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## Charter meeting pertinent to all

On Wednesday, the Snohomish County Charter Review Commission will meet at 6:30 p.m. to reconsider, discuss and vote on issue No. 39, the property rights/eminent domain issue.

It has twice appeared on the table, the first time defeated by a 9 to 5 vote. A few weeks later, the issue was reconsidered. The discussions showed the issue had gained some support, receiving six yes votes, but died for a lack of a simple majority of eight votes of the 15-member commission. Four members of the commission were absent.

This issue has important bearings on all property owners with regard to the June 2005 U.S. Supreme Court decision ruling 5-4 against a property owner and for the city of New London, Conn. Recently, the Snohomish County engineer stated (The Herald, June 17) he may start condemnation proceedings against a retired Lake Stevens-area couple to tear down their home and dig a large hole to "capture" polluted run-off water.

I've attended several CRC sessions, observing the able leadership of Chairman Mike Cooper and Vice Chairs Eric Earling and Kim Halvorson. Hopefully, the commission will be in full attendance, will bring this issue back, and pass favorably on it for the November ballot.

The addition to the charter is highly important because it adds stronger language than what is in the U.S. Constitution and the Washington state Constitution. The Home Rule Charter, which is the law of the land in our county, is, in fact, our Constitution and should strongly reflect and protect our rights as property owners.

I urge people to either call the CRC and leave a "do pass" on issue No. 39 to your CRC representative, or, better yet, attend the meeting to show your support for this important Issue.

Be there. Make it happen!

GRANT E. HEPPENSTALL

Mill Creek

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## County may take a couple's home to build a pond Lake Stevens road work may require property

By Jeff Switzer  
Herald Writer

LAKE STEVENS - Thirty-five years of stories live on this acre of land.

Memories of kids' baseball games. A daughter learning to drive a stick shift. Children gathering for pet funerals.

Al and Karen Lansing might be forced by Snohomish County to kiss their land goodbye.

Their home might be bulldozed to make room for a new storm-water pond as part of a road project.

"I don't want to go anywhere," Karen Lansing said. "We like it here. It's starting to get a little noisy, but noisy is OK."

The noise comes from 20th Street SE, and is the crux of the problem facing the Lansings: traffic.

The road is expected to grow to five lanes with bike lanes and sidewalks. Construction is planned for 2008, taking pieces of about 80 properties.

To hold all the storm-water runoff, officials are considering turning the Lansings' property into a giant mud puddle.

"There is the possibility that we will need to purchase this entire site for a detention pond," county engineer Owen Carter said.

A man-made pond likely would consume the property, including where the house now stands, documents show.

The road is so plagued by traffic that the county has consistently given it failing performance grades.

In recent years development along the road was halted until the county could muster \$16 million for a five-lane road.

Once the road was planned, the county then allowed hundreds of housing proposals. Those planned houses would bring so much traffic that the county was again forced to halt future building in the neighborhood.

Even so, developer billboards have sprouted near the Lansing home: "We buy land."

Al Lansing, 65, said he is ready to hang up his carpenter's hammer and retire. He's looking forward to merging the best parts from two old pickups parked on his property.

He said he is afraid the county will kick him out. He wants to stay and is afraid the county won't pay enough to cover the cost of a new place.

"We don't want to go into town," he said.

The family watched Lake Stevens change. The farm lifestyle that drew the Lansings from the city has gone the way of the cow pasture across the street.

There, 29 brand new homes sit cheek-by-jowl on three acres. Twenty-nine other homes are proposed on four acres up the street.

All of the new housing is a big change from the dead-end gravel road Al Lansing knew when he built his home in 1972.

"We wanted to get away from the compactness of the city," he said. "The town followed us."

The couple scrimped and saved for the land, and got a construction loan to build their home. The Lansings built the place by hand and raised their son and daughter there.

Behind the house, the family pets are buried in the shade of a towering maple tree. Resting there are two rabbits, Thumper and Thumpity, and four dogs, Patches, Sammy, Rusty and Balki.

County officials said they haven't made a final decision on the Lansings' fate.

Until then, the Lansings said they don't know who to be mad at - or who to fight.

"The way I see it, they're going to use (my land) come hell or high water," Lansing said.

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## Justices Affirm Property Seizures

5-4 Ruling Backs Forced Sales for Private Development

By Charles Lane

Washington Post Staff Writer

Friday, June 24, 2005; A01

The Supreme Court ruled yesterday that local governments may force property owners to sell out and make way for private economic development when officials decide it would benefit the public, even if the property is not blighted and the new project's success is not guaranteed.

