

**Minutes of the Port Ludlow Drainage District
Special Meeting
June 15, 2012**

10:00 a.m. in the Gallery Room of the Beach Club

~ Approved ~

Call to order: The special meeting of the Port Ludlow Drainage District (PLDD) was called to order at 10:15 a.m. by Chairman, Commissioner Walter Cairns.

Attendance: In attendance were Chairman Commissioner Walter Cairns, Treasurer Commissioner Richard Regan, Secretary Commissioner Dwayne Wilcox, Engineer Nancy Lockett, Attorney Christopher J. Knapp, and Administrative Assistant Susan Bartkus. Though this was a public posted meeting, no guests attended this meeting.

Chair Commissioner Walter Cairns announced that The Department of Ecology (DOE), The Department of Natural Resources (DNR), and The Department of Fish & Wildlife (DFW) had not sent any written statement as yet to the PLDD regarding the determination given verbally on June 4, 2012, that being that the lower portion of the surface drainage in the greenbelt (for the cancelled Rainier to Oak Bay Project) is a stream, which effectively stopped the project as planned. This also means that the stream continues on down Oak Bay Road, the county ditch and the water treatment plant, which has ramifications for other issues. Engineer Lockett reported walking with representatives from the above listed agencies, and that the County and DNR maps do not show the area as a stream. Attorney Knapp noted that the legal structure of the Drainage laws are multi-tiered and can be confusing as they include many laws that have been on the books for years without being removed when new laws are added.

Natural drainway's and streams were discussed, as well as the affect that the stream designation will have regarding the four parcels (PL 2-2-056, 2-2-057, 2-2-058, 2-2-059) of land that may possibly now be condemned. As noted by Commissioner Regan after he researched the County Codes, nothing can be done on those properties for 50 feet on either side of the stream channel designation. Attorney Knapp and the Commissioners discussed who will be responsible for notifying those owners and the ramifications of those judgments, namely Washington State as State agencies were the entities to declare the area a stream.

Easements were discussed, as well as the Ludlow Maintenance Commission's (LMC) decision to revoke their permission to let PLDD use the greenbelt for the Rainier to Oak Bay Project. Attorney Knapp stated that they acknowledge that there is an easement by revoking it. Mr. Knapp added that the easement conveyance for the area looks like a deed, Washington case law says that you can record an easement on a plat, which is different than a dedication and that for a modern plat, language would be much more specific, but that case law says you look at the original intent of the plats as well as the drawing. Mr. Knapp answered questions for the Commissioners and Engineer Lockett regarding the plat as well as other Washington State laws for drainage districts. Mr. Knapp also stated that every subdivision is required to support public health safety and welfare, and that in his opinion it is a valid and enforceable easement, but that this would have to be decided by a Superior Court judge. Attorney Knapp did think it would be a good idea to sit down with the LMC and make an attempt to come to an agreement prior to any other action being taken.

Engineer Lockett mentioned that it had been stated by a resident that the PLDD would have to go to Superior Court for any project to be discussed; Attorney Knapp stated that this drainage district, the PLDD, was formed under RCW 85.38 and is not subject to statuettes that require that action.

Commissioners and Mr. Knapp discussed that attorney representation at future PLDD meetings could be done by telephone by his partner Michael Kuistad (as he has a prior commitment on each Thursday), when a need arose for representation, thereby limiting attorney fees to one or two hours rather than the PLDD paying for the travel time and expense that would be incurred by having an attorney physically present.

The regular meeting adjourned at 10:52 a.m. Commissioners, Attorney Knapp and Engineer Lockett conducted an Executive Session lasting 23 minutes.

The public portion of the meeting reconvened at 11:15 a.m.

Commissioner Regan motioned that the meeting adjourn at 11:16 a.m., motion was seconded by Commissioner Wilcox, motion carried by Commissioner Cairns. Motion approved 3-0.

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

The June 15, 2012 PLDD special meeting adjourned at 11:15 a.m.

Respectfully Submitted:
Susan Bartkus, Administrative Assistant

Approved:

Approved:

Approved:

Dwayne Wilcox
Drainage District
Secretary

Walter Cairns
Drainage District
Chairman

Richard Regan
Drainage District
Treasurer