



Kala Point News & Views

October 2010

Serving our Community with Information

view maintenance: a contentious issue

Why should member's rights be an issue?

View maintenance has been a contentious issue at Kala Point since the early 1990's. At that time a small group of activist Members became vocal in their opposition to the removal of any trees in the Kala Point community. They raised the specter of a clear cut environment. In later years, as concern for the bluff became a legitimate community issue, they used it to proclaim the often unfounded significance of individual trees as protectors of the bluff's stability. The verbal image portrayed of homes sliding down the bluff,

During development Kala Point was described as a waterfront community and reference was made to the presence of view properties and properties located in the forest reserve located on the plateau.

because of the wonton removal of even a few of the multitude of trees on the bluff, was a powerful one. The proclaimed threat of clear cutting and loss of bluff-side homes resulted in some otherwise well-meaning and fair Members of the community endorsing the position of the "remove no tree" activists. The "Tree Huggers", (this term used by the activists themselves is used here as descriptive and not disdainful), have

managed to deny view maintenance rights repeatedly with the active or complacent support of uninformed community Members and the acquiescence of the Association's Board.

The most recent view maintenance requests are the result of the Bluff Management Advisory Committee's, (BMAC), attention this year to the northern sector of the bluff. A group of homeowners on Cedar View Drive are requesting the removal of a small number of trees on the bluff which have grown up into the marine view they enjoyed when they purchased their lots. Most of these owners purchased their lots in the late 1980s and early 1990s

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Managing Editors:

Jay Burcham
Don Meister

Contributing writers include other named and unnamed individuals, all owners within the community, expressing their own viewpoints in this forum. Articles without a byline are presented by the editorial staff.

Please feel free to participate in any way, from submitting articles and/or opinions to volunteering in some capacity. Thanks and we look forward to your input. Email us at contact@ttnewsletter.com.

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and at that time there was no question that those views would be preserved. The homeowners of view properties know they have a right to maintenance of their views.

During development Kala Point was described as a waterfront community and reference was made to the presence of view properties and properties located in the forest reserve located on the plateau. The established policy of the Board and Architectural Committee is to maintain the plateau area of Kala Point, (that area above Baycliff Drive and Pinecrest Drive), as a wooded area. Reference: Master Declaration, Exhibit E. The upper portion of the bluff below Windship Drive was clear cut by the developer to provide excellent marine views for the homes situated in that area. Division 9, which encompasses Cedar View Drive, was developed and identified as “Water View Lots”. Reference: Master Declaration, Exhibit E. When Division 9 was developed and the lots initially purchased, (prior to 1991), there was no policy or even an indication that the right to maintain views would be denied to preserve trees in the areas of the development not located on the plateau.

Many lots in the Kala Point development have building height limitations established by the developer and Architectural Committee and enforced by the Architectural Committee. Reference: Architectural Standards, Appendix A, Height Limitations. For instance the heights of homes on Kala Heights Drive, which are in the view paths of the homes on Cedar View Drive, are limited to 9 to 15 feet above the edge of Kala

Heights Drive’s pavement. Requests for view maintenance occur when the trees on the bluff grow above the roof tops of the homes on Kala Heights Drive. The trees are large by the time they appear but that is not a valid reason to deny their removal or topping.

View maintenance is addressed by the Master Declaration. With respect to residential lots “all owners shall restrict the height of improvements constructed on their properties and the height of planted trees and vegetation growing thereon to the end that the view of other owners within the Project shall be preserved to the greatest extent reasonably practicable”. Reference: Article IV, B., Section 9, View. The definition of practicable is “capable of being accomplished”. With respect to the common areas “view paths and shrubbery growth in the Common Areas shall be maintained by the Association”. Reference: Article IV, B., Section 15, Common Area Vegetation. The bluff is a common area.

Owners of view properties bought them for the view and paid a premium. They also pay higher property taxes because the County assesses view properties higher than non-view properties. Loss of view is not considered a reason for lowering an assessment when its non-maintenance is the result of non-action. Owners are willing to pay for maintenance of their views but the Association acts to prevent them from doing so. Loss of view also reduces the value of the property. As an example, a Realtor recently estimated a 5% loss in sales price for a 30% loss of

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view on a specific property. At a nominal value of \$ 600,000 this is a \$ 30,000 loss; not a small amount.