The 5 to 4 ruling provided the strong affirmation that state and local governments had sought for their increasing use of eminent domain for urban revitalization, especially in the Northeast, where many city centers have decayed and the suburban land supply is dwindling.

Opponents, including property-rights activists and advocates for elderly and low-income urban residents, argued that forcibly shifting land from one private owner to another, even with fair compensation, violates the Fifth Amendment to the Constitution, which prohibits the taking of property by government except for "public use."

But Justice John Paul Stevens, writing for the majority, cited cases in which the court has interpreted "public use" to include not only such traditional projects as bridges or highways but also slum clearance and land redistribution. He concluded that a "public purpose" such as creating jobs in a depressed city can also satisfy the Fifth Amendment.

The court should not "second-guess" local governments, Stevens added, noting that "[p]romoting economic development is a traditional and long accepted function of government."

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Stevens's opinion provoked a strongly worded dissent from Justice Sandra Day O'Connor, who wrote that the ruling favors the most powerful and influential in society and leaves small property owners little recourse. Now, she wrote, the "specter of condemnation hangs over all property. Nothing is to prevent the State from replacing any Motel 6 with a Ritz-Carlton, any home with a shopping mall, or any farm with a factory."

D.C. Mayor Anthony A. Williams, who serves as president of the National League of Cities, issued a statement praising the court for upholding "one of the most powerful tools city officials have to rejuvenate their neighborhoods."

In addition to its national repercussions, the court's decision removed a possible obstacle to the District's plans to build a baseball stadium along the Anacostia River waterfront and to redevelop the Skyland Shopping Center in Southeast -- a project Williams said could generate 300 jobs and \$3.3 million in tax revenue.

A number of property owners in those areas had hoped the court ruling would help them resist the city's exercise of eminent domain. But David A. Fuss, an attorney for several of them, acknowledged that the court's ruling "is going to have a major impact."

The redevelopment program at issue in yesterday's case -- the plan of the Connecticut city of New London to turn 90 acres of waterfront land into office buildings, upscale housing, a marina and other facilities near a \$300 million research center being built by pharmaceuticals giant Pfizer -- was also expected to generate hundreds of jobs and, city officials say, \$680,000 in property tax revenue.

New London, with a population of about 24,000, is reeling from the 1996 closing of the Naval Undersea Warfare Center, which had employed more than 1,500 people.

But owners of 15 homes on 1.54 acres of the proposed site had refused to go. One of them, Susette Kelo, had extensively remodeled her home and wanted to stay for its view of the water. Another, Wilhelmina Dery, was born in her house in 1918 and has lived there her entire life.

The Connecticut Supreme Court upheld the city's plan, so the homeowners,

represented by lawyers from the libertarian Institute for Justice, appealed the case to the U.S. Supreme Court.

According to the institute, the New London plan, which the City Council approved in 2000, is typical of "eminent domain abuse," which has spawned more than 10,000 threatened or filed condemnations involving a transfer of property from one private party to another in 41 states between 1998 and 2002.

Scott Bullock, a lawyer for the institute, said that the only recourse for property owners facing condemnation under eminent domain would be to sue in state court based on the property rights provisions of each state's constitution.

New London City Manager Richard M. Brown said he was "very pleased" by the court's decision. He said the city hopes to restart its redevelopment plan, which has lost money so far, partly because of the litigation.

In the disputed neighborhood, known as Fort Trumbull, most residents sold out and their homes were demolished. The site is now a flat expanse of dusty, rock-strewn soil dotted by the few remaining houses. Signs advertising the development site are withered and torn; builders who once considered projects have moved on, deterred by the controversy.

Stevens was joined in the majority by Justices Anthony M. Kennedy, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer.

Kennedy's vote was something of a surprise because he had expressed strong sympathy for property-rights claims in past cases. But in a brief concurring opinion he explained that the New London plan showed no sign of improper favoritism toward any one private developer.

O'Connor was joined in her dissent by Chief Justice William H. Rehnquist and Justices Antonin Scalia and Clarence Thomas. They wrote that the majority had tilted in favor of those with "disproportionate influence and power in the political process, including large corporations and development firms."

And in a separate dissent, Thomas sounded a rare note of agreement with liberal groups such as the NAACP, which had sided with the property owners in the case.

He protested that urban renewal has historically resulted in displacement of minorities, the elderly and the poor.

"Regrettably, the predictable consequence of the Court's decision will be to exacerbate these effects," he wrote.

The case is *Kelo v. City of New London*, No. 04-108.

*Staff writer Kirstin Downey contributed to this report.*

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