Regular Agenda
Commissioners Office

JEFFERSON COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA REQUEST

TO: **Board of County Commissioners**
Philip Morley, County Administrator

FROM: **Leslie Locke, Deputy Clerk of the Board**

DATE: **August 5, 2013**

SUBJECT: **POSSIBLE APPROVAL: RESOLUTION re: Designating Jefferson County Park and Recreation District No. 3 to be Located in Port Ludlow and Setting the Boundaries**

STATEMENT OF ISSUE:

A petition has been submitted to establish a Park and Recreation District in Port Ludlow. This petition was certified by the Jefferson County Auditor's Office.

Per RCW 36.69.040 the Commissioners held a public hearing on July 15, 2013 and shall next determine the boundaries of the proposed Park and Recreation District.

The boundary of the proposed Park and Recreation District are described as the area known as the Port Ludlow Master Planned Resort and described as all of Voters Precincts 500, 501 and a portion of Voter Precinct 503.

Once the Park & Recreation District is named and the boundaries are set, the proposition for the formation shall be submitted to the voters of Precincts 500, 501 and 503 for their approval or rejection at the next general election to be held on November 5, 2013.

RECOMMENDATION:

If the proposed Park and Recreation District boundaries are acceptable, approve Resolution re: Designating Jefferson County Park and Recreation District No. 3 to be Located in Port Ludlow and Setting the Boundaries.

REVIEWED BY:

Philip Morley, County Administrator

8/2/13
Date

Office of the Prosecuting Attorney
Scott W. Rosekrans

David W. Alvarez, Chief Deputy
Cheryl L. Potebnya, Deputy
Thomas A. Brotherton, Deputy
Christopher R. Ashcraft, Deputy
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NOT CONFIDENTIAL July 24, 2013

To: County Commission
Philip Morley, County Administrator
Clerk to the BoCC

From: David Alvarez, Chief Civil DPA

Date: Today's date

Re: Inclusion of the Port Ludlow Master Planned Resort into either a Metropolitan Park District or a Parks & Recreation District.

First all the acronyms to save space:

AGO	=	WA State Attorney General's Office
Comp Plan	=	County's Comprehensive Plan-effective 8/28/1998, revised as of 12/2004
GMA	=	Growth Mangement Act, Ch. 36.70A RCW
MPD	=	Metropolitan Park District, enabling statute is Ch. 35.61 RCW
MPR	=	Port Ludlow Master Planned Resort
PRD	=	Parks and Recreation District, enabling statute is Ch. 36.69 RCW
PUD	=	Planned Unit Development-typically residences planned for at the same time and all related to a recreation such as a related golf course

Issue: Three questions have arisen based on legal correspondence and public comment.

1. Does Port Ludlow's status as a Master Planned Resort preclude its inclusion in either an MPD or a PRD?
2. Does the presence of covenants, codes and restrictions in both Kala Point and Port Ludlow preclude either an MPD or PRD in that particular region of the County?
3. Is it lawful for an MPD and PRD to overlap, i.e., can real property be within the boundaries of both of those entities?

Short answers:

1. That Port Ludlow exists as an MPR under GMA and local rules will not preclude the inclusion of the MPR in either a site-specific PRD (as has been proposed) or within an MPD for Eastern Jefferson County.
2. Because there is a low legal threshold for the benefits a proposed PRD has to provide to property owners living inside its boundary and because the PRD is a creature of what is, in essence, an Initiative to the People, a PRD could be formed, with the voters' approval, at both Port Ludlow and Kala Point.
3. The MPD can include territory that is inside a PRD. However, when it comes time to draw the MPD boundaries a policy reason to articulate the exclusion of any territory must be made if the decision is made to exclude new and old PRD's.

Analysis:
Question #1:

The Legislature is deemed to be aware of already enacted laws when it enacts subsequent laws and to the extent two laws conflict, they must be read in a manner that does not nullify either and gives a reasonable reading to both. In this case, the Legislature is deemed to have been aware of the earlier laws authorizing the PRD and an MPD when it amended the GMA to allow for Master Planned Resorts and when it retroactively blessed Port Ludlow as an MPR. The GMA is silent with respect to any interaction between any Master Planned Resorts and the PRD/MPD statutes except perhaps at GMA Goal #9, which refers to retaining open space, enhancing recreational opportunities and developing parks and recreational facilities as a mandated goal for any county or city planning under the GMA.

More realistically, because the PRD/MPD laws and the GMA laws cover vastly different spheres of daily life it is likely the Legislature never intended for the planning laws to spill over and impact the PRD and MPD laws or vice-versa. The Legislature apparently never conceived of the possibility the two sets of laws would create a possible conflict with one another.

The development of the MPR by Pope Resources as a PUD began around 1967, well before there was a GMA, which was adopted in 1990. In 1997 the Legislature amended the GMA by adding §.362 specifically for our MPR. The GMA statutes that govern any MPR, including ours, are §.360 and §.362. Section .360 says in relevant part:

> "1) Counties that are required or choose to plan under RCW 36.70A.040 may permit master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. A master planned resort means a self-contained and fully integrated planned unit development, in a setting of significant natural amenities, with primary focus on destination resort facilities consisting of short-term visitor accommodations associated with a range of developed on-site indoor or outdoor recreational facilities.
>
> (2) Capital facilities, utilities, and services, including those related to sewer, water, storm water, security, fire suppression, and emergency medical, provided on-site shall be limited to meeting the needs of the master planned resort. Such facilities, utilities, and services may be provided to a master planned resort by outside service providers, including municipalities and special purpose districts, provided that all costs associated with service extensions and capacity increases directly attributable to the master planned resort are fully borne by the resort. A master planned resort and service providers may enter into agreements for shared capital facilities and utilities, provided that such facilities and utilities serve only the master planned resort or urban growth areas."

