

[My account \(/account/\)](/account/)[Log out \(/login.html?action=logout\)](/login.html?action=logout)[Subscribe \(/subscribe/\)](/subscribe/)

The Leader

()

Wednesday, October 30, 2019

MAIN MENU



County conducts private mediation with Fort Discovery

Posted Wednesday, October 30, 2019 3:00 am

Lily Haight**lhaight@ptleader.com (mailto:lhaight@ptleader.com)**

As the county, as critics complain, having private talks with Fort Discovery about owner Joe D'Amico's planned gun range for Quilcene?

Yes.

Here's how:

In January 16, 2018, the Jefferson County Board of Commissioners approved a mediation agreement with Joe D'Amico and AMS, a private provider of arbitration and mediation services.

This agreement was created after the board had set a moratorium on development of commercial shooting ranges and D'Amico had, among other things, filed a \$100 million suit for "tortious interference" with his business.

Mediation was necessary because the county moratorium affected D'Amico's underway project to build a 40-acre shooting range by Tarboo Lake. The agreement was made in the hopes of settling a dispute resulting from the passage of the moratorium and the establishment of ordinances regulating commercial shooting facilities, which would affect D'Amico's business endeavors.

Twenty-two months and two failed ordinances later, the mediation agreement still stands. But according to county administrator Philip Morley, a mediator has only been present for one meeting with D'Amico. Instead, "attorney-to-attorney" talks have occurred for the past two years, closed to the public, with a mediator present only once.

Related to the claims made by Mr. D'Amico, Fort Discovery Corporation and Security Services Northwest, the County has had few meetings, we recall three since 2017," wrote Morley in an email response to questions from the Leader. "One of the meetings has involved the mediator. Some have been face-to-face."

Approximately, once a week, Philip Hunsucker and Greg Overstreet have a telephone call, some parts of those calls involve mediation issues,” Morley wrote.

Greg Overstreet is D’Amico’s attorney, who has told fans of his “299 Days” series of novels that American society and government is doomed to fail and that they are going to be the leaders of the government that will replace the existing one.

Philip Hunsucker is the county’s civil deputy prosecuting attorney. He was heavily involved in the entire process of writing two ordinances the county adopted last winter to regulate shooting ranges in Jefferson County.

Is it legal for the county’s civil deputy prosecuting attorney to be having weekly private phone calls with D’Amico’s lawyer?

HERE’S THE LAW

According to Washington State law, “Mediation” is a process in which a mediator facilitates negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute instead of going to court.

The purpose of mediators is to avoid costly and prolonged litigation.

The mediator hired for this particular case is William Downing, a former King County Superior Court judge who now works for Judicial Arbitration and Mediation Services in Seattle.

State law says that mediation communication is not subject to discovery through the public records act.

“Confidentiality is a hallmark of mediation,” Morley wrote. “It is necessary to allow the parties to explore possible compromises and solutions without sacrificing their ability to still maintain their original positions and legal arguments for a fight in court.”

But does this include conversations that take place without a mediator present?

Yes, according to state law. A mediation communication includes “a statement, whether oral or in a record or verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.”

These “attorney-to-attorney” talks fall under the category of preparation for mediation, according to Morley.

But these talks have been occurring for nearly two years. In that period of time, the BOCC ended its year-long moratorium on shooting ranges and approved the ordinances, meaning D’Amico was able to begin work on his range. (Although since then, the ordinances have been sent back to the BOCC by the Growth Management Hearings Board for violating the Growth Management Act, and therefore the BOCC enacted a new six-month moratorium).

For some members of the public, this leaves them wondering: What have the county and D’Amico been talking about all this time?

Even the county’s own Board of County Commissioners does not know the scope of the mediation talks.

“Are we in active mediation with D’Amico?” asked commissioner Greg Brotherton, after a member of the public brought the issue up during the Oct. 21st public comment period. “I don’t know.”

To which Morley responded: “There is periodic attorney to attorney conversation.”

