

**ILLEGAL MEETING APRIL 14TH 2005 -
COMMISSIONERS WAMPOLD & DODD**

October 10th 2005

FROM:

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TO:

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Gentlemen:

Subject: Public Disclosure Act (PDA) Request - RCW 42.17 – [April 14th 2005 Illegal Meeting](#)

Please read this letter into the minutes and attach thereto.

INTRODUCTION

For the past 18 years I have owned property in Mason County Fire District Number 5 and have paid taxes on this property. During that time I have never made a single request or even had contact with any member of the Commission of District Number 5. Therefore, the fact that I am writing this letter and making a request is not an everyday event.

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PROBLEM

The Commissioners of Mason County Fire District Number 8 know, understand but often willfully ignore the Open Public Meeting Act (OPMA) RCW 42.30. Worse yet, they defiantly refuse to take corrective action when it's pointed out to them that they are in violation of this and other bodies of law. Unfortunately, because of this attitude and conduct, the Commissioners of Mason County Fire District Number 8 are a problem.

One of the problems we have is that the Commissioners of Mason County Fire District Number 8 have illegal meetings. Illegal meetings between fire commissioners deny the public its legal right to know what their elected public servants are doing.

I assume that the Commissioners of Mason County Fire Protection District Number 5 know, understand and properly apply the Open Public Meeting Act (OPMA) RCW 42.30. That is why I am asking for your help via a Public Disclosure Act request.

We all agree that good government demands that our elected public officials embrace and in good faith abide by the laws they have sworn to uphold. The information that I am about to provide, the information that I am about to request, and the information you hopefully will provide, directly support my rights as a citizen to be entitled to good government.

What does our former Washington State Attorney General say and what does the law say about the subject?

AUTHORITY:

RCW 42.30.00

Open Public Meetings Act

Washington State Attorney General (Quote)

July 25th 2004

On July 25th 2004 Christine Gregoire stated, and I quote:

"Citizens can control their government only if they can remain informed about the decisions their government officials are taking."

Christine Gregoire goes on to say, and I quote:

"That important principle underlies Washington's open public records and meeting laws. The laws, which are now more than two decades old, are intended to give us (the People – inserted by author) an informed electorate which can evaluate the performance of our elected officials and provide us with an honest, competent and responsive government."

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Continuing to quote Christine Gregoire who goes on to quote RCW 42.30 Open Public Meetings Act (OPMA); RCW 42.30.010 - Legislative declaration:

“Here is how the Legislature stated the purpose of these two laws (OPMA & Public Disclosure Act - PDA): ‘The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.’”

BACKGROUND

On April 14th 2005 at approximately 6:53 PM I received a phone call. A citizen had noticed a Mason County Fire District 5 motor vehicle at the vacation home of Tom Wampold near Bald Point on Hood Canal. Bald Point is approximately 19 miles out the NE North Shore Road from Belfair – clearly well outside of the boundaries of Fire District Number 5. Tom Wampold is a District Number 8 Commissioner for the Tahuya Fire District as well as its Chairman.

The citizen thought this strange. Equally strange, the citizen recognized two additional vehicles – one was that of Chairman Wampold and the other was that of Commissioner Dodd – also a District Number 8 Tahuya Fire Commissioner. The citizen proceeded to stop and go to the door of the home and knock. When the door opened – there was Chairman Wampold and the citizen got a glimpse of another individual that appeared to be Commissioner Dodd. The citizen asked Chairman Wampold if the regularly scheduled District 8 Tahuya Fire Department meeting scheduled for 7:00 PM was being held at his vacation home. **Chairman Wampold said “were busy now” and immediately shut the door.** Something did not seem right. The Washington State Open Public Meeting Act (OPMA) states that whenever two commissioners of a three-member commission meet and discuss anything related to the organization they represent, there is a quorum. Webster defines a quorum as follows – *“the number of the members of an organized body of persons (as a legislature, court, or board of directors) that when duly assembled is legally competent to transact business in the absence of the other members: a usually specified number of members (as an absolute majority) in the absence of which an organized body cannot act legally”*. In other words, if two of Tahuya Fire District Number 8 Commissioners were in Chairman Wampold’s vacation home discussing anything directly or indirectly related to District Number 8 they were having an official meeting. An official meeting that was illegal under the law. Based on the citizen’s prior personal experience with the Tahuya Fire District Number 8 Commission, he believed there was a good chance that they were again violating the OPMA.

