

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS

July 7, 2009

1. Call to Order – The Chairperson called the regular meeting to order at 9:07 a.m.
2. Pledge of Allegiance – Mel Armstrong led the flag salute.
3. Roll Call – Present: Commissioner District 1 - Lynda Ring Erickson; Commissioner District 2 – Tim Sheldon; Commissioner District 3 – Ross Gallagher.
4. Correspondence and Organizational Business
 - 4.1 Correspondence
 - 4.1.1 The Port of Hoodspport is seeking appointment of a qualified individual to fill a vacancy on the Port Commission.
 - 4.1.2 The Washington State Liquor Control Board sent notice of a new liquor license application for Mosquito Fleet Winery in Belfair.
 - 4.1.3 Star Lake Community Club thanked Rose Swier of Environmental Health for her attention to unsafe and unsanitary properties in their community.
 - 4.1.4 The Pacific Northwest Regional Council of Carpenters sent notice of an unfair labor dispute with Quigg Brothers Inc.
 - 4.1.5 Judi Manke submitted comments and question regarding Saint Edward's Church.
 - 4.1.6 Kim and Michael Thompson expressed concerns regarding the address of their property.
 - 4.1.7 The Shelton School District requested a hearing for an Impact Fee Ordinance.
 - 4.1.8 Broadstripe submitted bond number 105288204, effective June 10, 2009.
 - 4.1.9 Bud Hays, Mike Petz, Gary Carlberg, Terry Bazil and Tom Strong are seeking appointment to the Port of Hoodspport Commission.

- 4.2 News Release – Friends of Mason County Parks and Trails Program. John Keates presented the news release seeking support of certain parks in Mason County. Friends of Mason County Parks will help maintain and enhance a park of their choice.

Cmmr. Ring Erickson noted she would like to organize something for Latimer's Landing.

Frank Kenny, North Mason Chamber, stated the Chamber might be a good partner for this program.

- 4.3 Staff Recognition – Utilities & Waste Management. Emmett Dobey read a letter commending David Baker for his assistance with the Harstine Island clean up program.
- 4.4 David Baker updated the Board on a letter that went out from Mason County Garbage to customers regarding a rate increase related to curbside recycling collection. The goal of the program is to make recycling just as easy as regular garbage pick up to increase the collection of recyclable materials. There have been a lot of comments from the public regarding the cost. Additional information will be available on the County's website by the end of the week.

Cmmr. Ring Erickson asked Mr. Baker to clarify the separation of Mason County Government and Mason County Garbage and to explain who sets the rates.

Mr. Baker clarified that Mason County Garbage and Recycling is a private company owned by a larger corporation called Waste Connections. They are the company that is implementing this program and they are responsible for providing the service and charging a fee. The

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
July 7, 2009 - PAGE 2

County's role, by law, is to provide safe and convenient disposal for all of the residents. That means the County runs the place that all of the garbage comes to and sends it along.

The County has nothing to do with any fees charged by Mason County Garbage. The Utilities and Transportation Commission is the regulatory agency that reviews and assesses fees by private companies. Mason County Garbage and Recycling would need to petition the UTC to allow them to set a fee for this service. The UTC sets the rate based on what they feel is appropriate. Mason County is completely removed from the rate setting component.

Cmmr. Sheldon asked if Waste Connections used to be Lemay.

Mr. Baker stated that Waste Connections bought Lemay.

Cmmr. Sheldon stated there were a lot of people that came to the public hearing that wanted curbside recycling. That was generally what the Board heard. There is also the option for individuals to take their garbage and recycling to one of the County transfer stations.

Mr. Baker stated there are four sites in the county that accept garbage and recycling. There is a fee for garbage, but no charge for recycling.

Cmmr. Sheldon presented David Baker with the Green Star Award for his work on the Harstine Island clean up.

4.5 News Release – County Road Chip Seal & Restriping Program. Charlie Butros presented the news release announcing that Public Works will be running the road chip seal and restriping program through the months of July and August.

5. Open Forum for Citizen Input –

5.1 David Johnston, New Community Church in Union, thanked the Board for the vacation of the right-of-way in Consent item 8.20. It is the Church's desire to develop their parking lot to a state that it can also serve as a park and ride for the MTA. With the extra piece of land, that plan will come through in September or early October.

6. Adoption of Agenda - **Cmmr. Gallagher/Ring Erickson moved and seconded to adopt the agenda as published. Motion carried unanimously. RE-aye; S-aye; G-aye.**

7. Approval of Minutes – June 15 and June 22, 2009 briefing meeting minutes; June 23, 2009 regular meeting minutes.

Cmmr. Ring Erickson/Gallagher moved and seconded to approve the June 15 and June 22, 2009 briefing meeting minutes; June 23, 2009 regular meeting minutes. Motion carried unanimously. RE-aye; S-aye; G-aye.

8. Approval of Consent Agenda:

8.1 Approval to appoint Marv Faughender to the Lewis-Mason-Thurston Area Agency on Aging Advisory Council for a two-year term.

8.2 Approval of the agreement with Rebecca Myer to serve as the Foothills County Park host for 2009.

8.3 Approval of Consolidated Contract C14956 Amendment #15 between the Washington State Department of Health and Mason County Public Health Department increasing the maximum consideration of the contract by \$198,940 to a total of \$1,786,413. The increases are \$85,940

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
July 7, 2009 - PAGE 3

- in the Tobacco Program, \$100,000 in the On-Site Implementation Project and \$13,000 for the Drinking Water program. These increases are budgeted in the 2009 budget.
- 8.4 Approval of contract #0963-65371 with the Washington State Department of Social & Health Services for the Workfirst program in the amount of \$3,600. This contract extends the performance period to 6/30/2010.
 - 8.5 Approval of amendment #0963-53334-01 with the Washington State Department of Social & Health Services for Medicaid Administrative Services. This amends the billing procedure and has no monetary effect on the contract.
 - 8.6 Approval of agreement #0963-66709 with the Washington State Department of Social & Health Services for Foster Care Public Health Nurse Services. The contract is in the amount of \$22,248 for the period of 7/1/09 to 12/31/09.
 - 8.7 Approval of the contract between Clark County Public Health and Mason County to provide \$36,900 for the HIV Case Management program.
 - 8.8 Approval of the Veterans Assistance Fund applications for: Scott E. Kaylor - Food \$200.00; Robert A. Ott - Food \$100.00; Robert Holman - Utilities \$600.00; Claude Elder - Housing \$500.00; Randolph Bittner - Utilities \$24.71; Gregory Morris - Utilities \$481.85; Martin T. Triplett - Utilities \$600.00; Nelson BullPlume - Utilities \$170.29; David Degner - Utilities \$152.26; Kenneth Foredyce - Utilities \$81.88; Michael Weeks - Utilities \$600.00; James Mustain - Utilities \$600.00 for a total of \$4,110.99 as recommended by the Veterans Assistance Fund Screening Committee.
 - 8.9 Approval for Utilities and Waste Management to request proposals from the Small Works Roster for third party special inspections, observation, and testing, for the Belfair Water Reclamation Facility and Conveyance System.
 - 8.10 Approval of the following contracts for the 2009 Mason County Fair & Rodeo: Shelton High School NJROTC Booster Club, professional services, \$800.00; Shelton Elks 2467, professional services, \$400.00; Drew Peterson, entertainment, \$1,200.00 plus RV hook-up for three days; The Varmints, entertainment, \$0.00; Mason County Medic One, professional services, \$1,200.00; Jennifer Madden DVM, professional services, \$500.00; Ike Pryor, professional services, \$1,000.00; Tim Cramer d.b.a. Cramer Classics, entertainment, \$3,000.00; Haigh Vet Hospital, professional services, \$700.00. Total amount of \$8,800.00 and these amounts are budgeted in the Fair Budget.
 - 8.11 Approval of the resolution setting a budget hearing on Tuesday, August 4, 2009 at 9:30 a.m. to consider a supplemental appropriation to the 2009 budget for the Employee Appreciation Fund due to a \$750 donation received from the Squaxin Island Tribe. **Resolution No. 59-09 (Exhibit A)**
 - 8.12 Approval for the Chair to sign a purchase and sale agreement with Green Diamond Resource Company to purchase the 536 acre Decker Creek Property and to sign any other pertinent documents for this purchase. The purchase price of \$1,019,000 is totally financed through the Washington Wildlife and Recreation Program and the Salmon Recovery Funding Board. The Capitol Land Trust will manage the property.
 - 8.13 Approval of \$200,000 from the Mason County Rural County Sales & Use Tax Fund (.09) submitted by the Mason County Public Health Department for the Oakland Bay Shellfish Protection District Action Plan for 2010 funding.
 - 8.14 Approval of the program agreement #0963-66454 between Mason County Juvenile Court and the Juvenile Rehabilitation Administration (JRA). This is for \$40,000 for the Functional Family Therapy (FFT) and Coordination of Services (COS) programs.
 - 8.15 Approval of the contract agreement with Juvenile Rehabilitation Administration (JRA) for the Juvenile Accountability Block Grant providing \$11,200 for the Aggression Replacement Training (A.R.T.) program. The required match of \$1,244 is budgeted.
 - 8.16 Approval of the program agreement #0963-67715 for the period of 7/1/09 to 6/30/10 with the Department of Social and Health Services (DSHS) to continue contract #0863-34175 for

