



From the Desk of PSS Section President

Happy New Year – 2005!

Holiday Party 2004

The annual PSS Holiday Party was a great success – kudos to Paul Kraus, President-Elect, for his work in planning the event. Great food and fun to be with friends; the view from World Trade Center across Elliot Bay was grand! During the evening the 2nd Annual Leadership and Service Award was made to Peter Dykstra in gratitude for his continuing leadership on the biennial Planning Law Conferences and years of service on the Board of Directors for the Puget Sound Section. Richard Hart made the presentation and managed to catch Peter totally by surprise!

Planning Law Conference, March 9

The Section committee for the conference has been working hard to choose sessions and speakers which will be valuable to our professional development. Peter Dykstra is leading the effort with outstanding support from Gabe Snedeker, Airyang Julia Park, Hiller West, Paul Kraus, Richard Hart and many others. See the “Save the Date” article on this page for more information. If you would like to volunteer to help on the day of the event, please contact me at Karen@langrock.net.

Nominations

Board positions open for 2005-2006 are President-Elect, Secretary and King County Representative. Please think about serving as a Section Board Member. Elections will be held in the Spring and the terms begin in June 2005. If you have any questions or would like to submit a nomination, please contact me.

Karen Langrock
President, Puget Sound Section
WA-APA

Save the Date: 2005 Planning Law Conference, March 9, 2005

It's back and bigger and better than ever. The 2005 Planning Law Conference will be held on Wednesday, March 9, 2005 at the Meydenbauer Center at 11100 NE 6th Street in Bellevue, WA. This is the premier educational event for the Puget Sound Section and is not to be missed. The tentative program schedule includes the following sessions:

- Growth Management Hearings Board Update
- Planning Case Law Update
- A Bright Line? Four Units per Acre and Reasonable Measures
- The Impacts of Oregon's Measure 37 and the Implications for Washington

- The Role of Land Conservation Organizations in Meeting GMA Goals
- The City as Developer: Leveraging Public/Private Partnerships
- Best Available Science and the Critical Area Ordinance Update
- Hearing Examiners Do's and Don'ts
- Appearance of Fairness, Conflict of Interest, and Other Sticky Issues
- Transportation Concurrency: The Messy Details of GMA
- Annexation Update
- Planning for Essential Public Facilities

This is your opportunity to get the lowdown on the most important planning law issues from lawyers, planners and other knowledgeable professionals.

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2005 Planning Law Conference, Continued

As always, this event will feature high quality and abundant food and ample time for catching up with your fellow planners. We are pleased to announce that the Keynote Address will be given by King County Councilman Dow Constantine.



Dow Constantine

Planning Law Conference Keynote Speaker

Registration forms will be emailed and snail mailed to all Washington Chapter APA members in mid January. Cost for the conference is \$99.

Just think how much money your organization will save by attending this conference compared to a law seminar or a private consultation.

Special thanks to our sponsors who allow us to make this event happen:

- Buck and Gordon
- Cairncross and Hempelmann,
- Foster Pepper and Shefelman
- Preston Gates and Ellis
- Stoel Rives
- Pierce County Planning and Land Services

Please contact Gabe Snedeker (206.236.3654) or Karen Langrock (206.226.3491) for more information. We look forward to seeing you March 9th!

FALL 2004 BROWN BAG SERIES RECAPS

Vision 2020 Update
10/20/04

Executive Director Bob Drewell presented PSRC's Vision 2030 update, Destination 2030 (their "transportation element"), and the Prosperity Partnership, a new economic development initiative seeking greater economic diversity in such sectors as life-science and information technology. PSRC provides its members with a wealth of demographic, transportation, and development data. New to this job, Mr. Drewell promises a PSRC known for high-quality analysis and strong regional team-playing.

Media Relations for Planners
11/3/04

Public opinion is the power in a democracy, and Barbara Smith of Harris & Smith Public Affairs is a seasoned manager of public opinion. This former reporter views reporters as basically lazy and easily swayed by having facts conveniently laid out before them. Barbara advises to keep a steady stream of information on your

agency's works flowing to your news coverers. Take control of interviews. Talk when you're ready. Ask who else they are talking to. Suggest the information they don't ask for. Call back the next day to verify they got it. Above all, integrate communications into your overall planning, and don't limit yourself to the conventional public hearing.