Considering all the circumstances which existed at the time of view lot purchases in the 1980s and early 1990s, the most prudent buyer would have concluded that his view was his to maintain and enjoy as long as he owned the property. Based on the developer's actions, the identification of view and forested areas in the project, the establishment of building height restrictions and the reference to water view properties and maintenance of view paths by the Master Declaration, how could the buyer anticipate his right to the view he bought was going to be denied in a few short years?

The actions of a few vocal agenda driven tree huggers, supported by the Board and its committees are successfully denying view maintenance rights to an increasing number of angry view property owners. The community should be acting to preserve harmony rather than creating divisions.



comments made in the year 1955!

That's only 55 years ago!!

- ◆ I never thought I'd see the day all our kitchen appliances would be electric. They are even making electric typewriters now.
- ◆ It's too bad things are so tough nowadays. I see where a few married women are having to work to make ends meet.
- ◆ It won't be long before young couples are going to have to hire someone to watch their kids so they can both work.
- ◆ Marriage doesn't mean a thing any more, those Hollywood stars seem to be getting divorced at the drop of a hat.
- ◆ I'm afraid the Volkswagen car is going to open the door to a whole lot of foreign business.
- ◆ Thank goodness I won't live to see the day when the Government takes half our income in taxes. I sometimes wonder if we are electing the best people to congress.
- ◆ The drive-in restaurant is convenient in nice weather, but I seriously doubt they will ever catch on.
- ◆ There is no sense going to Lincoln or Omaha anymore for a weekend, it costs nearly \$15.00 a night to stay in a hotel.
- ◆ No one can afford to be sick anymore, at \$35.00 a day in the hospital it's too rich for my blood.
- ◆ If they think I'll pay 50 cents for a hair cut, forget it.

Avalon
Hair Design

Gail Dahlman

260 Kala Point Drive
Port Townsend, WA

1-360-385-2640
gdahlman@cablespeed.com

black bear living in kala point

Several Reports of Bear Droppings Near Oak Shore Drive, Siting on Kala Point Drive

You probably heard about the man seriously injured in a black bear attack near Lake Wenatchee on Sept 17th. His wife probably saved her husband from worse injury by shouting and keeping the animal at bay, according to WA Department of Fish & Wildlife (WDFW) experts.

“Black bear attacks on humans are rare, and this bear appeared to have been exceptionally aggressive” said Donny Martorello, WDFW’s carnivore specialist. “The victim’s wife appears to have done everything right—she shouted, stood her ground and attempted to drive off the bear. Those actions likely prevented even worse injury.”

WDFW officials offer the following advice to minimize the risk of injury if a bear is encountered in the wild:

- Don’t run. Pick up small children, stand tall, wave your arms above your head and shout.
- Do not approach the animal and be sure to leave it an escape route. Try to get upwind of the bear so that it can identify you as a human and leave the area.
- Don’t look the bear directly in the eye, as the animal may interpret this as a sign of aggression.
- If the animal does attack, fight back aggressively.

This year black bears may be more visible or show up in unusual settings because late-summer wild berries—part of bears’ natural diet—are in short supply, Martorello said. The bear involved in Friday’s attack was thin for this time of year, but did not appear to be starving, he said.

Typically, black bears avoid people but can pose a safety risk if they become habituated to

human food sources. Bears become overly familiar with humans if they are fed or find unsecured garbage, bird seed, pet food, windfall fruit or compost piles.

“People should never feed bears or allow them access to garbage or pet food,” said Martorello.

Black bear attacks on humans are rare. There have been four other bear attacks on humans and one reported fatality in Washington, according to historical records.

Washington’s black bear population is estimated at 25,000 to 30,000 animals, Martorello said. Black bear are classified as a game species and may be harvested during prescribed hunting seasons by licensed hunters who have purchased bear tags.

WDFW receives an average of about 417 black bear complaints annually, ranging from glimpses of bears to encounters.

Problem bear encounters may be reported to local WDFW regional offices, or WDFW’s dangerous wildlife reporting line, 1-877-933-9847.



Black Bear raiding a bird feeder

In an emergency, dial 911.

