

**KITTITAS COUNTY
BOARD OF COMMISSIONERS
KITTITAS VALLEY EVENT CENTER
TEANAWAY ROOM**

TUESDAY

6:00 P.M.

JULY 9, 2013

Board members present: Chairman Obie O'Brien, Vice-Chairman Paul Jewell and Commissioner Gary Berndt.

Others: Julie Kjorsvik, Clerk of the Board; Patti Johnson, Solid Waste Director; Neil Caulkins, Deputy Prosecutor; Lindsey Ozbolt, Staff Planner; Michael Nigrey Deputy Prosecutor; Doc Hansen, Planning Official and approximately 125 members of the public.

PUBLIC HEARING LEASE REQUEST - PACIFICLEAN SOLID WASTE

At 6:00 p.m. Chairman O'Brien opened a Public Hearing to consider a request from PacifiClean Environmental to lease the northern portion of Section 16, Township 17, Range 21, Kittitas County, Washington at the Ryegrass facility. He reviewed the Public Hearing process and procedures, noting the public comments would be limited to three (3) minutes.

PATTI JOHNSON, SOLID WASTE DIRECTOR presented a staff report stating she received a request from PacifiClean on May 21, 2013 to lease property located at the Ryegrass facility. She reviewed their existing leases (for communication towers and a windfarm) and the costs associated with them. She said if it was found in the best interest of the public to lease property to PacifiClean, it was anticipated that it would provide approximately \$27,000.00 a year in revenue over the next 35 years and those funds would assist with the costs of the solid waste system. She recommended the Board approve staff to begin negotiations with the applicant to lease County property located at the Ryegrass facility.

LARRY CONDON, PACIFICLEAN ENVIRONMENTAL AND JAMES RIVARD, PACIFICLEAN ENVIRONMENTAL gave a presentation to lease approximately 80 acres at the Ryegrass facility. He said their final build out would be 20 acres and the remainder of the property would be a buffer. He indicated there is already a designated WSDOT truck route; monitoring wells are already installed and there are no adjacent communities, noting the nearest is approximately 9.8 miles away. The lease would be for integrated organic materials only and not for bio-solids. **MR. CONDON** said there were multiple accesses to the site, but they have yet to evaluate impacts, noting there would be approximately 26-30 trucks a day at full built on approved routes. **COMMISSIONER JEWELL** questioned the economic benefits. **MR. CONDON** said they would need to obtain permits which does not allow for bio-solids and at this time they had no plans on contracting for bio-solids. If they were approved for bio-solids other permits would have to be obtained which is another process in itself.

COMMISSIONER JEWELL asked questions of Staff regarding the current leases with T-Mobile, FAA, State Patrol and Invenergy. **MS. JOHNSON** said they have a limited purpose landfill with septage lagoons. She said the request for a lease would fit with their existing uses.

APPROVED
8/20/2013

The money would have to stay within the Solid Waste fund and could not be used in the County General Fund.

THOSE PRESENT & TESTIFYING: MICHELLE ADAMS submitted written materials into the record and spoke of the Appearance of Fairness Doctrine (RCW 42.365), which applies to quasi-judicial actions of the local decision making bodies. She referenced Smith v. Skagit County and said Commissioner Jewell and Commissioner O'Brien failed to meet the appearance of fairness and requested they recuse themselves from ruling on the issues relating to a lease application/contract with Pacifclean and on any future CUP filing by them within Kittitas County. **STEVE ARINGTON** expressed concerns about how the County would mitigate the costs to the roads in the City of Kittitas. **BRIAN CORTESE** President of the Kittitas County Hay Growers & Suppliers submitted written materials into the record. He stated that back in 2011 they were interested in the possibility of using products to enhance crop production. After gathering several biosolid experts to address questions and concerns, it was determined that applying biosolids to farm ground could lead to an enormous negative impact on their industry. **BILL ALLISON** submitted a letter into the record and spoke of concerns with the poor road conditions on the Vantage Highway from Road 81 to the Ryegrass facility. **GENIE BARTOLAC** submitted information into the record and urged the County to protect their community. She referenced a letter of support to the City of Seattle which was approved by Commissioner Jewell and Commissioner O'Brien. She questioned if the project was such a wind fall for Kittitas County, why isn't Seattle leaving it in their community. She urged the Board to recuse themselves relating to the project. **CHERYL HURST** submitted comments into the record and stated the proposal does not comply with the Growth Management Act. She believed the County should deny the request from PacifiClean. **IAN ELLIOTT** questioned what would happen during the winter and spring break-up when there are traffic closures and there a steady stream of materials coming in to the area. He suggested setting up criteria to bond, if the request is approved. **DIANE ROZNIK** submitted comments into the record. She spoke of zoning issues relating to the Forest & Range purpose and intent to provide for natural resource management being the highest priority and how the subdivision of land for uses and activities incompatible with resource management are discouraged. She urged the Board to deny the request to lease land to PacifiClean for the purposes of industrial composting. **CHARLI SORENSON** representing herself, the Sage Hills Home Owners Association and County Residents Against PacifiClean, submitted a letter into the record from businessman Jeff Wood. She referenced PacifiClean's website where they state they are committed to getting bio-solids into Kittitas County. She explained how pre and post-consumer raw meat will be a threat to timothy hay growers and the cattle in the valley. She indicated there was nothing mentioned about water, and questioned where they would get it from when the County is having difficulties finding water. **DEBBIE YOUNG** submitted a letter into the record. She said she had talked to many local growers who will not use the compost because the materials are unknown. She spoke of tourism and said the facility would impact recreation and tourism and was not in the County's best interest to approve leasing land to PacifiClean. **DAVID YOUNG** said he's looked at other composting facilities and when they catch on fire it is very expensive to put out. He was concerned with how Ryegrass is extremely windy and compost facilities can burn for a very long time. He expressed concerns of the additional risks to firefighters, nearby homes, animals and noted most insurance companies won't pay for it and therefore the costs would be to the tax payer's responsibilities. **CARRIE YOUNG** submitted written comments into the record. She

