

STUDY SESSION

RE: ASSESSMENT OF INTEREST ON DELINQUENT RID INSTALLMENTS

JANUARY 28, 2003 @ 10:00 A.M.

KITTITAS COUNTY BOARD OF COMMISSIONERS

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KITTITAS COUNTY TREASURER

MINUTES OF MEETING

Those present: Max A. Golladay, Chairman of the Board; Bruce Coe, Vice Chairman of the Board; Perry D. Huston, Commissioner; Melinda Charlton, Tax ULID Supervisor for the Treasurer's Office; and Amy J. Mills, Treasurer.

I reviewed the research information that I had compiled including:

Copy of RCW 36.88.140
Copy of Kittitas County Resolution #97-46
Copy of Kittitas County Public Works Inter Office Memo dated March 21, 1997
Copy of Spokane County Resolution #2 0813
Copy of Page 2 of Yakima County Resolution #220-2000
Copy of Snoqualmie Pass Sewer District Resolution #86-15
Copy of Snoqualmie Pass Utility District #97-1

I stated that after having conducted extensive research in regard to the assessment of interest on delinquent RID installments, I have come to the determination that we are correct in assessing the entire year's interest on the delinquent installment, whether it is one day late or three hundred and sixty four days late.

I stated that my research had included a thorough review of the RCW's governing RID's, and it is my opinion that the wording in RCW 36.88.140 - Payment of assessment -- Delinquent assessments -- Penalties -- Lien foreclosure, clearly speaks to the issue:

The county legislative authority shall prescribe by resolution within what time such assessment or installments thereof shall be paid, and shall provide for the payment and collection of interest and the rate of interest to be charged on that portion of any assessment which remains unpaid over thirty days after such date. Assessments or installments thereof which are delinquent, shall bear, in addition to such interest, such penalty not less than five percent as shall be prescribed by resolution. Interest and penalty shall be included in and shall be a part of the assessment lien.

APPROVED

2/18/03

I advised that I had contacted both Yakima and Spokane County Treasurers' Offices, and was informed that they assess the entire year's interest on a delinquent RID installment, regardless of the number of days the installment is delinquent.

I advised that I had contacted Cynthia Weed, the attorney from Preston Gates & Ellis LLP that had acted as Bond Counsel for the RID, and she assured me that we were correctly assessing the interest, and that even if the Resolution did not contain specific language, the wording in the RCW backed us up.

I advised that I had sent an e-mail to Jim Hurson advising of the Study Session and asking that he attend.

On January 23, 2003 I spoke with him, he said that he didn't feel that it was necessary for him to attend the Study Session, as this is basically a fiscal issue. I stated that he said that this is because although I am not agreeing with the advice that he had previously given me stating that the interest should be assessed on a pro rated basis, he could make a legal argument for either side of the issue.

I stated that I felt we had the following options regarding the issue:

- 1) We determine that the wording in RCW 36.88.140 allows for the interest to be charged as it is now, and that although the Resolution does not clearly reflect such wording, we contend that it was the intent, and as the language is spelled out in the RCW, it does not have to be specifically spelled out in the Resolution.
- 2) We determine that the wording in RCW 36.88.140 allows for the interest to be charged as it is now, and that although the Resolution does not clearly reflect such wording, we contend that it was the intent, and therefore, for administrative purposes only, we are amending said Resolution to include the appropriate language.
- 3) We determine that we are unable to find sufficient information in the RCW's allowing for the interest to be charged as it is now, and we only assess the 12% penalty on the unpaid assessment. (We may possibly be able to manipulate the software on our end to do this without having to pay TSG for making any adjustments to the system).
- 4) We determine that we are unable to find sufficient information in the RCW's allowing for the interest to be charged as it is now, and we purchase a software enhancement that will assess a 12% penalty and 6.44% interest on the unpaid installment, with the interest being calculated on a daily basis.
- 5) We determine that we are unable to find sufficient information in the RCW's allowing for the interest to be charged as it is now, and we purchase a software enhancement that will assess a 12% penalty and 6.44% interest on the unpaid

installment, with the interest being calculated on a monthly basis, and the full month's interest being charged on the first day of each month.

Perry asserted his position that the interest should be charged on a pro rated basis, and that we wouldn't be having this discussion if the Treasurer's computer software could function so as to allow for the pro-ration of the interest.

Max agreed that interest is normally pro rated for the amount of days that the payment is delinquent.

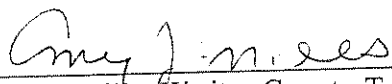
Bruce stated that he felt the wording in the Resolution did not address the assessment of interest, and that government had a responsibility to create resolutions clearly outlining all of the details and action to be taken.

We discussed the options and the ramifications of each, including whether or not we could amend wording in an existing resolution, if we were to change to assessing a penalty only – how would we address the issue of interest that had been assessed in the past, and the costs and feasibility of TSG providing a computer software enhancement allowing the interest to be pro-rated.

Perry asked me what I wanted to do, and I advised that I was comfortable with continuing to charge the interest as it has been charged in the past, and felt that considering all of the aspects of the issue, this was the best course of action.

Max stated that the Board would consider itself informed of my decision, and the possibility of legal action in the future if I am to be challenged.

I stated that I would send a letter to Mr. Livingston advising of my decision, and informing him that we would not be refunding the interest portion of his 2002 payment. I stated that I was sure once Mr. Livingston received my letter, he would be contacting the Board.



Amy J. Mills, Kittitas County Treasurer

I had sent an e-mail to Jim Hurson advising of the Study Session and asking that he attend.

On January 23, 2003 I spoke with him, he said that he didn't feel that it was necessary for him to attend the Study Session, as this is basically a fiscal issue.

We discussed the options regarding the issue, and agreed that our options are:

- 1) We determine that the wording in RCW 36.88.140 allows for the interest to be charged as it is now, and that although the Resolution does not clearly reflect such wording, we contend that it was the intent, and as the language is spelled out in the RCW, it does not have to be specifically spelled out in the Resolution.
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