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
July 7, 2009 - PAGE 4

Consolidated Services providing funding for Consolidated Juvenile Services (CJS) at Risk Program, \$53,923; Special Sex Offender Disposition Alternative (SSODA) Program, \$10,817; Chemical Dependency Disposition Alternative (CDDA) Program, \$19,694; and Community Juvenile Accountability Act (CJAA) Programs, \$25,525. This agreement also provides \$27,582 for contract #0863-34192 for various services that addresses financial impacts of the Juvenile Justice Bill.

- 8.17 Approval for the Public Works Deputy Director/County Road Engineer to execute Supplemental Agreement No. 2 to the Local Agency Standard Consultant Agreement adding \$60,000 increasing the maximum payable up to \$353,064.46. This will allow Excel Tech to continue providing Mason County the design works for County Road Project 1861 – Simmons Road (Old Olympic Highway and Lynch Road Connector).
- 8.18 Approval for Public Works to advertise a Request for Qualification for the Weaver Creek Bridge Project (CRP1903-R), select a consultant and enter into an agreement for geo-technical analysis, hydraulic analysis, scour analysis, bridge design, preparation of technical specifications, construction cost estimate, and construction engineering support.
- 8.19 Approval of the resolution allowing the closure of Clifton Lane in Belfair on August 8, 2009 from 6:30 a.m. to 9:00 p.m. for the Taste of Hood Canal event. **Resolution 60-09 (Exhibit B)**
- 8.20 Approval to accept the recommendation of the Hearing Examiner and grant the vacation of the right-of-way as petitioned on Dalby Road, Vacation File #367. This is subject to the conditions contained in the Findings, Conclusions and Recommendations of the Hearing Examiner. **Order of Vacation No. 367 (Exhibit C)**

Brenda Hircshi asked if item 8.13 is really for 2010 funding.

Cmmr. Ring Erickson stated yes, it is for the next year.

Eric Erler, Executive Director of Capital Land Trust, gave an overview of item 8.12. 5 years ago they began working on the effort to acquire a 540-acre section of property from Green Diamond Resources. It is a huge wetland complex that provides a salmon spawning ground. The property is an extremely unique habitat for elk, bear, amphibians and other species. It deserves to be permanently conserved. He thanked his staff and the Board for their participation in acquiring the property.

Bob Sauerlender, Juvenile Probation, clarified that item 8.14 is a biennium contract so the amount should be doubled. It is actually \$80,000.

Brenda Hirschi asked if someone could explain 8.3, the Drinking Water Program.

Debbie Riley, Public Health, stated the purpose of the contract is for Group A public water system work that is contracted with the State Department of Health. A like amount was taken out of the consolidated contract a few meetings ago, which is very common practice at the State Department of Health. They readjust at the end of the year and put the amount back in. There is no change to the Health Department budget.

Brenda Hirschi asked if someone could explain the Tobacco Program in 8.3 as well.

Vicki Kirkpatrick, Public Health, stated the Tobacco Program provides education to students in schools and education in the community. It also provides enforcement of the Clean Indoor Air Act and the enforcement process with local stores to see if they are selling tobacco to minors. It is State money that comes from the Tobacco Control and Prevention account.

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
July 7, 2009 - PAGE 5

Cmmr. Ring Erickson/Gallagher moved and seconded to approve Consent items 8.1 through 8.20, with an amendment to item 8.14 to change the amount to \$80,000 for a biennium contract. Motion carried unanimously. RE-aye; S-aye; G-aye.

9. 9:30 a.m. Public Hearings and Items Set for a Certain Time.

- 9.1 Public hearing continued from June 2, 2009 to consider adoption of a revised Title 5, Section 5.18 regulating temporary outdoor public events.

Barbara Adkins, Department of Community Development, stated this is a continued hearing from June 2, 2009. The intention is to replace the Music Festivals ordinance that is currently on the books. This is the third hearing on this ordinance. There were edits suggested at the last hearing. The document being presented today reflects the comparison of the original ordinance with the new changes being presented. (Ms. Adkins read the changes listed in the staff report.)

Two additional changes were suggested by the Prosecutor's office. The addition of the word "continuous" should be added to the definitions where it says "events lasting more than four hours" so events can't be split out into two hour increments over two days. Also, they suggested a change to the second paragraph where it says "any person, persons, corporation, organization landowner or lessor". It should be changed to "the applicant, the director or designee".

Questions for Staff

Cmmr. Sheldon asked if it would be possible for someone to hold event and then change the name of the event every two hours in order avoid the ordinance.

Ms. Adkins stated it would be based on the applicant not the name of the event.

Darryl Cleveland asked if an event is currently being held on public lands and the lands become private would the event be subject to this ordinance.

Ms. Adkins stated if the event is no longer held on public lands and it meets the rest of the criteria, then yes it would be subject to the ordinance.

Public Testimony

Mel Armstrong stated this whole ordinance is written up with no possibility for public input. It is missing the voice of the public. 3,000 to 5,000 people would be a huge impact on a rural community. The first notice that the public would get of an event is 10 days before the event. That is 5 days after the permit is already granted, which is too late for the public. There is no avenue at all for public input. The proposed event in North Mason is an example of an event with no concern whatsoever for the impact on the community. There should be public notification prior to the granting of the permit.

Jeff Carey, Allyn Community Association, thanked the Board and staff for working with stakeholders to make this ordinance more functional than it was in the beginning. One area that concerns him is the violation penalty. A gross misdemeanor seems to be too much.

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
July 7, 2009 - PAGE 6

Frank Kenny, North Mason Chamber, thanked staff and stated they were green-star worthy. These events are great for building the community, building relationship and adding to the economy. After an event goes through all of the steps in the new ordinance they will have little impact on the community. All of the bases have been covered.

Cmmr. Gallagher commented that this was a long process and the staff has educated the public on the changes. This only covers large events and many local events are on public property and will not be covered by this. He thanked the staff and stakeholders.

