

Bob Wilbur

From: "Dustin Frederick" <dustin@local519.org>
Date: Wednesday, June 25, 2014 10:35 PM
To: "Bob Wilbur" <bbwilbur@broadstripe.net>; "Ed Delahanty" <whshed@live.com>; "Suzy Palmer" <suzyalmer1@me.com>; "Kurt S. Blankenship" <kblankenship@bluewilliams.com>; "Fred Salmon" <pheffy@aol.com>; "chris hendrickson" <hendrickcj@gmail.com>; "Steve Morrow" <stevem@stevemorrow.net>
Subject: RE: A response to Bob's email

All---let's not crumble just because a few naysayers are making noise. Persistence will win the day on this.

Make them work for it---make them put their money where their mouth is----we have put too much time and money into this initiative to fold just because they are howling on next door.

We are following the mandate of the members and the court and until the health Dept and/or another appropriate agency tells us we can't open we need to move to open.

Dustin

From: Bob Wilbur [mailto:bbwilbur@broadstripe.net]
Sent: Wednesday, June 25, 2014 10:12 PM
To: Ed Delahanty; Suzy Palmer; Kurt S. Blankenship; Dustin Frederick; Fred Salmon; chris hendrickson; Steve Morrow
Subject: Re: A response to Bob's email

Ed, that is sensible and good, but I am feeling in my gut we need to do something proactive instead of reactive – just wish I had a good idea as to what. But rather than have county or feds tell us we can't open, maybe it would be better to opt out now in the overall interest of community peace, with apologies to the children and families that will be unable to swim this summer.

Bob

From: [Ed Delahanty](mailto:Ed.Delahanty@live.com)
Sent: Wednesday, June 25, 2014 9:19 PM
To: [Suzy Palmer](mailto:Suzy.Palmer@me.com); [Kurt S. Blankenship](mailto:Kurt.S.Blankenship@bluewilliams.com); [Dustin Frederick](mailto:Dustin.Frederick@local519.org); [Fred Salmon](mailto:Fred.Salmon@aol.com); [chris hendrickson](mailto:chris.hendrickson@gmail.com); [Steve Morrow](mailto:Steve.Morrow@stevemorrow.net)
Cc: bbwilbur@broadstripe.net
Subject: RE: A response to Bob's email

Unfortunately for her, all the safety & health related complaints will go to Aneta Hupfauer of Is Co Health.

Based on her past behavior, she will do what she can - within the limits of her role as Environmental Health Specialist for the County - to help us understand and comply with the applicable law. If she tells us to back off and not open this year we should comply with a thank you. On the other hand, if she provides guidance on what we must do we either comply or indicate it's not within our current financial capability and not open this year, hoping to have the funds to properly renovate the pool next year. We can't open until we have an inspection from at least Aneta and probably the two Washington State Health Dept folks that did the walk through with Aneta, Carol, Steve and I.

The ADA compliance issue is primarily with the USA Dept of Justice. I'm not sure what happens if a member of an organization like ours files a complaint. The direction we have from a DOJ site indicates a pool need not be compliant if it serves only members. No mention if one or more of the members have a disability. We'll have to see how that plays out.

Ed.

To: kblankenship@bluewilliams.com; dustin@local519.org; pheffy@aol.com; suzyalmer1@me.com; hendrickcj@gmail.com; stevem@stevemorrow.net; whshed@live.com
CC: bbwilbur@broadstripe.net
From: suzyalmer1@me.com
Subject: Re: A response to Bob's email
Date: Thu, 26 Jun 2014 02:25:15 +0000

How does Sue know what safety hazards there may be...she hasn't been in the pool area. I'm really sick of her and the time she consumes, but we should check and let the Health Dept. know we haven't opened yet and this is some of our unhappy community members trying to stop us from moving forward.

I had a great meeting with Harry this afternoon and will send an outline of combined Pool Ops/Main and Safety Committee outline for opening rules for our short season this year etc. Stay posted.

