

**CITY OF SAMMAMISH  
CITY COUNCIL AGENDA  
STUDY SESSION  
SEPTEMBER 1, 1999**

**REVISED SEPTEMBER 1, 1999**

**Wednesday, September 1, 1999, 7:30 p.m., City Hall, 482 228<sup>th</sup> Ave. N.E.**

**Call to Order**

- 1. Moratorium Hardship Requests- Action Requested (backup material and committee recommendation available at the meeting)**
  - a) Roger and Helen Jenkin**
  - b) Clifford Cantor**
  - c) Anna-Marta and Richard Birgh**
  - c) Peter Howell**
- 3. Presentations**
  - a) Overview of Tri-County Effort on ESA Issues, Lorin Reinholt, King County**
- 3. Motions**
  - a) Sammamish Watershed Forum Appointment**
  - b) Acting City Manager Apointment**
- 4. Council and Committee Reports**
- 5. City Manager and Staff Reports**
  - a) Discussion of SEPA Agency, Matt Mathes**
- 4. Adjourn**



# Meeting Notice

## *The Land Use and Zoning Committee*

Will meet at

6:00 PM

Wednesday, September 1, 1999

At the

**Sammamish City Offices**

**Conference Room**

Highland Plaza (Safeway) Shopping Center

482 228<sup>th</sup> Avenue NE

## **AGENDA**

1. CALL TO ORDER: by Chair Romero
2. CONSIDERATION OF REQUESTS FOR HARDSHIP EXEMPTIONS to the CITY'S MOROATORIUM ON NEW DEVELOPMENT PERMIT APPLICATIONS:
  - a. Brief description of the process by Mr. Robinson
  - b. Ten-minute presentations by each requestor, followed by Committee questions:
    - i. Roger and Helen Jenkin \*
    - ii. Clifford Cantor \*
    - iii. Anna and Richard Birgh \*
    - iv. Peter Howell \*\*
  - c. Committee Deliberation and Recommendation to City Council on each case.
3. OTHER BUSINESS
4. NEXT MEETING
5. ADJOURN

\* Supporting materials attached

\*\* Supporting materials will be forwarded when available, or brought to the meeting.



## **Summary of Hardship Requests**

to be heard at the September 1, 1999 meetings of the Land Use Committee and City Council

### **Roger and Helen Jenkins**

The Petitioners own property at 907 231<sup>st</sup> Place NE on which they want to build nine apartment units. Apartments are prohibited under the moratorium. Their certificate of water availability expires on September 8, 1999. The Water District denied their request for a second extension (beyond one year).

### **Clifford Cantor**

He lives on three acres at 627 228<sup>th</sup> Avenue SE. He wants to short plat the property into two lots. Short plats are prohibited under the new moratorium. His certificate of water availability expires on November 8, 1999. The Water District denied his request for a second extension (beyond one year).

### **Anna and Richard Birgh**

The couple own six acres surrounding Gem Lake behind their home at 432 228<sup>th</sup> Avenue SE. They want to subdivide the property into six lots. This would be a long plat in the County, but a short plat under the City's interim development code. All plats are prohibited under the new moratorium. Their certificates of water and sewer availability expire on September 17, 1999.

### **Peter Howell**

Mr. Howell and his wife addressed the City Council about their hardship at the August 25, 1999 meeting. In a subsequent phone conversation he has promised to send a letter with details of his circumstances.

## **What the moratorium ordinance says about hardships:**

*Section 5. Hardship. In the event of unusual or unreasonable hardships caused by this moratorium, appeal may be made to the City Council for an exemption from the provisions of the moratorium. The City Council may grant an exemption upon a showing of such unusual or unreasonable hardship. (Ordinance 099-28, adopted August 25, 1999 with an effective date of August 31, 1999)*

**Staff comment:** In the three cases for which we have details, the primary argument for hardship is the permanent loss of the non-refundable portion of the cost of the water certificate that will incur if the owner is unable to exercise their right to use the certificate because of the City's moratorium on development permit applications. Half of the cost of the certificate is refundable.



Kathleen,

The Mayor received the attached notice and letter regarding the Sammamish Watershed Forum. I spoke to the Mayor on Friday and told him you were interested in representing the City on this Forum. He agreed to appoint you on Wednesday night. This can be done by a simple motion of the Council. Ruth will add it to Wednesday night's Council action agenda.