Cmmr. Ring Erickson thanked the staff. The ordinance is not perfect, but it is a lot different from what was originally proposed. She continues to have concerns about the size. Mr. Armstrong brought up some good points. Hopefully this is not something that will sit on the shelf and it is something that is looked at every several years and reevaluated.

Cmmr. Sheldon commented that in his experience with the proposed Renaissance Faire he got a huge number of calls. It is a good example of something that would fall under this ordinance. He thinks it is lacking in the public comment and public participation area.

Cmmr. Ring Erickson/Gallagher moved and seconded to adopt Title 5, Section 5.18 regulating temporary outdoor public events as amended, with noted changes to Section 5.18.010. The second line should read "four continuous hours" and in the second line of the second paragraph "any person, persons, corporation, organization landowner or lessor" should be changed to "the applicant, director or designee". Motion carried. RE aye; S- nay; G-aye. Ordinance 61-09 (Exhibit D)

9.2 Public hearing to consider adoption of revisions to Mason County Code, Title 17, Sections 17.23.030(8) and 17.23.110 as they pertain to the Festival Retail zoning district in the Belfair Urban Growth Area.

Barbara Adkins stated the proposed revisions are two additions in the first Section 17.23.093, Accessory Uses. It is being proposed that a number 8 be added for gasoline retail sales in association with grocery stores. In Section 17.23.110 there would be an addition of the three words "certain types of" to read (excluding certain types of auto-oriented uses). These changes came as an application from QFC. They applied to put in a gas station as an accessory use to their grocery store. It was permitted, but staff received a complaint that it was not an allowed use in the district. After they did some research they realize it was a mistake to allow the permit. Staff went over options with QFC including a code amendment, a rezone or an appeal of the decision. QFC decided to go with a text amendment because it would be a lesser impact to the code and to the property.

Question for Staff

An audience member stated that Safeway in Belfair currently has this arrangement and asked how this is different.

Ms. Adkins stated they are in a different zoning district.

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
July 7, 2009 - PAGE 7

Public Testimony

Chris Ferko, Barghausen Consulting Engineers, consultants for QFC, thanked staff for helping with this process. It is a minor update to the Festival Retail zone to allow gasoline sales as an accessory use to the primary grocery use that is already a permitted use in the zone. They have received a positive staff report and a unanimous recommendation from the Planning Commission for approval of the amendment. The idea behind the amendment is to update the code to reflect the current market in which grocery stores are selling fuel, which is in evidence by Safeway, Fred Meyer, Costco and Alberstons. It now in the nature of grocery stores to sell fuel. The proposal does not change any other standards in the Festival Retail zone. It simply is allowing gasoline sales. QFC just completed a complete remodel to the store in 2008. They would like to continue this remodel by adding this service to best serve the community.

Cmmr. Gallagher stated he noticed that in the test holes water was found between 6 and 8 feet. When designing the fuel station will it be a build up to accommodate room for the tanks? It would need to be really elevated. With water at 6 feet it seems there would be a big problem digging for tanks.

Mr. clarified that it is not unusual to find water. The tanks can be placed in high groundwater conditions because they are in concrete so they resist buoyancy. It is not uncommon to build gas stations in these conditions.

Ken Vanbuskirk stated he went to the Planning Advisory Commission regarding these amendments and gave testimony. He was also involved in the Belfair Sub-Area Planning group and felt the Festival Retail zone wasn't defined well. It was a challenge to get the critical aquifer recharge area recognized in the Sub Area Plan. He is concerned about potential impacts to the critical aquifer recharge area with this text amendment. His well is less than 1/2 mile from the proposed site and he is concerned about water quality. Please consider the area when making a decision on this matter or any others pertaining to the Belfair UGA.

He became aware of the plan while he was at QFC and he saw the drill rigs. He has asked staff to require a database be established regarding permitted uses in the UGA in regards to the critical aquifer recharge area. When he researched this he asked the Department of Ecology for a list of permitted sites in the Belfair area and he was surprised that they didn't have Mason County's critical aquifer recharge area information. Historically there has been everything from dry cleaners to gas stations in the Belfair Festival Retail zone. Hopefully any former sites will be identified and mitigated before new sites are permitted. Any new permitted fueling sites should use state of the art technology including triple wall storage tanks and redundant leak detection alarm systems.

Cmmr. Sheldon clarified that this doesn't grant the permit it just changes the code. There is a good example of a fuel station with tanks totally above ground in the Kamilche area being built by the Squaxin Island Tribe.

Cmmr. Gallagher made a motion to deny the adoption of revisions to Mason County Code, Title 17, Sections 17.23.030(8) and 17.23.110 as they pertain to the Festival Retail zoning district in the Belfair Urban Growth Area.

BOARD OF MASON COUNTY COMMISSIONERS' PROCEEDINGS
July 7, 2009 - PAGE 8

The motion died without a second.

Cmmr. Ring Erickson/Sheldon moved and seconded to adopt the revisions to Mason County Code, Title 17, Sections 17.23.030(8) and 17.23.110 as they pertain to the Festival Retail zoning district in the Belfair Urban Growth Area. RE-aye; S-aye; G-nay. Ordinance 62-09 (Exhibit E)

10. Other Business (Department Heads and Elected Officials) –

- 10.1 Cmmr. Ring Erickson welcomed Terri Jeffreys, the new Executive Director of the Shelton-Mason County Chamber of Commerce.
- 10.2 Bob Simmons, WSU Co-op, provide highlights of the water quality program workshop that took place on Sunday, June 28, 2009. There is a new grant-funded program called the Shore Stewards Program. Tickets are now available for the Fresh-Bite Beach Night, benefit for the 4-H program.
- 10.3 Barbara Adkins announced that on Thursday, July 9, 2009 at 1:30 p.m. there will be a stakeholders' meeting regarding the Shelton Urban Growth Interlocal Government Agreement. The public is welcome to attend.

Cmmr. Ring Erickson noted that an evening meeting should be scheduled as well so more people can attend.

11. Board's Reports and Calendar - The Commissioners reported on meetings attended the past week and announced their upcoming weekly meetings.

12. Adjournment – The meeting adjourned at 10:35 a.m.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

absent 7/14/09
Tim Sheldon, Chair

Lynda Ring Erickson
Lynda Ring Erickson, Commissioner

ATTEST:

Shannon Goudy
Shannon Goudy, Clerk of the Board

Ross Gallagher
Ross Gallagher, Commissioner

RESOLUTION NO. 59-09
2009 BUDGET

SUPPLEMENTAL APPROPRIATION - NOTICE OF HEARING

WHEREAS, by reason of conditions which could not be reasonably foreseen at the time of making the budget for the year 2009, it is necessary to make provision for supplemental appropriation to the budget as required by RCW 36.40.100, and RCW 36.40.195 for the following:

Donation received from the Squaxin Island Tribe for the Mason County Employee Appreciation event.

THEREFORE, BE IT RESOLVED BY THE Board of Mason County Commissioners:

That the 4th day of August, 2009 at the hour of 9:30 a.m in the Mason County Commissioners Chambers in Courthouse Building I, 411 North Fifth Street, Shelton, Washington, is hereby fixed as the time and place for a public hearing upon the matter of a supplemental appropriation to the 2009 Budget as follows:

- Employee Appreciation Fund in the estimated amount of \$750.


The Clerk of the Board is hereby authorized, empowered, and directed to cause notice of such hearing to be published as provided by law.

DATED this 7th day of July, 2009.

