

**Minutes of the 165<sup>th</sup> Port Ludlow Drainage District  
Regularly Scheduled Meeting  
Thursday June 14, 2012 10:00 a.m.**

~ Approved ~

**Call to order:** The 165<sup>th</sup> regularly scheduled meeting of the Port Ludlow Drainage District (PLDD) was called to order by Chair Commissioner Walter Cairns at 10:00 a.m.

**Chair Commissioner Cairns:** Let's start first with the hearing that was scheduled to be consent to approve the Rainier to Oak Bay project. What I'd like to do is offer the following to be entered into the record:

Exhibit 1. Port Ludlow Associates Protest Letter, 1 page

Exhibit 2. Ludlow Maintenance Commission Protest Letter, 2 pages

Exhibit 3. Kevin and Hanna Coate Protest Letter, 12 pages

Exhibit 4. Alphabetized spreadsheet that includes all the protesters names: Protest Groups total 62% of the land holders in the district, it's sufficient to stop the project.

Commissioner Wilcox: I move that the PLDD accept the 62% of the landowners protest of the Rainier to Oak Bay Project in accordance with RCW 85.06.660 and declare the project void, and to cease any and all efforts to present therewith. Commissioner Regan seconded the motion. Commissioners were interrupted by Tom Conley, resident of Camano Lane.

*Mr. Conley: "I'm a late comer to this project, way back when I went to college I graduated as a civil engineer. I haven't done that for a number of years, I'm not licensed in this state, I was licensed in four states when I was practicing. What I would suggest, you've got three families that are on Cascade that are complaining of flooding, being that I'm late in this endeavor, I don't know what the seriousness of the flooding was. I'm assuming that this was infrequent; it comes on when there is a lot of rain. When I was going through school, we would figure out the quantity and the frequency."*

Chair Cairns interrupted Mr. Conley to interject: "With all due respect, those issues have been gone over in detail, and we're really in the middle of a motion here, not to discuss what should have been done, but whether the protest group has sufficient capacity as indicated by the motion made by Commissioner Wilcox. With that, if you have suggestions in the future, we'd appreciate you coming down to share them".

*Mr. Conley: "Well, what I'm saying is that you're scrubbing the project"*

Chair Cairns: Exactly

*Mr. Conley: "Okay, what I'm suggesting is that maybe they need some relief"*

Commissioner Wilcox: I think you'll find as we move into this, that's probably the next project.

*Mr. Conley: "I see. Well, then can I suggest what they might do"?*

Chair Cairns: At that time.

Commissioner Wilcox: We have already received a notification and program from our engineers dated in 03 as to how to go from there. That's the main thing we're going to be looking at. At that's the main core of engineers.

*Mr. Conley: "So in other words, this is going to continue on for years".*

Commissioner Wilcox: Not this. A possible new project which the board has (in hand) could be limited and looked at.

*Mr. Conley: "Okay, fine".*

Commissioner Regan: We're not abandoning the people on Cascade.

*Mr. Conley: "This particular project you're abandoning".*

Commissioner Wilcox: That's right.

*Mr. Conley: "Then my time down here is well spent to see you abandon this project, thank you".*

(12:11) Resident Jack Rikken began to speak, with Commissioner Wilcox saying, Jack let's move forward on this motion, thank you.

Chair Cairns: Let's move on this motion, any discussion from the Commissioners? No, let's call for a vote.

Commissioner Wilcox: Aye

Commissioner Regan: Aye

Chair Cairns: Aye. The motion is carried (3:0), the project is stopped. No further representation of this project or a modified form of this project may be returned to the community for a period of one year, which will be June 13, 2013, project is closed.

(13:05) Resident Terry O'Brien: Can I ask just one quick question? The project as it's currently designed, is that correct?

Commissioner Wilcox: Yes, yes.

*Terry O'Brien: In other words, that doesn't preclude what (undecipherable)*

Chair Cairns: It says "modified" in the law, and modification is a broad term. So, let's wait for a definition on that. Okay? That's it; we'll start with the regular June 14, 2012 District meeting.

Commissioner Wilcox: Let's go one step further on that. I think it's the Boards requirement since they are the one that sought the grant from the state, it's the Boards requirement that we now report to the Washington State Public Works Board and I propose that since I was the Secretary that established a working connection between Jefferson County and the Washington State Public Works Board, I hereby move that this Board authorize me to relay such information to Cathy

Brockman, the current status of the Rainier to Oak Bay project and determine their recommendation for consequences.

Commissioner Regan: Second

Chair Cairns: The motion's been made and seconded. It's also covered under Old Business. Any discussion? Let's take a vote.

Commissioner Regan: Aye

Commissioner Wilcox: Aye

Chair Cairns: Aye. Motion approved (3:0). Let's continue with the regular business meeting.