“It makes a mockery of the process we’re in now,” said Peter Newland, board member of the Tarboo Ridge Coalition, which opposes D’Amico’s range. “All of us have to work with an expedited schedule to help craft a Shooting Range Ordinance while a known applicant for a permit to build a range, who has not participated in the recent public process, has access to the county that no one else has.”

The Tarboo Ridge Coalition has made a series of public record requests, asking for copies of emails between Hunsucker and Overstreet. In response to their requests, they received a stack of emails blacked out with redacted content.

D’Amico calls these conversations a partnership.

n a post on the Cedar Hills Recreational Facility Facebook page (the page for D’Amico’s planned range near Tarboo Lake), he or one of his employees wrote: “Mediation with Jefferson County is going well and better than expected. Sorry, I can’t tell you more about the Cedar Hills mediation, it can’t be discussed here. Let’s just say it’s nice having the county as a partner when building your dream training facility.”

At the county commissioner meeting on Oct. 28, commissioners heard comments from several members of the public who were concerned about the mediation agreement and the short timeline for the county to finish the ordinances that will regulate gun ranges.

Marty Gilmore, chair of the Jefferson County Democrats, announced that the local party, of which all three county commissioners are members, had unanimously passed a resolution Oct. 17 calling for the County Board of Commissioners to adopt “clear regulations for a new commercial gun range ordinance.”

“If you’ve been following the Democrats, a unanimous anything in our group is a rare thing,” Gilmore said. “We’re asking you to first and foremost take the time to do this right.”

Kate Dean, chair of the Board of County Commissioners, explained that the mediation discussions are a necessary part of government.

“I am glad that there is conversation happening among parties because I think having reasonable conversations and discussing interests is a healthy part of trying to come to good policy for the benefit of many parties,” she said.

The Tarboo Ridge Coalition, the group that opposes D’Amico’s gun range, had considered entering a mediation agreement with the county, however decided not to.

According to Morley, some of the commissioners have met individually in private sessions with TRC, its lawyer and Junsucker.

D’Amico said mediation with the county has been “a breath of fresh air.”

“It’s nice to finally have some adults around the table to discuss our issues to find meaningful resolution,” he said. “I’ve been very impressed with county staff and the sitting commissioners. Talking should always come first before expensive and divisive litigation.”

1

Comments

NO COMMENTS ON THIS STORY | ADD YOUR COMMENT

OTHER ITEMS THAT MAY INTEREST YOU

Harvest Fete returns to Quilcene (/stories/harvest-fete-returns-to-quilcene,65794)

Exploring the invisible world of plankton (/stories/exploring-the-invisible-world-of-plankton,65785)

Life-saving, hands-on, high-paying jobs popular at jobs fair (/stories/life-saving-hands-on-high-paying-jobs-popular-at-jobs-fair,65851)

This Quilcene lineman is a woman (/stories/this-quilcene-lineman-is-a-woman,65857)



(<https://ptleaderbanners.creativecirclemedia.com/www/delivery/ck.php?>

[oaparams=2_bannerid=212_zoneid=1_cb=c1c8c6f79d_loadest=https%3A%2F%2Fwww.chimacumcorner.com%2Forder-your-turkey-info%2F](https://ptleaderbanners.creativecirclemedia.com/www/delivery/ck.php?oaparams=2_bannerid=212_zoneid=1_cb=c1c8c6f79d_loadest=https%3A%2F%2Fwww.chimacumcorner.com%2Forder-your-turkey-info%2F))

LATEST NEWS



Harvest Fete returns to Quilcene (/stories/harvest-fete-returns-to-quilcene,65794)

For the second year in a row, the Quilcene School District teamed up with Worthington Park to offer a Quilcene Harvest Halloween, complete with pony rides, a scarecrow contest, a bonfire, cider and popcorn.