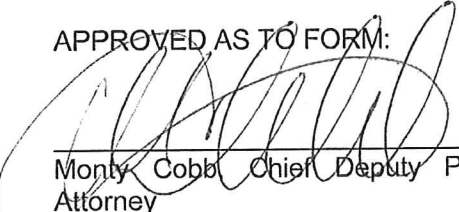
BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

ATTEST:


Shannon Goudy, Clerk of the Board


Tim Sheldon, Chair

APPROVED AS TO FORM:


Monty Cobb, Chief Deputy Prosecuting Attorney


Lynda Ring Erickson, Commissioner


Ross Gallagher, Commissioner

C: Budget
Auditor
Treasurer
Employee Appreciation Fund

Publish 2x 7/16 & 7/23 – bill to Mason County Commissioners, 411 North 5th Street, Shelton

EXHIBIT A

RESOLUTION NUMBER 60-09
COUNTY ROAD CLOSURE
CLIFTON LANE - #86750


NOTICE IS HEREBY GIVEN that pursuant to RCW 47.48.010, all of Clifton lane, County Road No. 86750, shall be closed to all through traffic on Saturday, August 8, 2009 from 6:30 am to 9:00 pm (milepost 0.00 to milepost 0.21).

NOW THEREFORE, BE IT RESOLVED, the Board of County Commissioners has declared the above described road closure a necessity for public safety during the North Mason Rotary Club event "Taste of Hood Canal."

THEREFORE, the County Engineer is hereby ordered and authorized to proceed as prescribed by law.

ADOPTED this 7th day of JULY, 2009.

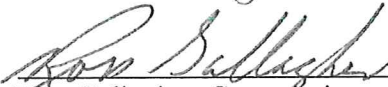
BOARD OF COUNTY COMMISSIONERS



Tim Sheldon, Chair

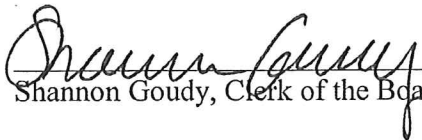


Lynda Ring Erickson, Commissioner



Ross Gallagher, Commissioner

ATTEST:



Shannon Goudy, Clerk of the Board

cc: Commissioners
Engineer
JOURNAL: Publ. 1t.: _____ (Bill Road Dept.)
POST: At Least three (3) days prior to closure.

**RETURN TO MASON COUNTY PUBLIC WORKS
PO Box 1850
Shelton, WA 98584**

**IN THE MATTER OF THE PETITION OF:
A PORTION OF DALBY ROAD**

**ORDER OF VACATION
VACATION FILE NO. 367
RCW 36.87**

WHEREAS, it is the intention of the Board of Mason County Commissioners to vacate the following described rights of way:

All that portion of excess right of way know as Dalby Road located in Section 32, Township 22 North, Range 3 West, and Section 5, Township 21 North, Range 3 West, W.M, Mason County, Washington, as described in Exhibit "A".

AND, WHEREAS, the date of hearing was set for May 26, 2009 at 1:00 p.m. and Notice of Hearing, Intent to Vacate, was published and posted according to law; and

WHEREAS, the hearing was held on May 26, 2009, and the Mason County Hearing Examiner considered the County Engineer's report, together with any evidence for or objection against said vacation; and

WHEREAS, the Hearing Examiner has rendered to the Board of Mason County Commissioners, his Findings, Conclusions and Recommendations and the members of the Board have given them due consideration.

NOW, THEREFORE, IT IS ORDERED that the above described right of way is hereby vacated; and

IT IS FURTHER ORDERED that said vacation is subject to any existing private easements for ingress and egress or any other purpose and to retaining an easement in favor of Mason County for any utilities present in the vacated road right-of-way, and retain an option to use a portion of the proposed parking lot as a park and ride, in accordance with RCW 36.87.170.

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BEFORE THE HEARING EXAMINER FOR MASON COUNTY

Phil Olbrechts, Hearing Examiner

RE: New Community Church of Union Request for a Road Vacation	FINDINGS OF FACT, CONCLUSIONS OF LAW AND RECOMMENDATION
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INTRODUCTION

The applicant has applied for a Road Vacation, in order to use the property as a parking lot for the church that will be constructed. The Examiner recommends approval of the application.

ORAL TESTIMONY

Pam Bennett-Cummings – Mason County

The vacation will open up space for a church parking lot. The County no longer needs the proposed vacation area due to a road realignment. Staff is recommending that the petitioners reserve a portion of the parking lot as a park and ride during times when the parking lot would not be used by the church. This idea was initiated by the County Commissioners. The County is not requiring compensation for the vacation, but the applicants did pay a \$500 bond fee.

Dave Johnston – Petitioner

Mr. Johnston stated that the thinking behind the vacation was that it would be a good idea to incorporate the small gravel road into the parking lot for the church that is being developed. The park and ride aspect has been a developing idea. He believes this aspect of the project would be beneficial to both the public and the church.

EXHIBITS

See the list of attachments to the staff report, prepared by Rick Brush dated May 26, 2009 for a list of all exhibits.

FINDINGS OF FACT

Procedural:

1. Applicant. The petitioner is Dave Johnson; representing New Community Church of Union.

2. Hearing. The Hearing Examiner conducted a hearing on the application on May 26, 2009, at 1:00 p.m., in the Mason County Board of Commissioners Meeting Chambers.

Substantive:

3. Site/Proposal Description. The application is for the New Community Church of Union's for the vacation of part of Dalby Road, specifically vacating the portion on the north side of the Petitioner's property. The vacation is requested to allow the applicant to use the area as a parking lot, which will also be available for use by the Mason Transit Authority as a park and ride facility. The area to be vacated is approximately 28,000 square feet.

4. Notice. According to Staff, public notice has been provided by posting at the site and publishing in the County's official newspaper.

5. County Need for Proposed Vacation Area. Due to a realignment in the vicinity of the proposed vacation area, the right of way is no longer necessary or useful to the County road system, so long as a portion of the parking lot created from the street vacation is available for a park and ride. There is currently no park and ride in Union. The public will benefit by the road vacation by a reduction in maintenance and liability resulting from the loss of ownership.

6. County Ownership Interest. The record does not contain any information on the County's ownership interest in the proposed vacation area, which is necessary to determine if compensation should be required. However, right of way is typically owned as an easement and it is very rare that any municipality acquires ownership as a fee interest. All other right of way subject to vacation requests reviewed by the Examiner have been owned as easements. The Examiner finds that the subject right of way is owned as an easement and not in fee.

CONCLUSIONS OF LAW

Procedural:

1. Authority of Hearing Examiner. MCC 12.20.030 provides the Examiner with the authority to review road vacation applications, and provide a recommendation to the Mason County Board of County Commissioners.

Substantive:

1 2. Review Criteria and Application. The Petitioners seek a vacation of a
2 County road. Chapter 12.20 MCC sets forth the requirements for vacation of roads.
3 Furthermore, MCC 12.20.010 provides that County roads may be vacated in
4 accordance with the provisions of Chapter 36.87 RCW. Applicable review standards
5 for vacation under Chapter 12.20 MCC, as well as those in Chapter 36.87 RCW, are
6 laid out below with Conclusions for a recommendation to the Board of County
7 Commissioners.

8 **MCC 12.20.010:** *County roads may be vacated in accordance with the provisions of*
9 *RCW 36.87, and Mason County may require as a condition precedent to the vacation*
10 *the receipt of just compensation from the person or persons benefiting from the*
11 *vacation.*

12 **RCW 36.87.060:** *If the county road is found useful as a part of the county road*
13 *system it shall not be vacated, but if it is not useful and the public will be benefited by*
14 *the vacation, the county legislative authority may vacate the road or any portion*
15 *thereof.*

16 3. The right-of-way proposed for vacation is not useful to the county road
17 system. The adjoining road has been realigned and there is no reasonable possibility
18 that the proposed vacation area will be needed for road use as a result of this
19 realignment. However, there is a need for a park and ride in the area and the
20 proposed vacation area would be useful for this purpose, which is arguably a part of
21 the County road system. Consequently, it is recommended that the vacation be
22 conditioned on reserving use for a park and ride. The public will benefit from the
23 proposed vacation by a reduction in maintenance and liability resulting from the loss
24 of right of way ownership.