We have had several reports from our readers of bear droppings up in the Oak Shore Drive area and an actual black bear sitting on lower Kala Point Drive. It is a good idea familiarize yourself with what to do if you do encounter a black bear.

schulte convenes illegal closed executive session

Lawyer Confirms Action Improper; Recommends “Fix”

KPOA President Dick Schulte, despite advice at the time from the BMAC Chair and an attorney in attendance, illegally conducted board deliberations on four BMAC tree cases in closed executive session during a Board Special Meeting on September 17th. The illegal secret debate and action, taken in the highly charged BMAC Case 2010-11, involved trees N44, N45, N46 and N47, resulted in board denial of the tree removal requests to improve views.

Secret HOA board deliberations are not allowed under state law except for very specific purposes and with a very specific protocol for the conduct of executive sessions (see RCW 64.38.035-2); circumstances which were not satisfied on September 17th according to KPOA Lawyer Mike Johns, as later reported by Schulte to other board members.

Lawyer Johns, reportedly contacted by phone on September 23rd by Manager Keith Larson, with Schulte and Board BMAC Liaison Hugh Musser participating, advised that the September 17th secret deliberations were unlawful, because they failed to meet the limited statutory reasons for such sessions.

After having conducted the deliberations illegally, as confirmed by The Association’s Legal

Counsel, Schulte then emailed out an urgent notice to other board members on Thursday Afternoon, September 23rd, announcing that the controversial matter would again be deliberated, this time in a legal open session, on Tuesday, September 28th beginning at 11 AM, in an attempt to make legal the action previously taken illegally, via a “continuation” of the Special Board Meeting of September 17th.

The Special Meeting continuation scheduled for September 28th was held, with approximately 20 members attending, and resulted in some modified findings. After 1 hr and 45 minutes the board voted to reject the removal recommendations of BMAC on trees N44 & N45, but voted to allow limbing those trees. BMAC’s recommendation not to cut N46 & N47 was upheld by the board.

When association officers and board members operate outside the law, they erode member confidence and greatly increase risk of litigation from frustrated owners trying to seek relief via the established process. Such posture, on exactly the topic of views and trees, has spawned numerous lawsuits in the Puget Sound Area resulting in massive litigation costs for HOA members, via special assessments.

RCW 64.38.035 Association meetings — Notice — Board of directors.

(2) Except as provided in this subsection, all meetings of the board of directors shall be open for observation by all owners of record and their authorized agents. The board of directors shall keep minutes of all actions taken by the board, which shall be available to all owners. Upon the affirmative vote in open meeting to assemble in closed session, the board of directors may convene in closed executive session to consider personnel matters; consult with legal counsel or consider communications with legal counsel; and discuss likely or pending litigation, matters involving possible violations of the governing documents of the association, and matters involving the possible liability of an owner to the association. The motion shall state specifically the purpose for the closed session. Reference to the motion and the stated purpose for the closed session shall be included in the minutes. The board of directors shall restrict the consideration of matters during the closed portions of meetings only to those purposes specifically exempted and stated in the motion. No motion, or other action adopted, passed, or agreed to in closed session may become effective unless the board of directors, following the closed session, reconvenes in open meeting and votes in the open meeting on such motion, or other action which is reasonably identified. The requirements of this subsection shall not require the disclosure of information in violation of law or which is otherwise exempt from disclosure.

circle & square auto care going 33 years strong!

By Reto Filli, Owner



As Circle & Square Auto Care turns 33 this month, I am truly amazed by the fact that we have built a thriving and trusted business. Our business, and in particular our commitment to environmentally sound practices, has been repeatedly recognized nationwide as an industry leader in vehicle maintenance and repair.

When Alex Fowler started Circle & Square Auto Care in 1977, he made honesty and fairness with customers his top priority; my wife Jana and I have carried on the same tradition since we purchased the business in 1988.

Our mission has always been to provide the best vehicle repair possible with outstanding service. People normally aren't thrilled about having to repair a car.

We do our best to make the experience as straightforward and smooth as possible. Examples of this are offering a 3 year, 30,000 mile warranty on our work, and **having loaner cars available** to customers that need them.

To be honest, **the two key elements that attract folks to our business** have been the

education we provide, and our ability to build relationships with our customers.

