



# COMMUNITY FORUM

Kala Point

News, Views, & Opinion

May 2006

A Newsletter To Foster A Friendly Neighborhood



## IMPORTANT:

### Member Property Rights

**The KPOA Board Is Considering Amendments To The CC&R's And Bylaws That Will Infringe On Member Private Property Rights!**

Private Property rights are a hallowed traditional right protected by State and Federal Law. Most members cherish their right to use and enjoy their property as they wish consistent with the legitimate contractual requirements of the CC&Rs and the legitimate interests of their neighbors.



**KPOA CC&R's place limited and prescribed conditions and restrictions on Private Property rights.** A KPOA document that provided legal guidance for Directors, recognized those rights in the following statement: "Individual property

rights generally prevail ( in a court of law) unless the CC&Rs specifically provide otherwise. In such cases as members, we have agreed to forego those rights in favor of having the Association (the Board) manage them for us".

**KPOA Governing Documents consist of: 1) CC&Rs; 2) Articles of Incorporation; 3) Bylaws; and 4) Rules and Regulations.** All, except Rules and Regulations, require member vote for amendment. The CC&Rs give Boards the sole discretion, without member vote, to adopt and promulgate Rules and Regulations. CC&R Article V, Section 1(a) also gives the Board the authority to establish a system of fines to enforce the Rules and Regulations that they adopt and promulgate as provided in the Bylaws (Article IV, Section 2) and Section 2 of this Article. Thus, fines are

restricted in the CC&Rs to those two specific Sections and to the specific property that is addressed in those sections.

The specific property in the CC&Rs where Boards are authorized to adopt and promulgate Rules and Regulations and enforce them by fines is **Common Area property (clubhouse, tennis courts, etc.)**. That clear and explicit intent of the KPOA CC&Rs, that are recorded as official records with Jefferson County in 1984 and 1994, is given in Article I, Definitions, Section 32 which states: "Rules and Regulations" shall mean and refer to the Rules and Regulations adopted and promulgated by the Board, pursuant to the provisions of this Master Declaration relating to the management, operation, control and use of the Common Area. This same clear and explicit intent is repeated in the Bylaws, except that the latter adds the clause: "so long only as such Rules and Regulations do not materially abridge the rights of Members set forth in the Master Declaration".

**"Our current Board is considering a proposal to amend the CC&Rs and Bylaws by changing the Definition of Rules and Regulations for the management, operation, control and use of Common Area Property to also include Private Property."**

***Our current Board is considering a proposal to amend the CC&Rs and Bylaws by changing the Definition of Rules and Regulations for the management, operation, control and use of Common Area Property to also include Private Property!***

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This change would give the Board the authority to adopt and promulgate Rules and Regulations

**“It will be interesting to see the results of this legal review since the Board Lawyer is already on record, in a letter to the Board dated 12/9/04, with the statement: “Technically, “rules and regulations” at Kala Point govern only common areas”**

on Private Property without member vote and to impose fines on members who violate them. This change constitutes a major infringement on current member Private Property rights. Members who have bought property in Kala Point since 1984 and who signed a contract with the

Association have a business contract right to expect reliance on the terms of a contract that protects their Private Property rights and they have the right to enforce those terms.

**The Board has yet to adopt this CC&R amendment proposal made by the Governing Document Changes Ad Hoc Committee.**

A draft version of the proposal is currently being reviewed by the Board lawyer. It will be interesting to see the results of this legal review since the Board Lawyer is already on record, in a letter to the Board dated 12/9/04, with the statement: “Technically, “rules and regulations” at Kala Point govern only common areas (see Article I, Section 32)”.

**“The specific property in the CC&Rs where Boards are authorized to adopt and promulgate Rules and Regulations and enforce them by fines is Common Area property (clubhouse, tennis courts, etc.)”**

The *Community Forum* will supply further information to members so that members can make an informed vote on a matter that clearly affects their Private Property interests should the amendment come up for member vote at the July, 2006 Annual Meeting.

## Open Meeting Recording Showdown Continues

**Tree Chair Tries to Block Member Recording; Gates Finally Intervenes Corrected; McNulty Backs Off and Members Record**

The April 13<sup>th</sup> KPOA tree committee meeting continuation resuming at Noon in the cramped office conference room, opened with Committee Chair Caroline McNulty



demanding that members exercising their right to observe and record, immediately “Obey” her command to turn off their recorders. Among her objections to private recordings was that “we have no choice in editing those recordings” (apparently speaking of the KPOA desire to edit verbatim recordings), and then announced, as has become

KPOA practice, that “the only official recording” of the meeting was the one she (McNulty) would be making.

Board President Gates, official liaison to the committee, sat there saying nothing, while Member Susan Garthwaite politely declined to stop recording, citing her statutory and governing documents entitlements. Moments later member Jay Garthwaite, also attending, advised that he too would be taping the session, at which time McNulty angrily declared that she would adjourn the meeting. President Gates then did speak up, and hurriedly requested a private conference with McNulty outside the room.

Both returned five minutes later with McNulty announcing that not only would she (McNulty) be recording, but then acknowledged that members also have a right to record.

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The controversial Juliano and Tacker tree requests were heard, and recorded by members, both obtaining committee approval later in the day.

**Member recording has increased in recent years following significant discrepancies between what attending members (even board members) recall having been said and what appears in official minutes of committee and board meetings.** During the April 13<sup>th</sup> tree committee hearing of the Juliano tree request, another such incident surfaced.

Juliano produced a recording of a past hearing on his requests. McNulty questioned whether the minutes reflected that outcome; to which Juliano directed her “to listen to the recording, despite what the minutes may say.”

**A several minute exchange debated whether the live recording or the “sanitized minutes” should prevail as the record of proceedings.** McNulty, apparently attempting to discredit the recording as having been altered or unreliable, demanded to know where Juliano had obtained the recording. The matter was quickly dropped when Juliano advised that he purchased the recording from the office.

*Historically, once the board has decided what will be the “official version” of events, recordings were destroyed. It is unclear whether such destruction is now practiced, but recordings have been produced by members to resolve “selective memory incidents”, including one recently in which (now resigned) Board President Evans declared that a Bluffs Committee was never actually formed, despite multiple clear memories otherwise by people attending the same meeting. Later faced with recordings supporting different facts, Evans dropped the issue.*

Committee chairs, prior to the recent purges, have reported being stunned by “official minutes” submitted by board liaisons

that reflected an entirely different position than was formally taken by vote within the actual committee in the field or at a meeting, often totally reversing the outcome to match board preferences.

**Other interesting exchanges during the hearings included Juliano questioning whether certain APP’s (actually part of the Rules and Regulations in governing document definitions language) were even enforceable**

**Listen to this meeting exchange on-line at:  
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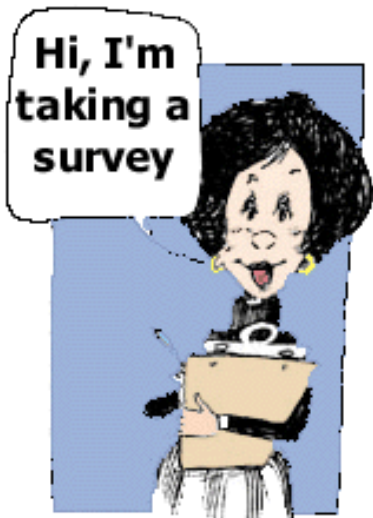
at all because there had never been formal notice give to the members as required by the CC&R’s; at a

critical point which McNulty declined to debate. At one point another tree member curiously, with an entirely straight face—quite seriously stated, “God put those trees there for a purpose”. God’s role in enforcing the view entitlement terms of the contract between KPOA and its membership is unclear. McNulty did, however, take the position that members “feelings” about taking down trees on common property must be considered, despite legal contractual view guarantees in the governing documents; a point at the core of much of the vegetation policy drama and tree hearings.

**KPOA’s penchant for secrecy in meeting conduct, and blocking any recorded record beyond their own interpretation for official minutes,** appears, at board level, to be waning a bit, insofar as members recording are concerned. That may be due to a formal legal opinion from KPOA counsel advising them that they simply cannot legally block such recording by members entitled to observe all association activities. With much of the real business of the association conducted in committee proceedings, the word needs to be better communicated; members are entitled to record proceedings, and continuing attempts to block recording are simply inviting un-winnable further legal challenges.

## ***Community Forum's*** **Community Survey**

### **Harmony Is Very Important!**



This article presents the results from the *Community Forum* (CF) survey. There were 136 member replies which is an all time record for survey responses.

The topic of community harmony is very important with members and have many suggestions. In this issue we will report the numeric results for questions 1, 2, & 3.

The numeric results to the survey are:

#### **1. How active are you in community affairs?**

Present or former board director: **12 responses**  
 Present or former committee member: **40 responses**  
 Have not been involved: **84 responses**

*If not, why not? (These written comments will be presented in the next issue of CF.)*

#### **2. How important is it to you that changes be made to improve harmony in the community?**

Very Important: 103 responses  
 Somewhat Important: 24 responses  
 Not important: 9 responses

#### **3. What kind of community do you want?**

The way it is now: 8 responses  
 Neighbors in a neighborhood : 101 responses  
 Other-explain below: 25 responses

*Explain: (These written comments will be presented in the next issue of CF.)*

#### **4. What would it take to make harmony happen in this community? 108 responses**

##### **Comment On Survey Results:**

##### **1. How active are you in community affairs?**

62% of the responses have not been involved in community affairs with 29% of the responses coming from present or former committee members. This is a significant statistic to keep in mind and to think about.

