



BOARD of CLALLAM COUNTY COMMISSIONERS

MINUTES for the week of May 22-26, 2023

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WORK SESSION – 9 a.m.

The work session convened at 9 a.m., Monday, May 22, 2023. Present were Commissioners Johnson and French and Deputy Administrator Reyes. Commissioner Ozias and Administrator Sill were excused.

Items of discussion per the agenda published May 18 were:

- Calendar/Correspondence
- Agreement amendment 12 with Department of Health for Infectious Disease Prevention Services-SSP, Injury & Violence Prevention Overdose Data to Action, Office of Immunization COVID-19 Vaccine, OSS LMP Implementation, and Zoonotic Disease Program
- Contract Amendment A with Washington State Department of Commerce for Multi-Jurisdictional Gang-Drug Task Force
- Discussion regarding a proposed Beer Garden at the Clallam County Fair
- Call for hearing to be held Tuesday, June 27 at 10:30 a.m. regarding a proposed vacation of a portion of Hermison Road
- Agreement amendment 11 with Shannon & Wilson, Inc. for Lower Dungeness River Floodplain Project
- Discussion regarding draft ordinance amendment to repeal and replace Title 33, Zoning, Chapter 33.53 Landscape and Lighting Requirements
- Resolution reappointing David Colthorp and Lawrence Dempsey to the Port Crescent Pioneer Cemetery Advisory Board

Meeting concluded at 10:27 a.m.

REGULAR MEETING OF THE BOARD OF CLALLAM COUNTY COMMISSIONERS

Vice Chair Johnson called the meeting to order at 10 a.m., Tuesday, May 23, 2023. Also present were Commissioner French and Deputy Administrator Reyes. Commissioner Ozias and Administrator Sill were excused.

REQUEST FOR MODIFICATIONS/APPROVAL OF AGENDA

ACTION TAKEN: CMFm to adopt the agenda as presented, CRJs, mc

PUBLIC COMMENT

- Ed Telenick, Sequim, commented on Administrator Sill, Board of Equalization (see attached)
- Jim Oliver, commented on Power Plant and TCB 23 – Elwha River
- Ed Bowen, Clallam Bay, commented on Dungeness River Levee Project, MMGY NextFactor, Port Angeles Chamber, Hurricane Ridge, Peninsula Behavioral Health Annual Gala

CONSENT AGENDA

1a Approval of vouchers for the week of May 15

1b Approval of minutes for the week of May 15

ACTION TAKEN: CMFm to adopt the consent agenda as presented, CRJs, mc

REPORTS AND PRESENTATIONS

- CMF commented on County Administrator position, Clallam Bay Sekiu Sewer Project
- CRJ commented on Healthy Youth Coalition, workforce training

CONTRACTS AND AGREEMENTS

2a Agreement amendment 2 with Black Diamond Water District for American Rescue Plan Act ARPA funds

ACTION TAKEN: CMFm to approve, CRJs, mc

2b Agreement with Hoch Constructions, Inc., for Clallam County EV Charging Station Project

ACTION TAKEN: CMFm to approve, CRJs, mc

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2c Agreement with City of Forks regarding Shoreline Management Plan permits within the city limits
ACTION TAKEN: CMFm to approve, CRJs, mc

2d Agreement with State of Washington County Road Administration Board for the road improvements to Edgewood Drive between Reddick and Rife Roads
ACTION TAKEN: CMFm to approve, CRJs, mc

ADMINISTRATION

3a Call for bids to be received no later than Tuesday, June 13, 2023 at 10 a.m. regarding Clallam County Landscape Improvements Project
ACTION TAKEN: CMFm to issue notice, CRJs, mc

3b Resolution appointing Michael E. McAleer to the Board of Equalization
ACTION TAKEN: CMFm to adopt, CRJs, mc