Maybe Bob should be our ND monitor so we don't have to read this stuff on a daily basis. It absolutely drains me. Carol and I talked about needing to have someone do this for us so we don't get discouraged and frustrated. I think it's a good idea.

Del is very frustrated because the BOD is not answering him on ND. He has asked twice for us to "weigh in". He is inviting a verbal debate that would not serve the best interests of the club. I think the BOD should unsubscribe from ND as it would be silly to get into that mess as things my really heat up the closer we get to opening. Just a thought for today...

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On Jun 25, 2014, at 05:10 PM, Bob Wilbur <bbwilbur@broadstripe.net> wrote:

Sorry but I know many of you do not waste time on ND, so fyi and in case you missed it, this may be of some concern, assuming Sue's post below is not twisted to suit her interests:

"Another disabled member contacted Island County Health & was told that unless they get complaints from members about safety & ADA,

they will allow ACBC to open the pool. I strongly encourage any one (whether disabled or not) to contact Island County Health with your complaint about safety and not being ADA compliant. "

John Deegan immediately indicate he would contact them, and likely others will follow, so might be worth a call to the health folks??

But Mary Riggins posted this, which you probably have; it seems to say a permit could not be denied based on ADA this year:

<http://www.clark.wa.gov/public-health/pools/documents/wac246-2601.pdf>

From: [Dustin Frederick](#)
Sent: Wednesday, June 25, 2014 9:16 AM
To: [Bob Wilbur](#) ; [Kurt S. Blankenship](#) ; [Ed Delahanty](#) ; [Suzy Palmer](#) ; [chris hendrickson](#) ; [Steven E Morrow](#) ; [Fred Salmon](#)
Subject: RE: A request/your thoughts?

I'm not on ND anymore so---I don't have any sense of the uproar. That said----I still want to open the pool. We have done the due diligence and we don't need the ADA and I do think the other camp would see it as a victory. In fact I think given Maria's comments and now what Bob has said about next door I think it is very important to their overall goal to not have the pool open.

So---I think it is absolutely paramount we open---even if only for a month---so we don't have to cover it and to keep our momentum going.

I do not think they have the intestinal fortitude or commitment to file a lawsuit. Principle reason is the cost. Many of you know what it has cost to file The pending suit and they have probably done some research and got some numbers of their own. They are looking a 40-50K.

Since this is all about the money---I just don't see them being willing to contribute to a legal fund. If they had the money to support a lawsuit---they would just pay the assessment.

Dustin

From: Bob Wilbur [<mailto:bbwilbur@broadstripe.net>]
Sent: Wednesday, June 25, 2014 9:03 AM
To: Kurt S. Blankenship; Ed Delahanty; Suzy Palmer; chris hendrickson; Steven E Morrow; Fred Salmon; Dustin Frederick
Subject: Re: A request/your thoughts?

Morning Kurt,
 Okay, and that of course is a paramount concern that must be avoided.

So scratch plan A and on with plan B. I will send Chris S an email explaining that. And will also let him know what my expectations/hopes are, and that if possible we should shoot for July 7 for a draft of the judgment. If they can meet that, and if it is wise and useful to meet to iron out whatever, then presumably you would be available for another week or so after that. Ed, unless you want, I'm on board with plan B and we need not chat this afternoon, but can if you want.

As long as all are assembled here, I had a thought yesterday that, given the extremely hyped up rhetoric over opening the pool this summer without ADA feasibility, and Dan Jones organizing a lawsuit, that perhaps it would be wise to not open the pool after all and let the emotions settle down so that when the declaratory does come out, it doesn't become the bomb dropped in the burning fire. And secondarily the turd could be slipped into their pocket - that there was so much acrimony created the board decided not to further enflame discord and will opt to not open this year. *The downside:* the "victory" might embolden them to set their sights on new targets of glory. Anyway, just some thoughts for the seven of you to ponder on.