##### **2. How important is it to you that changes be made to improve harmony in the community?**

76% of the responses said that it is very important to them that changes be made to improve the harmony in our community. This statistic indicates that a very large number of neighbors feel that this is an important issue that needs to be dealt with.

##### **3. What kind of community do you want?**

75% of the responses said that they want a community described as "Neighbors in a neighborhood". This is another indication that members want solutions to bring harmony to our community.

##### **4. What would it take to make harmony happen in this community?** Not everyone answered this question but there were many opinions and solutions offered to help bring harmony to the community.

The written comments will be reported in the next issue of CF. The member written comments are broad and valuable. More time will be given to better organize, present, and evaluate the replies to maximize meaningful communication to the membership.

*Community Forum* encourages constructive member critique of the methods and usefulness of surveys employed by *Community Forum* as a way of improving information exchange among the membership. The information exchange can make Kala Point a better place to live, especially if it is considered by the board and factored into governance.

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## **KPOA Open Meetings Remain Largely Theater *The Real Business is (and has been) Quietly, Secretly Hidden***

Despite Governing Documents and state law making all board deliberations fully open to member observation, the behind the scenes activity continues. These actions are followed by



well-choreographed open board meeting theater. The real decision-making deliberation happens behind-the-scenes, invisible to members and often even to “non-conforming board members” who would really like to know who is pulling the strings (elected or un-elected). The members would also like to know what logic underlies the publicly

visible pre-determined open meeting end game. Voters, seeing that until now invisible action, would be better informed when it comes time to elect board members. This is clearly an awareness that successive boards have worked hard to stifle, and the effort continues unabated today.

**An example of the continuing board secrecy mindset is the horror expressed by board members** when *Community Forum* published in April the fact that the board was developing and perfecting a series of some 37 Bylaw and CC&R changes. Many of these changes are very significant modifications affecting basic rights of members to “quiet enjoyment” of their individual properties, and have been considered for balloting at this year’s member annual meeting.

**The “governing documents modification agenda” now being secretly developed, debated and decided “off-line” is the most sweeping set of changes to the contract between members and the association in**

more than a decade, likely ever. Yet the only real information about what is being considered appears in this publication, not in the official “newsletter”, despite the fact that in coming weeks members will likely be voting on major changes (see other articles) driven forward by unknown advocates.

Apparently totally lost on this board is the basic tenant of open government whereby “the governed” are able to “watch the sausage made”. The members would also like to know what logic is used in the decision making process. Voter seeing that until now invisible actions, would become better informed when it comes time to elect board members. Members have experienced that process before from KPOA boards with the \$10,000 fine proudly devised by a zealous few released as a decision to which nearly fifty members angrily reacted in board communications. Was there no lesson there?

**Then again in the Vogt-Evans case** members have seen the results when board and committee leadership in direct conflict with our own rules and procedures, that gave rise to the lawsuit for which we will be paying many years in significantly increased insurance premiums and restricted coverage. The “leaders” of that effort, including current board appointment candidate Hugh Murphy and vocal Ex-President Ray Kemery, historic key players in the dimly lit back rooms of KPOA, try to trivialize their roles in that process.

**The “governing documents modification agenda” now being secretly developed, debated and decided “offline” is the most sweeping set of changes to the contract between members and the association in more than a decade, likely ever.”**

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**Observers of city, county, state or federal government** will appreciate that the practice for matters under official consideration is to have multiple public “readings”. The “First Reading” of a proposal is intended to give notice to everyone that something important is being considered. The “Second Reading” illuminates the continuing



dialog, often considers public (member) input stimulated by the publicity of the earlier notice reading, which is then followed often by a “public hearing” and a third and final reading before enactment. All of these steps, openly conducted, with time between, are intended to provide in-progress visibility, awareness and opportunity for input BEFORE finality. This is NOT the model practiced by KPOA; not even close.

**Other disturbing evidence of the growing secret deliberations agenda** include the now very quiet official email accounts of board members. Also, the cessation of reporting or posting of member correspondence to the board, and the movement of “working session” agenda items “into the dark side”.

**The role of a free press in facilitating good governance behavior is an American Tradition.**  
*Community Forum* values that tradition...

As published to the membership, The May 3<sup>rd</sup> “working session” agenda (actually a “special board meeting” by statute and KPOA Bylaws) included eleven items for discussion; many with major member significance.


A twelfth item (Richter brief reserve study comments) was added during the meeting. However, only four items were actually discussed in the open session. **Left off the open meeting discussions were the following agenda items:**

- Proposed changes to CC&Rs and By-laws Scheduling Action
- Proposed Election process changes.
- Discussion of Committee membership criteria.
- Discussion of procedure for removal of committee member.
- Vegetation Policy.
- Document retention policy.
- Rules and Regulations.
- Governing Documents Ad Hoc Committee.

**The role of a free press in facilitating good governance behavior is an American Tradition.**

*Community Forum* values that tradition and, despite vilification by some will continue to seek, support and enable better governance at Kala Point through more access, transparency and disclosure.

**Yet the only real information about what is being considered appears in this publication, not in the official “newsletter”...**



**WORDS OF WISDOM**

*“It’s not who votes that counts. It’s who counts the votes.” — Joseph Stalin*

## Member Assessment Obligations for the KPOA Pier Replacement

### \$130,000 Shortfall and No Explanation By CFO!



The 2005 KPOA budget was prepared under the stewardship of the KPOA CFO with oversight by the Board. That budget was adopted by the Board and ratified by membership vote in Dec. of 2004.

The 2005 budget included funds for capital replacement of the KPOA pier. The pier, like the footbridge, is called an amenity constructed by the developer. Ownership and financial responsibility for capital replacement of each was subsequently transferred to KPOA members.

The 2005 budget increased member financial obligations for pier replacement to \$217,000, an increase of \$130,000 from the 2004 budget. The 2005 budget also increased funds accrued to date toward pier replacement to \$126,000, an increase of \$71,000 from the 2004 budget. These are large and abrupt increases for pier replacement. There has been no

explanation by the CFO, nor any apparent questioning of him by the Board, as to where within the 2005 reserve cumulative funds the \$71,000 increase for the pier came from.

Someone qualified to make such an estimate presumably made the \$130,000 increase in member assessment obligation for pier replacement in the 2005 budget.

However, this too is brought into question by a KPOA inquiry made in February 2006 for a new estimate for pier replacement by an engineering firm. The bid cost to make this new estimate is \$4500. That will be another new member assessment obligation and one made over a year after the Board adopted the 2005 budget. The new estimate does not include underwater inspection of the pier pilings. All of this is presumably being done under the watchful eye of the CFO.

**“The 2005 budget increased member financial obligations for pier replacement to \$217,000, an increase of \$130,000 from the 2004 budget.”**

The above example of apparent mismanagement of reserves for pier replacement gives rise to a general question on overall reserve management. The CFO has recently called for a reserve study. That follows statements by him in the past two years that he has been very comfortable that the reserves are adequately

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funded. His stated purpose of the study is to “examine unknowables”, whatever that may mean. It may mean knowing how to muddy up the “knowables” so that they become unknowable to

**“The Board has legal fiduciary duties and total responsibility for oversight, reasonable inquiry, and management of KPOA finances.”**

any outside observer. A focused, well-directed and efficient reserve study is in order. What is more in order is a change in CFO. KPOA needs a reserve management approach that is more competent, more credible, more

transparent, and more accountable to the membership. Furthermore a single individual on the Finance Committee is accomplishing the contemplated Reserve Study. There needs to be more Board oversight of this individual and the task.

**The Board has legal fiduciary duties and total responsibility for oversight, reasonable inquiry, and management of KPOA finances.**

They also are accountable to the membership for disclosure of reserve assessment obligations that are legal payment requirements upon all members.

**Perhaps the CFO and the Board have an explanation for the apparent lack in competence in management of the reserves and perhaps they will be willing to share them with the membership.**

## Invitation To Board Director Candidates

### Questions From The Membership

#### Community Forum

has invited the board director candidates to submit a response to the questions listed below, to be published in the June issue of Community Forum. These are questions that came directly from the membership.

An objective of Community Forum is to publish clear and objective information to the membership to help them form judgments of what is in their best interests and the interests of the community when they vote in free and fair elections on board directors.

The candidates response should give their views on these specific questions that are important to member interests. They are:

1. What is your long-term vision for Kala Point?
2. What is the cause and what should be done to mitigate divisiveness in Kala Point?
3. Do you think there should be full disclosure and member vote on reserve funds?
4. Do you think the membership wants to pay for a 1/4 million dollar pier?
5. How do you think members should vote on the proposed Governing Document amendments and why?

