

Fluff, Chocolate, & Ernest

Ann M. Bassador

My movie is interrupted by endless thoughts of the KPOA annual meeting. Ernest Hemingway and I would have gotten along great. He said "I like to listen. I have learned a great deal from listening carefully. Most people never listen." Not only do most not listen, but they interrupt and "boo" and "jeer" at some who speak up. I was appalled and disgusted with such behavior from my neighbors and 'friends' at the recent meeting. You all behaved very immaturely and I say "for shame"!! And how embarrassing you were to new KPOA home-

owners I met who were attending their first annual meeting. Apparently some of you were under the false impression that one individual's two legal actions are what caused KPOA insurance rates and deductibles to increase. In actuality, if you had listened, you would have learned that it was the Vogt issue (in which KPOA lost the decision and there were *no* "winners") along with a roof dispute that caused the increases. But, as Pooh's Little Instruction Book says, perhaps you had fluff in your ears. The bigger point is, we all deserve

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High Fees For Legal ? & Insurance ?

By Judie Lewis, et al

The most asked question from the membership during the member comment section of this year's annual meeting was about higher legal and insurance fees. Some questioned what the increases are and others seemed interested in how they got this way. One member even asked about the spin that we could lose our insurance coverage entirely. These are very good questions and deserve honest answers.

First, let's deal with the actual numbers. Over the last several years our annual legal fees have averaged between \$1000-2000. Thus, our budget allowed for this level. Last year's legal fees were @ \$16,000. This is more than an 800% increase.

As far as the insurance fees are concerned, the increase was from \$2800 to a current fee of \$9800 per year. That alone is an increase of \$7000 per year. In addition, our deductible per case went from \$2500 to \$10,000.

These figures were taken from the official reports and budgets of KPOA.

What caused this? Legal cases being brought by various KPOA members, claiming that they had been wronged by the governance or, "compliance committees" (B. Belmont term) actions.

How did this happen? Who is responsible?

The thing that insurance companies look at when considering rates is how much of a risk the insured party represents. In our case, we seemed to be relatively low risk for many years, now we are high. Over the last several years, the approach for maintaining rules within KP has changed. The more stern approach toward the membership has created an uneasiness within the members who have had to deal with the "compliance committees." Many have come to the conclusion that they were not being treated fairly and with respect. In the long run, some have found it necessary to go for legal help.

Let's look at the cases involved over the last couple years:

1. There was a suit filed by the time-shares alleging that the allocation of expenses for KP amenities was not equitable. After KPOA fought this over a couple+ years (incurring legal fees), the case went to arbitration. KPOA lost and the assessments were refigured to be more equal.
2. A KPOA member, Tom Berger, wanted to put the same roofing on his house that had been used on the condos for their reroofing and at least 4 other houses. The Architectural Committee (ACC) refused his request. After trying without success to get a meaningful explanation as to why, he put on the roof. He was fined. He sued. Later on, the suit was settled out of court (like most cases in the US) with him paying some of the fines, so he could, "...just put his house on the market and get out of here." KPOA or KPOA's insurance paid their legal fees - which were likely more than the fines.
3. A complaint was filed with the Federal Communication Commission (FCC) by Jay Garthwaite regarding KPOA's written restrictions on antennas and satellite dishes. In response, KPOA was ordered by the FCC to cease enforcing its illegal restrictions, change **Continue page 3**

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he written policy, and to publicize that change in The Kala Pointer, all of which they did.

4. The Vogt-Evans vs KPOA - Vogt's issues were that the long standing ACC process of approval for building plans and notice to neighbors that could be affected was not followed. There were several errors made. a) The file on the property was not reviewed prior to building approval. b) That allowed for approving a building height on the property that had been denied several times before. c) If an exception were going to be made (which was not done by the ACC) notice of such would have had to be given to the neighbors of the property. These procedures were neglected.

When the Vogts found out about what had been approved, they asked for a hearing by the board. At the hearing, the board (by the advice of counsel) jumped through a legal loop-hole, that the hearing was more than 30 days after the ACC plan approval and refused to take any action. This left the Vogts with no redress other than court action.

Then, the Evans, the couple whose home plan was the bone of contention, had to get legal help and join the fray!

In the long run, KPOA insurance demanded that we negotiate and settle. Both the Vogts and Evans were paid a settlement by KPOA insurance.