**Attendance:** Present were Chair Commissioner Walter Cairns, Secretary Commissioner Dwayne Wilcox, Treasurer Commissioner Richard Regan, Engineer Nancy Lockett, and Administrative Assistant Susan Bartkus. There were approximately 73 guests in attendance.

**Minutes:** Commissioner Regan made a motion to approve the minutes of the regular May 10, 2012 meeting; motion was seconded by Commissioner Wilcox and carried by Commissioner Cairns. Motion approved 3-0.

**Expenses:** Commissioner Regan made a motion to approve the vouchers that accrued from May 9, 2012 to June 13, 2012. Commissioner Wilcox agreed to approve wholeheartedly of all vouchers except the one submitted by Gray & Osborne. He stated that we've enjoyed Gray & Osborne for years, they've done a good job, but he felt it was time to start evening out the books on this thing; he therefore seconded the motion to approve all the vouchers except # 12-023 to Gray & Osborne. Commissioner Cairns asked Engineer Lockett if the PLDD could get a work order description of the sum total. Engineer Lockett responded she could and informed the Commissioners that the invoice was for two months of work, as well as over \$2,500.00 in fees for the permits for the now canceled Rainier to Oak Bay project. Also, that a letter is sent with every invoice from Gray & Osborne. Chair Cairns asked Ms. Lockett if Gray & Osborne could wait another month for payment, she assented. An unidentified gentleman from the audience asked if he could comment, Chair Cairns assented. The gentleman then said that in his experience, the vendor should not only be listed but also the services provided. Chair Cairns then described every charge on the voucher summary and exactly what they were for (these descriptions will be in parenthesis after each vendor on this day's summary). The gentleman commented that he wasn't questioning the actual charges just the form in which they were presented, normally there would be another column communicating what services are provided by the vendor, but Walt has just done that. Chair Cairns then called for a vote to approve Drainage District expenses that accrued from May 9, 2012 to June 12, 2012 for a total of \$31,798.26 less the fee of \$25, 208.97 for Gray & Osborne for an amended total of \$6,589.29, motion was seconded by Commissioner Wilcox and carried by Commissioner Cairns. Motion approved 3-0.

**VOUCHER SUMMARY**

|        |   |           |
|--------|---|-----------|
| 12-022 | LMC (2 months room rental, coffee, staff support, file storage)   | 436.00    |
| 12-023 | GRAY & OSBORNE (fee will be delayed until July 2012)<br>JACK MANNING (safety surface grating for bridge over path near the WWT<br>Plant as per GBC request) | 25,208.97 |
| 12-024 | THE LEADER (advertising of meetings, notices, project notices)  | 312.50    |
| 12-026 | DAILY JOURNAL OF COMMERCE (project notices)   | 429.20    |
| 12-027 | PORT LUDLOW ASSOC. (damage fees)  | 1,225.38  |

|        |  |         |
|--------|--|---------|
| 12-028 | WALTER CAIRNS (2 meetings)   | 180.00  |
| 12-029 | SUSAN BARTKUS (21 hrs of staff time)   | 405.70  |
| 12-030 | VIRGINIA BROWN (monthly contract fee, plus additional for extra time with auditor) | 378.44  |
| 12-031 | PUBLIC WORKS BOARD (loan payment installment)                                      | 2171.49 |
| 12-032 | RICHARD REGAN (9 meetings plus mileage)  | 816.66  |

|                         |                     |
|-------------------------|---------------------|
| <b>TOTAL VOUCHERS</b>   | <b>\$ 31,798.26</b> |
| <b>AMENDED VOUCHERS</b> | <b>\$ 6,589.29</b>  |

**FINANCIAL SUMMARY**

|                         |              |
|-------------------------|--------------|
| PLDD cash account       | \$184,426.75 |
| PLDD reserve account    | \$ 40,000.00 |
| PLDD reserve interest   | \$ 6,186.22  |
| Expenses: current month | \$ 31,798.26 |
| Net total all accounts  | \$199,787.62 |
| Special Assessment 2012 | \$167,600.00 |
| Paid to date            | \$ 97,175.08 |
| Unpaid                  | \$ 76,424.92 |