If you have any questions regarding these questions, contact Community Forum at: [contact@TTPnewsletter.com](mailto:contact@TTPnewsletter.com) or write to P.O. Box 816, Port Hadlock, WA 98339.

Thanks to all those that submitted questions!



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## **Worrisome KPOA Financial Surprises Continue**

**\$130,000 Additional  
Assessment Obligation;**

**\$17,000 "Budget Overruns"  
Board Appears Aloof; Uninterested**

Among the many fiduciary responsibilities of our board of directors, arguably one of the most important is financial oversight. Yet,

despite its critical importance, the financial affairs and operations of KPOA remain invisible behind a secretive veil, penetrable by only a selected few, which is strictly controlled by CFO Bruno Richter. Finance committee actions and process are closely guarded by the secretive CFO. Famously intolerant of the prying eyes of questioning members, he has lobbied successfully year after year against outside audits, actively opposed to change, including past ad-hoc committee recommendations for greater member visibility of and participation in the budget development process.



The longtime finance committee volunteer that has strong financial knowledge and experience representing member interests, was recently purged from the finance committee in a series of well organized personal attacks reported in the March and April issues of *Community Forum*. These incidents illuminated a long series of conflicts between the purged member, Richter and his board-picked supporters on the finance committee, over her attempts to question and openly discuss finance details. CFO Richter has repeatedly stated, in a variety of settings, that member scrutiny of KPOA financial matters is unwarranted and unwelcome.

However, several persons with significant experience in business and financial oversight, members residing in this community with experience managing budgets in the hundreds of millions of dollars, have expressed rising concern with the sequence of KPOA financial anomalies now surfacing with alarming regularity. These include:

- ◆ **\$130,000 increase in pier cost**, which is an additional assessment obligation to the membership. No explanation has been offered to the membership—or (at least publicly) to the board. There is also a \$71,000 increase in funds accrued to date towards pier replacement, with no explanation of what was left un-funded by this shift. (*see article on page 8 in this issue for further explanation*) These are not trivial adjustments, again calling into question the adequacy and allocations of our financial reserves.
- ◆ **2006 Budget Adjustments** Necessitating restatement and board re-certification of the budget last November.
- ◆ **No outside audit** despite general management and office staff turnover, as well as CEO changes. Independent audits in such circumstances are considered mandatory and standard procedure by experienced executives.
- ◆ **April board meeting revelation** by CFO Richter that the 2005 budget was overspent by some \$17,000 despite departed President Evan's claim of having "saved" some \$50,000 by dismissing the GM. The \$17,000 expense, mainly for electricity costs and pool-heater propane, was clearly predictable; in fact pool heater cost overruns were identified and discussed months earlier by GM Scott Edwards. Larry McNulty, the apparent CFO-in-waiting, in his budget overview presentation to the members in Nov 2005, stated KPOA would have a \$3,000 surplus for 2005. From a surplus to and \$17,000 overrun is not pocket change.

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- ◆ **Lethargic progress** on announced efforts to identify resources to conduct a reserve funds study, despite a well-defined standardized process and numerous Seattle area specialist firms. Leading this effort while Richter was out of town was Richter's substitute, Larry McNulty. Richter finally did report to the board during the May 3<sup>rd</sup> work session that the cost of a reserve study would be "in the area of \$7,000. That disclosure then triggered an extended debate between Richter and Gates about "specifications" for such a study, and whether the study itself could be paid for out of the reserves.
- ◆ **Reports of gaping holes in the reserve funding plan**, lacking funding for many elements of facilities and systems for which replacement reserves should, according to standard reserve practices, be accumulated. To date there have been extra-ordinary reserve expenditures over forecast for the Administration Building roof replacement, Sani-cans and various other items.

**Perhaps these recent revelations and adjustments are an attempt to "tidy things up" in advance of a professional study**, despite Richter's repeated statements of confidence in the construct, allocation and amount of reserves over the last two years.

**Normally boards of directors express (at minimum) a healthy curiosity**, and more typically, a fair measure of concern and interest, when there is such a string of anomalous financial revelations arising from the regime of a secretive CFO. This would be particularly likely when there is no sitting General Manager, and it has been years without an outside audit. Yet, when Richter announced the \$17,000 2005 budget overrun during the April board meeting, the revelation elicited no comment or question from any board member at that session. The most visible reaction was a yawn or two from several board members.

**We need a finance committee where membership diversity, curiosity and contribution is encouraged, not discouraged; regular independent audits, a full and complete reserves study**, and a board of directors fully and continuously engaged in financial oversight. If that sounds reasonable to you, write the board and demand nothing less. What is their plan to "absorb" the \$17,000 overrun? Is that simply going to be addressed from the "magical reserves"? Competent continuing financial oversight of the reserves is a fiduciary duty of every board member. Open and transparent execution of that responsibility would go far to reassure members alarmed by the series of recent financial revelations.



## How Do You Know?

By KPVoice

KPVOICE this month contains information that impacts each and every member. Soon four new directors will be on the board with at least three of those selected by the members.

It is important that the right candidates are selected to fill those slots and address the financial, leadership, legal and fiduciary issues currently facing Kala Point. For those new Directors it will be a daunting task to clean up the current mess. KPOA members must also be engaged to fix this problem.

The possibility of an assessment increase this year is ever looming and it is a result of a Board asleep at the switch!

- [www.kpvoice.info](http://www.kpvoice.info)

*KPVoice is an independent resource for Kala Point and is not affiliated with Community Forum.*

## Memorial Day

### Day of Remembrance



Many people confuse Memorial Day and Veterans Day. Memorial Day is a day for remembering and honoring military personnel who died in the service of their country, particularly those who died in battle or as a result of wounds sustained in battle. While those who died are also remembered on Veterans Day, Veterans Day is the day set aside to thank and honor ALL those who served honorably in the military - in wartime or peacetime.

### Flag Etiquette On Memorial Day



On Memorial day, the flag should be displayed at half-staff till noon only, then raised to the peak.

Half-staff is defined as half the distance from the top of a flagpole to the bottom. If flying a single flag, the center point of the US flag should be aligned with

the center point of the pole.

If more than one flag is displayed on a pole, they all should be lowered to half-staff. Measure the length from the top of the first flag to the bottom of the last. Align the center point of the flag group with the center point of the pole.

When a flag is flown at half-staff, it should be raised to the peak for an instant and then lowered to the half-staff position. When retiring the flag at the end of the day, this procedure should be repeated.

## Memorial Day Poppy



The poppy became a symbol of Memorial Day because the battlefields of France bloomed with poppies during World War I. For this reason, the poppy is the symbol of death — and of the life, or growth, that comes after death.

In 1915, inspired by the poem “In Flanders Fields” by John McCrae, Moina Michael replied with her own poem:

“We cherish too, the Poppy red  
That grows on fields where valor led,  
It seems to signal to the skies  
That blood of heroes never dies.”

She then conceived of an idea to wear red poppies on Memorial day in honor of those who died serving the nation during war. She was the first to wear one, and sold poppies to her friends and co-workers with the money going to benefit servicemen in need.

Today, veterans organizations often sell paper poppies; the money helps Americans who fought in the wars.

## May 29th 3pm One Minute Of Silence

The National Moment of Remembrance encourages all Americans to pause wherever they are at 3 p.m. local time on Memorial Day for a minute of silence to remember and honor those who have died in service to the nation.



As Moment of Remembrance founder Carmella LaSpada states: “It’s a way we can all help put the memorial back in Memorial Day.”

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## Advertising For Board Director Candidates

*Community Forum* has offered the declared board director candidates, a reduced rate for advertising their candidacy in the upcoming issues of our newsletter prior to the 2006 election.

Some ideas of what they would include in their ad might be:

1. Their qualifications to be a KPOA director in terms of competence and leadership
2. A picture of themselves

### Ad prices:

\$75 for a one 8.5"x11" page insert- printed on one side.

\$100 for a one 8.5"x11" page insert- printed on both sides.

**Requirements:** Layout must be complete and ready to print with a 1/2" margin on all 4 sides. The format needs to be an electronic file in either Microsoft Word or Adobe Acrobat. The electronic file of the ad must be emailed no later than the deadline dates below. to :  
contact@tpnewsletter.com

**Payments:** Payment for advertising in *Community Forum* must be received by the deadline dates listed below. Please mail your payment to: KIN, P.O. Box 816, Port Hadlock, WA 98339.

Payment must be received by the appropriate deadline date to be printed.

### Deadline dates:

June newsletter: May 25th

### Goals and Ground Rules:

*Community Forum* is produced for Kala Point as an independent newsletter resource for the community and to promote mutual respect and

harmony among neighbors for the well being of the community. An objective of *Community Forum* is to publish clear and objective information to the membership to help them form opinions of what is in their own and the community's best interests when they vote in the of board elections.

The candidates ad should meet the standards of good journalism and is limited to the issue of their candidacy. Varying viewpoints are encouraged in an open, respectful manner. *Community Forum* reserves the right to refuse any copy that does not satisfy these goals and ground rules.