25 **MCC 12.20.040:** *For the purpose of vacating county roads, all roads shall be*
classified as follows:

(1) *Class A. All roads for which the right-of-way is an easement.*

(2) *Class B. All roads for which the right-of-way is owned in fee simple and for*
which the county paid full fair market value of the fee simple estate.

4. As determined in the findings of fact, the County owns the road as an
easement. Consequently, the subject road qualifies as a Class A road under MCC
12.20.040.

MCC 12.20.050: *Any person or persons desiring to have any portion of any county*
road vacated shall be required by the Mason County board of county commissioners
as a condition precedent to the vacation to compensate the county prior to the
vacation. The compensation shall include, but not be limited to, the appraised, fair
market value of the county's fee simple interest in the vacated road as of the effective
date of the vacation, and the costs of any and all appraisals deemed necessary by
board of county commissioners the hearing examiner or the board of county
commissioners, together with any and all administrative costs incurred by the county

1 in vacating the road. Said administrative costs shall include the costs of the hearing
2 examiner in holding the public hearing and reporting recommendations to the board
3 of county commissioners. Such compensation must be paid to Mason County within
4 six months of the date the vacation was approved by the Mason County
5 commissioners or the vacation shall be null and void.

6 5. The administrative costs of the street vacation should be assessed against
7 the Petitioners as required by MCC 12.20.050. Staff testified that a bond has been
8 posted to cover these expenses. Since the County has no fee interest in the road,
9 MCC 12.20.050 (interpreted in light of MCC 12.20.060, below) does not require the
10 Petitioners to pay for the fair market value of the road.

11 **MCC 12.20.060:** (a) The county shall require, as a condition precedent to the
12 vacation of roads or portion thereof within the classifications set forth in Section
13 12.20.040, that persons benefiting from the vacation thereof compensate Mason
14 County as set forth in the following schedule:

- 15 (1) Class A roads. No compensation other than for the administrative costs of the
16 vacation action;
17 (2) Class B roads. One hundred percent of the appraised, fair market value.

18 6. No compensation for the fair market value of the road is required because
19 the road qualifies as a Class A road.

20 **MCC 12.20.080:** Each petition for vacation of a road shall be accompanied by a
21 bond or cash deposit of a minimum of five hundred dollars, which shall be used to
22 defray examination, report, publication, investigation and other costs connected with
23 the application. When deemed necessary by the county engineer, an additional
24 deposit amount may be required to cover appraisal or other costs. Board of County
25 Commissioners [sic] For any petition, whether granted or denied, for which the
26 deposit exceeds the total costs, the excess deposit shall be refunded to the petitioner.
27 For any petition, whether granted or denied, for which the costs exceeds the deposit,
28 the excess shall be billed to the petitioner and be due and payable immediately.

29 7. Staff testified that the Petitioner has paid the required \$500 security.

30 VI. RECOMMENDATION

31 The Hearing Examiner recommends that the Board of Commissioners approve the
32 proposed street vacation, subject to the following conditions:

- 33 1. Payment of all administrative costs incurred in this vacation.
34 2. An easement shall be retained for use of the proposed vacation area as a park and
35 ride.

DATED this _____ day of June, 2009

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Phil A. Olbrechts
Mason County Hearing Examiner

Mason County Department of Public Works

May 26, 2009

TO: Mason County Hearing Examiner

FROM: Rick Brush, Right of Way Manager, for Robert A. Thuring, County Engineer

RE: ENGINEER'S REPORT – ROAD VACATION FILE NO. 367 – Vacation of a portion of Dalby Road.

Background:

Dave Johnston, representing New Community Church of Union, has petitioned for vacation of a portion of excess right of way on Dalby Road described in attached Exhibit A. Vacation of this right of way will facilitate development of the petitioner's property to be used as a parking lot.

In compliance with RCW 36.87.40, on March 20, 2009, Public Works staff examined the portion of road requested to be vacated. Our findings are the following:

1. The road right of way is not presently in use by the general public.
2. The road is unpaved and is in good condition.
3. Since the intersection of Dalby Road and McReavy Road has been realigned, it is not deemed necessary to preserve it for the County road system for the future.
4. The public will benefit by this action, since it will add the vacated area to the tax rolls and relieve the county of maintenance and other liability.
5. This right of way could serve as a park and ride in the future. The recommendation to grant this vacation is subject to the condition that the County may use the vacated area or another portion of the church's parking lot as a park and ride in the future.

Public Notice

Public notice has been provided as required by RCW 36.87.050, both by posting at the site and by publishing in the county official newspaper.

Recommendation

Public Works recommends the vacation of the subject portion of Dalby Road, as petitioned, in accordance with RCW 36.87.170, retaining an option to use a portion of the proposed parking lot as a park and ride and subject to existing easements for ingress and egress or any other purposes, if any.

Hearing Examiner Options

1. Find that this vacation meets the standards established by state law and recommend the vacation be granted as petitioned and/or as recommended by the County Engineer.
2. Find that this vacation fails to meet the standards established by state law and recommend the vacation be denied.
3. Find that only part of the vacation as petitioned or recommended by the County Engineer complies with the law and develop recommendations to grant the compliant portion and deny the other.

Attachments:

- Petition
- Exhibit Map

EXHIBIT "A"