PUBLIC COMMENT

- Ed Bowen, Clallam Bay, commented on Wild Olympics and Wilderness Act
- Kenneth Reandeau, commented on Clallam Bay Sekiu Sewer Ordinance, Clallam County Fair Beer Garden

HEARING(S)

H1 Resolution authorizing the sale of surplus property

- Elizabeth Waknitz, Sheriff's Office provided a staff report

ACTION TAKEN: CMFm to open the public hearing, CRJs, mc

- CRJ noted no one provided testimony

ACTION TAKEN: CMFm to close the public hearing and adopt, CRJs, mc

PUBLIC COMMENT

- Nina Sarmiento, Port Angeles, commented on Power Plant and TCB 23 – Elwha River
- Ed Telenick, Sequim, commented on items the Board of Commissioners support, Power Plant and TCB 23 – Elwha River

The meeting concluded at 10:42 a.m. and continued to 9 a.m., Tuesday, May 30, 2023.

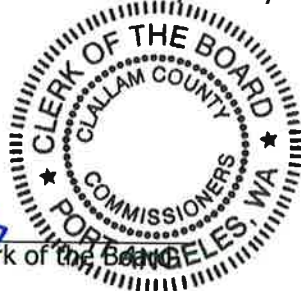
There are no Zoom chat logs for the week of May 22.

The Board of Commissioners attended WSAC Virtual update and Coffee with Colleen during the week of May 22.

PASSED AND ADOPTED this 30th day of May 2023.

ATTEST:


Lori Gores, MMC, Clerk of the Board



BOARD OF CLALLAM COUNTY COMMISSIONERS


Mark Ozias


Randall Johnson


Mike French

KEY TO ABBREVIATIONS:

ARS Administrator Rich Sill
CMO Commissioner Mark Ozias
CRJ Commissioner Randy Johnson
CMF Commissioner Mike French

m moved
mc motion carried
s seconded

Submitted to public record May 23, 2023
Response to Dept. of Revenue regarding concerns as to how
Board of Equalization process was conducted

From: Ed telenick

Sent: Saturday, May 20, 2023 9:46 AM

To: Westenhiser, Jessica (DOR)

Cc: RikkiB@dor.wa.gov; Commissioners@ClallamCountyWA.gov; MichaelB@dor.wa.gov

Subject: RE: Concerns regarding Clallam County BOE

Ed telenick
Public Comment
5/23/23

Good morning Jessica and thanks for such a quick follow up.

Overall I'm pretty disappointed that your response did not substantively address my concerns. It seems more like an "official response" than a good faith effort to really look into what I presented.

Anyway, I tried to call and discuss the issue in a bit more detail (and left a message) but I also added content to your response by including information that I've highlighted in red.

I realize that some of these concerns were part of my original letter but feel it's important to add correction, clarification and context to your responses for the record.

Thanks,
Ed

Sent from [Mail](#) for Windows

From: [Westenhiser, Jessica \(DOR\)](#)

Sent: Friday, May 19, 2023 8:13 AM

To: [Ed telenick](#)

Subject: RE: Concerns regarding Clallam County BOE

Dear Mr. Telenick,

Thank you for your May 15, 2023, inquiry to the Department of Revenue (Department) regarding the Clallam Board of Equalization (Board). In your email, you expressed several concerns regarding how the Board operates and included a letter you sent to the Board of County Commissioners (BOCC). I am writing to address these concerns and explain applicable laws and rules.

Formation of the County Board of Equalization

The BOCC must form a board for the equalization of the assessment of the property of the county. The Board must consist of at least three members and if a Board cannot be appointed the BOCC may itself constitute the Board at its discretion ([RCW 84.48.010](#), [84.48.014](#)).

When the third member of the Board resigned, the Clerk of the Board (Clerk) contacted the Department and was provided the following guidance:

The Clerks should have been aware of the resignation of Mr. Filip on March 29th as I also heard this discussion while observing the Hearing on Zoom (which is how I knew it occurred). Although that part of the video was subsequently edited out of the Granicus recording, there is a brief reference to it on the video within the first minute of the recording that remains audible (for now).

