

RECORD OF PROCEEDING OF
CHUCKANUT COMMUNITY FOREST PARK DISTRICT
APPROVED MEETING MINUTES
Regular Meeting
Thursday, April 25, 2013

Fairhaven Branch, Bellingham Public Library
1117 12th St, Bellingham, WA
In the Northwest Room
7:00 to 9:00 PM

Called To Order The meeting was called to order by President John Hymas at 7 pm.

Commissioners and Citizens were welcomed and thanked for attending, and informed that per Chapter 42.30 RCW (Open Public Meetings Act), all CCFPD board meetings are open to the public.

Roll Call:

Cathy McKenzie
Susan Kaun
John Hymas
John Brown
Vince Biciunas

All Present

Public Comments Heard (3 minutes)

Bill Geyer appreciates being allowed to speak in the beginning of the meeting and reminded us that the Growth Management Act (GMA) rules require that we operate in compliance with GMA by spelling out our work program, tasks, procedures, capital purchases, and level of service to be provided. Commissioner John Brown asked for an email to us all with this statement. Mr Geyer agreed.

No further public comments.

Motion was made to approve the agenda for today's meeting. Sue Kaun moved and John Brown seconded to approve the agenda.

John Brown then read a statement, quoted below, to explain why the agenda is not as previously expected. Printed copies were also distributed.

Statement by John Brown, Commissioner:

When the Park District was formed, its job was to retire the inner-city loan of over \$3 million and to protect some portion of Chuckanut Ridge from being sold. To conduct this business, the Park District commission needed legal counsel to negotiate an inter-local agreement with the City. To this end, we solicited applications for legal counsel, and last Thursday we evaluated, in executive session, six applications. We voted in open session to set up interviews with three finalists tonight, and we planned tonight to choose one candidate for our legal counsel.

On Monday morning, the issue arose of whether we were legally correct in having interviews tonight with the finalists in executive session. This issue has been mulled over by several legal authorities, most importantly with the senior legal consultant of the Municipal Research and Services Center (MRSC) of Washington in Seattle. On Monday morning, that consultant, Pat Mason, determined that the attorney candidate to be hired would be a PUBLIC (not a private) employee, that the Park District Commission was acting legally and in accord with the Open Public Meetings Act of Washington State in having interviews with the candidates in executive session.

Early Monday afternoon, Mr. Mason called me back and said that he had changed his mind. The attorney to be hired, in his mind, would be a PRIVATE contractor, and any interview with attorney candidates had to be in open session. Mr. Mason's decision changed the planned agenda for tonight's meeting--we will not be interviewing candidates in executive session tonight; we will not be interviewing attorney candidates at all tonight. In effect, Mr. Mason's decision also, as he pointed out, invalidates work already conducted last Thursday evening; we are not allowed, under this, his revised interpretation of the Open Public Meetings Act, even to evaluate attorney candidates in executive session. Mr. Mason's advice, in encouraging us to legally correct our actions, was that we re-start, so to speak, the process: to re-do in public session work that had already been done last Thursday. Before the commission tonight is a motion to make this happen—a motion to put the attorney applications on the table, to evaluate them in open session before the public, to make determinations about the preferred candidates, and to direct the Clerk to schedule interviews at a later date. At that later date, after the interviews, to be conducted in open session, before the public, I expect that we will decide on the attorney to be hired and get on with conducting the Commissioner's business. That business is now delayed, and that's unfortunate. We expected to hire an attorney tonight, and we're not going to do it.

The commissioners, lacking legal counsel, which is obviously needed, have been guided in their thinking by their reading of the Open Public Meetings Act, also by the document "Contracting for Professional Services in Washington State," published by Mr. Mason's office, and by their own common sense. What has perplexed the commissioners has also perplexed legal experts, an attorney with the Whatcom County Prosecutor's office, an attorney with the City's office, and Mr. Mason himself, but we believe that we are now on our way, legally, to conduct the

public's business, and Mr. Mason's office has approved what we hope to get through tonight.