Tallyho...Bob

From: [Kurt S. Blankenship](#)
Sent: Wednesday, June 25, 2014 8:21 AM
To: [Bob Wilbur](#) ; [Ed Delahanty](#) ; [Suzy Palmer](#) ; [chris hendrickson](#) ; [Steven E Morrow](#) ; [Fred Salmon](#) ; [Dustin Frederick](#)
Subject: RE: A request/your thoughts?

Bob: I hear you but I agree with Ed that the Board needs to be careful with this. At the end of the day, we want to be able to say that the Board relied on and acted on advice from the Board's attorney in bringing the litigation to a conclusion. We don't want to create any opportunity for the Critics to either reopen the litigation or file a new suit against the current Board. I'm sure you can understand our concerns. There's no question in my mind that we have the same goals as you. That being said, we will do everything possible to minimize the costs and time involved.

I will arrive on the Island the night of July 2nd and be staying until the 16th, so I'm available during that time frame to meet and discuss, or by telephone before.

Thanks.

From: Bob Wilbur [<mailto:bbwilbur@broadstripe.net>]
Sent: Wednesday, June 25, 2014 10:09 AM
To: Ed Delahanty; Kurt S. Blankenship; Suzy Palmer; chris hendrickson; Steven E Morrow; Fred Salmon; Dustin Frederick
Subject: Re: A request/your thoughts?

Hi Ed,
 To flesh out a bit more my thinking in last night's email, dumbed-down by jet noise, was that rather than have our attorneys tell us what we want, it makes better sense to me to draft a declaratory that tells them what we would like to see in the way of a judgment and then have them figure out what will and won't fly, what we have missed, and how best to present it.

And I am reasonably sure the approach Chris Nye suggested would take more time, maybe considerably more, given their busy schedules and back and forth drafts of this and that and do-overs, nixes, etc. And time is money, and I have to try as best I can to hold down the now considerable costs for those who helped sponsor this effort.

So in a nutshell, while I respect both attorneys, I am concerned about delay and money with the approach you outlined, but

let's do talk later today after I hear from Chris Skinner.

Cheers,
Bob

From: [Ed Delahanty](mailto:Ed.Delahanty)
Sent: Tuesday, June 24, 2014 10:05 PM
To: bbwilbur@broadstripe.net; [Kurt S. Blankenship](mailto:Kurt.S.Blankenship); [Suzy Palmer](mailto:Suzy.Palmer); [chris hendrickson](mailto:chris.hendrickson); [Steven E Morrow](mailto:Steven.E.Morrow); [Fred Salmon](mailto:Fred.Salmon); [Dustin Frederick](mailto:Dustin.Frederick)
Subject: RE: A request/your thoughts?

Hi Bob,
 I like the positive tone of your message to the "pool advocates". Hopefully we're nearing resolution of this issue to the satisfaction of all but a few. I spent some time talking with Chris Nye today and came to the conclusion that it is probably best for the current Board to give the two attorneys a little more time to talk things over. It may result in a quick resolution that in effect turns the TRO into a permanent order based on Judge Hancock's findings of fact and conclusions of law as stated in his ruling of December 30, 2013. Based on the advice from Chris Nye, I'd like to hold off on meeting with you for the moment. I realize that Chris Skinner won't be available until early next week, but feel it's worth the short wait to give the attorneys a chance to see if they can come up with a resolution that minimizes grounds for any future law suit based on the outcome of the current one. If this doesn't make sense to you, please call so we can discuss further.
 Kind Regards,
 Ed.

From: bbwilbur@broadstripe.net
To: kblankenship@bluewilliams.com; whshed@live.com; suzypalmer1@me.com; Hendrickci@gmail.com; stevem@broadstripe.net; pheffy@aol.com; dustin@local519.org
Subject: Re: A request/your thoughts?
Date: Tue, 24 Jun 2014 07:42:15 -0700

Thanks Kurt. FYI I sent the following out to about 40 of our pool advocates group last night (excluding Board supporters). Just want you all to know they have been updated.