We want customers to know as much as they want about their vehicles, because it helps them make the best decisions about their cars for their needs. The education component can be challenging; with the changes in the automotive industry over the last 25 years, we've had to be committed to continuing the education of our technicians, and keeping up with the equipment required to implement those changes in vehicle repair. All of our technicians are ASE-certified, and so are our service advisor and parts manager.

Our most personalized service comes from building relationships with our customers.

The more we know about what you want your car to do for you, the better we are at recommending the right service. The automobile industry is purposely vague about repairs – if we're doing our job well, we're writing your own personalized owner manual, based on what your vehicle needs, how you need it to perform, and for how long.

We'd like to thank all those who have supported us during the last 33 years. Please join us for our upcoming celebration October 16th!



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- ◆ Motor Coach Transportation,
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Along with fun galore, you'll have a chance Thursday to shop at both, Powell's Books, and the Mill End Store & Annex (a fabric lovers or quilters delight). Both are the largest in the US, The Annex is filled with Crafts and fabric cuts. And Powell's has every book know to man or so it seems.

On Friday we'll shop at Lloyds Mall and the many Boutiques near our hotel. Enjoy Lunch coming & going on your own.

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from michelle at evergreen fitness center: **The Skinny on Weight Loss #3 of 3...**



Tap tap tap...that's the sound of fingers on the desk as I ponder what to write this month! What will capture the reader's attention? **How about inspire the reader?**

The last 2 articles were about Robin and her progress during her 'Apex Weight Management' program. How has she done? **Honestly one of my favorite things happened over the following couple weeks.**

Robin came in for her weekly scheduled appointment to weigh in, hand in her food journaling and talk about any current or upcoming obstacles that might get in the way of continued weight loss. As she plopped herself into a chair she **TOSSED** the food journaling in front of me and proclaimed; "I am sick of food journaling!" After we stopped laughing, I thanked her for her honesty. After all, how successful will you be if you are not honest with how you are feeling about what you are doing? **Yes she had lost a couple more pounds...YIPPEE...**we talked about what the upcoming week was looking like for her and one of the things she mentioned was that she would be without her kids for a long weekend. So I gave her a new assignment. She was not to do ANY

food journaling for the next 4 days. (You should have seen the look of sheer glee on her face at that moment!). However, because she can tend to be an under eater, I asked that around 2-3 in the afternoon, she add up, (in her head...no writing it down) approximately how many calories she had eaten that day just to make sure she wasn't under eating. Then we set out to write down what exercise she would be getting for the next week and off she went.

Now comes the part I really liked...the following week when we met I asked her how the non food journaling went and did she do a mental check mid day? Her answer went something like; "Yes, I did and it went great. You know Michelle, I don't think I will ever stop counting calories. I just seem to naturally do it anymore without thinking about it." PERFECT! In the past, Robin has watched her 'Carbs' and made sure she was eating enough protein, but she admitted that she had never counted calories before. She never knew how many calories she was eating.

This is so typical. How about you? **Last month I mentioned counting calories and ways to do that. Have any of you tried?** If so, I'd like to hear from you; I'd like to know how it went, or if it was a struggle, what was the hardest part?

Each October, Evergreen Fitness Center begins a 12 week 'Shape-Up' contest. Each year the contest is modified slightly to focus on different aspects of weight loss. The contest is a fat loss contest. Whoever loses the highest percentage of fat during the contest wins the \$1000.00 grand prize. Not weight loss only, but fat loss.

This year the contest will focus on nutrition and weight loss. There is a fee to enter, but with your entrance fee you will have access to personal trainers, as well as weekly weigh-in meet-

Continued from previous page

ings and general guidelines on how many calories you should be eating to meet your goals. An exercise program will be suggested for you as well. I looked back at the records for the past 3 years and a remarkable 84% of those who entered the contest did NOT GAIN WEIGHT over the Holidays! How cool is that?

This about wraps up my talks of the Apex Weight Management program we have at Evergreen Fitness. If you have any additional questions, I'd like to meet you. October is here, the trees are turning into incredible displays of autumn colors. You live in a beautiful area; I enjoy riding my bicycle through all the different areas in Kala Point. Just towards the end of Kala Point Drive is the trail that leads into Old Fort Townsend and straight over to Evergreen Fitness Center! Walk on over and say 'Hi'!