Since there are only three categories of land in the GMA universe (urban, rural or natural resource) and because an MPR can be served by city-like services such as sanitary sewers, public water and the like as long as (in general) the service provider only provides the services for the

MPR, an MPR is closely akin to an urban growth area when viewed through a GMA prism. Section .362 of the GMA grants MPR status to Port Ludlow although it predates GMA:

> "Counties that are required or choose to plan under RCW 36.70A.040 may include existing resorts as master planned resorts which may constitute urban growth outside of urban growth areas as limited by this section. An existing resort means a resort in existence on July 1, 1990, and developed, in whole or in part, as a significantly self-contained and integrated development that includes short-term visitor accommodations associated with a range of indoor and outdoor recreational facilities within the property boundaries in a setting of significant natural amenities. An existing resort may include other permanent residential uses, conference facilities, and commercial activities supporting the resort, but only if these other uses are integrated into and consistent with the on-site recreational nature of the resort."

Review of this statute indicates that before a pre-existing PUD can be transformed into an MPR the MPR has to constitute "significantly self-contained and integrated development" and include "short-term visitor accommodations associated with range of indoor and outdoor recreational facilities." There can be no doubt the MPR is a self-contained and integrated development and does include short term accommodations and many leisure activity opportunities, as outlined in the Armitage letter. The self-contained language doesn't prohibit "other uses" that are "consistent with the on-site recreational nature of the resort."

County regulation of the MPR:

In 1998, via Resolution #72-98, the Resolution that adopted our County's first GMA-derived Comp Plan, the County formally used the tool created by GMA Section .362 and officially named the Resort at Port Ludlow as the County's sole MPR. See pages 21 to 23 of that Resolution for more detail. The Comp Plan contains some very general text at Land Use Goal 23 (LNG 23.0) about the MPR, none of which give direction as to how additional recreational facilities, if any, are to be established at the MPR. LNG 24 concerns **any other** Master Planned Resorts that might be proposed, analyzed or constructed in this county. In 1999 the BoCC adopted Ordinance #08-1004-99 which established the MPR Code, i.e., development regulations for inside the MPR, a code now codified at Title 17 JCC. In 2000 Pope Resources (and its related companies) entered into a Development Agreement with the County through BoCC Resolution #42-00, which vested Pope (and now PLA) to older development regulations that pre-date the adoption of the Unified Development Code, Title 18 JCC, which became effective on January 16, 2001.

These documents indicate the MPR began as a large-scale real estate development. It has now been memorialized in various state laws, local regulations and the Development Agreement. Of significance is that the MPR is not a local government, a junior taxing district or a municipal corporation and therefore lacks any taxing authority.[1] The land use laws and

[1] I recognize that the MPR residents pay homeowner assessments and other charges as a function of owning real property inside the MPR. MPR residents are also governed by covenants, codes and restrictions made applicable to them through the Deeds representing their title in the real property they own. My point is that outside of what is controlled by the land use development regulations, the

regulations which invented the MPR and describe what is lawful activity there were not intended to and do not help us determine whether an MPR is eligible or ineligible for inclusion in either a PRD or an MPD.

All of the above causes me to conclude that the MPR, as an invention of the GMA, does not obtain immunity from inclusion in a PRD or MPD simply because it is an MPR. For example, any Master Planned Resort is authorized by the terms of GMA Section .360 to look outside of itself for the provision of the services it might need as a de facto city:

> "Such facilities, utilities, and services may be provided to a master planned resort by outside service providers, including municipalities and special purpose districts, provided that all costs associated with service extensions and capacity increases directly attributable to the master planned resort are fully borne by the resort."

So, theoretically, the MPR could seek assistance with recreation facilities from either an MPD, which is a municipal corporation per RCW 35.61.040, or a PRD, which is also a municipal corporation per RCW 36.69.010. Note the MPR obtains its fire suppression service and EMS from an outside entity, the junior taxing district of Port Ludlow Fire Protection District #3. This alone may undermine any immunity argument.

Based on the above the answer to the question as to whether an MPR is eligible or ineligible for inclusion in either a PRD or an MPR will be found in the enabling statutes for those particular types of municipal corporations.

At this time I do not draw any conclusions concerning whether an MPD that included the MPR would have authority to build a public recreational facility inside the MPR. The MPR's covenants might block such a proposal. However, assuming, without conceding, that the answer to that question is "no," residents inside the MPR would receive benefits if recreational facilities outside the MPR were built and/or maintained by the MPD. For example, consider the hypothetical situation where an MPR resident watches his or her grandchild playing soccer at H.J. Carroll Park. If an MPD maintained H. J. Carroll, then that is the benefit to the MPR resident.

Questions #2 and #3: Analysis of the PRD statutes:

A PRD, pursuant to Ch. 36.69.020, is brought to a general election ballot by a petition signed by not less than 15% of the persons residing in the area to be included. The petition designates the boundaries of the land to be included. Upon certification that the petition has sufficient signatures, the BoCC must hold a hearing and after the hearing the BoCC must fix the boundaries and give the proposed PRD its formal name. The voters in the area included in the petition then decide at a general election whether or not to create a PRD.