The Results

It is unlikely that case #3 required outflow of funds by KP or the KPOA insurance, but the other three cases were expensive. Plus, our insurance, looking at the mistakes in the Vogt-Evans case, would soon conclude that the chances were very high that this would keep on happening. Raising the fees and deductibles brings in more revenue to help pay for such future actions, but more importantly, it is a way of getting the attention of the insured, and let them know that it is time they improve their procedures and/or processes to reduce the likelihood of someone feeling that suing is the only way to address a problem.

It is important that the membership of KPOA remember that rebellion doesn't occur in a vacuum. Rebellion occurs when faced with perceived or real Tyranny.

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I Take Issue With That...

By Editorial Staff

Update On Garthwaite vs KPOA

The civil action process has now been demonstrated as an available and successful mechanism to bring about change in how KPOA operates. Successive board majorities have acted as if there was no higher power, and they could behave as they saw fit, despite governing document and state law limitations. Judge Verser, in his written order of July 7, has put KPOA on notice that it is not above the law. He specifically admonished the KPOA board to act in the best interests of all members and not to step beyond authorities granted in the governing documents.

KPOA has changed lawyers and some policies. After years of poor advice, landing us in multiple lawsuits, the board finally acted (as Mr. Garthwaite urged them to in his notice of pending suit in May) and sought other legal opinion about the limits and requirements they had imposed for members to bring matters to the annual meeting. Mr. Garthwaite told them such limitations were illegal and would not stand. After getting new legal counsel the board backed off of those restrictions, and, immediately prior to the court hearing, adjusted their position removing the obstacles and requirements so members could bring in new

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Kala Kwips

Submitted by the original shy neighbor et al.

An Explanation of God

This was written by an 80 year-old boy from Chula Vista, California. His 3rd grade homework assignment was to explain God.

One of God's main jobs is making people. He makes them to replace the ones that die, so there will be enough people to take care of things on earth. He doesn't make grown-ups, just babies. I think because they are smaller and easier to make. That was He doesn't have to take up His valuable time teaching them to talk and walk. He can just leave that to the mothers and fathers.

God's second most important job is listening to prayers. An awful lot of this goes on, since some people, like preachers and things, pray at times beside bedtime. God doesn't have time to listen to the radio or TV because of this. Because He hears everything, there must be a terrible lot of noise in His ears, unless He has thought of a way to turn it off.

God sees everything and hears everything and is everywhere, which keeps Him pretty busy. So

you shouldn't go wasting His time by going over your mom and dad's head asking for something they said you couldn't have.

Atheists are people who don't believe in God. I don't think there are any in Chula Vista. At least, there aren't any who come to our church.

Jesus is God's Son. He used to do all the hard work like walking on water and performing miracles and trying to teach the people who didn't want to learn about God. They finally got tired of Him preaching to them and they crucified Him. But, He was good and kind, like His Father, and told His Father they didn't know what they were doing and to forgive them and God said, "OK."

His Dad (God) appreciated everything that He had done and all His hard work on earth so He told Him He didn't have to go out on the road anymore. He could stay in heaven. So He did. And now, He helps His Dad out by listening to prayers and seeing things which are important for God to take care of and which ones He can take care of Himself without having to bother God. Like a secretary, only more important.

You can pray anytime you want and they are sure to help you because they got it worked out so one of them is on duty all the time.

You should always go to church on Sunday because it makes God happy and if there's anybody you want to make happy, it's God.

Don't skip church or do something you think will be more fun like going to the beach. This is wrong. And besides, the sun doesn't come out at the beach until noon anyway.

If you don't believe in God, besides being an atheist, you will be very lonely, because your parents can't go everywhere with you, like to camp, but God can. It is good to know He's around you when you're scared in the dark or when you can't swim and you get thrown into really deep water by big kids.

But, you shouldn't just always think of what God can do for you. I figure God put me here and He can take me back anytime He pleases. And...that's why I believe in God.

The End.

Subscription Time

To The Point's third year subscription drive has been very successful. We appreciate your continued interest and support of the publication and free discourse on issues.

August will be the last month for the annual subscription drive. If you have not yet subscribed, you can help keep this publication viable by sending us your subscription donation of \$10 (or what you choose) to:

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Centrum Moves To Take Programs Into Future

It's time for change. That's the message from Centrum as it begins a search for new creative leadership in its arts and education programs.