**Old Business:**

1. (24:04) Engineer Lockett explained that every four years the PLDD is required to notify the Jefferson County Commissioners if there is any need for a change to the **Assessment Methodology** for the PLDD, which will then be reviewed by the County and there will be a hearing August 6, 2012, to let residents know how the assessments for the district are developed. Jim Pearson of Jefferson County will be in charge of this, he asked that the District would send out a letter to notify the property owners the week of July 16, 2012 of the August 6, 2012 Jefferson County Commissioners meeting. An audience member asked who would send the letter out. Commissioner Wilcox made a motion to have Sue Bartkus (administrative assistant for the District) send out the letter, motion was seconded by Commissioner Regan and carried by Commissioner Cairns. Motion approved 3:0.
2. (29:42) Chair Cairns explained that now that the PLDD has canceled the Rainier to Oak Bay project, they will be obligated to **notify the Jefferson County Auditor of the project status and switch to secondary budget**, to be directed to other projects. Chair Cairns asked that as Treasurer, Commissioner Regan do this task. Also, Chair Cairns recommended that in order to make sure the PLDD stays in compliance, that the current **Legal** portion of the budget be increased from \$3,000.00 per year to \$20,000.00 per year, if there is any money left over, it would go into the reserve fund. An audience member asked if this was to cover basic legal fees or if this was to initiate action against the state for the stream designation. Commissioner Wilcox asked what the PLDD had been spending, and thought it shouldn't be increased until there was shown to be a need for it. Commissioner Regan commented that there probably wasn't a need for an attorney to be present at every meeting, but that there should be an attorney present at least at some of the PLDD meetings, and though the amount of \$20,000.00 may not be needed it should be increased to at least \$10,000.00. Commissioner Wilcox suggested that a local attorney be hired, thereby saving the residents money; Commissioner Cairns noted that would be fine, if a Public Works attorney could be obtained.
3. (35:05) Chair Cairns noted that a project that has been sidestepped for approximately 3 years is that of the **Trader/Forester Lane** drainage issue, explaining that it was delayed first due to weather and then due to the Rainier to Oak Bay project. Chair Cairns did express concern that since the area of the proposed project would involve trying to control water emanating from a wetland in a greenbelt alongside Swansonville Road at the end of the Forester Cul-de-Sac, it would be important to remember lessons learned and not proceed until a determination was

made by the environmental agencies, either The Department of Ecology (DOE) and/or The Department of Natural Resources. Engineer Lockett recommended two environmental firms that could be hired to determine what was to be done. Chair Cairns asked for a motion to go forward in hiring a firm to evaluate the area, Commissioner Wilcox seconded the motion. Bob Mackey, a resident of Trader Lane introduced himself and asked how long an environmental study would take, Chair Cairns noted that any findings could preclude any actions, and a declaration of intent would need to be sent, as well as a letter to everyone in the PLDD. An audience member asked if there were any preliminary studies done on the situation, he was informed that surveys of the area had been done but were not on site, Chair Cairns asked Engineer Lockett to obtain the gentleman's address and send a copy to him.

4. (42:00)The **Baldwin and Oak Bay Road Culvert** connection was discussed. Chair Cairns explained that a culvert comes down from Fleet, terminates at the edge of the greenbelt, it runs across the greenbelt, and then begins with an improvement we made years ago to the area from Oak Bay Road down to Montgomery Lane. We left that particular portion of the stream open and it has proved to be detrimental and a high maintenance issue and we think we should enclose it with like size pipe. We don't have a final design as yet, what is the Commissioners pleasure. Commissioner Wilcox noted that this isn't a new project, and the PLDD shouldn't have to go through all the hoops. Chair Cairns disagreed, saying that he thinks a declaration of intent would need to be made prior to proceeding. Engineer Lockett noted that DNR should be called because even though there was a dotted line indicating an easement, they should give a determination. Chair Cairns asked Ms. Lockett to do this and report at the next meeting.
5. (45:49) **Insurance coverage** for reimbursement of payment made to PLA by the PLDD (for **damage that occurred during heavy rains** to property belonging to PLA, at the **Sewage Treatment Plant** on March 15, 2012) was discussed. Chair Cairns explained that the culvert entrance just above the Sewage Treatment Plant became blocked by debris clogging the bar screen, this caused an overflow at a point about 75 feet from the entrance into the plant, which scoured gravel between the two aeration basins and exposed piping. Chair Cairns authorized Larry Smith to send PLDD the bill since it was clearly PLDD's responsibility. The bill is approximately \$1,200.00, Chair Cairns asked Commissioner Wilcox to contact the insurance company (Enduris) to see if this would be covered.
6. (48:00) Chair Cairns instructed Engineer Lockett to **return the bid bond to Seton** now that the Rainier to Oak Bay project is canceled. (49:16) A woman from the audience who did not identify herself, asked if Chair Cairns could call about the Baldwin Lane issue (Old Business item # 4) rather than having Engineer Lockett do so. Ms. Lockett explained that someone would need to contact Ross Goodman of the DNR, give him the location and ask him to take a look at it and get back to the District, it would be about a one minute email to request this, either by herself, or the LMC, or the PLDD Commissioners. Terry O'Brien noted that he thought the point the other person was trying to make, very clearly, is that where possible is that some of the items could be taken care of internally rather than hiring someone to do so. Commissioner Cairns stated that he agreed with him to a point, but that he's done a lot of that work, which adds up to about 20 hours per week of being a PLDD Commissioner, and it's getting old.