## Anonymity A Protected American Right



### Part Of The Constitution Of The United States

**The definition of anonymity: the ability to conceal one's identity while communicating—enabling the expression of political ideas, participation in the government process, membership in political associations, without fear of intimidation or retaliation, a fear well-founded at Kala Point.**

The Supreme Court has said that sacrificing anonymity "might deter perfectly peaceful discussions of public matters of importance."

Freedom of speech and the press is a vital part of the political, social and cultural growth of our country. Not only is anonymity an important part of our culture, it is and American right and part of the Constitution of the United States!

**In 1925** the Supreme Court extended the First Amendment freedoms of speech and the press to the states through the Fourteenth Amendment due process clause. Then **Ancillary rights** were recognized in the 1960s, and the Court **established the rights of privacy, access, and anonymity.**

# GOVERNANCE

IN THE DISTRICT COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF JEFFERSON

Susan E. Garthwaite,	)	
	)	
Petitioner,	)	NO. 10881
	)	
v.	)	
	)	
Hugh A. (Sandy) MacNair,	)	
	)	
Respondent	)	DECLARATION OF J.C. Kuller

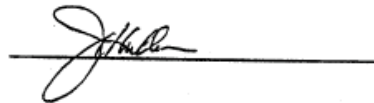
J.C. Kuller, under penalty of perjury under the laws of the State of Washington, declares and states as follows:

I am over eighteen years of age and competent to testify in this matter. I make this Declaration on personal knowledge. The letter attached hereto as Exhibit A truly and accurately sets forth what I have observed regarding Sandy MacNair. I incorporate it herein by this reference.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.

Signed this 12 day of January, 2006, at Port Townsend, Washington.

J.C. Kuller



January 11, 2006

To Whom It May Concern:

We, the Concerned Members of Kala Point, understand that a question has been raised regarding the interest of Sandy MacNair in an alleged, unapproved tree cutting incident on the property of Jay Garthwaite. Tree cutting in Kala Point requires approval of the Tree Committee under the CC&R's.

The Concerned Members are an informal group of past presidents, board members and committee participants who felt the obligation to support our elected board and the CC&R's to which we are all contractually bound. The MacNairs are members of this group. This group, meeting from time to time, has discussed the tree cutting incident and the Garthwaite's apparent threats against anyone coming on the property to confirm or deny the incident. The Garthwaites have also failed to respond to Board inquiries regarding the matter. The KPOA tree committee has expressed interest in any evidence to prove or disprove the matter.

Sandy MacNair has been a long time member of this community and has regularly served with distinction on the Board and numerous Committees.

Concerned Members

- John & Betty Kuller
- Don & Gail Marioni
- Don & Julia McClure
- Bob & Adele Lowe
- Hugh & Joanne Murphy
- Ray & Alva Kemery
- Ed & Barbara Zinser

On behalf of the Concerned Members,

  
John C. Kuller

EXHIBIT A

## Sworn Statement Pegs Board Candidate Murphy as "Concerned Members" Vigilante Group Member.

Legal filings at left, signed on behalf of the named members (including the Murphys) were filed in the January McNair harassment trial. KP residents often report unauthorized unofficial intrusive snooping as is proudly described, giving rise to negative community description in the regional real estate market. The District Court found this constituted a "continuing pattern of harassing acts"; Judge Huth then issued a restraining order, still in force today, against MacNair.

With the current board focus on "divisiveness", hopefully they will fully consider the implications of appointing to the board a person openly supportive of a group conducting organized harassment as well as that same person having been at the very core of the flagrant abuse of established KPOA process leading to the Vogt-Evans case. As Architecture Committee Chair at the time, Murphy owed members a fiduciary duty to uphold and maintain official policy in the Evans construction application. Instead, rules were ignored, appeals denied, and the impacted member sued KPOA. Losing the case; our insurance paid off everyone, resulting in a huge premium increase and a 400% deductible increase.

Murphy said on May 3, 2006, "For years we did not check files or notify neighbors (two key essential steps in the written due process assured all construction-impacted members), we should have; from now on we will." The prior Federal order on satellite dishes was also necessitated by Murphy's intransigent refusal to follow federal regulations. **The board candidacy of Hugh Murphy will be closely watched by many members, particularly in light of the recent board dismissal (purging) of another member on the finance committee for alleged "problems" that pale to insignificance compared with what Murphy has cost this association through his admitted malfeasance.**

## Evans-Replacement Candidates

### Controlling Clique Classic Recycle?



During their 2-hour special meeting (“work session”) on Wednesday May 3<sup>rd</sup> KPOA Directors interviewed three candidates to replace David Evans. Applicants include members Hank Krist, Hugh

Murphy and Donald Wright.

Both Architect Murphy and Real Estate Salesman Wright are well known and vocal controlling clique supporters, while Banker Krist advocated less fear of change, director representation of ALL members, and less controlling governance. The term “Insurgents”; said Krist “is divisive and inappropriate”. Responding to Director Costa, Wright first blamed the entire dysfunction at Kala Point on the Community Forum. On further questioning by Costa, Wright also indicated that the Garthwaite’s are causing problems. He closed his remark with the statement that “everything would be fine” if they both “just went away”.

***“The new director mix takes on further importance in light of directors whose terms end this July: Richter, Snyder and Costa.”***

Wright also admonished board members to “Forget the damn insurance and being sued...I personally have my property in trust, so you don’t have to have the exposure unless you choose

to.” When asked to discuss his accomplishments as a past board member Wright commented; “I was on the board that created the first large fine; \$16,000.” On “vision” Wright responded; “I would like to see the community back to where it was five years ago...there is no reason for anyone to be upset here unless they want to be upset.”

The new director mix takes on further importance in light of directors whose terms end this July: Richter, Snyder and Costa.

Long-time Architectural Committee stalwart Murphy, the principal player in the later-admitted Vogt-Evans lawsuit abuse of process, responded to Director Fischbachs questioning about “lessons learned” in that matter with the incredible comment that “it made no difference anyway on how the committee would have voted”. On his association with “The Concerned Citizen” vigilante group, Murphy claimed, “I never signed those letters”. The Murphys are named on a sworn declaration (see adjacent page) confirming support and participation of that group. Pushed further, Murphy confirmed that he was “supportive” of “The Concerned Citizen’s” goals.

Historically, most board appointments have been entirely predictable, simply recycling clique supporters from committee service, past director posts (or their spouses) to assure continuity of control. The former practice of appointing the next-highest-vote-getter from the most recent board election also went by the wayside in 2003 when a non-clique candidate would have been seated, had the long-standing policy been observed.

***“If Costa, Fischbach, Boyle & Shumate continue to vote together on a replacement director, with only eight sitting directors today, things could become more open. If the community is fortunate we might be able to get more diversity.”***

The director appointment this time will be particularly interesting to watch,

since the clique’s long-held ballot lock has been challenged lately. If Costa, Fischbach, Boyle & Shumate continue to vote together on a replacement director, with only eight sitting directors today, things could become more open. If the community is fortunate we might be able to get more diversity.

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## KPOA Open Records Access; History and Rights

### Access Broader and Simpler Today; But Obstacles Remain



Some members report difficulty in obtaining association records, encountering statements like “that is a draft and not public”, or “why do you want this and what are you going to do with it”? Another remark is “it will take some time to find that, I can’t make any promises.” None of these tactics is actually legal under this state’s strong member records access laws. Persons with a reputation for “not backing down” seem to do better in gaining access that is absolutely guaranteed to all. The situation has certainly improved with Judy Herwer in the office; even email requests are routinely and promptly satisfied, but it may depend on who you ask and upon who is asking.

**The ugly history of member access** to the open records of our association has, since 2003, loosened some, thanks to member legal actions and threats of legal action to overcome administrative FUD (Fear, Uncertainty & Doubt). Obstacles, and blatantly illegal “requirements to access” were placed by former general management and boards. As recently as 2003 requestors were required to sign legal indemnification documents just to access records, and were often denied records access outright. While some of the “requirements” have been eliminated or modified, KPOA still today makes numerous unenforceable access demands.

**If you refuse to play their game**, declining to sign the offered access forms, persistently pushing the issue, they will usually relent and satisfy your request once they know you know the law. They do this, under legal advice, because they have been ordered by Superior Court (Garthwaite 2005 Litigation) to comply with the statute. The language of the law is very empowering for members:

#### RCW 64.38.045

*Financial and other records — Property of association — Copies — Examination — Annual financial statement — Accounts.*  
**(2) All records of the association, including the names and addresses of owners and other occupants of the lots, shall be available for examination by all owners, holders of mortgages on the lots, and their respective authorized agents on reasonable advance notice during normal working hours at the offices of the association or its managing agent. The association shall not release the unlisted telephone number of any owner. The association may impose and collect a reasonable charge for copies and any reasonable costs incurred by the association in providing access to records.**

**KPOA attempts to impose other requirements.** Note the word “**All**” in section (2) above. That is hard to confuse with “some”. If it is on a piece of paper, in a computer file, or otherwise exists as a “document”, whether a scribbled list, a spreadsheet, an email, a draft letter, or ANY other record of the HOA, you are entitled to it, and KPOA is obligated by law to give it to you. That includes drafts. Reasonable advance notice is all that is required. You need only to show up at the office during business hours, having given reasonable notice (courts have determined that 24-hours is usually reasonable) and your request **MUST** be fulfilled.