Next, the citizen walked around to the side of the vacation home and looked in to the home through a window. The citizen was able to see Chairman Wampold and was able

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identify other individuals in the home. Also present was Commissioner Conrad Dodd and Steve Olsen – the Fire Chief for Fire District Number 8.

A fourth man was present. The citizen did not recognize this man. About that time the citizen was noticed and the meeting promptly broke-up and the participants proceeded to leave the home. As the fourth man left the home and moved toward the District 5 vehicle, he partially shielded his face with some paperwork he held in his hand. The citizen asked this fourth man who he was and the man refused to answer. Finally, the citizen said to the fourth man, “if you are a public official, you must give me your name”. At that point the fourth man said “Tim”. The citizen asked “Tim who?” and Tim declined to give out his last name. The citizen says that Tim appeared to be very uncomfortable with the situation in which he found himself.

The citizen brought it to the attention of the Chairman Wampold and Commissioner Dodd that he believed an illegal meeting was taking place – a violation of RCW 42.30 et seq. Chairman Wampold denied that an illegal meeting was taking place. About this time Chief Olsen, according to the citizen, got in the citizen’s face, so to speak, and ordered the citizen off of Chairman Wampold’s property. **First**, at no time did the property owner, Chairman Wampold, order the citizen off his property. **Second**, the citizen was not on Chairman Wampold’s property by that time. **Third**, it was not Chief Olsen’s property. **Fourth**, the property was not posted. **Fifth**, clearly Chief Olsen had no authority to do what he was doing. Chief Olsen is the Fire Chief of Tahuya Fire District Number 8 – he is not Tahuya’s Police Chief.

The citizen left Chairman Wampold’s vacation home and went on into Tahuya to attend the April 14th 2005 regularly scheduled Tahuya Fire Department meeting that was scheduled to begin on or about 7:00 PM. This meeting was filmed and recorded by the citizen.

One of the first items on the agenda was the introduction of Tim McKern, Assistant Fire Chief for Mason County Fire District Number 5. Assistant Chief McKern discussed grants for fire departments. He discussed what District 5 was doing regarding grants and how District 5 might be able to help Tahuya Fire District Number 8 apply for and obtain grants. Although the official minutes of the meeting do not reflect it, it appears, in reviewing the VCR tape of the meeting, that Assistant Fire Chief McKern is working with Chief Olsen in preparation of Tahuya Fire District Number 8 submitting applications for one or more grants. Assistant Chief McKern’s presentation took a total of approximately 4.5 minutes. Of this, Assistant Chief McKern spoke no more than 3 minutes. The rest of the time involved others speaking. Chairman Wampold asked if anyone had any questions several times. The Commissioners had no questions. Evidently the earlier meeting at Chairman Wampold’s vacation home had answered Chairman Wampold’s questions and Commissioner Dodd’s’ questions. Immediately after his presentation, and long before the meeting adjourned, Assistant Chief McKern left the meeting and Tahuya.

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The meeting progressed. There came a time when the citizen confronted the Commission with the accusation that an illegal meeting had taken place at Chairman Tom Wampold's Tahuya vacation home. The following is what the official minutes of the regularly scheduled Tahuya Fire District Number 8 meeting state:

“Brad (the citizen) expressed concern regarding the public meetings act, and stated he had observed Commissioners Wampold and Dodd, Chief Olsen and Mr. McKern meeting at a private residence prior to this meeting.”

“Commissioner Wampold stated there was no meeting, and what Brad (the citizen) witnessed was a purely informational briefing regarding the grant process (in preparation for the meeting).”

AUTHORITY:

What does the law say about Chairman Wampold's “purely informational briefing” performed at his Tahuya vacation home?

“Question: Can the commission members meet before a regular or special meeting for dinner, or at other locations, (such as Chairman Wampold's vacation home) to discuss agenda items without scheduling it as part of the (official public) meeting?”

“Answer: The answer is **NO because such discussions constitute action pursuant to the Act. These types of meetings before a regularly or special meeting should be scheduled on the agenda as study sessions, which would be a part of the meeting and thus open to the public.”**

The definition of “action” as spelled out in the Act follows: **“Action means all transactions of a governing body's business including receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, as well as ‘final’ action.”**

The above quotations under this section titled “AUTHORITY” are taken from a 66 page document titled “Knowing the Waters” which was commissioned by the Washington Public Ports Authority (WPPA) and written by Robert F. Hauth – Attorney, of the firm Owens Davis Mackie, WPPA Retained Counsel December 1966. The document was created for and is utilized by the 78 port authorities as an aid to prevent violation of law such as the Open Public Meetings Act and the Public Disclosure Act.

