

Moore-Love, Karla

From: Nancy Newell [ogec2@hotmail.com]

Sent: Tuesday, January 10, 2012 10:45 AM

To: Moore-Love, Karla; Nancy Newell

Subject: Request to speak at January 18 City Council meeting --- Subject: discontinuance of permit process by PWB in Clackamas County concerning Bull Run Water project

My name is Nancy Newell, address is 3917 N.E. Skidmore Street Portland, OR 97211, phone number is 503-288-3986.

Subject: Council Meeting of January 18, 2011 request to speak

Topic: I will speak to the Council about my request to Clackamas County that the hearings officer should be removed from oversight on the application for the conditional use permits applied for by the Portland Water Bureau. I have previously sent copies to the City Clerk who has distributed copies to all Council members including the Mayor and have received no response from any of the Council or City legal representative or the PWB. The City Council should inform the PWB Councilman, Randy Leonard, that it is not an ethical practice to have Kenneth Helm as a previously paid hearing officer in the City of Portland overseeing this application since Mr. Helm will be seeking further assignment as hearing officer in the City of Portland.

Moore-Love, Karla

From: Moore-Love, Karla
Sent: Tuesday, December 27, 2011 2:36 PM
To: Adams, Mayor; Commissioner Fritz; Commissioner Fish; Saltzman, Dan; Leonard, Randy; Griffin-Valade, LaVonne
Cc: Shaff, David; Frank, Gregory; Larson, Kevin; Moody, Christine
Subject: FW: [User Approved] Portland Water Bureau and Clackamas County conditional use permits -- \$35 million approved by Council for Bull Run 2 projects Black & Veatch CONFLICT OF INTEREST
Attachments: 1389 Nancy Newell ltr to Clackamas County.pdf

The document Ms. Newell references is attached.

Karla

Karla Moore-Love | Council Clerk

Office of the City Auditor
503.823.4086

From: Nancy Newell [mailto:ogec2@hotmail.com]
Sent: Tuesday, December 27, 2011 12:10 PM
To: Moore-Love, Karla; Nancy Newell
Subject: [User Approved] Portland Water Bureau and Clackamas County conditional use permits -- \$35 million approved by Council for Bull Run 2 projects Black & Veatch CONFLICT OF INTEREST

The hearing officer presiding over the conditional use permits for Portland Water Bureau's projects at Bull Run 2 (City Council unanimously appropriated funding for \$35 million) is in violation of conflict of interest canons of the American Bar Association. I am also researching PWB's violation under ethics requirements for public officials. Thus I have filed evidence about Kenneth Helm's conflict of interest which is fully supported by his own testimony when I questioned him at the hearing on December 20, 2011. He stated that he has been employed by the City of Portland as a hearing officer. He should not be allowed to continue as hearing officer and the permitting process should be stopped to replace him in Clackamas County. PWB should request the same and also should not have proceeded having full knowledge of Kenneth Helm's employment from the City of Portland. Please pass this statement along to City Commissioner's as well. I will be dropping off at City Hall, today (December 27, 2011) at your offices a copy of my letter that is stamped and time dated by each office I notified last week at Clackamas County. I have also spoken to the Managing Director of Planning of Clackamas County. Thank you for your time and attention to this matter. Nancy Newell

DEC 22 2011

Clackamas County

Department of State Lands Case File #Z0444—11-C Z044511-D Z0446-11-V
Applicant is City of Portland, Portland Water Bureau, David Peters

Clackamas
County Counsel
10:48 AM
CC

Comments Submitted by Nancy Newell 3917 N.E. Skidmore St. Portland, OR 97211

Contact for N. Newell: 503-288-3986 ogec2@hotmail.com

In the Matter of a Conditional Use Permit Application of the City of Portland

Related to the Bull Run Water System Headworks and the Construction of a Water Treatment Facility

1) Related to Hearing Officer Kenneth Helm.

Background: a) the applicant in the matter captioned above is the City of Portland.

b) Helm derives a portion of his income as a hearing officer for the City of Portland (City).

Discussion: Helm has an absolute and prima facie conflict of interest in the matter captioned above that cannot be resolved without Helm's complete and unambiguous Recusal. Helm may certainly serve as a Hearing Officer for multiple jurisdictions. This proceeding is different because the City is the applicant, Helm is paid by Clackamas County in this matter, and Helm receives compensation from the City.

Helm's failure to recuse himself is puzzling. As a member of the Oregon Bar, Helm is surely aware that he cannot be compensated directly or indirectly by two clients that may have differing interests in the outcome in a judicial or quasi judicial proceeding.

This proceeding should be halted by the Clackamas County supervising official, or by the County Commission, until Helm recuses himself and a de nova hearing is conducted by a hearing officer without conflict of interest.

2) The conditional use application is not ripe for consideration.

Background: a) the matter before Clackamas County involves two distinct and unrelated alterations to and potential construction of facilities at or near the headworks of the City water system Bull Run complex.

b) Proposed alterations to the headworks to cool water arise from the City's obligations under the Endangered Species Act to aid recovery of andromous fish. This alteration is independent of the proposed water treatment facility.

LAND USE ZONING DIV.
APPLICATION REVIEWED

BY:
DATE:

12-23-11
ep

PAGE 2

c) The City has requested and has received a variance from the Oregon Health Authority to construct the proposed water treatment facility.

Discussion

The City's pending conditional use application marries a proposal to alter headworks to cool water with a proposal to construct a water treatment facility. Clackamas County should return the conditional use application to the City directing that consideration of conditional use permits related to water cooling and water treatment be separated in any future submissions.

Simply put, the City may never be required to build the water treatment facility at the Bull Run headworks. If directed to treat water in the future, the scope, process, location, and configuration of such a facility is likely to be significantly different than now contemplated. Consideration of a conditional use is not ripe until a water treatment facility may be required and, if required, all parameters of the facility are identified.

Signed Nancy Newell

Nancy Newell
Date: December 22, 2011

Cc: Linda Williams, Attorney

Request of Nancy Newell to address Council regarding discontinuance of permit process by Portland Water Bureau in Clackamas County concerning Bull Run Water project (Communication)

JAN 18 2012
PLACED ON FILE

Filed JAN 12 2012

LaVonne Griffin-Valade
Auditor of the City of Portland

By 

COMMISSIONERS VOTED AS FOLLOWS:		
	YEAS	NAYS
1. Fritz		
2. Fish		
3. Saltzman		
4. Leonard		
Adams		