**Note that there are no requirements in the law mandating the requesting member to sign any form**, acknowledge any “warnings” from KPOA, nor to state any purpose for the request. These are all demands still made today by KPOA (APP II-23A) which cannot be enforced. **YOU DO NOT NEED TO ABIDE BY THESE REQUIREMENTS.** If you encounter difficulty in obtaining records of our association, email Community Forum and we will be happy to assist you.



## Subscription Time! Support YOUR Independent Resource

It is that time of year again when we remind everyone that *Community Forum*, Kala Point's independent community resource, does require some funding to hold it's own, despite the donated efforts of our many volunteers and providers of in-kind services.

Please send in \$15 for your subscription. If you can donate more, rest assured that we will put it to good use, and appreciate it very much.

**KIN / Kala Point Independent News  
P.O. Box 816, Port Hadlock, WA 98339**

*Community Forum* is your resource you can count on for uncensored information about what is going on in our community.

**All contributions are anonymous.**

## FUN FACTS

◆ In 1945 a computer at Harvard malfunctioned and Grace Hopper, who was working on the computer, investigated, found a moth in one of the circuits and removed it. Ever since, when something goes wrong with a computer, it is said to have a bug in it.

## Test Your Driving IQ:



The best response to a "Roadwork Ahead" sign is to:

- a) continue driving at the posted speed limit and look for the roadwork:
- b) look for the roadwork
- c) slow down and look for the roadwork
- d) brake and be prepared to stop

**The correct answer: c.**

Slow down and look for the roadwork. Roadwork almost always involves changes in traffic patterns and "at-work" highway crews. For your safety and theirs, it is best to always slow down and look for the roadwork and any shift or change of traffic pattern.

### Kala Crossword Puzzle: April's Solution





## Kala Crossword Puzzle Kontest! \$25 Gift Certificate To Elevated Ice Cream Co.

You will find the crossword puzzle on Insert Page 1! This month's prize is a \$25 gift certificate to **Elevated Ice Cream Co.** which is located at 627 Water Street.

All the answers to the questions are from the previous months issue of *Community Forum*. The first person to mail in their completed puzzle with the correct answers will win the prize! We receive many completed puzzles, so be sure to be the first to mail in your answers.

Please mail your complete puzzle to:  
KIN, P.O. Box 816, Port Hadlock, WA 98339. The winner will be announced in next months issue.



Don't forget to include your name, address and phone number on your puzzle so we know who to send the gift certificate to.

The Elevated Ice Cream Co. is an old-fashioned Ice Cream Parlor and Candy Shop where they make their own ice cream, sherbet, and Italian ices (non-dairy) on the premises. They also offer home baked desserts, espresso beverages, chocolates and specialty candies.

The candy shop is a recent addition in 1997, which is adjacent to the ice cream parlor and began serving ice cream since 1977 from a courtyard antique Victorian elevator cage, hence the name *Elevated Ice Cream Company*, and the motto "*Lift Your Spirits!*"

Visit "Elevated" (as the locals like to call them) for dessert, a special occasion, or to find a special gift. They are open every day from 10 AM to 10 PM.

## Bloedel Reserve

### Quiet Walks In Gardens And Woodlands With About 3,000 Species Of Plants

Formerly the Bloedel family's residence, this 150-acre public garden has about 3,000 species of native and non-native plants; it also has a second-growth forest, three gardens, a bird refuge and ponds.

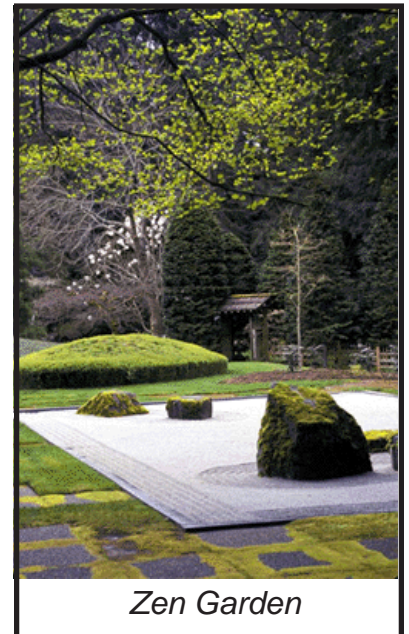
The first trees taken were used to build the Territorial University, which would later become the University of Washington.

In 1984, when Prentice and Virginia Bloedel moved to Seattle. The primary purpose of the Reserve is to provide people with an opportunity to enjoy nature through quiet walks in the gardens and woodlands. It is a place to enjoy and learn the values of eclectic design, aesthetics and ecology as the catalysts for the harmonious interaction of people and nature.

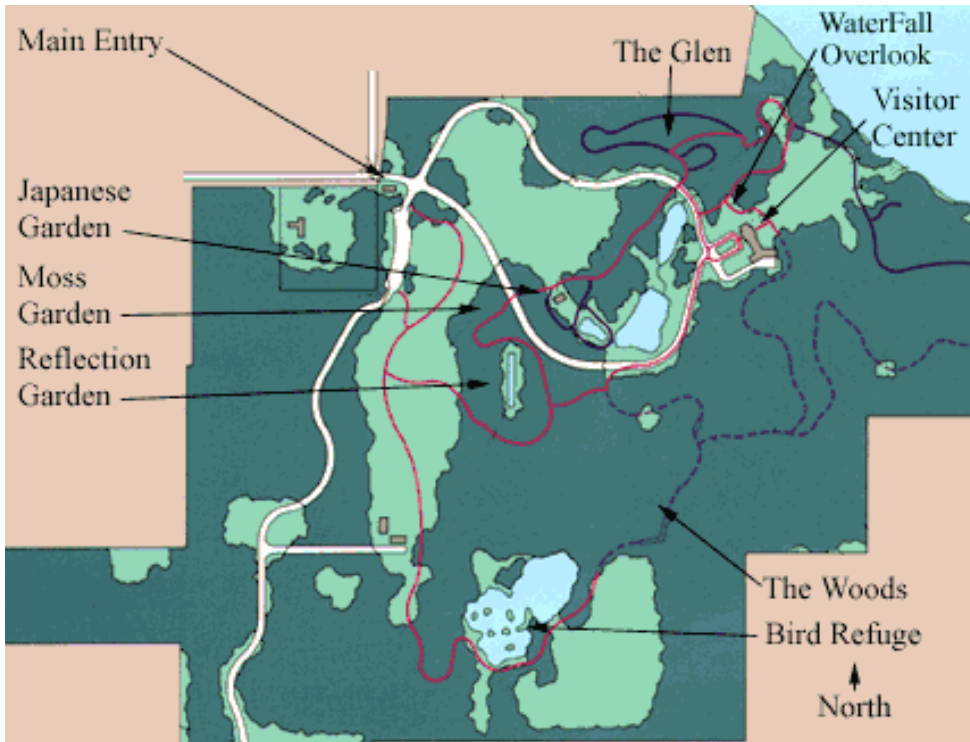
**Some of the features at Bloedel Reserve are:** A bird marsh, a trestle bridge and boardwalk, ponds and pools, the 1931 residence that has a beautiful view of Puget Sound on the east side, a waterfall overlook, the Glen, the Orchid Trail, Japanese Garden, Zen Garden, Moss Garden, the Camellia Walk, and the Reflection Garden and Pool. Are you relaxed yet?

**Directions:** It is easy to get here and takes about 50 minutes (36 miles). From Kala Point, take Hwy 19 down Beaver Valley Rd. to Hwy 104, which leads to the Hood Canal floating bridge.

Cross the Hood Canal bridge and turn right onto Highway 3. Follow Hwy 3 until it divides into



Zen Garden



turn lane provided and proceed onto Agatewood Road NE. Agatewood Road will turn right (¼ mile) and becomes Dolphin Drive.

Follow Dolphin Drive to its east end (½ mile) where you will see the white walls and Gate House of the Bloedel Reserve.

**Admission fees** are \$10 per person, \$8 for those 65 & over, \$6 for children (5-12) and \$4 to qualified college/university horticulture, botany class groups and youth clubs (boy scouts, girl scouts, etc.) Children under 5 are admitted free. Credit cards, personal

a limited access highway. Take the Poulsbo and Bainbridge Island exit to Hwy 305.

Proceed south on Hwy 305, through Poulsbo, past Suquamish (marked by the Clearwater Casino and Convention Center on the right), and over the Agate Pass Bridge to Bainbridge Island.

About ½ mile, on the right, will be a sign stating “Bloedel Reserve Next Left.” Use the left

and traveler’s checks are accepted. But there is no food service available nor is picnicking permitted, so keep that in mind.

**Allow about two hours for your visit** and reservations are required to tour. You can call 206-842-7631 or use their on-line request reservation form to schedule your visit at [www.bloedelreserve.org](http://www.bloedelreserve.org).

**Since for many of us in Kala Point our pets** are part of our family that go with us everywhere, it is important to note that you need to leave ALL PETS at home. Vehicles with pets inside will not be permitted to park within the Reserve.

