

Dam: Mayor Kujala recused himself from the vote

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Deal outlined

The city had approached the water district several years ago about preserving a bridge over the dam if the dam were taken down. Under an agreement first supported by the City Commission in 2014 and revised last year, the Columbia River Estuary Study Taskforce would use \$1.2 million from the Bonneville Power Administration to remove the dam and improve water quality and fish passage on the river. The city would get a 54-foot-long, 16-foot-wide, single-lane bridge to replace a gravel road over the dam.

Last year, after objections from the Kujala family, Warrenton Fiber and others, CREST pulled a permit application for the project that was before the Planning Commission.

Over the past year, political pressure quietly mounted. The agreement between the city, the water district and CREST expired at the end of December.

The City Commission voted

2-2 Tuesday night against renewing the agreement. Commissioners Henry Balensifer and Tom Dyer voted for the renewal, while Commissioners Pam Ackley and Rick Newton voted against the deal. Ackley and Newton had voted for the agreement last year.

Ackley said afterward that she switched her vote after having more time to study the issue.

Newton said he reversed his vote because he felt the water district was too rigid and did not address concerns about the project.

"They just gave us a 'take it or leave it,' and I don't do very well with that," he said.

Mayor recused himself

Mayor Kujala recused himself from the vote, like he did last year, because his family owns land near the dam.

In an email Tuesday, Kujala acknowledged that the Nygaard family came to him with questions about the dam. The mayor said he called City Attorney Hal Snow because they were legal questions involving the city.

"I recused myself in the



Joshua Bessex/The Daily Astorian

The Eighth Street Dam was constructed by the U.S. Department of Agriculture's Natural Resources Conservation Service, part of three water control structures built along the Skipanon River in the early 1960s. According to the Oregon Water Resources Department after an inspection in 2012, the dam may no longer be capable of flood control.

abundance of caution that this project may have an economic impact on my home and business," Kujala wrote. "My mother also owns property upstream of the Eighth Street Dam."

Last year, Norm and Judy Kujala, the mayor's father and mother, and Paul Kujala, the mayor's brother, had mostly been urging the city to back a wider, two-lane bridge over the river that would meet city code

and help with future growth.

The Kujala family claimed the water district had an "anti-development agenda" in refusing to support a wider bridge.

Stephen Fulton, who works on wetlands issues for Warrenton Fiber and serves as a commissioner for the Port of Astoria, and John Nygaard, an attorney, had raised concerns about whether removing the dam would influence water levels.

An aligned message

This year, however, the Kujala family and Warrenton Fiber were in alignment. They both raised flood-related issues and urged the city to consider taking control of the dam from the water district.

Nygaard told city commissioners that the dam may be critical in the city's ongoing fight with the Federal Emergency Management Agency and the National Oceanic and Atmospheric Administration over flood maps. "What are you going to say to all of your citizens if you later discover that maintaining the Eighth Street Dam was the only eco-

nomical pathway to save our city from FEMA and NOAA's nondevelopment zones, and we voted to remove it without knowing these actual costs or options?" he asked.

Paul Kujala, a commercial fisherman, said the project would adversely impact private property and jeopardize the city's levee certification. "I do not support this project," he said.

The dam, built by the federal government in 1963, had a 50-year life span that expired in 2013. The Oregon Water Resources Department found after a 2012 inspection that the dam was likely a significant hazard and may no longer be capable of flood control.

An updated engineering report requested by the city found that dam removal and the new bridge would not worsen flood conditions in the river basin.

City Manager Kurt Fritsch said the dam is not part of the city's levee system or an integral part of flood control.

"It's disingenuous to throw that into the argument here," he said of the flood map tussle with the federal government.

Complaint: This isn't the first time Arnold's firm, Marquis have interacted

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"I would submit these many comments were made for precisely that reason," Marquis wrote in his appeal. "As repellent as the idea that much of this grandstanding is simply a play for publicity to increase the coffers of his law firm, that conduct has been determined to be part of an attorney's First Amendment rights. The sole basis of my complaint is the issue of influencing potential jurors, who will be triers of fact."

Bundy and other militants are facing federal conspiracy charges for the armed occupation of the Malheur National Wildlife Refuge in Harney County. The 41-day standoff between protesters and the federal government received national attention and stoked



Joshua Bessex/The Daily Astorian

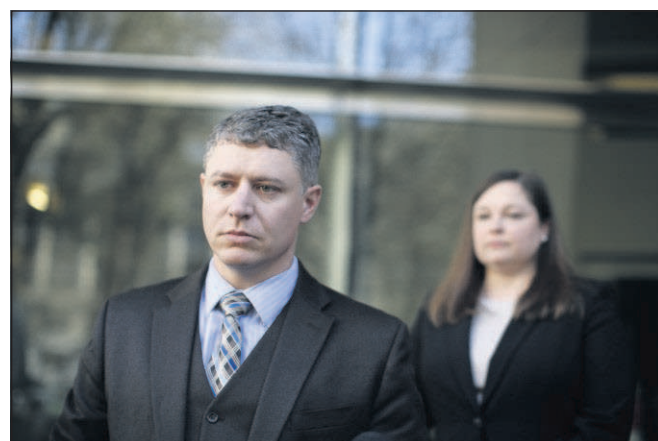
District Attorney Josh Marquis has appealed a decision by the state bar to dismiss his ethics complaint against the attorneys for Ammon Bundy, who was behind the armed occupation at a federal wildlife refuge in Oregon this year.

a debate over ranching on federal land.

Arnold said that had the Oregon State Bar given serious consideration to Mar-

quis' complaint, it would have had "profound constitutional implications for attorneys and citizens alike.

"We have a right to defend



Beth Nakamura/The Oregonian via AP

Mike Arnold, an attorney for Ammon Bundy, outside federal court in Portland in February.

our clients against the full weight of the government, and sometimes that requires us to state things publicly — especially when a legal matter becomes a matter of public interest," he said in an email.

"Obviously, that makes Josh Marquis uncomfortable, but we are not going to change the way we defend our clients. What should make people uncomfortable is someone who prosecutes

citizens while attempting to silence those that defend them."

Arnold's firm and Marquis had interacted before, when Marquis stood up for Patricia Perlow, a prosecutor appointed by Gov. Kate Brown as Lane County district attorney last year. An attorney at Arnold's firm had been publicly critical of Perlow.

Arnold described Marquis as a "narcissist" and a "unique publicity hound" after the district attorney filed the state bar complaint in February.

Marquis had stinging words for Arnold in his appeal. "Mr. Arnold represents the worst caricature of the ambulance-chasing lawyer all too willing to try his cases using hyperbole on the steps of the courthouse," he wrote.

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