

## MINUTES

### BOARD OF COMMISSIONERS – GRAYS HARBOR COUNTY REGULAR MEETING

January 14, 2008

The Commissioners met in regular session in the Commissioners' Meeting Room, Administration Building, Montesano, Washington, on Monday, January 14, 2008, at 2:00 p.m. Commissioners Bob Beerbower, Al Carter and Mike Wilson were present. 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**

**January 7, 2008:** A motion was made, seconded and passed to approve the minutes of January 7, 2008.

#### **BIDS**

None

#### **HEARINGS:**

**1. Continuation of hearing: Appeal by Brogan & Anensen of State Environmental Policy Act (SEPA) Determination (Appeal Case 2007-2295):** The Clerk of the Board announced that this was a continuation of a hearing to consider an appeal of State Environmental Policy Act (SEPA) Determination, Grays Harbor County SEPA Appeal Case 2007-2295 by Brogan and Anensen. The hearing was originally scheduled on October 29, 2007 and continued to November 19, 2007, December 17, 2007 and again to January 14, 2008. The proposal is located north of the Elma-Hicklin Road on the property having Grays Harbor County Assessor's Tax Parcel number 180502230010 in the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 2, Township 18 North, Range 5 West, Willamette Meridian near the City of McCleary, Grays Harbor County, Washington.

For the record, Chairman Carter announced that he had ex parte communication concerning the McCleary appeal for SEPA determination and at that hearing he recused himself. Chairman Carter reported that his conversations with Mr. Brogan and Mr. Hamilton were concerning the McCleary appeal and the lawsuit by Mr. Hamilton. He reported that these conversations did not pertain to today's hearing. Chairman Carter stated that he believes he can sit fairly on the two hearings at hand. Chairman Carter

asked whether anyone objected to him presiding over the meeting. The following McCleary residents expressed objection and requested that Chairman Carter recuse himself: Kim Anenson, Vickie McNeally and Debbie Hall. Chairman Carter recused himself. Commissioner Beerbower announced that Commissioner Carter left the room and presided over the hearing as Chairman.

Commissioner Beerbower asked for a staff report. Brian Shea, Planning and Building Division Director, reported that this is an appeal of State Environmental Policy Act (SEPA) Determination, Grays Harbor County SEPA Appeal Case 2007-2295 by Brogan and Anensen. Mr. Shea reported that staff conducted an environmental review for this project because the property includes wetlands. *Grays Harbor County Code 18.04.080* and the *Washington Administrative Code 197-11-800(6)* require a State Environmental Policy Act (SEPA) threshold determination for the subdivision of land partially covered by water. Washington Administrative Code 197-11-756 includes wetland areas in the definition of lands covered by water. The review resulted in a Determination of Significance (D-S). The D-S contained findings upon which the determination was based. The D-S requires the preparation of an Environmental Impact Statement (EIS) before the Division can proceed with the processing of the subdivision applications. Mr. Shea reported that the appellant is present and is appealing the County's determination that an EIS is required.

Commissioner Beerbower asked for public comment. Ken Brogan, appellant and resident of Tumwater, outlined his concerns and requested a third commissioner be appointed to hear his case. For the record, he requested that Brian Shea be recalled to answer questions regarding the DS (SEPA determination) for this application and to verify that the reason for the D-S is due to the moratorium (Wildcat Creek Aquifer).

Brian Shea explained that the reason for the D-S, triggering the requirement of an EIS, is because of its location in relationship with the moratorium. Mr. Shea confirmed that the application for this project was received prior to the moratorium and discussed the "scoping" process of developing an EIS.

Ron Armstrong, resident of Hoquiam, spoke in support of the appellant.

Tim Hamilton, resident of McCleary, made comment regarding the subject property and the McCleary re-charge zone. Mr. Hamilton stated that this project impacts individual wells. He submitted a handout, referencing how the application conflicts with WAC 197-11-060. He provided background information on the subject property and how it was subdivided. Mr. Hamilton noted that there are 4-applications on 3-pieces of property and indicated he believes this is in conflict with present laws.