Thank you,

J. Brown

Commissioner (CCFPD)

Discussion. Vince Biciunas suggested we choose the option to discuss all six candidates tonight, rather than designate two commissioners to do that for us and we vote on candidates to interview at our next meeting. Also, Cathy McKenzie suggested that we use as the criteria for discussion tonight, the list of the qualifications asked for in our RFQ, taking completeness of qualifications into account. There was agreement on those two points.

Voted to approve tonight's agenda, unanimously.

The six Applicants to our Request for Qualifications (RFQ) are:

Buri, Philip, of Buri Funston Mumford

Carmichael, Robert, of Zender Thurston

Dykes, Barbara, Attorney at Law

Graafstra, Thom of Weed, Graafstra and Benson

Resick, Thomas, of Resick Hansen Fryer Hall & Heinz

Sitkin, Jon, of Chmelik Sitkin & Davis

Motion made to approve minutes from our March 7, 2013 meeting. There was discussion of corrections and amendments to be made. Sue Kaun moved to accept with five corrections, John Brown seconded: Cathy Mckenzie's amendment, Bill Geyer's correction, and two typos. Minutes approved unanimously with five corrections.

Motion to approve minutes from April 18th made by Sue Kaun and seconded by John Brown. Should be April, not March. And we should list all six applicants for legal counsel within the minutes. Minutes approved with two changes, unanimously.

Announcement: We have a new official address: CCFPD, PO Box 4283, Bellingham, WA 98227

Official email addresses for the Commissioners, where the public may send comments (subject to public disclosure):

John Hymas hymas@fidalgo.net

Vince Biciunas vbici.ccfpd@gmail.com

Cathy McKenzie cmckenz.ccfpd@gmail.com

Sue Kaun skaun.ccfpd@gmail.com

John Brown jbrown.ccfpd@gmail.com

Motion to discuss the six applicants for General Legal Counsel and vote on those we will invite for interview, made by Vince Biciunas and seconded by Sue Kaun.

Discussion of each candidate, using the matrix Cathy McKenzie has suggested, based on cover letters and experience and expertise cited.

Suggestion made to eliminate two candidates, Dykes and Hanson, because their applications were incomplete, in responses to our RFQ's.

Suggestion made to eliminate Weed Graafstra, because their office and work has been mostly in Snohomish and other counties south of us, not local. They would not know the history of Chuckanut Ridge and Greenways, etc. On the other hand, this might be an advantage, less likely to have a conflict of interest, especially since they have extensive experience in the issues we will deal with.

Discussion that salary or monetary compensation is appropriate for attorneys to either provide or leave out.

Suggestion to consider each candidate as a straw vote.

Dykes: straw vote—down, unanimous

Hanson, of Resick and Hanson: straw vote—down, unanimous

Weed, Graafstra, Benson: straw vote—4 up, 1 down

Buri, of Buri Funston Mumford: straw vote—up, unanimous

Cathy McKenzie disclosed that she worked in the firm, though not directly for Philip Buri, between 2009 and 2011. Mr Geyer commented relating to Commissioner McKenzie possibly recusing herself if she had worked more closely with Mr Buri.

Sue Kaun disclosed that she worked closely with Mr Buri in 2005 regarding the riparian zone at 8th Street and Harris Avenue on behalf of Fairhaven Neighbors and against the City of Bellingham and Ted Mischaikov.

Carmichael and Simi Jain of Zender Thurston—2 up, 3 down

Sitkin of Chmelik, Sitkin: straw vote—4 up, 1 down

Three selected via straw vote: Sitkin, Buri, and Graafstra.
Further discussion on Bob Carmichael.

Motion made by Cathy McKenzie and seconded by John Brown to interview four, not three, candidates:

Philip Buri of Buri Funston Mumford

Robert Carmichael of Zender Thurston

Jon Sitkin of Chmelik Sitkin and Davis

Thom Graafstra of Weed, Graafstra and Benson

Motion passed unanimously.

