

*Wayne Hyatt atty.*

## Issues Involved in the Formation of The Port Ludlow Association

### Governance

#### Short Term

- The board of Port Ludlow Association (PLA) will endeavor to be representative of the entire Port Ludlow community. To achieve this, the board would be authorized to have eleven members. Initially, however, there would be a nine-person board of directors, consisting of three representatives of the Ludlow Maintenance Commission, three representatives of the South Bay Community Association, one representative of the developer, and two representatives of the various commercial owners.
- In the interest of saving the time and costs involved in an election, the representatives from the master associations would be chosen by, or comprised of, the members of those associations' board of directors.

#### Long Term

- Because the board of directors would be authorized to have eleven directors, and there would be only nine initially, at some point two additional directors must be chosen. When the board determines that it is appropriate, two directors would be elected in an at-large election among those owners that were otherwise unrepresented.
- The mechanism for filling the board seats could be either of the following:
  - \* have at-large voting for the two board seats among those associations not being represented at outset. [or]
  - \* have at-large voting throughout the entire community for the two board seats.

### Mechanism for phasing out associations/Transfer of Power to PLA

• At a point at which PLA has become fully functional and operational, and when the residents of the community have clearly understood and accepted the management structure in the community, many of the associations in Port Ludlow may be phased out, with the purpose of empowering PLA as the organization with the overall responsibility for maintaining and operating the community. The following steps would be taken:

- \* The first step would be to create a Port Ludlow Association. Articles of Incorporation and by-laws would be drafted, setting forth the rules under which the association would operate, including the number of directors sitting on the board, and how they are elected or appointed.
- \* Once the board is appointed, they would undertake a process which would result in the drafting of a set of covenants, conditions, and restrictions which would provide for the governance of all property deeded to it by the developer and made subject to it by the amendment process set forth below.

\* There would be a vote among each group of homeowners to amend the declaration of their association. Such amendment would strike the provisions of the existing declaration in their entirety, and would replace them with the provisions found in the PLA declaration. The requirements for amending the declaration are different in the various associations, ranging from a 51% vote of each class of members (South Bay Community Association and others) to an 80% vote of all lots (Ludlow Maintenance Commission).

\* Once the declarations have been amended, the associations in Port Ludlow would merge into the PLA. This would take a resolution passed by the board, followed by vote of two-thirds of the owners within each association, measures required by Washington state law.

### Assets of the Developer

#### Short Term

- The developer would commit to transferring all future amenities it develops to PLA.
- The developer would continue to own and operate all other amenities (golf course, restaurant, water system, sewer system, etc.)

#### Long Term

• In the future, as PLA is able to handle the financial burdens of ownership, the developer may transfer some of its other amenities to PLA. However, there are significant costs associated with the ownership and operation of some of these amenities, and PLA and the developer must agree that PLA is financially able to own and operate such amenities before the developer would transfer them.

### Maintenance

#### Short Term

• In transferring duties and responsibilities to the PLA from the various associations that now exist in Port Ludlow, one must limit the overlapping or inconsistent provision of maintenance duties. Because the by-laws of the various associations give them the power to contract with third parties for the provision of services, they would contract with PLA for the everyday maintenance of the areas for which each association is responsible. This would ensure that maintenance at Port Ludlow is at a consistent level and that the appearance of the community is uniform throughout.

• The danger that an association may withhold their payments to PLA in order to gain leverage may be minimized somewhat by providing for an assignment of the associations' lien rights against the owners to PLA, and by providing PLA with a security interest in the associations' stream of assessment income.

Assessments

**Short Term**

- The various associations would still continue to assess their owners as they had been doing previously.
- Part of the assessment paid by the owners would go towards funding the associations' payments made to PLA under the maintenance contract.

**Long Term**

- At the point when the associations have amended their declarations to provide PLA with assessment authority and lien rights, then PLA would assess the owners subject to its declaration as provided for in its declaration.
- If the any association does not vote to amend its declaration to provide PLA with assessment authority and lien rights, then PLA would continue to provide maintenance services to that association on a contract basis.

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2) PORT WINDOW PLANNING FORUM MATTERS. STATES. PASADENA. 1994.

## Issues Involved the Formation of The Port Ludlow Association

### Maintenance

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#### **Long Term**

- At the point when the associations have amended their declarations to provide PLA with powers and responsibilities of developing, maintaining, administering and preserving the community, PLA would provide maintenance services as provided in its declaration.

- If any associations do not get the required votes to amend their declaration, PLA would enter into long-term maintenance contracts with them.

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