According to RCW 36.69.050, the BoCC, while determining what the boundaries of the PRD are to be, "shall eliminate from the boundaries of the proposed [PRD] land which they find

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Development Agreement and the CC &R's, the MPR and its residents are subject to all the other regulations and laws promulgated by the State of Washington.

will not be benefitted by inclusion therein." No case law interprets that state law, but there is an Attorney General's Letter Opinion #23 (from 1982) that discusses what this statute means.

Here I have to backtrack a bit and state that the recreational facilities in both Kala Point and the MPR are privately owned and paid for, and the public does not have access to them. Nor is there any current intention by the PRD proponents to have the PRD in either location purchase or own those privately owned recreational facilities, so the inability of the public to access those facilities will likely continue into the foreseeable future. Additionally, the attorney for Kala Point has informed the County that the common areas inside Kala Point are subject to restrictive covenants which would prohibit their sale to any PRD or MPD for the construction of a public recreational facility. Because the public will not have access to the existing facilities private property owners pay for and use and public recreational facilities are, arguably, quite unlikely to arise within either Port Ludlow or Kala Point, the homeowners' associations in both Kala Point ("KPOA") and Port Ludlow ("PLVC") have written letters to the BoCC urging the BoCC to conclude there is no benefit that can accrue to any real property located within Kala Point or Port Ludlow. Logically, then what follows from that is that the proposed PRD should not include any portion of Kala Point or the MPR because of the text of RCW 36.69.050.

In other words, the BoCC should decide that the area to be benefitted by the PRD in both Kala Point and Port Ludlow is NONE. As the KPOA lawyer put it, the proponents of the Kala Point PRD "have no intention of using it for development of public park or recreation facilities." He goes on to state "[i]nstead, they believe that a group of neighbors can use the ballot process as a means of forming a sham district in order to avoid taxation." Assuming, without conceding, such a statement is an accurate one, it goes more to whether the PRD is a good idea and does not necessarily answer the idea of whether the proposed PRD must appear on the November ballot.

The proposed PRD may only not go to the voters if the BoCC finds there is not a single parcel in either Kala Point or the MPR that will be benefitted by its inclusion in the PRD proposed for that region. That seems to be the position held by the KPOA and the PLVC.

However, it is my conclusion, agreed with by Katie Blinn, the #2 ranking person in the Elections Division of the WA State Secretary of State, that once sufficient signatures on the PRD petition are certified by the Auditor, the proposition of whether to create that PRD must go to the voters because it amounts to a regional "Initiative to the People" not subject to a legislative veto, since no such veto was included within the PRD enabling statute. Secondly, my analysis in this regard turns on analyzing the common word "benefit"

The word "benefit" has been defined in case law but in vastly different contexts than how the word is used in RCW 36.69.050. Thus, there truly isn't a controlling definition of "benefit" to help us interpret RCW 36.69.050. In that circumstance Judges are allowed to use the dictionary definition of a word if the state law does not include a definition of that word. Looking at Merriam-Webster's Third Edition one sees that benefit is defined as "something that promotes well being" or a "useful aid." Synonyms for benefit are "advantage" and "help." Keep that definition in mind.

In AGLO #(19)82-23 the Columbia County Prosecutor asked if his BoCC could exclude

all land in Columbia County from a proposed two county PRD based on the argument no parcel in Columbia County would benefit from creation of and inclusion in the PRD. The AGO responded that while it was technically possible to do so, removing all parcels in Columbia County from the proposed PRD would most likely be "arbitrary and capricious" because the word benefit is given such a broad meaning. For example, benefit has been determined to mean nothing more than adding to another's "security or advantage," and has been further determined to mean "any form of advantage." See ***Olwell v. Nye & Nissen Co.***, 26 Wn.2d 282 (1947) (defendant benefited from using plaintiff's egg-washing machine he promised for three years to deliver to plaintiff but never did) and ***Foundation for the Handicapped v. DSHS***, 97 Wn.2d 691 (1982) (money collected from families of handicapped persons residing at state residential schools for the handicapped should not be returned to the families because the persons who resided at the school received benefits.) "Benefit" has also been defined in a 1935 flood control district statute to mean an increase in the market value of the landowner's parcel. See ***Weyerhauser Timber Co. v. Banker,*** 186 Wn. 332 (1936). AGLO #82-23 added, in reference to the ***Weyerhauser Timber*** case that "[s]uch a definition, however, is in our judgment unduly restrictive for determining what land is benefited by inclusion in a joint [PRD.]"

So would the residents of an MPR or Kala Point benefit from inclusion in their regional PRD when both locations already have in place numerous recreational facilities and monthly assessments to operate and maintain those facilities? The attorneys' letters argue, in essence, that Port Ludlow and Kala Point look like privately-operated and privately-paid for PRD's and have nothing to gain from being included in a public PRD. Furthermore, what would be the benefits to the typical MPR or Kala Point landowner if the PRD comes into existence but its legislative body chose to neither own any structures or facilities nor impose any ad valorem real property tax?

Given the low threshold for what constitutes a benefit I believe a court would strive to find that a PRD, including one not holding any infrastructure or generating any revenue stream, does provide a benefit to residents living within the MPR or Kala Point. Possible benefits are:

- An organization that could serve in an advisory role to help the PLA, the various homeowners' associations and/or KPOA make long-term planning decisions for the existing recreational facilities;
- An organization that could be hired to be responsible for operating and maintaining the existing recreational facilities;
- An organization having the ability to impose an ad valorem tax on real property in the future if a major project to install a new recreational facility becomes the intent or desire of the MPR or Kala Point residents;[2]
- An organization having the ability to impose an ad valorem tax in the future to take over the now privately owned recreational facilities if the current revenue streams disappear or are minimized; or
- The possibility that property values inside the MPR and Kala Point will increase

[2] While it might be a difficult and time consuming process, the covenants at Kala Point might someday in the future be amended to allow the construction of a public facility on the portions of Kala Point that are in common ownership. Only diamonds are forever.