+
 Pool supporters,

It has been a long time and I apologize, but I have held off until now thinking things since Thanksgiving would have proceeded at a much faster pace than they have. That they have not has been highly frustrating to me. Let's place that on councils' fanny for lack of a better doormat.

But the skinny, in spite of the constant rants on Next Door, is this. No, the lawsuit is not over, as Dan Jones has claimed. Rather, the individual defendants (all the members of the prior board) have been un-sued - i.e, released so they no longer have any sway or influence on the future of the lawsuit. That leaves the Board (collectively, not individuals) as the remaining defendant.

I am hoping to negotiate a settlement of the lawsuit with the Board that will enshrine and expand on the TRO regarding the future of the pool and correct the misconceptions about how ACBC is to be governed by its governing documents. More on that will follow as developments provide clarity.

Meanwhile, we have just shy of \$7000 in the bank, largely thanks to each of you and a \$10,000 check from the ACBC insurance. I can and will provide a full accounting separately. I hope our balance is sufficient but if a negotiated settlement producing a declaratory judgment fails, all of us will need to decide if we are up to supporting going into trial mode. Please do not respond on that, but just keep it in your question box.

If any of you have questions, do feel free to phone (360-678-4850) or email.

Thanks again to each and all,

Bob

From: [Kurt S. Blankenship](mailto:Kurt.S.Blankenship)
Sent: Tuesday, June 24, 2014 6:29 AM
To: [Bob Wilbur](mailto:Bob.Wilbur); [Ed Delahanty](mailto:Ed.Delahanty); [Suzy Palmer](mailto:Suzy.Palmer); [Chris Hendrickson](mailto:Chris.Hendrickson); [Steve Morrow](mailto:Steve.Morrow); [Fred Salmon](mailto:Fred.Salmon); [Dustin Frederick](mailto:Dustin.Frederick)
Subject: RE: A request/your thoughts?

I agree and would volunteer to be one of the Board participants, albeit by phone.

Kurt S. Blankenship

Partner



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From: Bob Wilbur [<mailto:bbwilbur@broadstripe.net>]

Sent: Monday, June 23, 2014 7:58 PM

To: Ed Delahanty; Suzy Palmer; Chris Hendrickson; Steve Morrow; Fred Salmon; Dustin Frederick; Kurt S. Blankenship

Subject: A request/your thoughts?

All,

I am increasingly concerned about the misinformation re the TRO and the now-frenetic dialog on ND about the lawsuit. Even the pool supporters are starting to get confused.

My attorney is out until June 30 and I leave June 30 for about a week, and I know Ed and Carol will be gone sometime in July, meaning schedules aren't too good.

So, I suggest we have a work session this week aimed at developing a mutually acceptable draft declaratory judgment to run past our respective attorneys, and then after tweaking and in full concurrence, to Hancock. Without concurrence I fear it is going to be very difficult to develop a robust solution to this quagmire.

I suggest a non-quorum of three Board members and I meet this week to see if we can put something viable together. The membership, if you think wise (and I do), should be informed via ND and/or the web site (probably just after the work session), with something along the following explanation:

- 1) The long delays due to attorney schedules and legal issues has prompted serious misinformation and the expansion of erroneous conclusions, the latest being that the lawsuit is over when in fact it is now down to one defendant (the current board) and the one plaintiff (i.e., moi).
- 2) Because this lawsuit has been delayed for far too long and given the judge has determined the plaintiff is likely to persevere in a trial, the Board has agreed to meet and work with the plaintiff to develop settlement conclusions consistent with Judge Hancock's findings of fact in the TRO and to then settle the lawsuit without additional strife, burdensome legal costs, and increased insurance rates.

I am really tiring of this, as I'm sure you are. It is time to put it to bed. That is, can't we get a leg up and get this thing moving across our attorneys' respective desks now, versus down the road sometime.

Cheers,

Bob

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