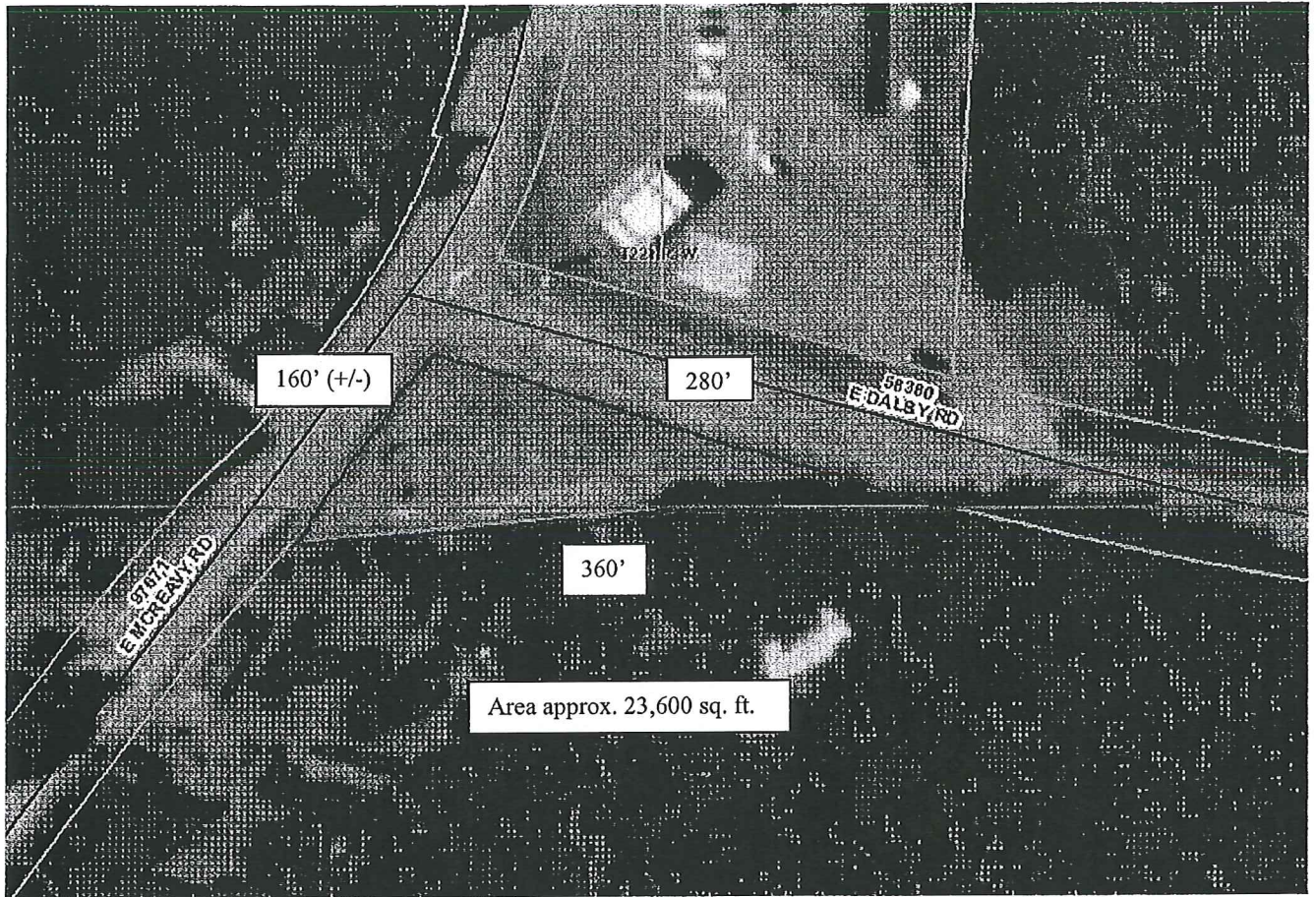
MASON COUNTY TO THE NEW COMMUNITY CHURCH OF UNION

All that real property, being a portion of the Dalby Road, lying in the Northwest Quarter of Section 5, Township 21 North, Range 3 West, W.M., and the Southwest Quarter of Section 32, Township 22 North, Range 3 West, W.M., Mason County Washington, described as follows:

COMMENCING at the Northwest Corner of a Record of Survey, filed February 20, 2007, in Volume 33 of Surveys at Page 49, under Auditor's File Number 1889534, said Northwest Corner being the point of intersection between the easterly line of McCreavy Road and the southerly line of said Dalby Road; thence, North $82^{\circ}45'51''$ East, along the said southerly right-of-way of Dalby Road, as shown on said Record of Survey, 14.32 feet, to the TRUE POINT OF BEGINNING of this description; thence, leaving said southerly right-of-way line of Dalby Road, North $48^{\circ}45'32''$ East 141.50 feet, to a point which is 35.00 feet southerly, at right angles, to the centerline of said Dalby Road; thence, South $76^{\circ}28'22''$ East, parallel with and 35.00 feet distant from said centerline of Dalby Road, 245.37 feet to a curve to the left having a central angle of $0^{\circ}36'28''$ and a radius of 2326.79 feet; thence 24.68 feet, along the arc of said curve to a point on the Section line between said Sections 5 and 32 and the north line of said Record of Survey; thence, South $88^{\circ}39'27''$ West, along the said Section line between Sections 5 and 32 and said north line, 162.40 feet; thence, leaving said Section line, South $82^{\circ}45'51''$ West, along said north line, 208.11 feet, more or less, to the TRUE POINT OF BEGINNING.

Containing 0.32 acres, more or less.

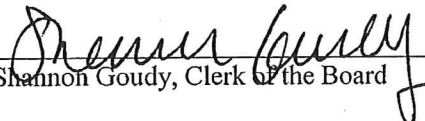
EXCESS RIGHT OF WAY AT DALBY AND MCREAVY ROADS



DATED this 7th day of July, 2009.

ATTEST:

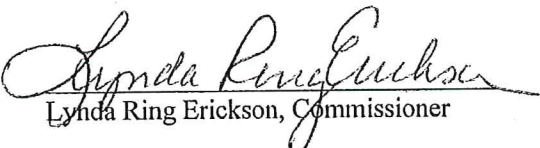
BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON


Shannon Goudy, Clerk of the Board


Tim Sheldon, Chair

APPROVED AS TO FORM:


Deputy Prosecuting Attorney


Lynda Ring Erickson, Commissioner

Cc: File; Assessor; Auditor; Petitioner;
Public Works Dept.;
Vacation File No. 367


Ross Gallagher, Commissioner

ORDINANCE NUMBER 61 -09

AN ORDINANCE AMENDING TITLE 5, CHAPTER 5.18 OF THE MASON COUNTY CODE FROM MUSICAL FESTIVALS TO TEMPORARY OUTDOOR PUBLIC EVENTS

AN ORDINANCE amending Title 5 (Business Taxes, Licenses and Regulations), Chapter 5.18 (Music Festivals).

WHEREAS, the Board of County Commissioners adopted through Ordinance 145-81 regulation of musical festivals in Mason County; and

WHEREAS, the sections provided under Ordinance 145-81 and Mason County Code Chapter 5.18 are limited exclusively to musical festivals; and

WHEREAS, representatives of several County departments participated in the drafting of an this ordinance to create a process that more accurately addresses the needs and interests of Mason County and that more inclusively regulates all applicable festivals and events; and

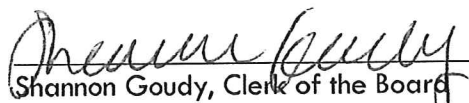
WHEREAS, this code amendment will be facilitate more comprehensive and responsible approach to the coordination of such events to better protect and preserve of the public peace, health, safety, morals, and welfare of the citizens and guests of Mason County.

NOW THEREFORE, BE IT HEREBY ORDAINED, that the Board of Commissioners of Mason County hereby amends amending Title 5 (Business Taxes, Licenses and Regulations), Chapter 5.18 (Music Festivals) to Chapter 5.18 (Temporary Outdoor Public Event) (Attachment A).

DATED this 7th day of July, 2009.

Board of Commissioners
Mason County, Washington

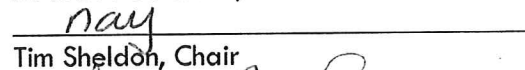
ATTEST:


Shannon Goudy, Clerk of the Board

APPROVED AS TO FORM:


Deputy Prosecuting Attorney

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON


Tim Sheldon, Chair


Lynda Ring-Erickson, Commissioner


Ross Gallagher, Commissioner

Attachment A

TITLE 5 - BUSINESS LICENSES AND REGULATIONS SECTION 5.18 - TEMPORARY OUTDOOR PUBLIC EVENT

Sections:

5.18.010	Definition
5.18.020	Basic clause
5.18.030	Event Location and Duration Limitations
5.18.040	Permit required - Fee regulation
5.18.050	Age of Applicant
5.18.060	Permit application - Procedure
5.18.070	Submission of plans for approval - Approving agencies
5.18.080	Pre-Application Conference
5.18.090	Conditions
5.18.100	Compliance with Rules & Regulations
5.18.110	Revocation of Permit - Statement of Right
5.18.120	Variances
5.18.130	Enforcement
5.18.140	Violation - Penalty
5.18.150	Severability

5.18.010 Definition

"*Temporary Outdoor Public Event*" shall be any temporary activity lasting more than four (4) contiguous hours that is not designed or intended to be a permanent use of a structure(s) or the land it occupies. Such events are open to the public with or without a fee for a specified period/duration of time that is prearranged with and permitted by Mason County and will attract and accommodate the following number of people at any given time.