See you next month! **If I can be of any assistance in helping you get more information** on this topic or other articles I have submitted, please give me a call at 360-385-3036, or email: evergreenfitness@qwestoffice.net or stop in at Evergreen Fitness Center...we're just around the corner! Michelle West

go on a treasure hunt!

Did you know?

- Each year, 25,000 payments are returned to the Department of the Treasury as undeliverable.
- Billions of dollars in savings bonds have stopped earning interest, but haven't been cashed.
- Treasury Hunt tells you about savings bonds no longer earning interest. If you still have these savings bonds, cash or reinvest them so your money can start working for you again.



Do you...

- or a deceased loved one own a savings bond, or registered Treasury note or bond that has matured and is no longer earning interest?
- Have HH/H interest that you haven't received?
- Have Legacy Treasury Direct payments that you haven't received?

To start your search on Treasure Hunt, go to [ww.TreasuryHunt.gov](http://www.TreasuryHunt.gov). This tool could be very useful, especially if you've had a loved one pass away, you are the executor or there is a possibility a relative has purchased bonds for you which you are unaware of.

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kala point theater lovers

Reserve Your Ticket and Seat On The Bus For “Vanities”!



On Saturday, March 26th we are going to the 2 p.m. matinee at the Act Theater to see *Vanities*.

Vanities is a new musical where you'll set off on a life-affirming journey through the turbulent '60s to the late '80s and discover how three friends face life's defining moments: growing up, getting older and getting over it. *Vanities* is a funny and poignant look at three women who discover that, even in 30 years of rapidly changing times, the one thing they can rely on is each other. This is a special Northwest premiere produced by The 5th Avenue Theatre and ACT and will be performed at the intimate Falls Theatre.

The Act Theater is a small theater, so every seat is a great seat! Tickets have been reserved for our group and are offered at \$40, **[a savings of \\$25!](#)**

You also need to decide if you want to take the charter bus that includes a driver for transportation to and from the show. If we get 12 people, the price for the bus, round trip, will be \$37.50 per person. Those of you who went on the last trip know what a difference it makes having a professional driver and luxury charter bus!

Here is what you need to do: If you want to go to the show AND take the bus you need to send in a check for \$77.50 per person. If you only want to go to the show, send in a check for \$40 per person.

Deposits must be received by October 22nd. Send your deposit to Suz Garthwaite at 691 Kala Point Drive, Port Townsend, WA. 98368. Hurry, only 8 seats remain!!

The tickets for the show and/or the bus are nonrefundable. If for some reason you cannot go, you are responsible to sell your ticket and space on the bus.

The approximate timetable for the day is: Departure from Kala Point will be around 11:00 a.m., arriving in Seattle at 1:00 p.m. After the show at approx. 4:30p.m., we will have dinner at Cutters around 5p.m. and then depart Seattle around 6:30p.m., arriving back in Kala Point at around 8:00 p.m. A more precise timetable will be provided after you have ordered your tickets.



Comfortable charter bus that includes a driver!

If you enjoy going to the show, a musical, or concert, then come join the Kala Point Theater Lovers! The larger the group, the better the price of the tickets and carpooling is fun and economical. What could be better than going to an event with the ease of having a professional driver at the wheel? We welcome individuals or couples.

Contact Suz Garthwaite at 344-3361 or suz@infoageservices.com for questions or to get on the email roster to receive information.

Business & Service Directory



Kevin Tuuri "Your Home Navigator"
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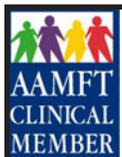
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Kala Point News & Views



kala point *hiking club*

**We Hike, Bike, Ski,
and Snowshoe. Come
Enjoy the Olympic
Peninsula With Us!**

Enjoying the outdoors with a small group is **safer as well as** being good companions and can also come to each others' aid if necessary. We are an informal group that is interested in enjoying the outdoors and especially the Olympic Peninsula!

We mainly hike, but also bike, snowshoe, and cross-country ski. Snowshoeing and skiing are special trips that will be arranged in addition to the regular hiking day.

Contact Allen Vaa at allenvaa@hotmail.com to be put on the hiking email list and receive hiking schedules and information .

In general, hikes are usually on Wed. at 8am but times can vary so you will need to check for different start times.



A goat spotted on Mount Eleanor hike.