**Accessibility accommodations** are provided upon request.



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## REAL ESTATE 101

### Do You Know Where Your Corners Are Tonight?



By Mabel Campbell GRI  
2005 Realtor of the Year

**Real estate is a 7/24 proposition, a Jack-of-All Trades, a One-Man Band, a continual learning curve.** Master problem solvers by necessity, we have the great opportunity for exciting education experiences, often

traveling distances to take advantage of a class. My path has been between Bellingham and Olympia, Feng Shui to Income Tax Law and Estate Law. A heavy diet of real estate law is a must. We are sponges, with information coming at us like driven snow on the windshield. You can depend upon a Realtor for problem solving and he/she is prepared for that assist at any time and in more ways than you can imagine. And, you won't be getting a bill!

**Much time is spent in research, investigation and discovery.** Technology has given us many useful tools, but it still requires creativity to put it all together.

**Surveys are a current topic of great interest.** The disparity of costs has caught my attention. It is now common to be asked for a \$500 retainer before a quote is given, and prices have increased many times over. I am told, by those in the business, that there are few surveyors in our county due to the many inaccurate surveys that others have used as reference points. Therefore, only Alta Surveys should be done. That is getting back to a government monument and surveying the path to the property. It is a costly proposition, but they are accurate and signed. Other surveys can be had, but most state the points of references used and some will not sign them to guarantee accuracy, in that event...

**An official re-bar with a cap doesn't guarantee accuracy,** even though legitimate when the survey was done. While it is illegal to move a survey stake, they do tend to wander. Kala Point has no problems, except when stakes are moved. That has happened, twice that I am aware of. Oftentimes landscapers or contractors push or cover the survey stake; too it doesn't take long for vegetation to overcome it. A metal detector is sometimes helpful. I assure you, every survey stake was in place at Kala Point for the original sales. In fact, Kala Point is a perfect example of how a community should be developed. The terraced land was a natural and the engineering impeccable. Kala Point is a work of art.

**It is very important to not assume where your property is, it is important to know.** Seeing a fence being built close to your property line is a cause for your attention... Should the fence be over the line, the property will belong to your neighbor in ten years, unless you act before. If



one gives permission to the neighbor for the use, that use does not become part of the property your neighbor sells. The fence would then be yours because you merely gave that one owner permission for use and that right is not

transferable.

**My favorite survey story is the farm land divided into 5 acre parcels.** The seller volunteered to come and locate the survey stakes as requested by the buyer. The buyers were on the property as this was being done. The seller's wife pointed to a white stake that once marked the location of the survey rebar, said, "Here it is", and the dog ran by, picked up the stake and dragged it to another location.

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Continued on page 21

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Continued from page 20

Of current interest is a survey ordered in an area along Highway 9, now Highway 20. It was a narrow dirt road when the original survey was done. The legal description reads 50' from the center of Highway 9. The paved highway was built, and then widened several times, and not equally on each side. The surveyor selected has been the president of the State Association of Surveyors. He will go back to the right property monuments and we will soon know where the property is located. This is going to be interesting!

An early day survey of Government Lot 2, S 35, T30N, R 2W on the south side of Discovery Bay locates every parcel 100' west of where it belongs. The county has honored the survey for at least 45 years. Everyone owns the wrong property by adverse possession, except the end east two, who have not built. There in lies the problem. The end of this series overlaps the first of the next. That poses a problem for this valuable waterfront land. Local judges had a conflict of interest so the case was heard in the Snohomish County Superior Court, all ten years of it. The

ruling was finally handed down and gave clear title to the person in the middle. With a clear title, the sale could finally close. But, at the last minute the case went to the Court of Appeals. This hearing was a repeat of the others. I can recite

both sides verbatim by now! Thirteen years of this with my participation on behalf of my clients. While we expect to win, it will still go to the State Supreme Court to finalize the decision without recourse. A Realtor sticks with it until the job is done.

**It's 1 a.m.; do you know where your corners are tonight?**



## Volunteers in Medicine

**Kala Point should be proud that it has residents that are involved in the Volunteers in Medicine of the Olympic Peninsula.**

As most of us know there are people who are medically under served who live, work or visit on the peninsula. Last year the clinic, an affiliate member of Volunteers in Medicine Clinic Network, was established in Port Angeles. In order to be effective, these clinics require a great deal of work and cooperation of the medical community as well as the community in general. It is necessary to have a special facility, staffing, hospital involvement, local and state government support, including help from local charities and service organizations. Almost all the workers volunteer their time without compensation. In order for the clinic to work there needs to be a reliable and definite commitment.

The Volunteers in Medicine of the Olympics Clinic provides primary medical, mental care and referral for dental work for adults who do not have access to health resources.

**Ronald Tacker, M.D., one our residents, a former distinguished professor on the faculty of Stanford University Medical school and head of the Department of Urological surgery has been very active in the founding of the clinic and is a member of the VIMO Board of Directors. Also former residents Richard Canaan, M.D. and Ed Gacek, M.D. volunteer their time and expertise to the clinic.**

The vision of the clinic is: *May we have the eyes to see those rendered invisible and excluded, open arms and hearts to reach out and include them, healing hands to touch their lives with love and, in the process, heal ourselves.*

This is a fine example of the many wonderful neighbors that we have living here in Kala Point!

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## PT Orchestra Concert June 4th Second Annual Pops Concert Fundraiser!

Submitted by:

Karl Bach, President, Board of Directors  
Port Townsend Community Orchestra

The Port Townsend Community Orchestra will be selling tickets at the April 29 concert for its 2<sup>nd</sup> Annual Port Townsend "Pops" Concert to be held at 3:00 p.m., on Sunday, June 4, in "The Commons" building at Fort Worden.



This year's theme will be "The Hit Parade of the 1940s." Carol Swarbrick Dries, **Special Guest Artist and Broadway star** will be the featured soloist for her second such appearance with the orchestra.

Tickets will go on sale at our April 29 concert for \$20; after that, tickets will be \$23. A limit of 350 tickets will be available. This concert sold out quickly last year, so get yours soon!

For more information call 360-344-3658 or email [flam@cablespeed.com](mailto:flam@cablespeed.com). More information about the orchestra can be read on its website: [www.olympus.net/community/ptorchestra](http://www.olympus.net/community/ptorchestra).

## WEIRD BODY FACTS

1. The tongue is the strongest muscle in the body.
2. The human nose can identify up to 10,000 different odours.
3. A sneeze can travel as fast as 100 miles per hour.

## Classic Book Club

Classics Book Group will discuss *The Trial* by Kafka on Sunday May 14, 2:00 at the Library in Hadlock. For June 11, we will read Book One of Trollope's novel *Can You Forgive Her?*

You are welcome to come join in discussion of any selection that is of interest to you.



## Garden Club Annual Tour of Local Gardens

On Wednesday, June 14 the Port Ludlow Garden Club will tour local gardens. This is a wonderful opportunity to see some very special gardens and get some terrific ideas for your own. The tour is open to members and guests.



Those planning to attend do not need to sign up ahead of time, but should meet at the Bay Club at 10 am to get directions and maps. Car-pooling is strongly urged, as parking may be limited at some homes.

Members are reminded to dress appropriately with sensible shoes and perhaps an umbrella. Bring a sack lunch. Coffee, water and dessert will be provided by the hostesses.

For further information for this tour, please contact June DeMers at 437-9546.

The Port Ludlow Garden Club meets every second Wednesday of the month at the Bay Club. Membership is only \$12 a year which gives you discount rates on great field trips during the year. Come join us and enjoy the fun! Also learn and share gardening ideas. Contact Margo Elton at 360-437-0758 or Shirley Johnston at 360-437-2695 for more information.



## Several Volunteer For Transcribing!

Community Forum would like to thank the members that volunteered to transcribe board (and similar) audio meeting CD's, and other important meetings like Town Hall Meetings and Candidates Night.

This will be a great benefit for members to be able to read meeting transcripts, especially those that do not have access to a fast internet connection that would enable them to listen to the recordings on the web.

With busy schedules, many can not attend meetings during the day. Hopefully having transcripts available will help those members keep up to speed and stay better informed on what is going on in the community.

Watch for future issues that describe which transcripts will be available. You can also check our web site by going to [www.ttpnewsletter.com](http://www.ttpnewsletter.com).

## Adult Volleyball Fun No Experience Necessary!

By Hank Krist

We are starting a Kala Point co-ed adult volleyball league. Whether you are a beginner, brushing up on skills, desiring mild

exercise or just social fun—we want you. Attend whenever you desire and most importantly, have lots of fun! We will be playing in Kala Point.

Depending upon schedules we may play week-day mid afternoons, late afternoons/early evenings or weekends. If you are interested or have questions, please call Hank Krist at 379-9878.



## 11th Annual Secret Garden Tour Saturday, June 17th

The WSU Jefferson County Master

Gardeners will welcome summer to the Olympic Peninsula with a self drive tour of some of the most spectacular private gardens in Jefferson County Sat, Jun 17. From 10 am to 4pm, enjoy live music, stunning views and gardens to inspire and delight. Master Gardeners will be on hand to answer questions.

