements are conveyed for ingress, egress and utilities to all lands now or hereafter owned by each party, and for the purpose of road construction, maintenance and for transporting harvested timber, valuable road construction materials and other forest products from said lands and management activities of said lands for growing timber. The department recommended approval of this agreement.

MANAGEMENT SERVICES

1. **Request Approval, Resolution – Transfer Funds in Clerk's Office:** A motion was made, seconded and passed to approve **Resolution No. 2007-37 – Transferring Items in the Grays Harbor County General Fund Clerk's Office #001-014.** This resolution authorizes the transfer of \$1,000 from Miscellaneous to Small Tools and Minor Equipment for the purchase of a dell computer and screen to assist in scanning documents. Also approved was the authorization signed by Central Services to purchase these items. Rose Elway, Budget Director recommended that the documents be executed.

2. **Request Approval, Transfer Funds in Distressed Area Capital:** A motion was made, seconded and passed to approve **Resolution No. 2007-38 -- Transferring Items in the Grays Harbor County Miscellaneous Fund Distressed Area Capital #310-000-000.** This resolution authorizes the transfer of \$250,000 within the Distressed Area Capital Fund for the safety signal and gates at the Port Industrial Way. The Port of Grays Harbor is contributing \$25,000 and Imperium Grays Harbor is contributing \$75,000. Washington State has currently budgeted \$1.5 million toward the Port's rail loop which is the publicly owned portion of the railway. The \$250,000 completes the project to fund the safety signal and gates. Rose Elway, Budget Director recommended the transfer resolution be executed to fund this one time only grant for building of rail safety gates and signals at the Port Industrial Road rail crossing.

3. Request Approval, Interlocal Agreement with Washington Counties Risk Pool and the Counties of Clark, Grays Harbor, Cowlitz, Skamania, and Pacific: A motion was made, seconded and passed to approve an Interlocal Agreement between Washington Counties Risk Pool, Clark County, Grays Harbor County, Cowlitz County, Skamania County and Pacific County. In 1997 Grays Harbor County entered into an agreement with these counties for the purpose of providing in-service driver training for County employees through the use of a Skid Car. Cowlitz, Skamania and Pacific Counties desire to withdraw from the original agreement and Clark County wishes to join as a participating county. This agreement withdraws the counties therefore mentioned and adds the other county mentioned.

PUBLIC SERVICES

1. Request Approval, Equipment Transfer – 2005 LETPP Grant: A motion was made, seconded and passed to approve and authorize the transfer of a Motorola HT1250 Radio (Serial #749TGLW928) to Grays Harbor Communications E9-1-1. Grays Harbor County purchased the equipment according to Homeland Security grant guidelines. The equipment is public safety radio related. As per grant requirements, Emergency Management will monitor the equipment status for a period of six years. The department requested approval to transfer ownership of this equipment to Grays Harbor Communications E9-1-1.

2. Request Approval, Equipment Transfer – 2005 State Homeland Security Grant Program: A motion was made, seconded and passed to approve and authorize the transfer of various equipment to Grays Harbor Communications E9-1-1. Grays Harbor County purchased the equipment according to Homeland Security grant guidelines. The equipment is public safety radio related and has been installed at various radio sites throughout the County. As per grant requirements, Emergency Management will monitor the equipment status for a period of six years. The department requested approval to transfer ownership of this equipment to Grays Harbor Communications E9-1-1.

3. Request Approval, 2007 Countywide Aggregate Stockpiling Contract: A motion was made, seconded and passed to approve four (4) sets of contracts for the 2007 Countywide Aggregate Stockpiling Contract, Item 6, which was awarded to Bowers Construction, Inc., for the amount of \$31,948.50.

4. Request Approval, Purchase Two Tractors with Broom Mower Attachments: A motion was made, seconded and passed to approve the request to purchase two tractors with broom mower attachments from the State Contract.

5. Request Approval, Emergency Support Function 3 – Public Works and Engineering: A motion was made, seconded passed to approve the Emergency Support Function 3 – Public Works and Engineering document. This plan is a part of the County’s Comprehensive Emergency Management Plan (CEMP). It was developed and reviewed by jurisdictions and agencies within the county including municipal and county public works departments. The plan will be reviewed and updated as needed on a regular basis. After approval, the plan will be posted to the Emergency Management website and a copy will be maintained by the Washington State Emergency Management Division.

TREASURER

1. Request Approval, Negotiated Sale of Foreclosed Property: The department received a request from NeighborWorks of Grays Harbor to purchase a lot in South Aberdeen that was returned to the County Treasurer in last year’s foreclosure sale. Their intent is to use this property in a joint venture with Grays Harbor College where NeighborWorks provides a site for the college carpentry class to construct housing units. This particular parcel would be a great “fit” for this program – it is large enough to construct a couple of houses and is close to the college campus. A negotiated sale is permissible pursuant to RCW 36.35.150. The County Treasurer recommended the County sell the following parcel to NeighborWorks for the amount due at the foreclosure sale:

014601001102 Finch Farms Sly 150’ of Lots 11 & 12 Farm 10 \$4,642.65
Situs address: 1721 Taft

A motion was made, seconded and passed to approve **Resolution No. 2007-39 – Declaration of Tax Title Surplus Property Order of Sale.**

ANNOUNCEMENTS

None

CORRESPONDENCE

1. A lawsuit against Grays Harbor County was received from Richard D. Lovely and Marsha L. Lovely. The lawsuit was referred to the Prosecuting Attorney.
2. An e-mail was received from Stanley Trohimovich, Aberdeen, Washington. The subject was: *Are Chehalis (aka Grays Harbor) officers knowingly and intentionally committing a crime?* The e-mail was made available to the public and placed on file.

PUBLIC COMMENT:

Chairman Carter asked for public comment. He announced that comments and statements only would be accepted and would be limited to five minutes. Questions should be submitted in writing.

Public comment was received from Stan Blunt, Aberdeen. Mr. Blunt discussed various contracts.

There was no additional public comment.

STAFF MEETINGS

The Board held staff meetings on Monday, April 9, 2007, starting at 9:00 a.m. These staff meetings are advertised public meetings, held in the Commissioners' Conference Room. The Commissioners and Clerk of the Board reviewed calendars and pending daily office issues. The Board met with Don Smith and Larry Smith, Forestry Department and Stew Menefee, Prosecuting Attorney, Sheriff Whelan and Paul Easter, Brian Shea, Kevin Varness and Jane Hewitt of the Department of Public Services.

The Board approved the following:

RESOLUTIONS

- No. 2007-36 Authorizing an Emergency Appropriation in the Budget of the Grays Harbor County General Fund Boundary Review Board #001-000-021.**
- No. 2007-37 Transferring Items in the Grays Harbor County General Fund Clerk's Office #001-014.**
- No. 2007-38 Transferring Items in the Grays Harbor County Miscellaneous Fund Distressed Area Capital #310-000-000.**
- No. 2007-39 Declaration of Tax Title Surplus Property Order of Sale.**

ORDINANCES

None

INTERGOVERNMENTAL AGREEMENTS

**Interlocal Agreement with Washington Counties Risk Pool and the Counties
of Clark, Grays Harbor, Cowlitz, Skamania, and Pacific**

The meeting adjourned at 3:50 p.m. to Monday, April 16, 2007 at 2:00 p.m.

BOARD OF COMMISSIONERS
For Grays Harbor County
This _____ day of _____, 2007

ALBERT A. CARTER, Chairman
Commissioner, District 3

BOB BEERBOWER, Commissioner, District 1

excused
MIKE WILSON, Commissioner, District 2

ATTEST:

Donna Caton
Clerk of the Board