A handwritten signature in black ink, appearing to read "Kelly". The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

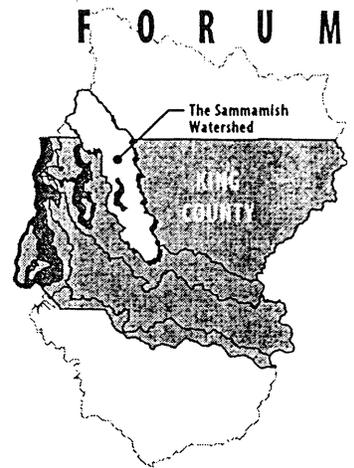
cc: Lee  
Ruth



Rosemarie Ives, Chair, City of Redmond Mayor

Lorin Reinelt, Watershed Coordinator  
700 5th Avenue, Suite 2200  
Seattle, Washington 98104  
206-296-1960  
206-296-0192 fax

RECEIVED  
AUG 30 1999  
BY: *[Signature]*



Participating Jurisdictions:

Bellevue

Bothell

Issaquah

King County

Muckleshoot Indian Tribe

Redmond

Snohomish County

Woodinville

# NOTICE

## SAMMAMISH WATERSHED FORUM

Thursday, September 23, 1999

7:00 - 9:00 PM

Redmond City Hall Lunchroom

Meeting Packets will be sent one week in advance

Questions:

Call Lorin Reinelt at (206) 296-1960



# M A M I S H W A T E R S H E D F O R U M



Rosemarie Ives, Chair, City of Redmond Mayor

Lorin Reinelt, Watershed Coordinator

700 5th Avenue, Suite 2200

Seattle, Washington 98104

206 296-1960

August 24, 1999

206 296-0192 fax

Participating  
Jurisdictions:

The Honorable Phil Dyer  
Mayor, City of Sammamish  
704 - 228th Avenue Northeast  
Sammamish, WA 98053

Dear Mayor Dyer:

I am writing to encourage you to join us and other elected officials of the Sammamish Watershed in addressing the watershed's fish habitat, water quality, and flooding priorities. It will be particularly important to work together regionally to respond to the listing of chinook salmon under the Endangered Species Act (ESA) and to develop funding for implementation of regional projects and programs. The next meeting of the Sammamish Watershed Forum is scheduled for September 23 from 7-9pm at Redmond City Hall.

The Sammamish Watershed Forum has been meeting since Spring 1996 to develop a coordinated approach to fish habitat, water quality, and flood protection issues in the watershed. The watershed includes all areas that drain to Lake Washington via the Sammamish River and extends from Issaquah to Everett. The Forum is an advisory body of elected officials from jurisdictions in the Sammamish Watershed who are working together to protect and restore the water resources in this rapidly growing area of King and Snohomish Counties. It acts as an interjurisdictional advisory body to the various councils that each member represents. The current membership and representatives are as follows:

- Bellevue: vacant
- Bothell: Councilmember Sandy Guinn
- Issaquah: Mayor Ava Frisinger
- Redmond: Mayor Rosemarie Ives (Forum Chair), Councilmember Nancy McCormick, Councilmember Richard Grubb
- Woodinville: Councilmember Barbara Solberg
- King County: Executive Ron Sims, Councilmember Louise Miller, Councilmember Maggi Fimia, Councilmember Jane Hague, Councilmember Brian Derdowski, Councilmember Rob McKenna
- Snohomish County: Executive Robert Drewel (Public Works Director Peter Hahn, Designee)
- Muckleshoot Indian Tribe: Virginia Cross
- King Conservation District (contingent membership): vacant

The Forum is a place where watershed priorities can be identified on an ongoing basis and where the jurisdictions of the Sammamish Watershed coordinate the implementation of programs and projects to address watershed needs. Jurisdictions have successfully cooperated on regional projects and leveraged grant support. In 1997, the Forum developed a prioritized list of projects and programs to address water quality improvement, habitat protection, and flood protection. Three early action efforts initiated in 1998 focused on land acquisition, stream revegetation, and the development of a watershed-wide monitoring and education program.

Bellevue

Bothell

Issaquah

King County

Muckleshoot  
Indian Tribe

Redmond

Snohomish  
County

Woodinville

The Honorable Phil Dyer  
August 24, 1999  
Page 2

Funding from the King Conservation District Assessment has enabled 10 projects and programs to be funded in 1999.