I had spoken to two Clerks of the BOCC after the March 29th meeting, citing my concerns about what I overheard. I was told by both Clerks that they had checked and were following protocol because they had

a quorum. I do not know who told them that. I printed and provided a copy of the WAC to the remaining BOE Board members at the end of the April 5th Hearing without comment.

I was frustrated that no one seemed to take my concerns seriously and reached out directly to Rikki B. on April 7th because I felt it was going to create legal problems for the County down the road, as the resignation wasn't disclosed to the public at either the March 29th or April 5th Hearings. Ironically it was on the County's own website where I discovered the relevant WAC that was not being followed.

I believe it was the DOR who reached out to the County and told them they were not following the WAC after my phone call; not the other way around.. By the following Monday it was added as an agenda item for the Commissioners work session and they were informed they were the new acting BOE. It generated confusion and elicited considerable discussion among them. That discussion is available online under their work session archive for April 10th? I believe.

1. The BOCC could start the process of appointing a third member. During the interim, the county could not hold any hearings or render decisions until a full Board was appointed, resulting in a delay for taxpayers in their appeal process.

The BOCC could assume the position of the Board and choose to employ the two previous "Board" members as hearing examiners ([WAC 458-14-136](#)). As no decisions were rendered, **false!!** the previous hearings would not need to be rescheduled. Acting as hearing examiners they would need to present **all not done** evidence submitted by the parties at the previous hearings to the Board for review and a final determination.

Final decisions WERE rendered for each of the Board meetings held between March 29-April 12th Hearings. You can look at the Minutes for the March 29th and April 5th Hearings and see that. Also, the County had started a practice at the end of each recording session where the last few minutes of each Hearing date was dedicated to reading the "rendered" Board decisions into the record for that day.

They had done the same thing for the April 12th Hearing initially, but somehow a second recording was created and subsequently lost due to an equipment malfunction. It currently requires a FOIA request to obtain that recording in a different format (which I have not listened to.) I don't believe this was an equipment malfunction as I had already viewed the video portion of the ENTIRE Hearing and knew it existed as a single video, albeit without audio.

Additionally, I believe they modified the signed April 12th Board's determinations in their minutes to correspond with the May 8th BOCC Special Session dates, but as I never made copies of those minutes at the time it's difficult to prove. Looking at the previous Hearings that were done prior to March 29th when there was a full board, you can see that it was typical to sign those decisions the same day of the Hearing. This was usually done by Chelsea Millar. You can also see in the "revised" determinations that Rachael Weed signed. They were dated to reflect the change. I believe they forgot to go back and correct the other two dates (March 29th and April 5th) which I encourage you to do before they are also changed.

I believe this needs to be looked into as it is really far more consequential than the initial error they made in proceeding without the full three member Board.

What I am talking about is far more significant than the simple problem of admitting an honest mistake and doing the right thing by allowing the petitioners the chance to appear

before the “new” BOCC Board once Mr. Filip resigned. At what point does an error of omission become an error of commission and constitute a cover up?

The BOCC decided to become the Board until a third member could be appointed and employed the two previous board members as hearing examiners. The Board held two special meetings on [May 1](#) and [8](#), 2023, to discuss the recommendations from the hearing examiners and render their final determinations. During this process, the Board may make its final determination based on the record submitted by the hearing examiner or choose to request further testimony or documentation before making its final determination.

The two Hearings you referenced provide clear evidence that the Commissioners DID have additional questions, but there were no Hearings Examiners (aka Board members) to ask as they were not in attendance, so they chose the expedient route, which was to rubber stamp the HE determinations. Did you view them?? They are archived along with the individual petitions and the “HE’s” ?? cursory written comments.