Teri Franklin, resident of McCleary, commented that she concurs with Tim Hamilton and feels that the appeal should be denied.

Ken Brogan referenced a packet of information he provided for the record in October 2007. He discussed a legal lot determination prepared by Grays Harbor County, contained in the said packet. Mr. Brogan requested a copy of these documents pertaining to the legal lot determination. Mr. Brogan requested that testimony for this hearing pertain to the (appeal) EIS issue.

Tim Hamilton made comment regarding his personal property. He reiterated that the issue of the 3-parcels becomes important to this hearing and what kind of environmental review will occur.

Vickie McNealy, resident of McCleary, provided materials and pictures pertaining to the Determination of Significance (DS), testifying in support of the request. She asked that a third commissioner be appointed to consider this appeal.

Kim Anensen, resident of McCleary, provided testimony regarding the environmental impact of building 8-homes on 40-acres. Ms. Anensen commented that the City of McCleary has approved a 130+ housing development and a 33-home development without requiring a DS. She reported all of these homes feed from the McCleary water supply.

There was no additional public comment and the hearing was closed.

Commissioner Wilson commented that in view of the moratorium on the aquifer, and the fact that Brogan and Anensen stated that the laws and regulations in effect should be followed, he would move to deny the appeal.

**ACTION: A motion was made by Commissioner Wilson and was seconded and passed by Commissioner Beerbower to deny Appeal Case #2007-2295 by Brogan and Anensen.**

Chairman Carter returned to the commission chambers.

**2. Continuation of hearing: Appeal by Civil Investments, LLC of State Environmental Policy Act (SEPA) Determination (Appeal Case 2007-2294):** The Clerk of the Board announced that this was a continuation of a hearing to consider an appeal of State Environmental Policy Act (SEPA) Determination, Grays Harbor County SEPA Appeal Case 2007-2294 by Civil Investments, LLC. The hearing was originally scheduled on October 29, 2007 and continued to November 19, 2007, December 17, 2007 and again to January 14, 2008. The proposal is located north of the Elma-Hicklin Road on the property having Grays Harbor County Assessor's Tax Parcel number 180502230020 in the Southwest Quarter of the Northwest Quarter and the Northwest Quarter of the Southwest Quarter of Section 2, Township 18 North, Range 5 West, Willamette Meridian near the City of McCleary, Grays Harbor County, Washington.

For the record, Chairman Carter announced that he had ex parte communication concerning the McCleary appeal for SEPA determination and at that hearing he recused himself. Chairman Carter reported that his conversations with Mr. Brogan and Mr. Hamilton were concerning the McCleary appeal and the lawsuit by Mr. Hamilton. Chairman Carter stated that he believes he can sit fairly at this continued hearing. He asked whether anyone had an objection to him presiding over the meeting. There were no objections. Chairman Carter stated that because the facts for this case are the same as for the previous hearing and for the appearance of fairness, he would recuse himself from this hearing. Commissioner Beerbower announced that Commissioner Carter had left the room, and presided over the hearing as Chairman.

Commissioner Beerbower asked for a staff report. Brian Shea, Planning and Building Division Director, reported that this is an appeal of State Environmental Policy Act (SEPA) Determination, Grays Harbor County SEPA Appeal Case 2007-2294 by Civil Investments, LLC. The applicants of a 4-lot subdivision are appealing the County requirement to prepare an Environmental Impact Statement for their project. This property is located adjacent to the property of the previous hearing. Mr. Shea stated that County staff recommended that the appeal be denied.

Commissioner Beerbower asked for public comment. Ken Brogan, appellant and resident of Tumwater, requested that his testimony and comments from the prior case be applied to this hearing. He explained they are similar cases and are all 4-lots with approximately 6-acres per lot. Mr. Brogan stated that this property is located adjacent to the parcel that the Commissioners allowed at a hearing held last week.

Tim Hamilton, resident of McCleary, requested that all of his previous comments regarding Appeal Case 2007-2295 be adopted by reference for Appeal Case 2007-2294. For clarification, Mr. Hamilton stated that he believes the issue is with subdividing the property.