- 5,000 or more for events occurring within the Urban Growth Areas
- 3,000 or more for event occurring outside the Urban Growth Areas

Such events can include, but are not limited to, presentations of outdoor, live or recorded musical entertainment or other large event which the applicant or Director of Community Development, or designee, believes or has reason to believe will attract numbers of people as described above. Events for any number of people which are not advertised as open to the public with or without a fee or events which are authorized by public schools or governmental entities held on public lands shall not be classified as Temporary Outdoor Public Events and shall not be subject to the standards set forth in this code section. Examples of events that are exempt shall include, but not be limited to, the following:

- (a) Family reunions/picnics;
- (b) Weddings, Birthdays, Anniversaries, Funerals;
- (c) Events held on school grounds;
- (d) Business or Corporate Retreats;
- (e) Organized religious events located at an established religious facility;

Attachment A

- (f) Events, uses or activities which have been authorized through an approved discretionary land use permit; or which are conducted in a public park or on public lands¹ with approval of the local governing agencies;
- (g) Events subject to the exemptions of Section 5.18.060(c).

5.18.020 Basic clause

It shall be unlawful for any person, persons, corporation, organization, landowner, or lessor to allow, encourage, organize, promote, conduct, permit or cause to be advertised a temporary outdoor public event ("Event") unless a valid county permit has been obtained for the operation of said Event. One such permit shall be required for each event as defined in Section 5.18.010. Criminal or civil liability for failure to comply with the provisions of this chapter shall rest in all persons, corporations, organizations, landowners or lessors who are responsible for obtaining permits under this provision.

5.18.030 Event Location and Duration Limitations

- (a) Temporary Outdoor Public Events shall be allowed, upon approved application, within all Mason County urban growth areas and any rural residential districts outside the urban growth areas. The approval of an event permit provides for a temporary use of that property not otherwise allowed. All other regulations, aside from the approved event, shall remain in effect.
- (b) Events within these areas shall be limited to fourteen (14) cumulative days on any individual property within a twelve (12) month period. It is at the applicant's discretion as to how the days are utilized throughout the twelve (12) month period.

5.18.040 Permit required - Fee regulation

No temporary outdoor public event may be held in Mason County outside the limits of the incorporated cities unless the person or persons sponsoring said event shall first obtain a permit as hereinafter provided, and shall comply with all regulations herein provided and that the fee for the temporary outdoor public event permit to meet the cost of administering the same shall be \$250.00 for each event.

5.18.050 Age of Applicant

No permit shall be issued to any person under eighteen (18) years of age, or twenty-one (21) if alcohol is to be served.

5.18.060 Permit application - Procedure

- (a) Written application for a temporary outdoor public event permit shall be made to the Permit Assistance Center, 426 W. Cedar Street, Shelton, WA 98584 and said application must be submitted sixty (60) or more days prior to the first day upon which said Event is to be or may be held. Approval of permits as herein provided for shall be made within forty-five (45) days after application therefore unless such permit shall be denied. Denial of the permit by the Department of Community Development shall be in writing with reasons for the denial and shall be subject to appeal to the Hearing Examiner by action filed within ten (10) days of the denial.

¹ Public lands as defined herein shall be those properties owned and/or operated by government agencies including state, county, municipal, township, district, or other governmental unit.

Attachment A

- (b) The County may require proper insurance, indemnification and hold harmless agreements, proof of possession of any Federal, State, or locally required permits or licenses, damage deposits, deposits for payment for cleanup, traffic control, security and other similar requirements which shall be identified in the permit.
- (c) No fee, indemnification agreement or insurance requirement shall be imposed when prohibited by the First and Fourteenth Amendments to the United States Constitution. Political or religious activity intended primarily for the communication or expression of ideas shall be presumed to be a constitutionally protected event. Factors that may be considered in evaluating whether or not the fee applies include the nature of the event; the extent of commercial activity, such as the sales of food, goods, and services; product advertising or promotion, or other business participation in the event; the use or application of any funds raised; if part of any annual tradition or series, previous events in the sequence; and the public perception of the event.
- (d) A valid approved permit shall be posted at least ten (10) days prior to each event and at all times during the event in a conspicuous place where any event subject to this section is being conducted.

5.18.070 Submission of plans for approval - Approving agencies

Whenever approval by a County government agency other than the Department of Community Development is required, application for such approval shall be made in the same manner at the times provided when applying for a permit for the temporary outdoor public event. When any type of physical facility is required or subject to approval hereunder, preliminary approval may be granted based upon specific plans proposed and submitted by the applicant. All such facilities shall be subject to inspection by the approving agencies or departments. Should the actual facility or construction fail to meet the standards approved in the proposed plans such preliminary approval shall be withdrawn and any and all permits granted subject to such approval shall be withdrawn.

5.18.080 Pre-Application Conference

Every person, corporate or organization representative, landowner or lessor applying for a new or modified Temporary Outdoor Public Event permit shall attend a Pre-Application Conference. The purpose of this conference is to discuss the nature of the proposed Event, the application and permit requirements, fees, review process and schedule, applicable plans, map, policies and regulations. In order to expedite review of the application, the county shall invite all affected departments, agencies and/or special districts to the Pre-Application Conference. County staff will give preliminary feedback to the potential applicant based on the level of information provided by the applicant at the conference and will inform the applicant of issues or special requirements that may result from the Application. The more information provided by the applicant for the pre-application conference, the more effective the comments from staff will be on the components of the proposed Event.

5.18.090 Conditions

- (a) Public Health Department: No permit for a temporary outdoor public event shall be granted unless the application is accompanied by the written approval of the Mason County Health Department indicating that the applicants for said permit have complied with the health requirements of said department for like

Attachment A

or similar facilities. Said approval shall indicate the type and adequacy of water supply to be provided, the type and adequacy of toilet, waste collection and washing facilities to be provided, and if there is to be food served on the premises, the type and adequacy of food preparation and food service facilities to be provided.

- (b) Fire Protection: No permit shall be granted hereunder unless the applicant has shown that the Mason County Fire Marshal has approved fire protection devices and equipment available at, or near any building, tent, stage or enclosure wherein or whereupon persons may be expected to congregate at any time during the course of such temporary outdoor public event for which a permit is hereunder required.
- (c) Traffic Control - Police Protection: No permit shall be granted hereunder unless it shall be approved by the Mason County Sheriff's Department that adequate traffic control and crowd protection policing have been contracted for or otherwise provided by the applicant. Should the event location impact a state route, the appropriate state agencies shall be involved in any traffic control and police protection plans.
- (d) Parking: Application for a permit under this title shall be accompanied by a scale drawing showing adequate off street parking facilities having been available adjacent to the location for which the permit is requested. Adequate ingress and egress shall be provided from such parking area to facilitate the movement of any vehicle at any time to or from the parking area. PROVIDED, that should buses be used to transport persons to the entertainment, amusement or assembly, it shall be shown that public parking or parking as described above is available at any site from which buses are scheduled to transport persons to an event regulated by this Chapter. Traffic resulting from any temporary activity shall not adversely affect surrounding properties or adjoining rights of way. The Director of Public Works shall make any determination of adverse affects.
- (e) Inspection: No permit shall be granted hereunder unless the applicant shall in writing upon the application for such a permit consent to allow the law enforcement and public health and fire control officers of the county come upon the premises for which the permit has been granted for the purpose of inspection and enforcement of the terms and conditions under which the permit is granted.
- (f) Location: No temporary outdoor public event shall be operated in a location that is closer than two hundred fifty (250) feet from any schoolhouse, church, house, residence or other human habitation. Variation from this requirement will be at the discretion of the permitting authority and evaluated on an individual basis. Applicants may seek written permission or waivers from property owners within 250 feet of an event to submit when requesting a variation from this requirement.
- (g) Traffic / Access Plan: A traffic control plan shall be submitted as part of the application package that shows the measures intended to minimize impacts to the roads and traffic. This should include a description of the expected traffic volumes, what measures will be used for traffic flow control, and what signs are proposed. A Road Use Permit will be required for road closures or event parking on County roads or in the County road rights of way.
- (h) Public Safety Plan: A Public Safety Plan prepared and submitted in accordance with Chapter 4, Section 403.2 of the 2006 International Fire Code or most

Attachment A

current edition. This plan shall provide for an appropriate level of public safety under the authority and approval of the Mason County Fire Marshal in consultation with additional local fire districts, as applicable. The contents of this plan shall include, but are not limited to, provisions for emergency vehicle ingress and egress, fire protection, emergency medical services, and the need for fire and emergency medical services personnel at the event.