Also, for the record, there was not a second HE present for the April 26th Hearing. He was traveling out of state and did not attend that Hearing by Zoom. Mr. Gibbs was the sole HE that week (this probably met the new criteria as there was no requirement for a quorum in his role as a HE as far as I can tell, but should be noted).

It’s sad (and telling) that the new BOE chose to allow the one or two members to continue as Hearings Examiners but did not actually attend those meetings themselves. The BOE did nothing to alter the process once they knew the Commissioners had become the de facto Board, despite knowing there were still Hearings scheduled for April 19th and April 26th. It was an opportunity to correct at least part of the mess and would have given those petitioners an opportunity to be heard in real time; as the process is intended to do.

Of course the Department also has the authority to make the Board reconvene, but no mention was made of that and it will likely never be done.

The Commissioner’s also reviewed the March 29th and April 5th cases again during their special meetings held on May 1st and May 8th, 2023 because the County knew that those hearings did not meet the statutory requirements as early as March 29th. A quick look at the minutes will show you that the Clerks forgot to go back and change the dates in their decisions for the March 29th and April 5th Hearings to coincide with those from April 12th forward. You can see that up until that point Chelsea Millar signed the Boards “renderings” the same day or shortly thereafter, up until they realized they needed to fix their mess. From that point forward Rachael Weed signed the docs to reflect the new BOCC decision dates as Chelsea Millar was nearing a leave for maternity and Ms. Weed had taken over as the Clerk of the BOE at that time. I want to make it clear that I do not believe either Clerk was behind this entire process individually, but got caught up into it and were put in a difficult position. Both were relatively new to their roles and were likely doing what they were told to do by someone else, but that is only speculation.

The reality is that it doesn’t really matter because I don’t believe there was ever an intent for a good faith effort to give petitioners a fair Hearing, even when there were three Board members. I’m disappointed this was not more thoroughly investigated and that your response was so generic.

Board of Equalization

You've expressed concerns the Board is not providing a fair and impartial forum for taxpayers to appeal their property tax valuations and the relationship between the Board and Clallam County Assessor's Office (Assessor). Your letter referred to the Board being admonished in 2020 by the Department, for practices involving document forwarding to the Assessor and the appearance of impropriety.

In the [2020 Review of Clallam County](#), the Department found the Board was forwarding copies of taxpayer evidence to the Assessor. In response to the 2020 review, the Board discontinued their practice of forwarding additional evidence. Currently, when a petitioner submits additional evidence, taxpayers are sent correspondence reminding them of the requirement to serve all evidence on the Assessor. The Department confirmed the Board had implemented the new practice in its [County Follow-up Review](#) on August 24, 2021.

My point in bringing this issue up was not to call out the perception of unfairness in forwarding documents (which I knew was already addressed in the audit and follow up) but the continued appearance of impropriety in the relationship between the Board and Assessor's office, two years after it was supposed to be corrected.

In addition, the Department instructed the Board that even cordial conversations between board members and Assessor staff may be perceived as inappropriate and should be discontinued. The Clerk was advised to ensure the Board avoid such conversations with the Assessor's office due to an appearance of impropriety. The Board is independent of the Assessor's Office and should reflect this independence in their actions as it promotes taxpayer confidence that all appeals are given fair and equitable consideration.

This was, and remains my primary concern that this Board displayed during the 2023 Hearing dates. I provided you with only one example of the discussions I overheard, but had you listened to other videos I'm certain you would have heard more. Had you attended any of these meetings in person it would be even more clear that inappropriate conversations were happening off camera. As a matter of fact, there are several examples when the recorder is still on that the Board Chairman or Assessor's office Staff can be overheard asking if cameras were turned off so they could continue their discussions. Even a cursory audit of these recordings would support my claims.

At this point I have ZERO confidence that tax appeals are given a fair and equitable consideration by an independent Board in this County, irrespective of appearances; and I am left wondering if it will be any different at the State level?