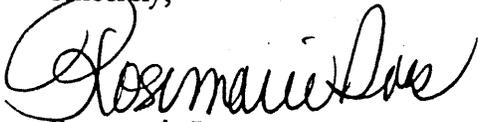
With the listing of chinook salmon under ESA, it is expected that the Forum will be the vehicle for all local jurisdictions to provide input on the development of the Cedar-Sammamish (WRIA 8) watershed conservation plan. Additionally, technical staff from the cities can stay apprised of ESA mandates and the National Marine Fisheries Service 4(d) rule through regular technical staff meetings.

We would like to invite you to become a member of the Sammamish Watershed Forum as we renew the Forum's effort to address important regional issues. If you are unable to participate, we request that you appoint a councilmember to represent the City. It would also be helpful if you could designate a technical staff person to participate in technical committee meetings.

The next Sammamish Forum meeting is scheduled for September 23, 1998 from 7:00 to 9:00 pm at the City Hall in Redmond. The agenda will include discussion of regional funding issues, status of 1999 regional projects, update on WRIA planning and the 4(d) rule status, and future Forum priorities. We hope you or another elected official from your City can attend as we expect to confirm new members at this meeting.

If you have any questions or would like more information about the Forum, please contact Lorin Reinelt, Sammamish Watershed Coordinator, at (206) 296-1960. Thank you for considering this invitation.

Sincerely,



Rosemarie Ives  
Mayor, City of Redmond  
Chair, Sammamish Watershed Forum

RI:pro3

cc: Redmond: Nancy McCormick, Richard Grubb, Jon Spangler  
Woodinville: Barbara Solberg, Deborah Knight  
Lynnwood: Bill Franz  
Brier: Dick Russell  
Mill Creek: Craig Stampher  
Everett: Clair Olivers  
Sammamish: Kelly Robinson  
Snohomish County: Gary Nelson, Joan Lee, Peter Hahn  
Issaquah: Ava Frisinger  
Bothell: Sandy Guinn, Bruce Blackburn, Jeralyn Roetemeyer  
Bellevue: Damon Diessner, Beth Schmoyer  
King County: Ron Sims, Louise Miller, Maggi Fimia, Jane Hague, Brian Derdowski,  
Rob McKenna  
Muckleshoot Indian Tribe: Virginia Cross, Karen Walter

TROY & KATHY:  
HERE IS PETE HOWELL'S  
HARDSHIP REQUEST  
FOR WED. NIGHT MEETING  
KELLY

Pete & Deanna Howell  
1131 244<sup>th</sup> Ave. N.E.  
Redmond, WA 98053

(425) 868-1985 - Home  
(425) 864-7249 - Deanna cell  
(206) 793-5389 - Pete Cell

August 31, 1999

City of Sammamish  
Land Use Council

Dear Council Members,

We would like to ask your assistance in our request for a variance of the new short plat moratorium scheduled to take affect September 1, 1999.

Our property was purchased by Deanna's parents in 1969. Deanna was raised here. We bought it from Deanna's mother in 1988. From the original date of purchase it has always been our intention to short plat and eventually build 2 or 3 houses.

When we connected to the water district supply in 1988 we installed a 2" main line anticipating future development. We had gas service installed in 1990 and once again had a larger main line run and easement granted for future development. In November of 1997 our house burned. Keeping with our thoughts of future development we decided to build a new house further back on our 1.86 acres. The old house is scheduled to be demolished and our new one should be ready for occupancy in approximately 4 to 6 weeks. We have been residing in a travel trailer on the property during construction.

When power was run to the new house we again planned for future development and had a transformer set on the property at an added cost to us. When the perk test was done for our new house drainfield system, we had test holes dug in our anticipated new lot locations.

We have applied to the Sammamish Water District water lottery for the past year. In July we were granted 2 more residential water units. We have paid \$1250.00 to the water district pending final approval and submitting to King County for a short plat approval.

In the 12 years we have resided together on this property, the 7 acre parcel to the south of us was sold to Lake Washington School District and the Boys and Girls Club is being built there. The 40 acres west of us was also purchased by Lake Washington School District is now Inglewood Jr. High School. The 10 acres to our north was short platted last year and is now 5 new homes and 3 existing homes. We believe our small development, (2 new houses) is well within the character of the local area, and would like to request your assistance in helping us secure the necessary permits required to move ahead.

Thank you for your consideration.

Pete & Deanna Howell

Post-it® Fax Note	7671	Date	8-31	# of pages	1
To	ARTHUR H.	From	KELLY		
Co./Dept.		Co.			
Phone #		Phone #			
Fax #	425-392-4690	Fax #			

## Summary of Hardship Requests

to be heard at the September 1, 1999 meetings of the Land Use Committee and City Council

### Roger and Helen Jenkins

The Petitioners own property at 907 231<sup>st</sup> Place NE on which they want to build ~~nine~~ 4 apartment units. Apartments are prohibited under the moratorium. Their certificate of water availability expires on September 8, 1999. The Water District denied their request for a second extension (beyond one year).