5.18.100 Compliance with rules and regulations

No application for a temporary outdoor public event permit shall be issued until the Department of Community Development shall have had an investigation and report as to whether the location or place to be used as a site for a temporary outdoor public event conforms to all rules and regulation of the Code of Mason County and the state law, particularly in regard to land use, fire, health, building, sanitary conditions and toilet conveniences.

5.18.110 Revocation of permit - Statement of Right

The temporary outdoor public event permit issued under the provisions of this Chapter shall state in substance that such permit is issued as a public safety, sanitary and fire requisition measure, and that the right of the Department of Community Development to revoke such permit is a consideration of issuance. If any Temporary Outdoor Public Event in Mason County is not being operated in accordance with the rules and regulations prescribed in this Chapter and set forth in the State law, the permittee shall be subject to revocation of the permit, and the permittee or other individual responsible subject to such other punishment as the law and this Chapter provide.

5.18.120 Appeals

Administrative decisions of the Community Development Director or her/his designee shall be final and conclusive, unless a written statement of appeal is filed using the appeal procedures contained in Mason County Development Code Chapter 15.11 Appeals. Said statement shall set forth any alleged errors and/or the basis for appeal and shall be accompanied by a fee in an amount as set by resolution of the board.

The timely filing of an appeal shall stay the effective date of the decision until such time as the appeal is heard and decided or is withdrawn. The burden of proof regarding modification or reversal shall rest with the appellant.

5.18.130 Enforcement

Mason County is hereby authorized and directed to see that all provisions of the state law and local rules and regulations are enforced

5.18.140 Violation-Penalty

Any person who shall violate or fail to comply with any provision of this chapter or who shall counsel, aid or abet such a violation or failure to comply shall be deemed guilty of a gross misdemeanor and shall, upon conviction thereof, be fined in the sum of not more than one thousand dollars (\$1,000) or imprisoned in the County Jail for not more than ninety (90) days, or both. Compliance shall constitute minimum health, sanitation and safety provisions and failure to comply with the terms and conditions shall

Attachment A

constitute a public nuisance and shall be subject to all criminal, civil, and equitable remedies as such.

5.18.150 Severability

If any section of this Chapter or its application to any person or circumstances is held invalid, the remainder of this Chapter shall remain in effect.

ORDINANCE NUMBER 62-09

**AN ORDINANCE AMENDING TITLE 17, SECTIONS 17.23.030 AND 17.23.010
THE MASON COUNTY CODE AS THEY RELATE TO THE FESTIVAL RETAIL
DISTRICT OF THE BELFAIR URBAN GROWTH AREA**

AN ORDINANCE amending Title 17 (Zoning), Chapter 17.23 (Mixed Use Districts in the Belfair UGA), Sections 17.23.010 ("FR" Festival retail district – Purpose) and 17.23.030 (Accessory Uses).

WHEREAS, in compliance with the Washington State Growth Management Act (RCW 37.70A.010) Mason County has designated urban growth areas and adopted plans and regulations to guide future development therein; and

WHEREAS, Sections 17.23.010 and 17.23.030 provide, in part, the County's regulations as they relate to Mixed Use Districts in the Belfair Urban Growth Area; and

WHEREAS, Section 17.23.010 has been revised to only exclude certain types of auto-oriented uses within the Festival Retail district of the Belfair Urban Growth Area; and

WHEREAS, Section 17.23.030 has been revised to allow gasoline retail sales in association with grocery stores as an accessory use; and

WHEREAS, on May 18, 2009, the Mason County Planning Advisory Commission held a public hearing to consider proposed revisions and provided the Board of County Commissioners with recommendations; and

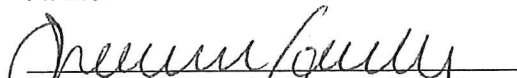
WHEREAS, the Mason County Board of Commissioners held a public hearing July 7, 2009 to consider recommendations of the Planning Advisory Commission, and testimony as made by the Mason County Department of Community Development, applicant, and Mason County citizens; and

NOW THEREFORE, BE IT HEREBY ORDAINED, the Mason County Board of Commissioners hereby approves and ADOPTS revisions to Mason County Code, Sections 7.23.010 and 17.23.030 as described by ATTACHMENT A.


DATED this 7th day of July, 2009.

Board of Commissioners
Mason County, Washington


ATTEST:

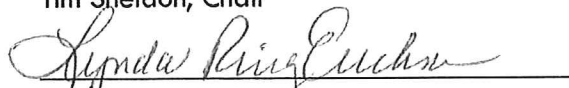

Shannon Goudy, Clerk of the Board

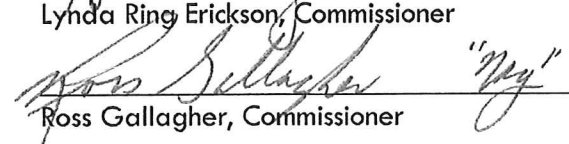
BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON


Tim Sheldon, Chair

APPROVED AS TO FORM:


Monty Cobb,
Chief Deputy Prosecuting Attorney


Lynda Ring Erickson, Commissioner

 "Rog"
Ross Gallagher, Commissioner

ATTACHMENT A

Revisions to Title 17, Sections 17.23.030 and 17.23.010

17.23.030 Accessory uses.

The following uses are permitted only as they are ancillary to the primary allowed uses and may or may not require a special license or permit in addition to holding a building permits:

- (1) Alcoholic beverage sales: on-site, in association with full menu food uses;
- (2) Merchandise repair, excluding vehicles;
- (3) Micro brewery;
- (4) Parking of one delivery vehicle;
- (5) Dance floors no larger than three hundred square feet;
- (6) Music and electronic game machines up to a total of four;
- (7) Catering.
- (8) Gasoline retail sales in association with grocery stores

17.23.010 "FR" Festival retail district– Purpose.

The primary purpose of the festival retail district is to combine business, cultural and civic activities into a cohesive community focal point which promotes pedestrian usage. Locations generally are areas not significantly impacted by critical areas and slopes. The district encourages pedestrian-oriented uses such as retail trade uses (excluding certain types of auto-oriented uses), eating and drinking places, hotels and motels, personal service uses, civic and educational uses, and special events (including a farmers' market). Professional offices and residential uses are permitted on upper floors to add vitality to the area and support businesses. Building heights are limited to four stories, but can go up to five stories in the downtown area if the development provides substantial pedestrian-oriented space. Overall commercial and residential densities are limited by height limits, parking requirements, site constraints, market conditions, and design guidelines. Design guidelines encourage pedestrian-oriented site and building design, good pedestrian and vehicular access, pedestrian amenities and open space, parking lot landscaping, and the integration of developments with the natural

environment. Outdoor spaces within these areas should function as social settings for a variety of experiences, adding to the comfort and complexity of life in an village center environment, while maintaining a human scale and an ability for easy pedestrian circulation.