> because the PRD has the ability to fund and construct additional recreational facilities which, if constructed, will make residing in those regions more attractive.

While these benefits might seem speculative and rather theoretical, they are no less tangible than the flood control district's benefit of expected increase in the FMV of real property.

In sum, a proposed PRD could lawfully include either the MPR or Kala Point because or to the extent some benefits to the landowners there can be described. It will be up to the proponents of each of these proposed PRD to articulate and memorialize the benefits that will accrue in light of the applicable covenants at both locations and in light of the current intent of the PRD proponents (in both locations) to not impose ad valorem real estate taxes. I do not know if the possibility (however slim) of avoiding taxation by an MPD would constitute such a benefit.

Question #2 and #3: Analysis of the MPD statutes:

The creation of an MPD is governed by RCW 35.61.010, which states:

> "A metropolitan park district may be created for the management, control, improvement, maintenance, and acquisition of parks, parkways, boulevards, and recreational facilities. A metropolitan park district may include territory located in portions or all of one or more cities or counties, or one or more cities and counties, when created or enlarged as provided in this chapter."

No case law has interpreted this statute. In addition, the MPD law does not list or describe territory or a category of territory that must be excluded from an MPD. Thus, nothing in statute automatically excludes a Master Planned Resort like Port Ludlow or a PUD like Kala Point from inclusion within an MPD. In that respect the MPD statute differs from the PRD statute because the PRD statute states (paraphrasing) "include only real property that will benefit from its inclusion in the PRD."

If the voters vote to approve the creation of an MPD, then that MPD is a municipal corporation according to RCW 35.61.040. The MPD has taxing authority per RCW 35.61.210 and can issue bonds per RCW 35.61.100, .110 and .115.

Viewing all those statutes together it becomes clear that an MPD, although a municipal corporation, can include the territory of another municipal corporation, a city. This is not surprising since residents anywhere in unincorporated Jefferson County already pay real estate taxes to the County and to junior taxing districts such as school districts, fire protection districts, the rural library district and in some cases a PRD. City of Port Townsend residents pay county taxes too. All of these junior taxing districts are authorized to and do overlap with one another. And the applicable junior taxing districts do impose and collect real estate taxes upon real property located within the MPR. There is no reason that the MPD couldn't do the same, just as is done, for example, by Port Ludlow Fire Protection District #3.

Double taxation argument:

Of course, the double taxation argument becomes irrelevant if the voters in Kala Point and Port Ludlow approve the PRD and the PRD legislative bodies never adopt a levy rate to be imposed on the real property within their jurisdiction.

But the underlying question remains, does the presence of taxing authority in a PRD, although not utilized, mean that another taxing authority that would impose a tax to achieve similar goals cannot impose its tax within the PRD region?

A case arising in Jefferson County known as ***Shoulberg v. P.U.D. #1 of Jefferson Cty.,*** 169 Wn.App. 173, ***review denied***, 175 Wn.2d 1024 (2012) appears to be the only published case to discuss the issue of whether two municipal corporations are authorized to impose a tax on a particular parcel in order to further the same purpose. In ***Shoulberg*** it was two water and sewer utilities. Defendant P.U.D is a county-wide P.U.D that provides water and sewer service to residences outside of Port Townsend just as the City utility does for parcels inside Port Townsend. Mr. Shoulberg and his co-Plaintiff resided inside Port Townsend and paid utility bills to the City's utility and paid real estate taxes to the P.U.D. Plaintiffs in ***Shoulberg*** pointed to a portion of RCW 54.04.030 which stated in essence that if a parcel was inside a municipal corporation boundary and that municipality was already charging for a water utility, then no other municipal corporation that was also operating a water utility could impose taxes on that same parcel.

The trial court ruled against these Plaintiffs and found that the P.U.D. did operate a water utility and had 82% of its budget funded by fees, but also had 18% of its budget in what was called the general fund, the source of which was the P.U.D's ad valorem real property tax. The general fund was used for watershed planning, conservation activities such as purchasing the land around Peterson Lake, funds for inspection of septic systems and studies for possible sanitary sewer systems. Those non-utility activities were found to "not constitute provision of a utility service." The trial court was affirmed by the Court of Appeals, which concluded the Plaintiffs "therefore fail to show that these expenditures duplicate any City sewer utility functions." In sum, Mr. Shoulberg and his co-Plaintiff were found to NOT be the victims of double taxation. And this was true despite the presence in state law at RCW 54.04.430 of an express prohibition of double taxation. No such express prohibition of double taxation is found in the GMA, MPD or PRD statutes.

However, double taxation of a parcel by two districts both providing recreational facilities or opportunities, might be challenged as simply unfair, or what we lawyers call a deprivation of substantive due process rights. Not many published cases discuss the allegation of "double taxation."