Some of you may recognize the name Robert F. Hauth. Robert F. Hauth is currently the Port of Allyn's Legal Counsel.

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REQUEST

With the above as background, I would like the Commission of Mason County Fire District Number 5, and/or Assistant Fire Chief McKern, which ever appropriate, to please provide me with answers the following questions – please note the term, “**informational briefing**” is the term of art used by Chairman Wampold and may or may not accurately reflect what Assistant Fire Chief understood his assignment to be:

1. Who within District 5 directed Assistant Fire Chief McKern to provide a “informational briefing” to Chairman Wampold and Commissioner Dodd at Chairman Wampold’s vacation home at Bald Point?
2. Who within District 5 authorized Assistant Fire Chief McKern to provide a “informational briefing” to Chairman Wampold and Commissioner Dodd at Chairman Wampold’s vacation home at Bald Point?
3. What were District 5’s purposes and objectives of having Assistant Fire Chief McKern provide a “informational briefing” to Chairman Wampold and Commissioner Dodd at Chairman Wampold’s vacation home at Bald Point before the regularly scheduled Fire District 8 public meeting?
4. To whom was Assistant Chief McKern told he would be making the alleged “informational briefing”? And who told him this? Was Assistant Chief McKern informed ahead of time that the alleged “informational briefing” would be done first in private with two or more sitting commissioners and then subsequently, a second time, at a regularly schedule meeting?
5. Had Assistant Chief McKern ever been to Chairman Wampold’s vacation home before? If not, who gave Assistant Chief McKern Chairman Wampold’s vacation home address and directions on how to get there?
6. Is it a common practice for Assistant Chief McKern, or for that matter District 5 fire chiefs, to give “informational briefings” in private homes to 2 or more fire commissioners from other fire districts?
7. Did Assistant Chief McKern drive directly from District 5 to Chairman Wampold’s vacation home address?
8. At what time did the “informational briefing” start at Chairman Wampold’s vacation home?
9. Prior to April 14th 2005, has Assistant Chief McKern ever given an “informational briefing” to two or more Tahuya Fire Commissioners at the same time?

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10. Does the authorization of the alleged “informational briefing” at Chairman Wampold’s vacation home, to two sitting District 8 Fire Commissioners, appear in any minutes, motions or resolutions of District 5 prior to the date of the actual alleged “informational briefing”? Do any subsequent District 5 minutes reference Assistant Chief McKern’s “informational briefing(s)”? If so, please provide me with a copy of these minutes, motions or resolutions and bill me accordingly.

11. Did Assistant Chief McKern prepare notes and/or any other form of documentation to assist him in his alleged “informational briefing” at Chairman Wampold’s vacation home?

12. What subjects were discussed by the Commissioners at the alleged “informational briefing” at Chairman Wampold’s vacation home? Please list all subjects that directly and/or indirectly relate and/or effect the profession and/or the business in which District 5 and/or District 8 are engaged.

13. Were any notes taken by either Tahuya commissioner or the Tahuya Fire Chief during the alleged “informational briefing” at Chairman Wampold’s vacation home? If so, by whom were notes taken?

14. Did Assistant Chief McKern give any documents to any Tahuya official at the “informational briefing” at Chairman Wampold’s vacation home? If so what and to whom?

15. Upon completion of his alleged “informational briefing” at Chairman Wampold’s vacation home, and upon completion of his presentation at the regular Fire District Number 8 public meeting, to whom did within Fire District 5 did Assistant Chief McKern make an oral report of his activities and observations? To whom did Assistant Chief McKern make a written report of his activities and observations?

Answers to these questions, and any other information you think appropriate, serve as part of the process that will ultimately lead to the return of good government to the Tahuya Fire Department.

In closing I would like to point out that Assistant Fire Chief McKern’s conduct, not being an elected public official, is not subject to RCW 42.30 et seq. I have no criticism of Assistant Chief McKern. The only thing he might want to do different in the future is to refuse to participate, or even attend, when commissioners are engaged in an illegal meeting.

Thank you.

Harold Carey

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cc: Mason County Fire Protection District Number 8 Commission