Department of Revenue's Oversight Authority

The Department has statutory authority ([RCW 84.08.010](#)) to exercise general supervision and oversight over the administration of state property tax laws and rules. In our oversight role, we oversee the processes and practices of county assessors, treasurers, and boards of equalization to ensure that laws and rules regarding property tax administration are followed. In exercising our oversight responsibilities, the Department focuses on the overall practices used by the county to ensure there are no systemic problems.

I do believe there are systemic problems in Clallam County that are not limited to this Board or the Assessor's office but they are out of your purview. As a starting point perhaps the DOR should contact the alternate member who resigned last year, contact random petitioners for their take on things, or look into why it has been so difficult to recruit new Board members. Apparently, there are also two current lawsuits that the Assessor's office is involved with for previous tax years that could shed a light on what is happening.

You requested the Department review the practices of the Board to evaluate if they're serving their intended function. The Department conducts robust county reviews to ensure laws and rules regarding property tax administration are followed. These include a comprehensive review of the processes and practices of county assessors, treasurers, and boards of equalizations. The results of these reviews are published on the Department's [website](#). The Board was last reviewed by the Department in 2020 and is scheduled to be reviewed again in 2025.

I AM aware of this review, which is why I mentioned it in my letter to the DOR in the first place! The DOR is also aware of the issues regarding Interfor LLC and P.A.Hardwoods because they actually provided testimony on behalf of the Assessor's office for those Equalization Hearings; so I know their involvement is not just limited to an audit every five years.

Citizens are currently paying for the County to retain outside tax attorneys in those cases (for previous tax years) with those same tax dollars that are being extracted from us in the form of property taxes. The year's Equalization fiasco will undoubtedly create future problems for the County because both of those companies (along with others) were part of the April 19th and 26th Hearings.

What are those of us who don't have the resources to hire attorneys to fight for fair equalization of our taxes supposed to do; and how in the world does waiting two more years to conduct your next review ensure that laws and rules are being followed today?

I had really hoped that my concerns would generate more than just a canned response. I had a glimmer of hope that the DOR was actually going to be helpful, especially after seeing how the County responded to whatever was said after my call to Rikki on April 7th, but this letter makes it clear that this is just one more bureaucracy designed to create the illusion of fairness.

You shared concerns regarding a conversation between the Appraiser and petitioner regarding revaluing bluff properties. The Department does not generally become involved with the valuation of individual properties and does not have jurisdiction with respect to the outcome of individual appeals. If either party to an appeal is dissatisfied with the result, they may appeal the BOE's decision to the Washington Board of Tax Appeals.

Once again, my point was not related to any specific case. I shared the bluff example, not because I believe the Department should become involved in individual cases, but because I thought it was an example of an inappropriate and accessible conversation that could influence Board members independent decision making. If you listen to most of the meetings you will see that this specific example was probably unnecessary; as the Chairman of the BOE had essentially served as a spokesman for the Assessors office on a weekly basis since the very first Hearing..

I had also referenced the following case for that same Hearing (Pepin), who overheard a conversation between hearings and specifically requested that the record reflect his concerns. Again, this is an individual case, but listening to his testimony and looking at the written final Determination of the BOE you can easily verify that his concerns weren't addressed as part of the record.. My point in referencing this case was twofold. First, the petitioner overheard conversations between meetings when cameras were turned off (much as I had every week) and second; he specifically requested that his concerns be noted for the record. How could the Commissioners possibly give petitioners a fair determination with limited, missing and in some cases false data? Again, I referenced this petition because it provided a clear example of how things were being conducted and was easily accessible for review- not because I expected the DOR to rule on it.

I have looked at the degree to which the first and second Board (there isn't really a difference) sustained valuations (or agreed with the stipulated values) this year and how everything seemed to be rubber stamped in alignment with the Assessors, almost as if predetermined. Those statistics are included in my letter to the Commissioners.