Tickets will go on sale beginning May 18th at WSU, 4 Corners, Henery's in Port Townsend and Sequim, McCombs Nursery and Valley Nursery. \$15 for advance tickets; \$17 day of event; Senior groups of 10 @\$12.

For more information email Carol Brannan at [cabrannan@cablespeed.com](mailto:cabrannan@cablespeed.com) or call her at 360-437-0135. You can also contact Susan McMahon at 360-437-2010 or visit the WSU Extension web site <http://jefferson.wsu.edu> and click on Master Gardeners.



*One of the secret gardens of 2005*

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**Spring Clean Up  
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## KPOA Seeks to Legitimize “Tree Police” Control Over Owner Lots;

### ***Diminishing “Quiet Enjoyment” Rights; Lowering Land Value***

Although efforts of certain board members and others to spin it as merely a benign “alignment of the CC&Rs with historic practices”, it is anything but benign. The planned extension of KPOA rules and regulations legally governing only association common property (elements collectively owned by all members—like streets, amenities and facilities) to instead apply to “all covered property” (which includes your individual lot) is a major and significant change in the property rights contract between owners and the HOA.



In essence, KPOA now acknowledges that, as the association attorney stated in 2004, historic extension of authority by creative rules and regulations interpretation, and the

“KPOA actions fining and threatening to fine or assess those who questioned the policy or authority were without legal merit and subject the membership to expensive lawsuits.”

actions fining and threatening to fine or assess those who questioned the policy or authority were without legal merit and subject the membership to expensive lawsuits. Even today, anyone penalized unlawfully **can come back and sue the association.**

nefarious “APP” language, successive boards and committees have been substantially over-reaching HOA rights of control by application of rules and regulations over individual lots without legal authority. KPOA

The association attorney has clarified the problem in a letter to the Board dated 12/9/04, with the statement:

*“Technically, “rules and regulations” at Kala Point govern only common areas (see Article I, Section 32).”*

This is one of the changes KPOA plans to implement by CC&R modifications this year.

**Moving to change the governing document language today is an attempt to cover for yesterdays improper actions and to empower the association to resume their historic bad behavior** under cover of new authority granted by proposed CC&R and Bylaw changes. It’s a bit like someone trespassing on your land for years illegally, claiming a right to do so, and then, upon discovering that there was no such right, they want you to convey the right they never had, rather than stop the trespassing.

**When a development already suffers a widespread negative reputation in the real estate community tied to historic HOA intrusive control,** intolerance and personal targeting, property values suffer. Present owners choosing to escape the environment tell others about their decision to leave, the word spreads, and community reputation suffers.

**Damage to the community reputation is not the only assault on our property values.** Any time a lot owner allows restrictions to be placed on the rights to “quiet enjoyment” of the occupancy and use of a lot, the value of that lot is diminished because it is negatively restricted. In the Northwest, with the rapid growth of trees, restrictions on a lot owners vegetation management rights are, therefore, particularly destructive of property value. Buyers notice, and offer less, or simply move on to other prospects where such limitations on personal land use are not imposed.

## Anonymous Questions For The Board

### **“Official” Town Hall Meeting Refuses Anonymous Questions but Community Forum Has No Such Restrictions**

Unfortunately anonymous questions were not allowed at the last Town Hall Meeting discussing the draft vegetation policy, further imposing limits on free speech. These tactics drive more and more members away from board-sponsored-function participation, while at the same time; the board espouses a desire for greater participation.



If you do speak up in public you will suffer the consequences- targeting, purging and character assassination which has been rampant at Kala Point for years.

**Below are questions that members sent to Community Forum that were not allowed to be asked at the Town Hall Meeting regarding the draft Vegetation Policy:**

- ◆ **“Where is all the pressure coming from to replace individual owners good judgment about how they deal with the continuous encroachment of alders and tree management on their own lots with some committee or the board? Was there a poll or survey of owners showing an overwhelming interest in extending this control to the board and it’s committees? Was there some horrible incident in which an owner blighted the community by clearing Alder or stripping trees on their own lot? (If either happened, I must have missed it) Please explain who is behind this, and why it rises to the level of concern that it is felt necessary to impinge everyone’s property rights?” - A Member**
- ◆ **“With the board promoting extension of rules and regulations, including “vegetation policies” beyond common property coverage**

to cover all individual lots there seems likely to be even more staff workload, owner vs. association conflict, divisiveness and probability of litigation at Kala Point. Have board members considered the potential for this? Are board members aware of the hundreds of thousands of dollars in legal fees currently being spent on precisely this kind of “tree lovers vs. view lovers” conflict in other area HOA communities? With our lawsuit insurance deductible already at \$10,000 per incident following the Vogt-Evans case, how many of these disputes can we afford, and why should all of us be exposed to this risk?” - **A Member**

◆ **“In these conflicts between the tree-huggers and those wanting to maintain their views it seems there is a never-ending series of reversals, appeals, appeals of appeals, reversals by board of committee decisions, minority opinions, re-applications and on and on over every tree request. Please explain the authority of the tree committee, the board liaison, and the board in these matters, and “where the buck stops getting passed”. When and how is a decision considered final?” - A Member**

◆ **“My lot is not within the area some are saying is the only area (Division 9?) entitled to maintenance of views. Where is it written that my view rights are somehow not protected, just because they are not expansive water vistas? Before all the alders were allowed to grow up along the street, vacant lots, and the property of others, I had a much better sunrise and peekabo water view than I have today. Why, exactly, am I not entitled to have that view protected and restored?” - A Member**

◆ **“Why is some committee needed to tell me how I manage the vegetation on my property? I never agreed to such control when I agreed to the CC&Rs. Why the big power grab now? Who is behind it? What is next?” - A Member**

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## SU-DO-KU Puzzle: April's Solution

7	3	4	6	8	2	9	1	5
1	9	8	7	4	5	2	3	6
2	6	5	3	9	1	4	8	7
6	5	9	4	3	8	7	2	1
4	7	2	1	6	9	3	5	8
3	8	1	2	5	7	6	4	9
9	2	7	5	1	3	8	6	4
8	1	6	9	2	4	5	7	3
5	4	3	8	7	6	1	9	2

## SU-DO-KU

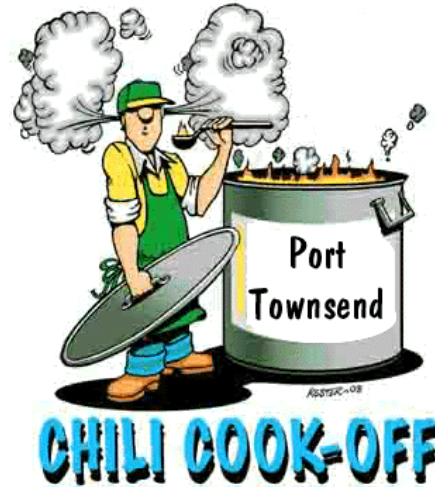
Instructions: Fill in the grid so that every row, every column, and every 3x3 box contains the digits 1 through 9.

Level of Difficulty - Easy.

	3							
1				4	5	2		
2				9	1			7
6		9				7		
	7				9		5	
	8	1						4
			5					6
				2		5		3
	4	3				1		

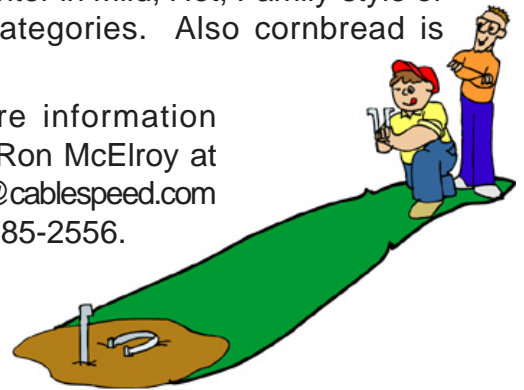
## Port Townsend's Chili Cook-off

On June 4th at 1:00PM there will be a community picnic at the Jefferson County



Fairgrounds with a Southwest theme, featuring a chili cooking competition and horseshoe tossing contest. Cook your chili ahead of time and bring a picnic lunch. Enter in Mild, Hot, Family-style or Verde categories. Also cornbread is judged.

For more information contact Ron McElroy at [mcelroy@cablespeed.com](mailto:mcelroy@cablespeed.com) or 360-385-2556.



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## POETRY CORNER

### IF

*Rudyard Kipling's Verse*

Submitted by Susan Garthwaite

If you can keep your head when all about you  
Are losing theirs and blaming it on you,  
If you can trust yourself when all men doubt you,  
But make allowance for their doubting too;  
If you can wait and not be tired by waiting,  
Or being lied about, don't deal in lies,  
Or being hated, don't give way to hating,  
And yet don't look too good, nor talk too wise:

If you can dream-and not make dreams your  
master;

If you can think-and not make thoughts your  
aim;

If you can meet with Triumph and Disaster

And treat those two imposters just the same;

If you can bear to hear the truth you've spoken

Twisted by knaves to make a trap for fools,

Or watch the things you gave your life to, broken,

And stoop and build 'em up with worn-out tools:

If you can make one heap of all your winnings

And risk it on one turn of pitch-and-toss,

And lose, and start again at your beginnings

And never breathe a word about your loss;

If you can force your heart and nerve and sinew

To serve your turn long after they are gone,

And so hold on when there is nothing in you

Except the Will which says to them: "Hold on!"