There was no additional public comment and the hearing was closed.

Commissioner Wilson commented that for the same reasons he stated in the previous hearing, he would move to deny the appeal.

**ACTION: A motion was made by Commissioner Wilson and seconded by Commissioner Beerbower to deny Appeal Case #2007-2294 by Civil Investments.**

Chairman Carter returned to the commission chambers.

**3. Hearing to consider an Ordinance – frequent, repetitive, continuous barking of dogs on a premise:** There was a public hearing to consider an ordinance adding a new chapter to Grays Harbor County Code Title 6, animals, prohibiting and providing penalties for permitting frequently, repetitively or continuously barking dogs on a premise. The proposed ordinance was made available to the public and published in the *Montesano Vidette* on January 3, 2008. Chairman Carter asked for public comment.

Mel McMillan, resident of Central Park, commented on Ordinance 348 that was passed several years ago. Mr. McMillan referred to a neighborhood issue regarding an excessive number of dogs, including health related concerns. Mr. McMillan supported the ordinance.

David Swinhart, resident of Central Park, reported on dog problems in his neighborhood. He referred to a petition he previously submitted from concerned neighbors regarding dog barking at a residence in his neighborhood and expressed appreciation to the Board for addressing the problem with nuisance dogs and for drafting the proposed ordinance.

Sally Wagner, resident of Central Park, asked if the proposed ordinance would include the veterinarian office located in Central Park, indicating there are problems with excessive noise from the veterinarian office.

Melvin Baker, resident of Central Park, discussed reasons that dogs are barking excessively and had concerns about the proposed ordinance.

Lee Dotson, resident of Satsop, reported that he, too, has problems with nuisance dogs in his neighborhood.

Julie Burke, resident of Elma, spoke in favor of the ordinance and commented that the entire county has problems with nuisance dogs.

Mack Moxley, resident of McCleary, reported problems with yipping coyotes on Department of Natural Resources (DNR) land, asking whether DNR would be required to comply with the terms in the proposed ordinance. He said that coyotes and trains are the reasons that his dogs bark.

Margaret McMillian, resident of Central Park, expressed problems with individuals yelling at dogs when they bark.

Steve Hallstrom, resident of Oakville, expressed support of the proposed ordinance. He recommended changes to Section 3 of the proposed ordinance.

Elaine Hartford, resident of Montesano, submitted and read a letter from Camille Granger regarding the proposed dog ordinance. Ms. Hartford expressed opposition to the proposed ordinance.

Sally Wagner recommended that audio recordings of the noise made by barking dogs should be presented.

Theresa Henderson, resident of Elma, expressed problems with coyotes and commented that she feels the proposed ordinance is unfair to some citizens who live in rural Grays Harbor County.

Mel McMillian, resident of Central Park, expressed concern with new housing developments and resulting problems with nuisance dogs.

Kelley Metz, resident of Oakville, expressed problems with nuisance dogs. Ms. Metz reported that dogs in her area have killed other animals and she fears for her personal safety when walking in areas near her home. Ms. Metz expressed support for the proposed dog ordinance.

Walt Langston, resident of Elma, reported that he believes it is unfair to penalize law abiding people because of their geographical area. Mr. Langston reported that there are governmental agencies that can be contacted to trap and remove unwanted wild animals. He expressed opposition to the proposed barking dog ordinance.

Written testimony was received from the following individuals: Camille Granger, Sylvia Jurasin and Rori McCrackin.

There was no additional public testimony and the hearing was closed.

Chairman Carter recommended that a decision be tabled to allow the information provided at this hearing to be reviewed and studied.

Commissioner Beerbower commented that this has been an ongoing issue. In the past he was opposed to passing an ordinance or law that would be difficult to enforce; however, this ordinance would provide a tool for responding officers.