One that does is ***City of Seattle v. Paschen Contractors, Inc.***, 111 Wn. 2d 54 (1988). Paschen constructed bridge pontoons for a Lake Washington Bridge in Everett and installed them in two other cities, Seattle and Mercer Island. Everett levied B & O taxes on Paschen for the actual construction of the pontoons and Seattle and Mercer Island levied B & O taxes against Paschen relating to the installation of the pontoons. The Supreme Court said this was not a

violation of due process because Paschen benefitted from the municipal services provided by all three municipalities.

See also ***Burns v. City of Seattle***, 161 Wn. 2d 129 (2007) which arose because Seattle City Light serves customers in Seattle and some outside Seattle but within other neighboring cities. Those other cities are authorized to operate their own electric utilities and tax them, but if those other cities operated their own utilities, then City Light's customer base would be narrower and the fixed costs would be greater per customer. So that the other cities will not operate their own utilities and collect their own taxes, City Light agreed to pay those other cities six percent (6%) of what it was earning in those other cities as a de facto stand in for the utility taxes the incorporated cities were foregoing. And this 6% payment became part of City Light's operating costs factored into what rates it could charge. Ratepayers from both inside Seattle and inside other cities challenged this arrangement, alleging they were paying the Seattle utility tax and what amounted to utility taxes to other cities, i.e., double taxation. The Supreme Court concluded "there is no constitutional prohibition against double taxation, as applied to excise taxes" and upheld the 6% payment by City Light.

While the two ***City of Seattle*** cases are illustrative, ***Shoulberg*** remains most on point. While the ***Shoulberg*** case turns on the court's interpretation of a state law, it does also inform us of the following: to the extent the MPD and the PRD undertook many similar activities BUT each entity ALSO had activities or purposes that they alone undertook while the other did not, then pursuant to the ***Shoulberg*** case the court would NOT find that double taxation of the same parcel has occurred.

The statutory purposes of the two types of entities might be enough to distinguish them and to nullify any double taxation argument. The PRD is intended to provide for the leisure time activities and facilities and recreational facilities. See RCW 36.69.010. The MPD, which was enacted in 1907 when cars were much less demonized, was intended to provide for the management, control, improvement, maintenance and acquisition of parks, parkways, boulevards and recreational facilities. See RCW 35.61.010.

By way of example only, if one entity had a planning component to their work plan and the other did not, that presumably would be enough of a distinction between the two entities that a court would probably NOT find that double taxation was occurring. By way of another example, if one such entity provided regional or larger parks and the other provided community or pocket parks, that might be seen as distinguishable purposes that do not create double taxation.

Equal Protection argument:

The likely failure of a double taxation argument serving to prohibit the MPR or Kala Point from being within both a PRD and an MPD also suggests that an equal protection of the laws argument will also fail. When the challenged classification is based on economics (for example, if one group has to pay for a license and another similarly situated or defined group does not), the courts have upheld such classifications if there is a single "rational basis" for the distinction. A "rational basis" is any reason that can be articulated, no matter how slight. Thus,

if there is any reason to exclude existing PRD's such as the Coyle and Brinnon from the MPD, perhaps because they are already collecting taxes, then that classification would be upheld as lawful.

Conclusions:

Port Ludlow, although it is a Master Planned Resort under RCW 36.70A.362, may be included in either an MPD or a PRD.

Despite the presence of codes, covenants and restrictions at both locations, either the Port Ludlow MPR or the Kala Point PUD may be included in an MPD.

Despite the presence of codes, covenants and restrictions at both locations, either the Port Ludlow MPR or the Kala Point PUD may be included in a PRD, although the benefits of a PRD to a resident of those regions may seem speculative or intangible.

A challenge on the basis that an MPD and PRD are doubly taxing a particular citizen or parcel because they both provide the same service (recreational facilities) would presumably be rejected if the MPD and the PRD served even slightly different functions.

A court is likely to conclude a PRD, despite choosing not to tax and choosing not to own any infrastructure, still provides a benefit to the territory that was included within the proposing petition. This last conclusion arises, primarily, from the general rule in Washington that the people can legislate without any help or obstacles from their legislative bodies, through the Initiative or Referendum process.

That being said, however, the issue described in the last paragraph would be a novel issue and the result of litigation over this issue cannot be predicted with certainty.

/s/ David Alvarez

David Alvarez, Chief Civil DPA

JEFFERSON COUNTY
STATE OF WASHINGTON

In the Matter of Designating Jefferson	}	
County Park and Recreation District	}	
No. 3 to be Located in Port Ludlow	}	**RESOLUTION NO.**
And Setting the Boundaries	}	

WHEREAS, on the 6th day of June, 2013, there was filed with the Auditor of Jefferson County, a petition for the purpose of forming a Park and Recreation District under the provisions of RCW 36.69.010 et seq., accompanied by an obligation signed by two of the petitioners agreeing to pay the cost of publication of the notice provided for in RCW 36.69.040; and,

WHEREAS, the Auditor having found and determined that said petition contains a sufficient number of signatures of qualified persons; and,

WHEREAS, having attached to the petitionthe certificate of sufficiency, and on June 7, 2013, transmitted the same to the Board of County Commissioners; and,

WHEREAS, the Board, by Resolution No. 23-13 entered upon their minutes, fixed Monday, July 15, 2013 at the hour of 11:00 a.m. of said day, at the Commissioners' Chambers, in the Jefferson County Courthouse, Port Townsend, Washington, as the time and place for the hearing of said petition; and,

WHEREAS, at said time and place said petition came on for hearing, proof having been made to the satisfaction of this Board that Notice hereof had been given for the time and in the manner provided by law, and no objection having been made or filed, the Board proceeded to hear the petition and upon conclusion made the following findings:

I. That the object of the district is to establish and maintain a Park and Recreations District that will be conducive to the public welfare and convenience, and that it will be a benefit to the real property locatedtherein.