#### **New Business:**

1. (53:20) Chair Cairns reported receiving a **Storm Water construction Permit Fee** in the amount of \$941.00, asking Commissioner Secretary Wilcox to send a **letter to the State** stating that the project has been stopped by another state agency and the District should now be free of this fee.
2. (54:50) Commissioner Regan asked whether the Public **Works Trust Fund Loan would still be available or if it would be terminated**. Engineer Lockett reported speaking with Cathy Brockman the day prior to this meeting (didn't write it as a charge so this was a gratis service to the

District), Ms. Brockman said that the scope of the project that the Public Works Board based their funding finalization on “was improving the water quality of Ludlow Bay and helping solve some flooding problems”. Ms. Lockett asked if modified plans, or any help to whatever the project ends up being to help Cascade Lane. Ms. Brockman said it’s still available, if you use the loan it would have to be used within 5 years of December of 2011, to email her some revised plans and she would go to the Board with that. Commissioner Cairns noted that Engineer Lockett called Ms. Brockman at his request.

3. (57:35) Chair Cairns asked Sue why the **State Auditor requested that Meeting Minutes** be posted online. Sue reported that Ginger emailed her to inform her of this request by the Auditor during the last audit performed recently, the minutes were forwarded to the gentleman who has been doing the posting and they are now up to date. Chair Cairns asked if the reason is to let everyone know what the minutes are, or if he wanted to know specifically as auditor, he also asked Sue to contact Ginger to get his name and email address so he could be directly asked.
4. (58:30)A **response letter to LMC Allegations of Improper Procedure** was discussed. Chair Cairns said the PLDD would be drafting a letter addressing a number of allegations put forth by the LMC and directed to the PLDD Commissioners and Engineer Lockett. Chair Cairns said it will be sent, and we’ll see where it sits.
5. (59:09)Chair Cairns noted that had the District been advised properly at the beginning of its formation, especially regarding any Declarations of Intent when conducting projects, the Commissioners would not have committed the omissions that have occurred. He noted that that is what he had in mind when he put **Addition of an Attorney at Regular District Meetings** on this day’s agenda, so the Commissioners could enter into a discussion regarding the matter, he did noted that none of the Commissioners that have served, past or present ever would be callous enough to try and drift over an item of law. Commissioner Regan noted that the County Commissioners have an attorney present at every meeting. Though this may not be necessary for every PLDD meeting, they could be requested to attend when issues arrive that may require the PLDD seeking their opinion.
6. (1:03:13)Commissioner Wilcox brought up the issue of changing the PLDD meeting day to the 3<sup>rd</sup> Thursday of the month, so the minutes could be published just prior to the next meeting and closer to “The Voice” publication at the first of the month. LMC General Manager Brian Belmont noted that minutes would still be six weeks past the last meeting date, he recommended just working on the website and getting them on there. Mr. Belmont also asked for further clarification of the District’s intentions regarding legal consultations as discussed in the previous agenda item. Commissioner Wilcox said at this point it would be by touch and feel that right now he really couldn’t say. Resident Terry O’Brien commented on the previous attorney discussion as well, suggesting that consul be sought only when needed.

Chair Cairns asked if anyone had comments to add. Resident Terry O’Brien did, commenting that the PLDD did an admirable job and he applauds them for that. Bob Mackey noted that a homeowner had put in a small structure creating the issues on Trader Lane for two of us there, and if there was a way close that outfall, or if he (Mr. Mackey) could put in his own structure at his own cost. Chair Cairns noted that he would like to take care of it once and for all, getting the water into the County right of way ditch system so that it goes away and doesn’t continue to infiltrate other properties on that hill. Resident Doug Hubert commented that he thought for technical work the PLDD is completely correct in using Gray & Osborne.

Commissioner Regan made a motion to adjourn the meeting; motion was seconded by Commissioner Wilcox and carried by Commissioner Cairns. Motion approved 3-0.

The June 14, 2012 regular meeting of the Port Ludlow Drainage District adjourned at 12: 16 p.m.

The next regularly scheduled meeting of the Port Ludlow Drainage District will be held on Thursday July 12, 2012 at 10:00 a.m., at the Beach Club in the Bay View Room.

Respectfully Submitted:  
Susan Bartkus, Administrative Assistant

Approved:

Approved:

Approved:

Walter Cairns  
Drainage District  
Chair Commissioner

Richard Regan  
Drainage District  
Treasurer Commissioner

Dwayne Wilcox  
Drainage District  
Secretary Commissioner