**ACTION: A motion was made, seconded and passed to table a decision.**

**COMMISSIONERS:**

1. **Resolution authorizing representation:** On January 7, 2008, the prosecuting attorney's office received a lawsuit and related documents in the case of *Kevin D. Lipska v. Corrections Officer Niles and Corrections Officer Keller*, which has been filed in federal court. Defendants Jeff Niles and Russell Keller, at the times alleged in the complaint, were (and are still) employed in the County Jail as corrections officers. Review of the complaint in this case leads the prosecuting attorney's office to conclude

that Corrections Officer Niles and Corrections Sergeant Keller were employed by Grays Harbor County and acting in their respective official capacities as a Grays Harbor County corrections officer at all times identified in the complaint. Since this lawsuit names Corrections Officers Niles and Keller individually, it was requested that a resolution be adopted finding that the actions alleged were performed within the scope of their respective official duties and authorizing defense of this matter at County expense, pursuant to RCW 4.96.041. A motion was made, seconded and passed to approve **Resolution No. 2008-04 – A Resolution of Grays Harbor County Agreeing to Legal Representation and Indemnification of Employees in Defense of Pending Litigation.**

**2. Personal Services Contract Extension – Jim Arthur:** A motion was made, seconded and passed to approve a Personal Services Contract Extension agreement between Grays Harbor County, the City of McCleary and James Arthur. This personal services contract is for the Wildcat Creek Aquifer Guidance Report for management of aquifers such as those found beneath the branches of Wildcat Creek.

**3. Set Hearing – Proposed Public Records Ordinance:** A motion was made, seconded and passed to set January 28, 2008 at 2:00 p.m. as the date and time for a public hearing to consider an ordinance adding a new chapter to Title 2 of the Grays Harbor County Code to establish the procedures Grays Harbor County will follow in order to provide full access to public records as provided by Chapter 42.56 of the Revised Code of Washington.

## **DEPARTMENTS:**

### **AUDITOR**

**1. Request Approval, Monthly Expenditures – December 2007:** A motion was made, seconded and passed to approve expenditures for December 2007 as follows: Claims \$3,208,112.62 and Salary \$2,407,117.42 for a total of \$5,615,230.04.

The Clerk of the Board announced the following item received after the agenda was prepared:

### **FAIR AND TOURISM**

**1. Request Approval, Authorize Director to Sign Interagency Agreement with Department of Agriculture, Fairs Program:** The Grays Harbor County Fair requested authorization to sign an Interagency Agreement # IA 08-59-01 with the Department of Agriculture, Fairs Program. The agreement is for Special Assistance Funds to be used for a new roof for the Ortquist Barn. The amount of the Special Assistance Grant award is \$40,000. Work must be completed by January 1, 2009. The Ortquist Horse Barn is the

largest barn on the Grays Harbor County Fairgrounds. The barn was built in 1983 and has 102 stalls.

### **FORESTRY**

- 1. Request Approval, Award contract – Forestry tree planting:** A motion was made, seconded and passed to award Forestry Tree Planting Contract – TRE2008 to Ramon Coronel Reforestation Inc., for a contract value of \$21,888.00.
- 2. Request Approval, Amend Timber Sale Contract – E-Line, No. 1 TBR0705 purchased by Sierra Pacific Industries:** During the storm of December 2 and 3, 2007 Grays Harbor County sustained significant damage to their timber resource. In one specific instance, approximately 9 acres of timber was blown down directly adjacent to the boundary of a sold timber sale, namely E-Line, No. 1 TBR0705 purchased by Sierra Pacific Industries. The department recommended that for safety reasons, cost reasons, and to insure that the timber value in this blow down is recovered, the E-Line No. 1 contract be amended to include the adjacent areas of damaged timber. The purchaser of the E-Line No. 1 sale has agreed to remove this blow down timber concurrently with the timber sale. A motion was made, seconded and passed to approve an addendum to the original contract, TBR0705 as described.