Founded in 1973, the nonprofit organization at Fort Worden State Park is known for its summer workshops and festivals, statewide programs for gifted students, and artist residencies.

The board and staff have spent the last six months listening to and talking with artists, audience members, workshop participants, and donors about Centrum's future.

According to Thatcher Bailey, Centrum's Executive Director, those conversations had a common theme. "Over and over again we have been urged—as an institution dedicated to creativity—to take new risks and embrace change. As a result, we are re-visioning the organization, building on what has worked best and resonated most with the hundreds of thousands this organization has served over the last 31 years."

Centrum will now expand the role of their artistic directors. In addition to their particular programs, each director will be part of a team charged with guiding the creative direction of the entire organization. To be sure that programming remains fresh and vibrant, these creative directors will have terms no longer than five years.

Some programs will see significant change in

the next year. Bailey noted that Bud Shank and Sam Hamill, artistic directors of Centrum's jazz and writing programs, would not be continuing in that role after this year. "Bud and Sam made significant contributions to Centrum," said Bailey. "We are deeply grateful for their vision and energy, which helped build strong programs on which succeeding artistic directors can build."

Bailey added, "Change is really difficult. However, the message we are receiving from virtually everyone connected to this organization is the same: 'change is also good.'"

Save This Date - Sept 25

Come to the Kala Point Potato Bake Fund Raiser for District #6 Volunteer Firemen. For more info, see next issue of To The Point.

Encore, Live!

It's time to dust off our instruments, clear our throats, recondition our kazoos and get together for **Encore** to bid farewell to summer!

Jim Williams' Barbershop Quartet will entertain us on Thursday, August 26, 7:00 P.M. at 173 Cedarview Drive (the Pate's Place). We hope others will step forward to join these performers. Give me a call if you'd like to participate. If you aren't participating, just come and join us and have fun. Remember, the purpose of this group is to have an opportunity to perform something you enjoy in front of an always supportive and non-judgmental audience. See you then!

Karen Pate 385-9788

5th Annual Port Townsend Film Festival

A film lover's block party, celebrating great films & filmmakers will be held Sept. 24-26. A stellar lineup of 40 features, documentaries, shorts & free screenings under the stars downtown. Watch for more in the next issue of To The Point.

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Using The Internet To Deal With Cancer

by Patsy Mathys

Cancer has become a frightening word both to the victim and their loved ones. My journey began four years ago when a close relative developed lung cancer. Like most of us, I am no medical expert, but wanted the best care. Fortunately, the internet provides a wealth of information. Thus we can have information as current as our doctors have to help us participate in making choices. I've spent many hours trying to understand as much as possible about this particular cancer (bronchoalveolar carcinoma, a nonsmoker's lung cancer), its treatment options, how to choose the best treatment facility, etc..

A neighbor friend recently developed lung cancer and asked for my advice. The wealth of computer resources and tips was passed along. Since many of us have a close relative or friend who has cancer, I'm sharing the resources.

First check out CANCERGUIDE.ORG. This website, developed by a cancer patient, offers a wealth of information in nonmedical terms. In Cancer Guide's Table of Contents you will find:

- Understanding Cancer Types and Staging (Cancer 101)
- Obtaining Your Medical Records
- Recommended Books
- Understanding Pathology Reports
- The Median Isn't the Message (not getting hung up by statistics)

For medical articles and drug information see NCBI.NLM.NIH.GOV by the National Library of Medicine or MEDLINEPLUS.COM.

Newer research treatments are available as clinical trials. CANCER.GOV by the National Cancer Institute is a comprehensive database on clinical trials hospitals are offering and patient criteria (age/physical issues). CLINICALTRIALS.GOV is by the National Institute of Health. Most hospital websites list their available clinical trials.

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-Not Roughing It, Motorhoming It-
by D. Kilburn

<http://www.fmca.com/> We recently bought our first motorhome and found this web site to be very helpful. It's crammed full of links to information on



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including pet
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stories, road
atlas and trip
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and more.

The Family Motor Coach Association maintains the site and offers its own magazine for those interested in joining/subscribing. We found the technical articles on-line to be useful. The Family Motor Coach Association was formed in 1963 by a group of people who owned a relatively new type of vehicle which later came to be known as a motorhome. As the association gained popularity, its members quickly realized that the best way to enjoy fellowship on a regular basis was to form chapters. Their website provides links to the area chapters. Even if you're just starting to think about RVing, it's a great website to explore.