### Clifford Cantor

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### Anna and Richard Birgh

The couple own six acres surrounding Gem Lake behind their home at 432 228<sup>th</sup> Avenue SE. They want to subdivide the property into six lots. This would be a long plat in the County, but a short plat under the City's interim development code. All plats are prohibited under the new moratorium. Their certificates of water and sewer availability expire on September 17, 1999.

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## What the moratorium ordinance says about hardships:

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## 2.4. The Lead Agency

For most proposals, one agency is designated as lead agency under SEPA. The lead agency is:

- Responsible for compliance with SEPA procedural requirements.
- Responsible for compiling and assessing information on all the environmental aspects of the proposal for all agencies with jurisdiction.
- The **only** agency responsible for the threshold determination and for the preparation and content of an environmental impact statement when required.<sup>24</sup>

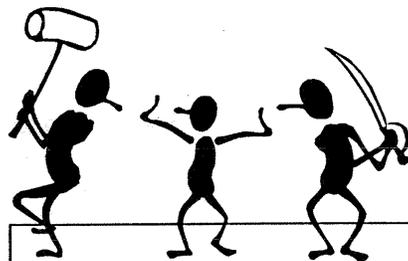
Federal agencies and tribes have no authority under SEPA and cannot be SEPA lead agency. If a federal agency or tribe proposes a project that needs a state or local permit, the federal agency would be considered a private applicant under SEPA and would be responsible for only those steps that are normally required of the applicant.

The responsible official represents the lead agency, and is responsible for ensuring adequate environmental analysis is done and the SEPA procedural requirements are met. The responsible official should be identified within the agency's SEPA procedures, and may be a specific person (such as the planning director or mayor), may vary within an agency depending on the proposal, or may be a group of people (such as an environmental review committee or the city council).

### 2.4.1. Determining Lead Agency

One of the first steps when an application for a new proposal is received is determining who will be the lead agency under SEPA. Usually the agency that receives the first application for a proposal is responsible for determining who is lead agency<sup>25</sup> and notifying them of the proposal. (See sample letter on page 137 for **Notifying Another Agency that They are Lead Agency.**) If the applicant has filled out an environmental checklist, that is sent to the lead agency with the notification letter.

Lead agency status is determined according to WAC 197-11-922 through 948. The first step



If there is a dispute over who shall be lead agency and/or the lead agency cannot be identified, an agency with jurisdiction or the applicant may ask the Department of Ecology for resolution (WAC 197-11-946).

<sup>24</sup> WAC 197-11-050

<sup>25</sup> WAC 197-11-924

in determining the lead agency is defining the total proposal (see page 10) and identifying all necessary permits. The following criteria are listed in the order of priority:

- If the proposal fits any of the criteria described in WAC 197-11-938, “Lead agencies for specific projects,” the agency listed shall be lead.
- If the proponent is a non-federal government agency within Washington State, that agency shall be lead for the proposal<sup>26</sup>.
- For private proposals requiring a license from a city or county, the lead agency is the city or county where the greatest portion of the project is located<sup>27</sup>.
- If a city or county license is not needed, another local agency (for instance a local air authority) that has jurisdiction will be lead.
- If there is no local agency with jurisdiction, one of the state agencies with a license to issue will be lead, based on the priority set in WAC 197-11-936.

#### 2.4.2. Lead Agency Agreements

Any non-federal agency within Washington State may be the lead agency as long as all agencies with jurisdiction agree<sup>28</sup>. The lead agency is not required to have jurisdiction on the proposal.

When the designated lead agency transfers all or part of the lead agency responsibilities to another agency, a “lead agency agreement” is made. Although we recommend that the agencies document the agreement in writing to avoid later confusion, this is not required.

Lead agency agreements can transfer lead agency status, or create co-lead agencies.