### **MANAGEMENT SERVICES:**

- 1. Request Approval, Memorandum of Understanding – WSU Extension:** A motion was made, seconded and passed to approve Revised Appendix A & B to the Memorandum of Agreement between Grays Harbor County and the Washington State University Extension Office for the year 2008. Appendix A provides salaries and benefits for faculty and staff in the amount of \$157,663 and Appendix B is for a \$37,572 operations budget. Both of these amounts were approved in the 2008 budget hearing.
- 2. Request Approval, CTED Contract – Coastal Community Action Program:** A motion was made, seconded and passed to approve the 2008 Washington State Department of Community, Trade and Economic Development CDBG Public Services Block Grant. Grays Harbor County will provide \$169,125 in grant funds available to the Coastal Community Action Program to provide public services to benefit low and moderate income persons and households.

### **PUBLIC HEALTH & SOCIAL SERVICES**

- 1. Request Approval, Contract with National Association of County & City Health Officials (NACCHO):** A motion was made, seconded and passed to approve a contract between the County and the National Association of County and City Health Officials (NACCHO). The contract provides \$10,000 to the department for its efforts to build the capacity of local Medical Reserve Corps (MRC) unit and for providing

information to the Office of the Surgeon General's Office of the Civilian Volunteer Medical Reserve Corps (OSG/CVMRC).

**2. Request Approval, Amendment No. 6 to Consolidated Contract with Washington State Department of Health:** A motion was made, seconded and passed to approve Amendment #6 to the Consolidated Contract. This amendment adds statements of work for Local Capacity Development Funds (effective January 1, 2008) and Public Health Emergency Preparedness & Response (PHEPR) (effective September 1, 2007). The amendment provides an additional \$81,982 in funding: \$41,480 for the period 1/1/08 – 6/30/08 and another \$41,480, for the period 7/1/08 – 12/31/08.

### **PUBLIC SERVICES**

**1. Request Approval, 2007 Law Enforcement Terrorism Prevention Program (LETTP) grant:** A motion was made, seconded and passed to approve the 2007 Law Enforcement Terrorism Prevention Program (LETTP) Grant with the Washington State Patrol in the amount of \$76,291. The funds from this grant will be used to purchase equipment for law enforcement projects.

**2. Request Approval, Lease with U.S. Forest Service for Neilton Point Communications tower in Quinault:** A motion was made, seconded and passed to authorize the Director of Public Services to execute the Neilton Point 1-Year Communications Site Lease. The proposed ten (10) year lease between the U.S. Forest

Service and Grays Harbor County is for a lease on Property for the Neilton Point Communications tower in Quinault. Annual fee for this use will continue to be assessed based on a yearly inventory of tenants and customers in the facility.

**3. Request Approval, Accept contract as complete – 2007 Pavement striping:** Work has been completed by *Stripe Rite, Inc.* for the 2007 Pavement Striping Contract. It was recommended that the Board accept this contract as satisfactorily completed, which will allow release of retainage in the amount of \$18,739.41 in accordance with the requirements of Chapter 60.28, Revised Code of Washington (RCW). A cost and quantity comparison sheet was provided. This contract included work done for Pacific County under a Reimbursable Agreement. A motion was made, seconded and passed to accept the 2007 Pavement Striping Contract as complete and allow release of retainage as outlined.

**4. Request Approval, Administrative offer – Forrest Road:** A motion was made, seconded and passed to approve three (3) administrative offer summaries on the Forest Road, C.R.P. 69290-02. With authorization the county's right-of-way agent will proceed with the acquisition necessary for the project.

**5. Request Approval, Administrative offer – Harp Road:** A motion was made,

seconded and passed to approve one (1) administrative offer summary on the Harp Road, C.R.P. 69030-03. With authorization the county's right-of-way agent will proceed with the acquisition necessary for the project.

**6. Request Approval, Purchase two police pursuit vehicles from State Contract:**

A need has arisen to purchase two (2) police pursuit vehicles and, due to the diminishing reserve of available vehicles and to expedite this purchase, the department would like to forego the bidding process and acquire these vehicles directly from the State Contract. A motion was made, seconded and passed to approve a request to purchase two (2) police pursuit vehicles as outlined.