Sue Kaun made a motion to call a Special Meeting before Regular Meeting on a day of the clerk's choosing, and to lengthen the time of the meeting to conduct four interviews of 30 minutes each, and have at least a half hour afterwards to discuss, decide and vote. John Brown seconded. Discussion that we shall not take public comment at this meeting, as the decision will be up to the Commissioners after the interviews. Discussion of notice to the public of our Special Meeting, not requiring a "legal notice" in the newspaper. To be confirmed. Motion passed unanimously.

Discussion to approve the Interview Questions and The Evaluation Matrix. John Brown described the questions he has prepared. Sue Kaun said the candidates should be given the interview questions, though not the matrix. Cathy McKenzie suggested we add the question "Why are you interested in taking this position?" Special Meeting can start at 6:30 pm, if we're to interview for 30 minutes for each candidate. Motion moved by Sue Kaun, seconded by Cathy McKenzie, as amended, to approve the interview questions. Motion passed unanimously.

Report:

The President and the Clerk met with our Treasurer Steven Oliver on March 22, 2013 and discussed these items:

- 1) Funding for expenses, such as a Tax Anticipation Note. Mr Oliver said he will take care of a short-term funding mechanism. We made a deposit of \$15.12 from The Bellingham Herald, refund to CCFPD even though the initial payment for legal notice was made by Commissioner's personal check.
- 2) Feasibility of a government web site or email service--we will need to proceed on our own web site
- 3) Mechanism to accept public donations towards the tax levy—we are ready now to accept funds, we have the forms for deposits to the County CCFPD Account. Any one who wishes to make a contribution towards the \$3.2M fund may send a check to "CCFPD" and mail to our PO Box 4283, Bellingham, WA 98227 and I will bring to the Treasurer's office for deposit with the proper form, within 24 hours of receipt.

4) Procedures for expenses-vouchers were described. Those Commissioners who have park district expenses have Vendor Codes and can submit for reimbursement. Three Commissioners must affix signatures of approval upon review of receipts. Clerk must submit the voucher with original signatures, and keep a copy for auditors with original receipts.

Motion to provide signatures upon review of the voucher and receipts made by John Hymas and seconded by Vince Biciunas. Motion passed unanimously. Signatures were completed on two vouchers, covering three legal notices to the newspaper, post office box rental and keys, park facility rental for meeting, voice recorder purchase, and copy and postage fees, one total was \$555.84 to Sue Kaun and one was for \$372.98 to Vince Biciunas.

Motion was made to initiate an account at The Bellingham Herald for Advertising Credit. Signatures are needed for the application. Motion to proceed made by Vince Biciunas, seconded by Sue Kaun. Motion passed unanimously.

Official Request to Commissioners: The Clerk has received and tentatively responded to a public records request. We need a clear procedure. In the meantime, please submit to the Clerk any and all communications you have regarding the creation of the agenda for our first meeting of March 7th. Please forward to the Clerk any emails dated between February 26 and March 7 of 2013, or other documents, regarding the creation of the agenda for the March 7th meeting, for response to this public records request.

Motion made by John Brown and seconded by Sue Kaun: Shall we create a press release to inform our neighborhood organizations, such as an article for their newsletters? Discussion, consensus is to hold off, because we don't have our legal counsel yet, and even once we do, if we are in negotiations with the City of Bellingham, we won't be able to speak either. Vote fails, 0/5.

We have received an invitation to send a representative commissioner to the June 13th meeting of the Edgemoor Neighborhood Association, together with a representative of Bellingham Parks to discuss our status. Who would like to attend? No action taken on this request, as it falls in the category of the above motion to defer a press release.

No other business.

City Council Member Michael Lilliquist made a short comment about procedures.

Meeting Adjourned at 8:40 PM.