Designing the Seattle Monorail Green Line
11/10/04

The Seattle Monorail Project is the single-asset agency tasked with implementing the monorail. With another electoral challenge recently weathered, and good progress this past year, the SMP staff is stoked. First comes the Green Line: 14 miles long (West Seattle to Crown Hill), carrying 69,000 passengers per day, to open in 2009, dislocating only 42 homes and businesses. Consultants have performed preliminary engineering sufficient to turn the project over to a design-build-operate-maintain contractor. The RFP was a 12-foot-long shelf of documents. One proposal has been submitted, by the Cascadia Monorail Company. The monorail's structural components will double as sculpture. Co-development opportunities will be sought around the 19 stations. The monorail is designed to be self-supporting by 2020.

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New brownfields law comes with big changes

Developers get enhanced federal liability protection

By CHUCK WOLFE
Foster Pepper & Shefelman

The following article has been reprinted with permission from the Daily Journal of Commerce.

On Dec. 20, 2001, both the United States House and Senate passed H.R. 2869, the Small Business Liability Relief and Brownfields Revitalization Act of 2001. President Bush signed the bill into law on Jan. 11.

The bill represents the most significant changes to the federal cleanup law since the 1986 Superfund Amendments and Reauthorization Act, and reflects years of effort to achieve legislative amendments.

The new law was endorsed by many major real estate and local governmental groups, supports the continued use of state voluntary cleanup programs and provides additional federal grant monies to address the contamination of brownfields sites.

Enhanced Brownfields Revitalization Grant Funds and State Response Program Grant provisions double congressional funding of brownfields grants and provide new monies for

qualifying state or tribal cleanup programs.

More specifically, the new law provides enhanced federal liability protection for developers of brownfields sites:

- Prospective purchase protection: Purchasers of contaminated properties are protected from federal Superfund liability, even if they knew about the contamination at the time of purchase. In order to obtain this protection, property owners must allow access to and cooperate with regulators as well as exercise care in dealing with the prior releases.

Although the government cannot recover remediation costs from these purchasers, a lien may be recorded on the property if its unrecovered cleanup costs resulted in an increase of the property's market value.

Because petroleum-derived contamination is exempted from the federal cleanup law, the new protection may have limited applicability locally. Such contamination is considered a "hazardous substance" under Washington's Model Toxics Control Act, which covers most of the brownfields sites in the state. Washington law retains "reopeners," which allows the state Department of Ecology to require prospective purchasers to clean up property at a later date if changed conditions so warrant.

- Innocent landowner protection: The new law clarifies that until the United States Environmental Protection Agency (EPA) promulgates required regulations by January 2004, compliance with the American Society for Testing and Materials (ASTM) due diligence standard meets the "all appropriate inquiry" standard to establish an innocent landowner defense for non-residential property. If a purchaser complies with the ASTM standard and finds no contamination, a liability defense would exist if contamination is subsequently discovered.

- Contiguous property owner protection: The new law provides protection for property owners from liability for contamination that migrated from a property under separate ownership. This protection already exists under Washington's cleanup law.

- Strengthens support for state VCPs: The new law protects the property owner from federal enforcement action at the time of a release only when the owner cleans up the property under a state voluntary cleanup program (VCP). This protection would only be extended to eligible properties that have not been currently designated for cleanup under a federal program.

In rare and limited cases, such as where contamination is migrating across state lines, where the release or threatened



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Topic	Time	Place	Great speakers!
Seattle's Center City Access Strategy Our freeways, buses, monorail, and transit all converge Downtown. Learn about the City's new analytical framework for maximizing people and goods access to and around Seattle's Center City.	Noon, Wed., Feb. 2	Seattle City Hall: Bertha Landes Rm, 600 4th Ave. (entrance on 5th Ave)	- Ann Sutphin, Senior Transportation Planner, Seattle DOT - Jemae Hoffman, Mobility Manager, Seattle DOT
Countywide Planning Policies What is their purpose? Who's in charge of them? How have they changed? How can they be improved? Get the answers as they apply to King, Snohomish, and Pierce Counties.	Noon, Wed., Feb. 9	Bellevue City Council Chambers, 11511 Main St.	- Rob Odle, City of Redmond - Paul Reitenbach, King County - Mary Lynne Evans, Snohomish County - Deborah Johnson, City of Lakewood
The Best of Town Centers Learn from your colleagues' successes while gaining inspiration from presentations of grand new projects in: - Mercer Island Town Center - Mill Creek Town Center - Redmond Town Center	Noon, Wed. Feb. 16	Mercer Island City Hall, 9611 SE 36th St.	- Richard Hart, Comm. Dev. Director, City of Mercer Island - Bill Trimm, Comm. Dev. Director, City of Mill Creek - Amy Tarce, Senior Planner, City of Redmond
Lessons Learned From Oregon's New Takings Law (Measure 37) What led up to Measure 37? What are its impacts? Should owners receive compensation when regulations lower property values? How should planners respond to the question of equity? What should APA's position be?	Noon, Wed., Feb. 23	Renton City Hall, 7th floor, 1055 S. Grady Way	- Leonard Bauer, Growth Management Director, CTED - Carolyn Lake, Goodstein Law Group - Rich Carson, Comm. Devel. Director, Clark County - Tim Trohimovich, Thousand Friends of Washington
Planning Documents that SPARKLE! Is your agency's biggest weakness its inability to appeal to a general audience? Learn how to write and lay out attractive, reader-friendly technical documents, borrowing from the fields of marketing and communications.	Noon, Wed., Mar. 2	Renton City Hall, 7th floor, 1055 S. Grady Way	- Linda Amato, The Resource Group - Stephanie Miller, Parametrix - Rebecca Lind, Planning Manager, City of Renton - Bob Leedy, Bonney Lake Comm. Development Director