II. The name and number of the district shall be JJefferson County Park and Recreation District No. 3 - Port Ludlow Master Planned Resort, and the boundaries thereof shall be and are determined as the Port Ludlow Master Planned Resort, also described as all of Voter Precincts 500 and 501 and a portion of Voter Precinct 503, is hereby described in **Exhibit A** (legal description), and **Exhibit B** (map).

III. The proposition for the formation of the proposed park and recreation district shall be submitted to the voters of the said Precinct Nos. 500, 501 and 503 for their approval or rejection at the next general election to be held on Tuesday, November 5, 2013.

IV. The election shall be conducted in accordance with the provisions of RCW 29A.04.321 for district elections.

V. Notices of the election for the formation of the park and recreation district shall state generally and briefly the purpose thereof and shall give the boundaries of the

proposed district and name the day of the election and the hours during which the polls will be open.

VI. The ballot to be submitted to the voters upon which they may indicate yes or no upon the proposition of forming the proposed park and recreation district shall state, and be arranged as described in **Exhibit C** (ballot language).

VII. The initial park and recreation commissioners shall be elected at the same election, but this election shall be null and void if the district is not authorized to be formed. No primary shall be held to nominate candidates for the initial commissioner positions. Candidates shall run for specific commission positions. The person who receives the greatest number of votes for each commission position shall be elected to that position.

VIII. The three persons who are elected receiving the greatest number of votes shall be elected to four-year terms of office if the election is held in an odd-numbered year or three-year terms of office if the election is held in an even-numbered year. The other two persons who are elected shall be elected to two-year terms of office if the election is held in an odd-numbered year or one-year terms of office if the election is held in an even-numbered year.

IX. The initial commissioners shall take office immediately upon being elected and qualified, but the length of such terms shall be computed from the first day of January in the year following this election.

NOW THEREFORE BE IT RESOLVED, that the Board of Jefferson County Commissioners based upon the Findings listed hereby, place on the November 5, 2103 general election ballot a proposed Park and Recreation District as authorized by Ch. 36.69 RCW to be known as Jefferson County Park and Recreation District No. 3 - Port Ludlow Master Planned Resort.

Approved this day of July, 2013.

SEAL:

JEFFERSON COUNTY
BOARD OF COMMISSIONERS

John Austin, Chairman

ATTEST:

David Sullivan, Member

Carolyn Avery,
Deputy Clerk of the Board

Phil Johnson, Member

EXHIBIT "A"

That portion of Sections 4, 8, 9, 16, 17, 18, 19, 20, 21, 28 and 29 all in Township 28 North, Range 1 East, W.M., and described as follows:

Beginning at the Southeast corner of the West half of the Southwest quarter of the Southwest quarter of Section 21, Township 28 North, Range 1 East, W.M., thence Easterly along the Southerly section line of said Section 21 to the Easterly line of the Southwest quarter of the Southeast quarter of said Section 21, thence Northerly along said Easterly line of said Southwest quarter of the Southeast quarter to the Southerly boundary of Olympic Terrace Division 1 as recorded in Volume 7 of Plats, Pages 176 through 180, records of Jefferson County, Washington; thence Easterly along said Southerly boundary extended Easterly to the East margin of Teal Lake Road, thence Southerly along the Easterly margin of Teal Lake Road to the intersection with the centerline of Watson Road (vacated on June 16, 2003), thence Northeasterly along said vacated Watson Road centerline to the East section line of said Section 21, thence Northerly along said East section line to the Section corner common to Sections 15, 16, 21 and 22, all in Township 28 North, Range 1 East, W.M., thence Northerly along the East section line of said Section 16 to the intersection of said East section line with the Northerly margin of Ludlow Bay Road, thence Southerly and Westerly along the Northerly margin of said Ludlow Bay Road to the Easterly boundary of Vitulli Short Plat as recorded under Volume 2 of Short Plats, Pages 217 and 218 records of Jefferson County, Washington, thence Northerly along said boundary of Vitulli Short Plat to the shoreline of Ludlow Bay, thence along said shoreline to intersection of said line with the North boundary of Port Ludlow Number 5 lying in Section 4, Township 28 North, Range 1 East, W.M., as recorded under Volume 6 of Plats, Page 34 records of Jefferson County, Washington, thence Westerly along said North boundary of Port Ludlow Number 5 to the intersection with the Easterly margin of Oak Bay Road, thence Southerly along the Easterly margin of Oak Bay Road to the intersection with the Southerly section line of said Section 4, thence Westerly along said Southerly section line of Section 4 to the Section corner common to Sections 4, 5, 8 and 9 all in Township 28 North, Range 1 East, W.M., thence Southerly along the Easterly boundary of said Section 8 to the Northeast corner of the Southeast quarter of the Northeast quarter of Section 8, thence Westerly along the Northerly line of the Southeast quarter of the Northeast quarter of said Section 8 to the Northwest corner of Southeast quarter of the Northeast quarter of Section 8 thence Southerly along Westerly boundary of the Southeast quarter of the Northeast quarter and the Northeast quarter of the Southeast quarter of said Section 8 to the intersection with the North margin of Walker Way, thence Westerly along the Northerly margin of Walker Way to the intersection with that portion of the boundary line of Port Ludlow Number 4 recorded under Volume 6 Pages 54 through 55 of Plats, records of Jefferson County, Washington, that runs North 1°44'46" East for a distance of 31.47 feet to a point on the North line of the South half of the Southeast quarter of said Section 8 said point being South 88°08'58" East a distance of 633.75 feet from the Northwest corner of Southwest quarter of the Southeast quarter of said Section 8 per said plat, thence Westerly along the North line of the South half of the Southeast quarter and the North line of the South half of the Southwest quarter of said Section 8 to the Northwest corner of the Southeast quarter of the Southwest quarter of said Section 8, thence Southerly along the West line of the Southeast quarter of the Southwest quarter of said Section 8, to the Northwest corner of the Northeast