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business. The court then affirmed this position.

Consequently, the Member Annual Meeting agenda changed. For what appears to be the first time ever, the KPOA Member Annual Meeting, envisioned in the governing documents as the one place each year for members to directly conduct the business of the association, the board actually allowed members to advocate ideas, present proposals, and directly ballot issues. It took a lawsuit and a court order to get that right, and the board allocated only a few minutes time for this, but members actually got to participate in their member annual meeting as the bylaws provide.

The court imposed limits on the developer’s board influence. Again acting directly on Mr. Garthwaite’s complaint, the court ruled that representatives of the developer cannot vote on the board of directors. Renate Wheeler was forced to resign her position with the developer in order to serve on the board. Unfortunately, Judge Verser’s clear ruling seems lost on the newly constituted board, which promptly appointed another of the developer’s agents to the board position vacated by Jack Dersham.

Who is David Gooding?

He’s the new director of KPOA, by appointment. He’s a next-door neighbor to John Snyder, the new board president, and longtime friend and associate of Renate Wheeler, another board member and previous agent for the developer.

Since David didn’t run for election and doesn’t serve on KPOA’s committees, no report can be made on his goals or volunteer energy. His appointment, approved by a board vote of six-to-two, gives us two directors who did not subject themselves to KPOA’s election process: Snyder and Gooding. Oddly enough, according to longtime residents (and previous board persons) the policy was to appoint persons to the board who expressed an interest by standing for election.

David’s accounting firm, Gooding and O’Hara, has prospered over the years in Port Townsend.

Among its clients are KPOA and the Kala Point Utility Company (KPUC)– the water company owned by the Kala Point developer. David personally serves as KPUC’s registered agent as of this writing. No doubt he will resign that job so that he can serve as a voting member of our board.

KPOA Legal Affairs Committee

By Lou Martel

A motion was made at the 7/11/04 Annual Member Meeting to form a Legal Affairs Committee. Members voted to have the issues raised in the motion referred to the Board for their consideration.

There is a need in KPOA to integrate the WA Homeowners Association Law (RCW 64.38) with the existing KPOA Governing Documents. (RCW 64.38 supersedes the Governing Documents.) Members have a right to know, in specific and clear terms, what legal obligations they must abide by and also what legal obligations the Board must abide by in their management and governance of the affairs of the association.

It is worthy of note that the last sentence in the “Memorandum Opinion and Order by Jefferson County Superior Court Judge Verser in response to a complaint filed by Jay Garthwaite stated, “The Court takes this opportunity to remind the Board of its statutory obligation to the members of the Association as set forth in RCW 64.38.025.” RCW 64.38 is not currently recognized in KPOA Governing Documents.

The WA Homeowners Association Law became effective on 7/23/95. It was enacted by an overwhelming vote of the Legislature. It is the only law in WA that specifically addresses the organization, management, and powers of homeowner associations. Testimony for the bill stated “The bill is needed to deal with common complaints from members of homeowner associations. The bill provides a set of basic rules and procedures by which homeowner associations must operate in order to protect individual association members.” **Con’t page 9**

RCW 64.38 is a member-oriented law as opposed to current KPOA Governing Documents which are based upon corporation law and written by developer lawyers and are business-oriented law. The Legislature saw a clear need to improve the business-oriented law when it passed RCW 64.38. (Our Governing Documents were formalized ten or more years before RCW 64.38.) It is in the best interest of KPOA members to have a member-oriented law integrated with the Governing Documents. That integration should have begun on 7/23/95, the effective date of the state law. Recent Boards have been remiss in that regard.

Integration of RCW 64.38 involves more than a determination of “what is the applicable law.” It also involves “what is the intent and interpretation of applicable law”, and what are the meanings of words like “acting on behalf of”, “being reasonable,” and “acting in good faith.” The disposition of such vagaries can allow resulting authorities that apply to the association to be biased toward the special interests that currently control KPOA or toward the general interests of the overall membership. It is not at all clear that general member interests would be adequately reflected by the special interests now on the KPOA Board when combined with those of a new lawyer selected by and obligated to the Board.

