

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF SKAGIT**

ANNIE JANICKI,

Petitioner,

vs.

CITY OF SEDRO-WOOLLEY, a municipal corporation; DELUXE RECYCLING AND DISPOSAL LLC, a Washington limited liability company; and FIRE RIDGE LLC, an Oregon limited liability company,

Respondents,

vs.

SKAGIT COUNTY, a political subdivision of the State of Washington,

Intervenor.

No. 08-2-01130-8

DECLARATION OF JOHN COLEMAN IN SUPPORT OF CITY'S RESPONSE TO COUNTY'S MOTION TO CLARIFY THE RECORD, VACATE THE HEARING EXAMINER'S DECISION AND REMAND THE PROCEEDINGS

I, John Coleman, hereby declare, under penalty of perjury under the laws of the State of Washington, that the following is true and correct:

1 1. I am the Associate Planner for the City of Sedro Woolley.

2 2. One of my job responsibilities is to review comments submitted in the SEPA
3 process and draft proposed conditions for threshold determinations for which a mitigated
4 determination of nonsignificance ("MDNS") is entered.

5 3. I have reviewed the Declaration of Leo Jacobs dated August 25, 2008 and his
6 rendition of a discussion he had with City Supervisor Eron Berg, on or about February 8,
7 2008. I was present during this discussion, as was Jack Moore, Planning Director for the
8 City of Sedro Woolley.

9 4. I recall having concerns about Leo's comment letter before the discussion
10 which Leo describes in his Declaration. I relayed these concerns to Leo during the
11 discussion in question.

12 5. The discussion took place at my desk in a high traffic area within the old city
13 hall through which people would walk back and forth all the time. My desk and the desk of
14 Eric Potash, the city building inspector and plans examiner, were located in this area. Jack
15 Moore's office was right next to this area.

16 6. On the day in question, Leo appeared by my desk and we began talking about
17 his comment letter. Leo did not indicate that he was there to talk to Eron Berg. He was
18 standing and I was sitting at my desk. Jack Moore and Eron Berg were not present at the
19 beginning of the discussion. Leo expressed to me that he was a little unsure of whether he
20 was making the correct kind of comments. He also indicated he was not sure if his
21 comments should be on city letterhead or should be made by separately by him as his
22 personal comments.

23 7. While I do not clearly recall, I likely pulled the letter out of my file of SEPA
24 comment letters as part of our discussion. I keep and maintain these files at my desk. I do
25

1 recall looking over Leo's letter with him at that time. It appeared from the language in the
2 letter that Leo was establishing conditions or stating requirements of the applicant that he
3 did not have authority to condition or require. For example, the letter stated in item no. 14
4 (in part): "The facility does not comply with the Zoning codes Section 17 industrial zoned
5 land. This is not an approved use Deluxe will need to apply for a conditional use permit
6 before proceeding." Another example was Leo's statement that "This facility must do an
7 environmental impact statement."

8 8. Whether a project does or does not comply with the zoning code, or whether
9 an environmental impact statement was required, are not decisions for the solid waste
10 foreman to make and I told Leo so. I would not have a problem with Leo pointing out that
11 zoning code compliance may be an issue or that an environmental impact statement should
12 be considered; but the letter was written as if these decisions were being made by him as
13 solid waste foreman. I also pointed out to Leo that the letter was addressed to Marianne
14 Manvill-Ailles of Skagit Surveyors, not the city planning department. I told him that if it
15 was really intended to be a SEPA comment letter, it should be addressed to the city
16 planning department.

17 9. It was my impression that Leo did not fully understand what he was supposed
18 to be doing. The letter appeared to be directed to the applicant (Skagit Surveyors
19 represented the applicant) and to be directing them with conditions or requirements
20 established by him. It did not appear to be written as a comment letter to the city SEPA
21 official.

22 10. After a couple of minutes of discussion with Leo, Eron Berg and Jack Moore
23 arrived at my desk. By the time Eron and Jack arrived, Leo was already talking about re-
24 writing the letter. He acknowledged the letter may not have been written correctly and he
25

1 said maybe he should hang onto it. He seemed unsure of what he wanted to do and stated
2 that he was having a hard time separating his role as the city solid waste foreman from
3 concerned citizen.

4 11. Soon after Jack and Eron arrived I asked them what they thought of the letter.
5 I recall the three of them at my desk all discussing the letter. Either Eron or Jack said
6 something about Leo not seeming too sure about the letter and that it was not directed to the
7 right people. One or both of them indicated that Leo may redraft the letter and put it in
8 comment form, rather than directing requirements. It was explained to him the typical way
9 a comment letter is written, listing concerns for consideration by the city SEPA official.

10 12. I do not recall either Eron Berg or Jack Moore addressing specific comments
11 made by Leo in the letter. Leo was not told to change any of his comments or to leave
12 anything out. The conversation was casual, and the main points made were that: (1) the
13 letter was not written in the form of a comment letter but was written as if the letter itself
14 was placing conditions on the applicant; and (2) it was addressed to the applicant, not the
15 city planning department.

16 13. Leo Jacobs was not told by anyone during the discussion that he lacked
17 authority to comment. Nothing like that was said. Also, no one said that Leo's comment
18 letter could not be part of the record. On the contrary, Leo indicated he was not too sure
19 about the letter, said he would think about it. I had the impression that Leo was going to
20 rewrite and resubmit the letter. Leo may have taken the letter with him, but I do not
21 specifically recall.

22 14. I asked Leo after that meeting for his written comments on the project. While
23 the deadline for public comments was February 6, 2008, city staff was free to comment
24 after that deadline. Leo never did resubmit written comments. After the meeting by my
25

1 desk, Leo was specifically invited to a staff meeting scheduled for the express purpose of
2 soliciting SEPA comments about the Deluxe project from city staff. Leo attended this staff
3 meeting and made several excellent comments at the meeting, many of which were later
4 incorporated as conditions in an MDNS, including without limitation condition nos. 16, 18,
5 19, 24 and 26.

6 15. Leo has made no secret of his displeasure with Deluxe. Many times Leo told
7 me that he does not like the project or the people bringing this to the city. Leo would often
8 use vehement and colorful language in expressing his opposition to Deluxe and asked me
9 how I could let this happen. I tried to explain to Leo that we had an application and I was
10 just doing my job.

11 16. I also reviewed the Declaration of Rob Simpson.

12 17. I do not recall being present at the meeting which Simpson describes in
13 paragraph number two. Also, I am not the Planning Director.

14 18. I do recall the meeting which Simpson describes in paragraph number four. It
15 is important to the City that vehicles entering the building are able to maneuver inside the
16 building.

17
18 EXECUTED at Sedro-Woolley, Washington, this 5th day of _____, 2008,
19 under penalty of perjury under the laws of the State of Washington.

20
21 
22 _____
23 JOHN COLEMAN
24
25