

**COMMISSIONERS' MINUTES
KITITAS COUNTY, WASHINGTON
COMMISSIONERS AUDITORIUM
SPECIAL MEETING**

MONDAY

1:30 P.M.

AUGUST 3, 2009

Board members present: Chairman Alan Crankovich; Vice-Chairman Paul Jewell and Commissioner Mark McClain.

Others: Catherine Dunn, Deputy Clerk of the Board; Tom Tebb, CRO Director, Department of Ecology; Brian Faller, Attorney General's Office (by phone); Brent Bottoms, Deputy Prosecutor; Dr. Mark Larsen, Health Officer; Cathy Bambrick, Public Health Administrator; Kirk Holmes, Director of Public Works and Interim Community Development Services Director; Mike Marvich and Melissa Bates.

SPECIAL MEETING DOE MEMORANDUM OF AGREEMENT COMMISSIONERS

At 1:30 p.m. **Chairman Crankovich** opened a special meeting to consider the Department of Ecology Memorandum of Agreement and the Emergency Rule.

Brian Faller, Assistant Attorney General, said that he and Brent Bottoms were still right where they left off. **Tom Tebb** said they could count on Brian Faller and Brent Bottoms to complete it. **Commissioner McClain** asked if Tom Tebb will be at the public hearing set for August 13, 2009 in case there were any questions. **Mr. Tebb** said that he would be there as well as Brian Faller to answer any questions.

Deputy Prosecutor Bottoms asked if there would be a clean copy to submit to the Board and Director Tebb for signatures on that night. **Cathy Bambrick**, Public Health Administrator said that she had a portable printer that she will bring to the public hearing in case a new copy with changes needs to be printed.

Director Tebb explained the DOE amended emergency rule includes a septic tank return flow credit and the water neutral concept. This was a new wrinkle for the partnership rule, in that 70% of the water used for septic tanks can be used as a credit. **Mr. Tebb** went on to say that Department of Ecology has this in other places, for instance in the Skagit and Stillaguamish Basin Rules. The requirement is that the septic area doesn't become overgrown. Ideally, they would like the drain field area not vegetated but grass would be maximum vegetation allowed.

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Director Tebb said that he felt good about this and felt the partnership rule is coming.

Chairman Crankovich asked about the 10% return credit on outdoor uses.

Mr. Tebb said that he had talked with the Director of DOE and they are trying to get a Plan B option in case the Attorney General's Opinion comes back badly.

Deputy Prosecutor Bottoms said that the Attorney General's Opinion won't address the possibility of the total use of water.

Mr. Tebb asked Brian Faller if he had a sense of when the Opinion would be coming. **Mr. Faller** said he had heard there is a draft of the response to Prosecutor Greg Zempel's question and then they would add Jay Manning's questions to that and he would expect the Opinion by the end of August or early September.

Vice Chairman Jewell asked if the moratorium will be lifted if the Board signs the amendment Memorandum on August 13. **Mr. Tebb** said he would try to get an answer for the Board by August 4, 2009.

Commissioner McClain asked if Tom Tebb will have the signing authority if Jay Manning does not attend the public hearing. **Mr. Tebb** said that he would be able to sign for the Department.

Vice Chairman Jewell asked how the mitigation process would work. **Mr. Tebb** said it was not fully built yet.

There was a discussion of how the process for building a cabin would go. **Mr. Tebb** explained the negotiation between water right holder and cabin builder would be a direct, free market negotiation and then the water would be transferred into the Water Trust.

Chairman Crankovich asked if there was any other source of water rights. **Tom Tebb** explained that there are 1000 acre feet of water storage in the Bureau of Reclamation water reservoirs (Lakes Keechelus, Kachess, Easton and Cle Elum). He said water rights can be transferred up to the reservoirs from the lower areas of the Basin to store. The Department is trying to get the process down for this.

Vice Chairman Jewell said once the Memorandum of Agreement and Emergency Rule are in place how quickly would a citizen be able

to mitigate to get a building permit or plat. **Mr. Tebb** said it would be within six months.

Dr. Mark Larsen, Kittitas County Health Officer, asked when the septic water credit would be started. **Cathy Bambrick**, Public Health Administrator asked whether the houses built from July, 2008 would have to be retrofitted. **Mr. Tebb** said he didn't think so but they would have to look at the numbers. **Deputy Prosecutor Bottoms** said if some of the subdivisions containing the notice on the face of the plat, didn't meter, the County could go back on them.

Tom Tebb said that Department of Ecology wanted to do what in principal they have agreed to. He said he thought they were in a better spot than they were earlier.

Brian Faller said he would work together with Deputy Prosecutor Brent Bottoms on this.

Meeting adjourned 2:03 p.m.

DEPUTY CLERK OF THE BOARD

KITTITAS COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON

Catherine Dunn

Alan Crankovich, Chairman