A Legal Affairs Committee, oriented toward general member interests, can be an effective way to ensure representation of those interests. Members need to be informed, in clear terms, of the implications of legal interpretations and their specific wording. A Legal Affairs Committee collaborating with the Board may be a good way to proceed toward the integration of RCW 64.38 and the Governing Documents. There are many difficult issues to be resolved in order to do that, not the least of which is a good faith, positive attitude by the Board.

A Legal Affairs Committee deserves member consideration as well as Board consideration. Remember, it is the membership that pays the price in increasing assessments to cover lawyer

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and insurance costs that result from unnecessary and undesirable litigation often brought about by misuse and abuse of authority. There is also a cost to the membership if the community continues to become more divisive and more polarized. Most of us want reasonable and predictable annual assessments, security, harmony, and good will toward all of our neighbors.

The time may be at hand for the general membership to decide if it wants KPOA to be community oriented or business oriented. Express your views to the Board and/or TO THE POINT.

Planning For Annual Member Meetings

The 7/11/04 annual member meeting was the first KPOA annual meeting that allowed members to propose resolutions and motions to the general membership for their approval. This change was brought about by Jay Garthwaite, who had filed a complaint with the Jefferson County Superior Court. Earlier in the year, the KPOA Board had put roadblock requirements in the way of members trying to introduce resolutions at annual meetings. At the time of oral argument on the complaint, KPOA, through its new counsel, acknowledged that such requirements were not authorized by the Bylaws and could not be enforced and further indicated that all items could be considered as “new business.” Unfortunately the Court

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concurrence on this new Board position was made shortly before the annual meeting and there was little time to organize for the presentation of “new business.” CHAOTIC is probably a good descriptor of the introduction of “new business” at the meeting. The new format required careful planning and orchestration in order that the membership be properly introduced to it, and that type of planning was not evident at the meeting. Hopefully, the planning will improve for next years annual meeting. Some suggestions for the membership and the Board to consider:

1) The Board could solicit member interests for “new business” topics in a reasonably timely manner so that they could be included in the agenda for the meeting;

2) The Board could provide assistance to members to help formulate resolutions and motions in the legal terms that are appropriate to the “new business” topic;

3) KPOA administration could help distribute supporting documentation to the membership so that they had such information for consideration before the meeting;

4) The Board could make provisions to accommodate “new business” presented during the meeting, as allowed by the Bylaws, in order to minimize confusion and unnecessary extension of meeting time;

5) The Board could clarify to the membership how the presiding officer was going to preserve order and decorum during the meeting.

Collaboration could go a long way toward having a successful annual meeting held for the participation and benefit of the general membership. Send comments to the Board and/or to, [TO THE POINT](#).

To The Point Staff

Judie Lewis, Lead Editor; Richard Canaan & Barbara Martel, Ad Sales; Lois Healy & Nancy Leeds, Distribution; John Childs, Bookkeeper; Pat Tobias, Proofing.

What’s the Fight About?

By Sylvia Bowman

Actually, no more than a narrow strip of disagreement separates the KP old-guard from disaffected members. With a small effort, described below, we could get past today’s discord.

Basically, we need to see where agreement lies. Then with a few moderate members as go-betweens, both the old guard and the disaffected can chip away at remaining points of dispute until those are reduced to gravel, then to dust. Sure, some members are enjoying life in the war zone, but even they might let go of the plots, counterplots, malicious gossip, etc., for the greater good.

Agreement is strong throughout the whole community on three points: Respect for the governing documents is a must; the volunteer system of governance should be strengthened and supported; and costs, especially legal costs, must be held down lest assessments rise again.

So what’s the fight about?

1) It’s mainly about the parameters of the governing documents, with the disaffected seeing illegal “mission creep” and the governing entities see a logical expansion of their authority.

2) It’s about the old guard maneuvering to limit governance positions to its circle of friends, while the disaffected seek a voice.

3) It’s about mutual distrust that leads both sides to say “We had no choice but to go to law; the other side made us do it,” which of course is untrue. Other choices are available. For example, legal costs grew before and during the Annual Meeting because some feared that J. Garthwaite might make a nomination or disrupt proceedings, (which he did not). The choice of simply asking Mr. Garthwaite for a run-down on his plans wasn’t made, or maybe not even considered.