Brownfields, Continued from Page 2

release poses an imminent or substantial endangerment environment of public health, and where the EPA determines that there is new information, the federal government could take an enforcement action against an owner who completes a cleanup under a state VCP.

The new law also reforms historic Superfund liability to exempt from liability three classes of smaller parties who Congress felt had been unfairly subject to strict, joint and several liability over the years. The three classes include small quantity "de micromis" contributors of hazardous substances, certain generators of small quantities of municipal solid waste and contiguous property owners as described above.

The new law is unclear and regulators and affected parties alike are in the process of understanding implementation details.

As noted above, state cleanup programs will still control many cleanup efforts, without the level of protection now provided by the federal government. Nonetheless, the new law provides a sea of change in the governmental approach to contaminated properties that may create a significant impact for years to come.

For more information on the new law, consult EPA's resources at www.epa.gov/swerosps/bf/index.html.

Chuck Wolfe chairs the Environmental Practice Group at Foster Pepper & Shefelman PLLC. He is also chair of the Environmental and Land Use Section of the Washington State Bar Association, and chair of the APA Planning & Law Division

Fall 2004 Brown Bag Recaps - Continued from Page 2

The New Manufactured Home Law

11/17/04

Executive Director Joan Brown described the Washington Manufactured Housing Association's 20-year struggle against discrimination. That struggle paid off last session with a law that requires local governments (LGs) to permit manufactured homes in all single-family zones. LGs can require pitched roofs, wood siding, concrete block foundation, reasonable width-to-length proportions, etc., but they must apply the same standards to stick-built homes. LGs can also require that new installations be new manufactured homes. Subdividers can still prohibit manufactured homes via covenants. Michael Davolio advised attendees not to buy into the paranoia about new manufactured homes bringing down the values of existing stick-built homes. Manufactured homes are build to "different but equal" construction codes, can be remodeled and added on to, and all else being equal appreciate in value as much as stick-built homes. They can include luxury features and even take the form of two-story townhouses. Terry Ramschauer of the Washington State Manufactured Housing Office described her agency's consumer protection programs for home owners and mobile home park dwellers. Contact Joan at (360) 357-5650 for help with code language or for a presentation to your city council.

Critical Area Ordinances (CAOs) for Small Cities

11/23/04

Patricia Love explained how the City of Mukilteo analyzed how many City lots the alternative wetland and stream buffer widths impacted. They arrived at a compromise that minimizes the number of affected lots yet follows best available science, noting that DOE's recommended buffer widths may not be appropriate in urban settings. Hiller West of Monroe told how the Tulalip Tribe initially appealed their CAO, so they started over with extensive agency consultation and adopted a new ordinance which no one appealed. Eric Stockdale present the DOE's Alternative 3 for determining freshwater wetland buffers, wherein adjacent land use intensity and the specific wetland functions (habitat, water quality, and hydrology) are considered, in addition to wetland category. Pierce County and King County recently adopted Alternative 3.

Planning and Energy Policy

12/1/04

Anindita Mitra of CREA Affiliates and Tim Stearns of the WA State Energy Office outlined planning's many interdependencies on energy policy. Washington relies largely on hydro, which is clean and cheap, but no new dams are being built so it can't serve new growth. The Puget Sound region is not well suited for wind power and solar generation is expensive. Fortunately, we are making progress in conservation such as in the new building codes, and renewable energy sources now make up 10% of the national total. Planners need to consider the many facets of energy policy when making community plans.



**Puget Sound Section
Washington Chapter**

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For story ideas or suggestions please contact Michelle Whitfield, Newsletter Editor at mmwhitfield@hotmail.com or 206- 934-6121. Article Submittal Deadlines are March 15, June 15, September 15, and December 15.