If you can talk with crowds and keep your virtue,

Or walk with Kings-nor lose the common touch,

If neither foes nor loving friends can hurt you,

If all men count with you, but none too much;

If you can fill the unforgiving minute

With sixty seconds' worth of distance run,

Yours is the Earth and everything that's in it,

And-which is more-you'll be a Man, my son!

# COMMUNITY FORUM

## Garthwaite Offers Lawsuit Settlement Board Reportedly Considering; June 2<sup>nd</sup> Hearing Postponed

Member Jay Garthwaite tells *Community Forum* that he has offered to settle his current lawsuit against KPOA. The suit had sought open board email access, election reforms and legalized executive session conduct.



Garthwaite tells CF; "The board has now finally adopted policies that, if actually followed to the letter and spirit, may reduce secret proceedings, produce better information access, and

limit election lockbox tampering; the main points of the suit, so just ending it here makes sense." Settlement terms offered, awaiting board response, are that both sides just cease litigating on these specific issues, each paying their own way. **Reportedly the board attorney has agreed to postpone the scheduled June 2<sup>nd</sup> court hearing until June 30, pending board action.**

Asked by CF if the offer was a change in his tactics Garthwaite said; "Yes, but not what you might think. In the past successful actions against KPOA I have operated without an attorney and sought no money damages. Judges hate that. Having been hit with paying \$2500 of the \$6000 legal fees KPOA sought, I see now that was a mistake. If future actions are necessary I will be using my new attorney, following his advice on seeking fees and damages in addition to policy or behavior changes. Despite having made most of the changes I sued for, that seems to be the KPOA preference...hire lawyers and duke it out. So, yes, that would be a change in tactics. With the new KPOA lawsuit insurance specifically excluding coverage for my legal action, I would hope they will be more open to compromise without litigation in the future. We shall see."

**"He had sought open board email access, election reforms and legalized executive session conduct."**

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**IMPORTANT:**  
**Member Property Rights**  
**The KPOA Board Is Considering Amendments**  
**To The CC&R's And Bylaws That Will Infringe**  
**On Member Private Property Rights!**



## Vote for Pete Juliano

I ask for  
Your Vote and  
I guarantee:

- Honesty
- Integrity
- Listening
- Fairness
- Consistency
- Doing Things Right
- Doing Right Things
- Getting It Done



Pete

### Kala Point is like a small town ...

Kala Point is like a small town where the members elect a board to manage and govern the affairs of the association. **In doing so members trust the board to act on their behalf.** That trust has been eroded and new additions to the board must be the cornerstone of rebuilding that trust.

**While our board is comprised of member volunteers, being on the board requires skill, knowledge, experience and an attitude of service.** The board's job is problem avoidance and resolution, finding the right solution for the true problem and involving the members in that process.

**Kala Point is not on autopilot** and those that lead must have the skills and capabilities to govern and manage our small town. Small towns are noted for everyone knowing everything and everybody.

**It is important that the members know the candidates** and are assured that whoever is selected can and will do the job. I can and will do the job!

#### **Want to meet Pete?**

Come to the "Meet Pete" event at the **KPOA Clubhouse** on **Saturday May 20, 2006** from 10-12 AM. Vote for Pete Juliano!

### My Vision for Kala Point!

**Neighbors in a Neighborhood**

**A Better Place for All to Live!**

**I have served Kala Point** on the EPC, Bluff Management Committee, the Ad Hoc Footbridge Committee and currently on the Ad Hoc Governing Document Revision Committee.

Check out my website for much more information on the issues and what it takes to solve the problems. Ask me about my vision and plan for Kala Point.

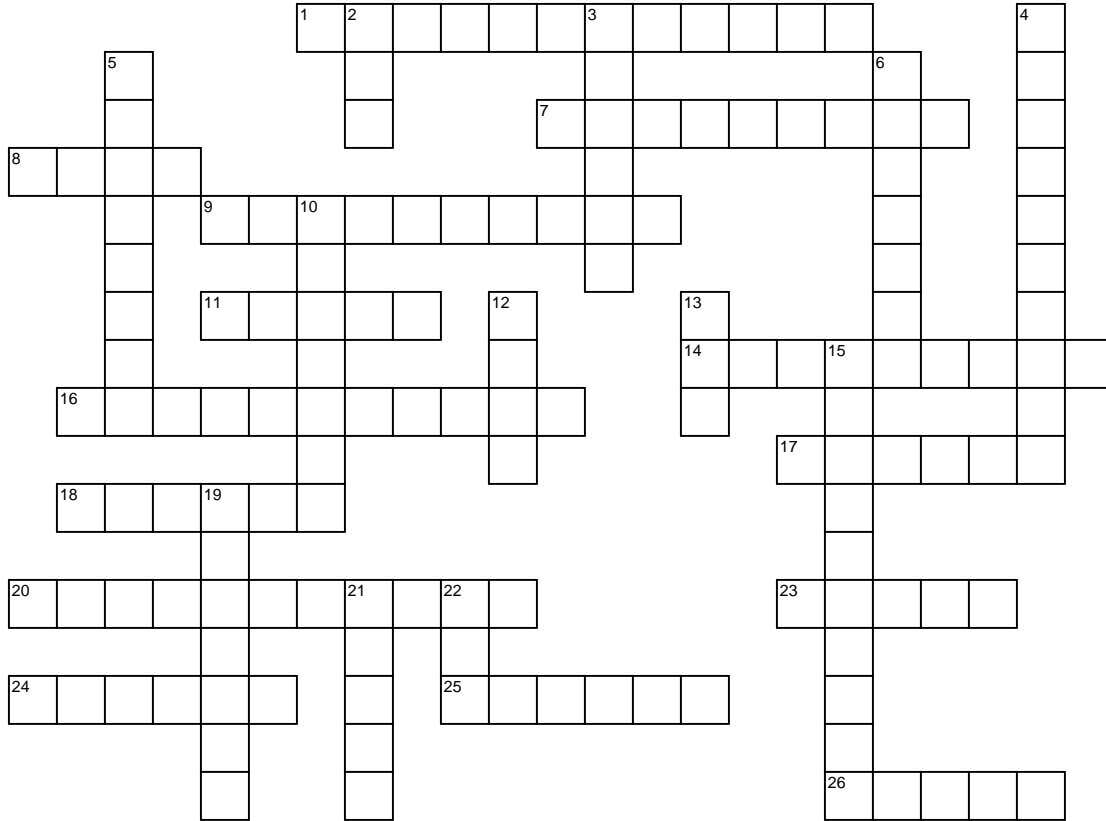
[www.pastapete.com](http://www.pastapete.com)

email: [pete@pastapete.com](mailto:pete@pastapete.com) Phone: 379-2904

# COMMUNITY FORUM

Insert Page 1

## Kala Point Crossword Puzzle (Hint: Look in previous month's issue)



### ACROSS

- 1 A great place for an oil & filter change.
- 7 \_\_\_\_\_ questions were refused at Town Hall Meeting.
- 8 A microchip is inserted under the \_\_\_\_\_ of your pet.
- 9 \_\_\_\_\_ fun is starting and no experience is necessary!
- 11 KPOA president that resigned from the board.
- 14 \_\_\_\_\_ too close is the primary cause of collisions on Hwy 101.
- 16 \_\_\_\_\_ changes are under serious consideration in your contract with KPOA.
- 17 Manresa \_\_\_\_\_ is a perfect place to have out of town guests stay.
- 18 Anonymity is one of the ancillary \_\_\_\_\_ recognized since the 1960's.
- 20 Reduced rate for this for the board candidates.
- 23 One of the freedoms included in the Bill of Rights.
- 24 The chrysanthemum became revered as a symbol for good \_\_\_\_\_ in Japan.
- 25 Festival in La Conner where you can find these.
- 26 Port Ludlow Garden Club had a \_\_\_\_\_ exchange.

### DOWN

- 2 The most important issue for a 4 cycle engine.
- 3 SU-DO-KU is Japanese mean "the digits must remain \_\_\_\_\_".
- 4 Many HOA's throughout the country struggle with the need for a balanced approach to this.
- 5 A fellow human being.
- 6 Vote for Pete \_\_\_\_\_.
- 10 Community \_\_\_\_\_ must work at removing the root cause of gossip.
- 12 About \_\_\_\_\_ thousand dollars has already been allocated for lawyers reviewing this vegetation draft.
- 13 30% \_\_\_\_\_ for select signature series window treatments.
- 15 \_\_\_\_\_ is an essential ingredient on Boards to achieve good governance.
- 19 KPOA's board goal is to strive for this among KP residents.
- 21 The "Don't \_\_\_\_\_ the messenger" is an article by KPVoice.info.
- 22 Showy flowering trees are \_\_\_\_\_ the ones causing folks with allergies to suffer.

Be the first to send in with the correct answers to: KIN, P.O. Box 816, Port Hadlock, WA 98339 & Win a \$25 Gift Certificate to Elevated Ice Cream Co.!

Name \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_