These areas of dispute can be cleared, given the willingness of a few moderates to serve as liaisons and the sincere desire of all to restore civility and peace.

Editor’s Note: Yea, Sylvia, you’re the greatest!

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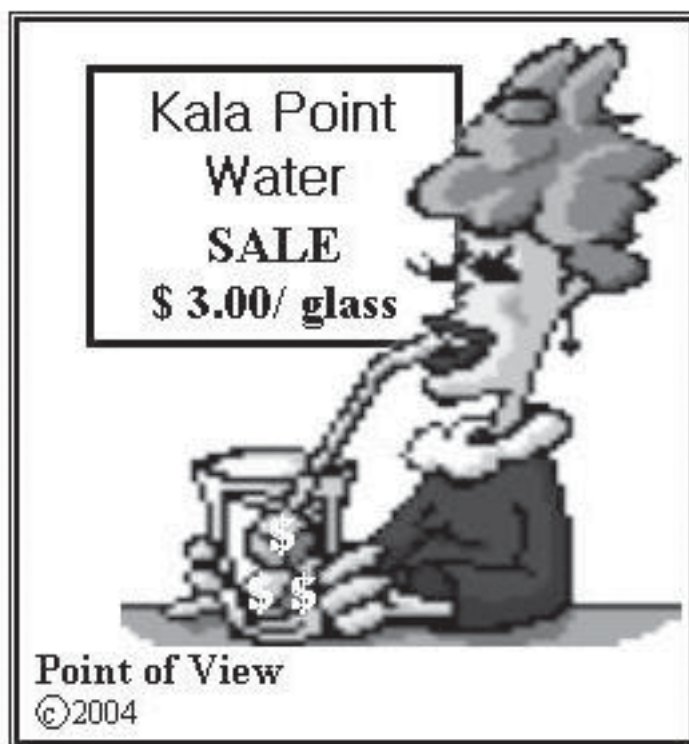
to be heard and given simple courtesy and respect. So stop acting like little children; you are adults!! You made my gray hair turn more gray.

So I sit here drinking what seems like a very expensive glass of water, taking a break from a movie with some great lessons in it, and look over my water bill and the annual letter from our water utility, It's the exact same one as last year with a few words changed. This letter tells me nothing of substance, no numbers showing parts-per-million of lead and copper and other harmful substances/minerals that keep depositing themselves on my toilets, showers, and probably my stomach lining. More fluff. Does it bother anyone that we don't really know exactly what's in the water? Then I open my e-mail and check my notes and discover that the water company reports making a considerable profit yet we are having to pay for a pump replacement; that the board president is a hand-picked individual who was not elected to the board by us, the members; that the CFO's report made no sense whatsoever, and the whole lengthy meeting was mismanaged, unstructured, and filled with poor behavior. Is this what Kala Point has become? Maybe we should get the fluff out of our ears and listen to those who stand up and raise objection about these things. Especially if the rest of us are too lazy, afraid, or unwilling to question anything and then grumble about the state of things. Remember that we are 70% water...don't let the other 30% be rudeness and intolerance. Back to my movie now; I think everyone at Kala Point should be required to rent the movie *Chocolat*...

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- Swiftly Speaking, pages 2 & 3;



“Cancer” continued from page 7

A few additional resources:

- ACOR.ORG by Association of Cancer On-line Resources
- CANCERWISE.ORG by MD Anderson Cancer Center
- MAYOCLINIC.COM, enter “diseases & conditions” then “cancer”
- CANCER.ORG by American Cancer Society
- LUNGCANCERONLINE.ORG
- LUNGCANCER.ORG

A simple GOOGLE search is effective to re-search a specific drug, treatment method or rare cancer. However, time can be wasted on GOOGLE for a general search. Also one must be careful of the professional integrity of the site. Careful validation of sources is important.

It is a rewarding, though difficult gift of love to continually research a loved one's illness. Hopefully these resources will make it a little easier. If you have discovered interesting books, computer websites or other cancer resources, please send this information to To The Point for publication to share with others.

CANNING SEASON • YAKIMA TOMATOES

ALL THE BEST OF THE SEASON



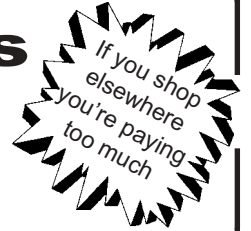
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