I have not gone back to look at prior years to see if the overwhelming percentage of sustained or agreement to stipulations offered by the Assessor is an anomaly, or is in alignment with other Counties determinations, but I would hope that the DOR is doing that in order to identify patterns or potential problems.

After reading this letter I am left with serious questions as to how appealing a decision to the State is going to be any different than what I observed at the local level?

Public Access to Recordings

Public agencies are encouraged to make an audio or video recording of all regular meetings of its governing body and make recordings available online. As you stated, the county has recently installed a new recording system and has experienced technical issues during the transition. The county is providing the public with notice of the system issues and is provided a mechanism for the public records to be made available upon request ().

Again, I am fully aware of the problems associated with the new system and have given that possibility a fair degree of grace, as I stated. That is not what I am observing here.

In addition to the convenient malfunction, I was paying close attention to the time stamps for those hearings because it seemed like these decisions were “done deals” prior to the Hearings. While the Board was already familiar with the petitioners submissions in advance, the information some of the petitioners provided at their hearings made for compelling arguments that seemed relevant. Yet in some cases the ensuing deliberations for an entire session was over in minutes.

Of course the public was rightly excluded from those deliberations. In fairness to the Board, there were occasional opportunities between Hearings where the cameras were turned off when the Clerks and myself were asked to leave so they could deliberate, but that was not the norm. Given the rapidity and almost universal agreement with the Assessors decisions, I had become skeptical that fair and impartial Hearings were being conducted early on in the season. The entire process seemed like a formality for decisions that had already been predetermined. Once I witnessed what happened after the resignation, I became fully convinced that this whole thing is really just for show.

Your letter only served to reinforce my suspicions that this is the case.

We hope this information was helpful in explaining the specific statutory and administrative requirements applicable to your concerns. If you have additional questions, please contact me directly at (360) 534-1380 or JessicaW2@dor.wa.gov.

As I stated, I very much appreciated your quick response. Compared to our local Government’s general lack of responsiveness it was a huge surprise. I am happy to provide clarification on anything I may have said that was confusing and apologize if I have misinterpreted anything your response; but in all honesty I am now left with the feeling that our appeal to the State is also going to end up as a wasted effort and nothing will change in Clallam County..

Jessica Westenhiser

Appeals and Levies Specialist | County Performance and Administration, Property Tax Division

(360) 534-1383 | F (360) 534-1380 | JessicaW2@dor.wa.gov
Washington State Department of Revenue | dor.wa.gov

6400 Linderson Way SW | Tumwater, WA 98501
PO Box 47471 | Olympia, WA 98504-7454 (mailing address)

From: Ed telenick <e.telenick@hotmail.com>
Sent: Tuesday, May 16, 2023 7:26 AM
To: Westenhiser, Jessica (DOR) <JessicaW2@DOR.WA.GOV>
Subject: Re: Concerns regarding Clallam County BOE

External Email

Thanks so much for your quick response!!!!
Hopefully you can review the April 12 BOE hearing as well as the May 1st and 8th BOCC Special sessions. They aren't the only troubling conversations I heard but give some insights into how things went. If I can provide any more info please don't hesitate to call me at 360 683-1529
Cheers,
Ed

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From: Westenhiser, Jessica (DOR) <JessicaW2@DOR.WA.GOV>
Sent: Tuesday, May 16, 2023 7:10:37 AM
To: Ed telenick <e.telenick@hotmail.com>
Subject: RE: Concerns regarding Clallam County BOE

Good morning,

I am in receipt of your email and am reviewing it now. I hope to have a response to you by the end of the week.

Thank you for your patience,

Jessica Westenhiser

Appeals and Levies Specialist | County Performance and Administration, Property Tax Division
(360) 534-1383 | F (360) 534-1380 | JessicaW2@dor.wa.gov
Washington State Department of Revenue | dor.wa.gov

6400 Linderson Way SW | Tumwater, WA 98501
PO Box 47471 | Olympia, WA 98504-7454 (mailing address)