Two or more agencies may become “co-lead” agencies if both agencies agree. One of the agencies is named “nominal lead” and is responsible for complying with the procedural requirements of SEPA<sup>29</sup>. All agencies sharing lead agency status are responsible for the completeness and accuracy of the environmental document(s). The written agreement between co-lead agencies, although not required, helps clarify responsibilities, and might typically contain: an outline of each agency’s duties, a statement as to which agency is nominal lead, aspects on

<sup>26</sup> WAC 197-11-926

<sup>27</sup> WAC 197-11-932

<sup>28</sup> WAC 197-11-942

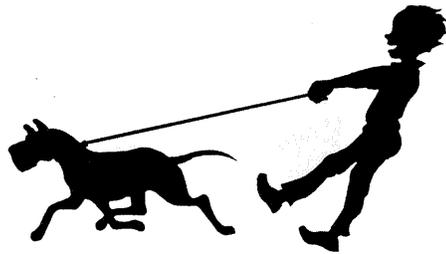
<sup>29</sup> WAC 197-11-944

how disagreements will be resolved, who will hear appeals, and under what circumstances the contract can be dissolved.

Federal agencies may share lead agency status with a state or local agency to produce a combined NEPA/SEPA document. This allows both agencies to have input into the document preparation, saving time and money, and ensuring that the information needed to evaluate the federal, as well as the state and local permits, is included. This also helps ensure necessary and important coordination among agencies and a more unified understanding of the proposal and mitigation. The co-lead agency agreement can be formalized in a written agreement outlining the responsibilities of both agencies for the environmental review process.

### 2.4.3. Transfer of Lead Agency Status

A city with a population under 5,000, or a county with less than 18,000 residents may transfer lead agency status for a private proposal to a state agency that has a license to issue for the project<sup>30</sup>. The city or county must forward the environmental checklist and other relevant information on the proposal to the state agency, along with the notification of transfer of lead agency status. The state agency may not refuse.



If there is more than one state agency with jurisdiction, the order of priority in WAC 197-11-936 is used to determine which state agency will be the new lead agency.

### 2.4.4. Assumption of Lead Agency Status

Assumption of lead agency status occurs when the original lead agency issues a determination of nonsignificance (DNS) and another agency with jurisdiction believes that the proposed project is likely to have significant adverse environmental impacts and that an EIS is needed to evaluate the impacts. After assuming lead agency status, the new lead agency is then required to issue a determination of significance and prepare an environmental impact statement (EIS)<sup>31</sup>.

Any agency with jurisdiction may assume lead agency status during the 14-day comment period on a DNS. If, the lead agency uses the optional DNS process, assumption of lead agency status is made during the comment period on the notice of application. This is the only opportunity for an agency with jurisdiction to

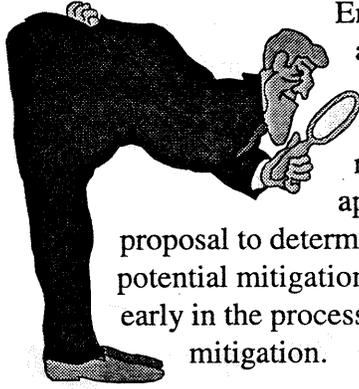
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<sup>30</sup> WAC 197-11-940

<sup>31</sup> WAC 197-11-948

assume lead agency status during the optional DNS process<sup>32</sup>. (See page 83 for additional discussion on the optional DNS process.)

## 2.5. Evaluate the Proposal



Environmental review normally starts with the completion of an environmental checklist. The checklist provides information to the lead agency about the proposal and its probable environmental impacts. It is the lead agency's responsibility to review the environmental checklist, permit application(s), and any additional information available on a proposal to determine any probable significant adverse impacts and identify potential mitigation. Consultations with other agencies, tribes, and the public early in the process can help identify both the potential impacts and possible mitigation.

### Note:

Agencies should be aware of the timing requirements for making a threshold determination:

- Cities and counties planning under GMA must complete project review and issue a notice of decision within 120 days of issuing a notice of completeness. The threshold determination must be issued early enough that the SEPA process (including comment or waiting periods) has been completed prior to issuing the notice of decision. Time needed for an applicant to submit additional information and/or for the preparation of an EIS is not counted in the 120-day time limit. (See section 8. **Local Project Review** on page 76 for additional information.)
- All other state and local agencies must issue a threshold determination (determination of significance or determination of nonsignificance) **within 90 days** of receiving a complete application.

**Mitigation** is the avoidance, minimization, rectification, compensation, reduction, or elimination of adverse impacts. Monitoring and taking appropriate corrective measures is also mitigation.

### 2.5.1. The Environmental Checklist

The environmental checklist is a standard form used by all agencies to obtain information about a proposal. It includes questions about the proposal, its location, possible future activities, and questions about potential impacts of the

<sup>32</sup> WAC 197-11-948