said she was from Bellevue and had recently purchased property in the Badger Pocket area. She expressed concern with dangers of fire from compost facilities and the prevailing winds coming out of the east at Ryegrass. She was also concerned with the smells even with using the latest tarps which have not done their job in other compost facilities. **CHERYL CORNELIUS** addressed the County's failure to comply with the Growth Management Act and how the County must show by October 2013 that its changes to groundwater rules in order comply with the Court's ruling. She questioned why the County would encourage PacifiClean to come when water rights are a scarce resource.

The Board recessed for a 10 minute break at 7:30 p.m.

The Board reconvened at 7:40 p.m.

HERMAN CORNELIUS said he had spoken with the owner of Schnebly Farms and he was against PacifiClean. He told him he would not take a chance on using their compost because he heard there was metal in it. He expressed concerns of the business coming into his area because compost's attracts rat infestation and doesn't know how long it would affect Kittitas County, as well as the large trucks tearing up the roads. **GEORGE VERHEUL** spoke of the winds coming out of the east and did not want the smell a compost facility in the area. He did not understand where they would be able obtain water, as it seems to be a problem for citizens throughout the County. He also expressed concerns of it going into the ground and ruining wells. **DAVID BURK** said he has spent a lot of money in the County developing property for agri-tourism and would like to take advantage of people coming to the area. He felt no one would want to follow a garbage truck all the way to visit Kittitas County and urged the Board to deny the lease request. **JIM HALSTROM** assumed if the Board approved the lease it would essentially be approving a project, with no public process. He questioned how the Board places a value on environment? He spoke of the shortage for domestic water use in Kittitas County water shortage for domestic use. **MARILYN GUISE** submitted written materials into the record and spoke of the various types of pests including rodents which are most common, as well as the types of diseases they can carry. **CAROLYN GUISE** expressed concerns relating to personal injury if the County doesn't do its job to keep the roads between Kittitas and Ryegrass up to standards or if they neglect to plow or sand them properly. She questioned who would pay for the lawsuits over accidents due to increased use of County roads on route to Ryegrass. **KATHY HULL** said she lives less than 5 miles from the proposed facility on Park Creek Road and the Vantage Highway is not very well maintained. She said if the lease is approved her home value will be decreased and questioned who at the County level, is qualified to ensure all the procedures are being monitored. **RON GRAHAM** felt the money the County would obtain for the project would be a minor expense for the people who would like to install the facility. He said since the County is already in the compost business, he suggested another option having a garbage burning power plant. **LEWIS ANDERSON** speaking on behalf of Dr. Larry Birger, strongly opposed the compost facility and submitted a letter into the record. He said even if PacifiClean's proposal was located miles from Ellensburg, it would threaten home values and there would be an increase of public health concerns as well as ground water concerns. **CATHERINE CLERF** speaking for herself said she was asked to do research in 2007 for a compost facility in eastern Washington. She said she had the proper place, zone, water, and she knew back then the requirements of commercial agriculture. She said she would never take anything from the Puget