**7. Request Approval, Grant Agreement with Dept. of Ecology – solid and hazardous waste programs for 2008, 2009:**

A motion was made, seconded and passed to approve a Coordinated Prevention Grant with the Department of Ecology. The grant agreement will provide up to \$229,193 in funding for solid and hazardous waste programs for 2008 and 2009. The funds will be used for operations of the household hazardous waste facility and for waste reduction and recycling education and outreach. The department recommended approval of the Coordinated Prevention Grant with the Department of Ecology.

**8. Request Approval, Award bid for booster pumps – North Beach Water System at Ocean City:**

A motion was made, seconded and passed to award the bid for the purchase of new booster pumps for the County water system at Ocean City to Western Hydro Corporation. The bid of \$26,865.82 from Western Hydro Corporation of Lacey, Washington, has been reviewed. It is responsive and the cost is what had been estimated. Based upon review, the department recommended that the bid be awarded to Western Hydro Corporation.

**9. Request Approval, Set hearing date – Ordinance related to rezone request, preliminary approval of long plat, cases 2007-2298 and 2007-2348 – Applicant G. Holbrook, Inc.:**

A motion was made, seconded and passed to set February 25, 2008 at 2:00 p.m. as the date and time for a public hearing to consider review of Planning Commission approval of rezone request and adoption of an Ordinance to rezone and Preliminary Approval of a Long Plat, Cases 2007-2298 and 2007-2348.

**TREASURER**

**1. Request Approval, Resolution canceling personal property taxes pursuant to RCW 84.56.240:** A motion was made, seconded and passed to approve **Resolution No. 2008-05 – Canceling Personal Property Taxes Pursuant to RCW 84.56.240**. Pursuant to RCW 84.56.240 a list of Personal Property Taxes was submitted and petitioned to issue an order that the same be canceled from the Personal Property Tax Rolls.

## **ANNOUNCEMENTS**

The Clerk of the Board announced that there will be no meeting on January 21<sup>st</sup> due to the Martin Luther King holiday. The next regular board meeting will be January 28<sup>th</sup>.

## **CORRESPONDENCE**

The Clerk of the Board announced the following correspondence:

1. Grays Harbor County Claim for Damages, Claim #C-554-08, received from Andrew Holm. The claim has been reviewed and was referred to the Claims Review Committee for consideration.
2. An e-mail dated January 14, 2008, was received from Stanley Trohimovich. The subject was: “To fully inform each of you of the laws and authorities you are violating, which establish a violation of each of your Official Bond promises”. The e-mail was placed on file.
3. A correspondence dated January 14, 2008 was received from Stanley A. Blunt. The subject was: Grays Harbor County Commissioner’s Tree Planting Contract.

## **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.

Stanley Blunt, resident of Aberdeen, made comment regarding *Robert’s Rules of Order* and a tree-planting contract.

There was no additional public comment.

## **STAFF MEETINGS**

The Board held staff meetings on Monday, January 14, 2008 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 Dale Gowan, Central Services; Debbie Adolphsen, Fair and Tourism Director; Marilyn Lewis, Budget office; Joan Brewster, Public Health

and Social Services Director; Larry Smith, Director of Forestry; Kevin Varness, Assistant Public Works Director; Brian Shea, Director of Planning and Building.

The Board approved the following:

**RESOLUTIONS**

- |                    |  |
|--------------------|--|
| <b>No. 2008-04</b> | <b>A Resolution of Grays Harbor County Agreeing to Legal Representation and Indemnification of Employees in Defense of Pending Litigation.</b> |
| <b>No. 2008-05</b> | <b>Canceling Personal Property Taxes Pursuant to RCW 84.56.240</b>   |

**ORDINANCES**

None

**INTERGOVERNMENTAL AGREEMENTS**

None

The meeting adjourned at 4:02 p.m.

BOARD OF COMMISSIONERS  
For Grays Harbor County  
This \_\_\_\_\_ day of \_\_\_\_\_, 2008

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ALBERT A. CARTER, Chairman  
Commissioner, District 3

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BOB BEERBOWER, Commissioner, District 1

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MIKE WILSON, Commissioner, District 2

ATTEST:

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Donna Caton  
Clerk of the Board