</stories/harvest-fete-returns-to-quilcene,65794>)

Hospital commission race ramps up with last-minute entry (/stories/hospital-commission-race-ramps-up-with-last-minute-entry,65861)

The hospital commission race for position 5 is ramping up as supporters of former candidate Cheri Van Hoover have organized a write-in campaign.

County conducts private mediation with Fort Discovery (/stories/county-conducts-private-mediation-with-fort-discovery,65859)

As the county, as critics complain, having private talks with Fort Discovery about owner Joe D'Amico's planned gun range or Quilcene?

[More ▶ \(/news/](#)



(https://ptleaderbanners.creativecirclemedia.com/www/delivery/ck.php?oaparams=2_bannerid=125_zoneid=1_cb=0c01c4152d_oadest=https%3A%2F%2Fwww.7cedarsresort.com%2Frollover.html)

[View this issue \(/stories/\)](#)

[Browse other issues \(/eeditions/\)](#)



(https://ptleaderbanners.creativecirclemedia.com/www/delivery/ck.php?oaparams=2_bannerid=125_zoneid=1_cb=0c01c4152d_oadest=https%3A%2F%2Fwww.7cedarsresort.com%2Frollover.html)



(https://ptleaderbanners.creativecirclemedia.com/www/delivery/ck.php?oaparams=2_bannerid=214_zoneid=1_cb=da5024665a_oadest=https%3A%2F%2F7cedars.com%2Fweddings-and-catering%2F)

[oaparams=2_bannerid=214_zoneid=1_cb=da5024665a_oadest=https%3A%2F%2F7cedars.com%2Fweddings-and-catering%2F](https://ptleaderbanners.creativecirclemedia.com/www/delivery/ck.php?oaparams=2_bannerid=214_zoneid=1_cb=da5024665a_oadest=https%3A%2F%2F7cedars.com%2Fweddings-and-catering%2F)

The Leader (/)

226 Adams Street
Port Townsend, WA 98368
1-360-385-2900 (tel:1-360-385-2900)

SECTIONS

- [NEWS \(/NEWS/\)](#)
- [ARTS & ENTERTAINMENT \(/ARTS-ENTERTAINMENT/\)](#)
- [CALENDAR \(/COMMUNITY-CALENDAR/\)](#)
- [OPINION \(/OPINION/\)](#)
- [OBITUARIES \(/OBITUARIES/\)](#)
- [SPECIAL SECTIONS \(/SPECIALSECTIONS/\)](#)
- [CLASSIFIEDS \(/CLASSIFIEDS/\)](#)
- [SUBMIT NEWS \(/FORMS/SUBMIT-NEWS/\)](#)
- [SUBSCRIBE \(/SUBSCRIBE/\)](#)
- [BLOGS \(/BLOGS/\)](#)

SERVICES

- [About Us \(/about/\)](#)
- [Contact Us \(/contact/\)](#)
- [Report News \(/forms/submit-news/\)](#)
- [Subscribe \(/subscribe/\)](#)
- [Where to find the Leader \(/racks-and-dealers/\)](#)

CONNECT WITH US

- [!\[\]\(c33cb967c8fc4f5e27188a389b621c8e_img.jpg\) \(https://www.facebook.com/ptleader\)](https://www.facebook.com/ptleader)
- [!\[\]\(38e1383487ca0f0e9e2c9378b9dbcae7_img.jpg\) \(https://twitter.com/ptleader\)](https://twitter.com/ptleader)
- [!\[\]\(d399648641177ccf0f777d76c74f84ed_img.jpg\) \(https://www.youtube.com/user/PortTownsendLeader\)](https://www.youtube.com/user/PortTownsendLeader)

© COPYRIGHT 2019 PORT TOWNSEND LEADER | [TERMS OF USE \(/TERMS-OF-USE/\)](#) / [PRIVACY POLICY \(/PRIVACY-POLICY/\)](#)

POWERED BY CREATIVE CIRCLE MEDIA SOLUTIONS ([HTTP://CREATIVECIRCLEMEDIA.COM](http://creativecirclemedia.com))