quarter of the Northeast quarter of Section 17, Township 28 North, Range 1 East, W.M., thence Southerly along the Westerly line of the Northeast quarter of the Northeast quarter of said Section 17 to the intersection with the Southerly margin of Oak Bay Road, thence Southwesterly along the Southerly margin of Oak Bay Road to the intersection of the Southerly margin of Oak Bay Road with the North line of the Southerly 850 feet of Section 18, Township 28 North, Range 1 East, W.M., thence Easterly along the North line of the Southerly 850 feet of said Section 18 to the Easterly section line of said Section 18, thence Southerly along said Easterly line to the Section corner common to Sections 17, 18, 19 and 20, all in Township 28 North, Range 1 East, W.M., thence Easterly along the Northerly section line of Section 20, Township 28 North, Range 1 East, W.M., to the Northeast corner of the Northwest quarter of the Northwest quarter of said Section 20, thence Southerly along said Easterly line of the West half of the Northwest quarter said Section 20, to the Northerly line of the Southwest quarter of said Section 20, thence Southerly along the Easterly line of the West half of the Southwest quarter of said Section 20 to the Southwest corner of the North half of the Northeast quarter of the Southwest quarter, thence Easterly along the South line of the North half of the Northeast quarter of the Southwest quarter to the Southeast corner of the North half of the Northeast quarter of the Southwest quarter, thence Easterly along the Southerly line of the North half of the Northwest quarter of the Southeast quarter of said Section 20 to the intersection with the East line of the West half of the West half of the Southeast quarter, thence Southerly along said line to the Southerly line of said Section 20, thence Southerly along the East line of the West half of the West half of the Northeast quarter of Section 29, Township 28 North, Range 1 East, W.M., to the South line of the North half of the North half of said Section 29, thence Easterly along the South line of the North half of the North half of said Section 29 to the Easterly section line of said Section 29, thence Northeasterly to the point of beginning .

Situate in Jefferson County, State of Washington.

EXHIBIT "B"