Sound area and felt the proposal did not meet the FDA requirements to be considered for agriculture. **CAROLYN LAKE, ATTORNEY FROM GOODSTEIN LAW GROUP** representing County Residents Against PacifiClean submitted written materials into the record and spoke of the County's compliance issues, procedural defects, and how the proposal did not comply with County Code or State law requirements. She indicated the term of a lease for public property must be for at least 10 years and according to RCW 36.34.190, is awarded to the highest responsible bidder. **MARY MORGAN** read a letter into the record from Arlene Anderson relating to allowed uses and how the proposed compost facility is in contrast of natural resource management. **TERRI LUNDBERG** completed Ms. Lake's comments relating to criteria action on a lease and how it would not be in the best interest of Kittitas County to approve a lease. She questioned what would be the resulting liability and costs to the County. She urged the Board to deny the lease. **CLAUDIA CUMMING** submitted written materials into the record and expressed concerns about the value of her property going down if a lease is approved. She reviewed shrub-step and regulations to protect wildlife habitat. She did not understand how the facility would protect the rural character of the County and once sage brush is gone, it is gone. **GAYLE CURTIS** submitted written materials into the record. She said that her home is located within the 5 mile zone of the facility and questioned how the Public Health Department would cover the extra duties of monitoring. She felt the new jobs would not be coming from those that live in the County, but rather to the drivers who live on the west side and would be making the trips. **JEFF McCROSKEY** explained the WE-ROCK project and how it was counter-productive. He said they ended up taking them to Court in order to stop them and if the County approves a lease they will do the same thing. He described the fragileness of shrub step ecosystem. **SHIRLEY STEEL** expressed frustrations relating to what the west side has over-built for. She claimed people with similar health as hers may not be able to live in the area if the project is approved. **CATHY MURPHY** said she has rental property and both her insurance agent and attorney said the bottom line is if there are any injuries the property owner is ultimately responsible and therefore the County would be liable for any accidents. She urged the Board to be cautious before signing any lease and to deny the request. **PAULA THOMPSON** questioned if a lease had been drawn up for consideration because she had not seen one. She said there are many people living in the area and they do not want to smell a compost pit. She thought the entire proposal was procedurally and environmentally in error, and the County needed to do a SEPA and other work before considering the facility. **MILT JOHNSTON** spoke in favor of PacifiClean stating the project was ecologically sound and not a waste site. He said the project would bring in jobs to the area and is recognized as beneficial to the soil. **BART STONEBURNER** spoke regarding toxic sludge and bio-solids and how it's the same as what is in septic tanks. He stated he was not in favor of putting it out in to farm lands. **THERE BEING NO OTHERS REQUESTING TO TESTIFY THE PUBLIC PORTION OF THE HEARING WAS CLOSED.**

CHAIRMAN O'BRIEN said he was not prepared to make a decision or to even entertain a lease at this point. He wanted additional time to review the materials that had been submitted into the record. **COMMISSIONER BERNDT** agreed and said he was not ready to make any decisions at this point and felt there were a lot of questions that he'd like to have answered.

COMMISSIONER JEWELL asked questions of staff relating to the appearance of fairness concerns that were voiced during the Public Hearing.

NEIL CAULKINS, DEPUTY PROSECUTOR spoke of the appearance of fairness exemptions. He clarified the procedural errors that had been brought up by the public and noted the staff report was strictly a presentation and only requesting direction on if a lease should be drafted, which would have to be brought back at a later date for public comment and Board consideration. He said the first step before a lease could be considered is to engage in a subdivision of the property, terms, costs, commissioning, and then the public property would go to the highest bidder as part of the process and final deliberation.

COMMISSIONER JEWELL felt there would need to be an extensive process conducted prior to any decision being made by the Board, including various study's (transportation, fire safety, air quality, mitigations for transportation corridors, etc.), which would happen through a Conditional Use process. **MR. CAULKINS** said in order to submit a Conditional Use Permit, the applicant must be able to show legal interest in the land, whether it's a lease or ownership. **COMMISSIONER JEWELL** explained how he felt by approving a lease would basically be the first step in approving a permit prior to the public process, even though it may be technically and legally correct. He said when the process changed the County did not anticipate anyone wanting to lease County property which requires a Conditional Use Permit and thus has resulted in an unintended consequence.

COMMISSIONER JEWELL moved to not instruct staff to pursue a lease with PacifiClean, noting concerns relating to timing of the process and to pursue a legislative fix to the problem where a lease and all environmental issues can be reviewed concurrently. **COMMISSIONER BERNDT** seconded.

COMMISSIONER BERNDT said he agreed with some of Commissioner Jewell's questions such as decisions being made on a lease and not appearing as though a decision has been made on a project, prior to the other processes.

CHAIRMAN O'BRIEN said the first step in the process was to listen and engage the public and he would not stand in the way of the motion because there was a lot of strong testimony provided.

Motion carried 2-0. (**CHAIRMAN O'BRIEN** abstained from voting).

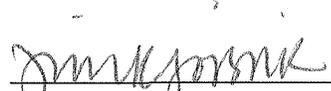
The Board of County Commissioners instructed staff to look into a legislative fix and requested the Planning Official to place the issue on the annual docket for the annual Comprehensive Plan Amendments.

COMMISSIONER JEWELL felt the crowd was well prepared at Public Hearing and thanked everyone for being well organized. **COMMISSIONER BERNDT** felt the proponents were professional and they now know what the citizen's concerns were if they choose to move forward.

COMMISSIONER JEWELL moved to adjourn the meeting at 9:20 p.m. **COMMISSIONER BERNDT** seconded. Motion carried 3-0.

Meeting adjourned at 9:20 p.m.

CLERK OF THE BOARD



Julie Kjorsvik

**KITTITAS COUNTY COMMISSIONERS
KITTITAS COUNTY, WASHINGTON**



Obie O'Brien, Chairman