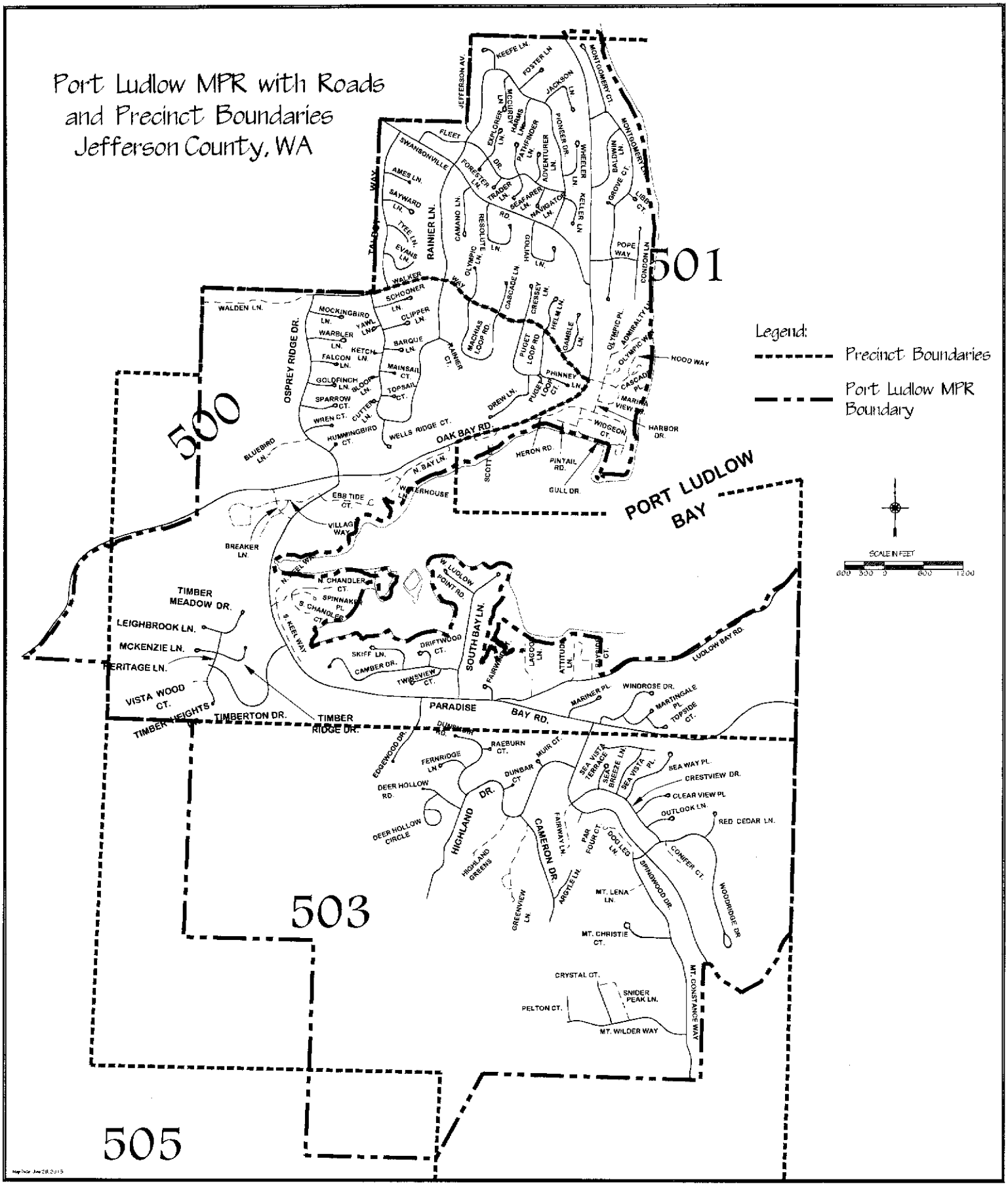
Port Ludlow MPR with Roads and Precinct Boundaries Jefferson County, WA
501
500
503
505
Legend:
Precinct Boundaries
Port Ludlow MPR Boundary
PORT LUDLOW BAY
SCALE IN FEET
600 300 0 600 1200
JEFFERSON AV.
KEEFE LN.
FOSTER LN
JACKSON LN.
MONTGOMERY CT.
MONTGOMERY
FLEET
SWANSONVILLE
AMES LN.
SAYWARD LN.
TYEE LN.
EVANS LN.
TALBOT WAY
RAINIER LN.
FORESTER LN.
EXPLORER LN.
MOSQUITO HARBOR LN.
PATHFINDER LN.
PIONEER DR.
ADVENTURER LN.
WHEELER LN.
KELLER LN
TRADER LN.
SEAFARER LN.
NAVIGATOR LN.
CAMANO LN.
REDOUBT LN.
OLYMPIC LN.
GOLIATH LN.
GROVE CT.
LIBERTY CT.
POPE WAY
CONDON LN.
WALDEN LN.
MOCKINGBIRD LN.
WARBLER LN.
FALCON LN.
GOLDFINCH LN.
SPARROW CT.
WREN CT.
HUMMINGBIRD CT.
BLUEBIRD LN.
OSPREY RIDGE DR.
SCHOONER LN.
YAWL LN.
CLIPPER LN
BARQUE LN.
KETCH LN.
BLOOP LN.
MAINSAIL CT.
TOPSAIL CT.
CUTTER LN.
WALKER WAY
RAINIER CT.
WELLS RIDGE CT.
CASCADE LN.
MACHIAS LOOP RD.
PUGET LOOP RD
CRESSEY LN.
HELM LN.
GAMBLE LN.
PUGET LOOP CT.
PHINNEY LN.
DREW LN.
OLYMPIC PL.
ADMIRALTY LN.
OLYMPIC WAY
HOOD WAY
CASCADE PL.
MARINA VIEW
WIDGEON CT.
HARBOR DR.
OAK BAY RD.
HERON RD.
PINTAIL RD.
GULL DR.
SCOTT
N. BAY LN.
WATERHOUSE
EBB TIDE CT.
VILLAGE WAY
BREAKER LN.
N. KEEL WAY
N. CHANDLER CT.
SPINNAKER PL.
S. CHANDLER CT.
S. KEEL WAY
W. LUDLOW POINT RD.
SOUTH BAY LN.
SKIFF LN.
DRIFTWOOD CT.
CAMBER DR.
TWINSVIEW CT.
FAIRWAY
LAGOON LN.
ATTITUDE LN.
STARBOARD CT.
LUDLOW BAY RD.
MARINER PL.
WINDROSE DR.
MARTINGALE PL.
TOPSIDE CT.
TIMBER MEADOW DR.
LEIGHBROOK LN.
MCKENZIE LN.
HERITAGE LN.
VISTA WOOD CT.
TIMBER HEIGHTS
TIMBERTON DR.
TIMBER RIDGE DR.
PARADISE BAY RD.
DUNBAR RD.
EDGEWOOD DR.
RAEBURN CT.
MUIR CT.
FERNRIDGE LN.
DUNBAR CT.
DEER HOLLOW RD.
DEER HOLLOW CIRCLE
HIGHLAND DR.
HIGHLAND GREENS
GREENVIEW LN.
CAMERON DR.
FAIRWAY LN.
PAR FOUR CT.
GOD LEG LN.
ARGYLE LN.
SEA VISTA TERRACE
SEA BREEZE LN.
SEA VISTA PL.
SEA WAY PL.
CRESTVIEW DR.
CLEAR VIEW PL
OUTLOOK LN.
RED CEDAR LN.
CONIFER CT.
SPINNAKER DR.
WOODRIDGE DR
MT. LENA LN.
MT. CHRISTIE CT.
MT. CONSTANCE WAY
CRYSTAL CT.
SNIDER PEAK LN.
PELTON CT.
MT. WILDER WAY

EXHIBIT "C"

The Jefferson County Board of County Commissioners adopted Resolution # ??-13 concerning a proposition to form the "Jefferson County Park and Recreation District No. 3 – Port Ludlow Master Planned Resort" to include all land lying within the Port Ludlow Master Planned Resort, said territory also being described as all of Voter Precincts 500 and 501 and a portion of Voter Precinct 503, and within unincorporated Jefferson County, Washington.

Should this proposition be:
Approved ___
Rejected ___