

The Board of Island County Commissioners (*including Diking Improvement District #4*) met in Regular Session on March 3, 1997, beginning at 9:30 a.m., in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa. with members Mike Shelton, Wm. L. McDowell and Tom Shaughnessy present. Also in attendance were Art Hyland, Auditor and Clerk of the Board, and Ellen Meyer, Secy. to the Board.

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VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board: Voucher (War.) #175026- 175273.....\$202,051.88.

Veterans Assistance Fund:

Claim V97-7 Veterans Assistance Review Committee reached no majority recommendation on this claim. The Veteran has not been a resident of the State of Washington for one year as required by RCW 73.08.010. By unanimous motion, the Board denied the claim.

Claim V97-8 Veterans Assistance Review Committee recommended approval of the claim for \$2,000. By unanimous motion, the Board approved the claim as recommended, with the following language included in a letter to the veteran:

"We note that you previously received assistance from this fund in the amount of \$1,832.00 in February, 1996. The Veterans Assistance Fund is designed to provide documented emergency assistance to help qualified veterans through a temporary financial difficulty, and in general, limited to a one-time basis. Our goal is to assist you through a temporary financial hardship, but you are expected to take the responsibility to seek additional help and resources to become and remain self-sufficient and not continue a pattern of dependency on this program. The Veterans Assistance Fund is not a substitute for welfare or other programs of a similar nature. A future claim a year from now for rent will be reviewed with close scrutiny."

INTERLOCAL AGREEMENT, OLYMPIC MICROLOAN FUND

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John Hitt, Executive Director, Island County Economic Development Council, Oak Harbor,

recapped from his discussion with the Board at Staff Session on this subject. The Olympic Microloan Fund is a consortium of eight northwestern Washington State counties, funded 100% by Federal Community Development Block Grant funds. Microenterprise lending is defined as businesses that have five or fewer employees, not counting the owner or owner's family, and earned \$750,000 to 1,000,000 a year. This is a tool to help existing businesses or start up businesses that could not access more traditional capital. The loan application is reviewed first by the local Island County Committee [recommending appointment of Ken Hulett, InterWest Bank; Andrew Hunter, Whidbey Island Bank; and Dave Ellis, Building Source, Inc., as the Island County Loan Committee]. If the application passes the local committee it is forwarded to the overall loan committee consisting of one representative from each county and the application compared with the

other loan applications during that funding cycle.

This is an on-going revolving loan fund and loan payments come back into the Olympic Loan Fund and are relent. The interest rate is the full current SBA rate and sometimes a little above that. Loans must be paid back in not more than five years. Working with this is the Cascadia Revolving Loan Fund, a private group. The program has been up and running for a little over a year now and there have been approximately 10 loans, all being paid back in a timely manner. Administrative costs paid from the loan fund to Cascadia are relative minimal and amounts to a total of only a few thousand dollars up to this point in time.

Page 3 of the Amendment, Item #6, speaks to the appointment of one member to the advisory committee from each party to the agreement. Mr. Hitt explained that it could be one member appointed, but his suggestion was that the Board consider appointing him as the member.

The Board received the proposed amendment only and not the original contract. Mr. Hitt explained that the amendment would actually be the new complete contract. However, Commissioner McDowell pointed out that was contrary to what Dave Jamieson, Jr., Deputy Prosecuting Attorney, stated on the Island County Contract Review Form: "note that

sections 5,7,8.,9,10,11,12,13,14,15,16 & 17 of the original agreement still will apply to Island County."

The Board continued action on this matter until next Monday at 9:45 a.m., and provided a copy of Mr. Jamieson's comments to Mr. Hitt for his review and resolution.

CAMANO MOSQUITO CONTROL DISTRICT BOARD OF TRUSTEES

APPOINTMENTS AND REAPPOINTMENTS

Pursuant to RCW 17.29.110(1) the Board of County Commissioners appoints the five members of the Mosquito District Board of Trustees when the district is entirely within the unincorporated area of one county. Therefore, when the one year terms of three members of the Board of Trustees expires the Board appoints three replacements, each for a two year term pursuant to RCW 17.29.130. On motion of Commissioner Shaughnessy, seconded by Commissioner McDowell, the Board unanimously took the following action to appoint and reappoint members to the Board of Trustees, Camano Mosquito Control District:

Reappointed Valerie Marsh - term ending January 1, 1999

New Appointments: Bill Enger and Grant Lawrence - term ending January 1, 1999.

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RESOLUTION #C-10-97 IN THE MATTER OF CERTIFICATION OF THE ISLAND COUNTY
PERSONAL PROPERTY INVENTORY FOR 1996

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In accordance with RCW 36.32.210 Commissioner Shaughnessy moved the Board's approval of Resolution #C-10-97 certifying the Island County Personal Property Inventory and filing same with the Island County Auditor. Motion, seconded by Commissioner McDowell, carried unanimously.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

**IN THE MATTER OF CERTIFICATION)
OF THE ISLAND COUNTY PERSONAL)
PROPERTY INVENTORY FOR 1996) RESOLUTION NO. C-10-97
_____)**

WHEREAS, pursuant to R.C.W. 36.32.210, the Board of County Commissioners of Island County, Washington, hereby certifies that the inventory of all personal property of Island County, Washington, consisting of the returns from the various county departments for the year 1996, was filed with the Island County Auditor on March 3, 1997; and

WHEREAS, the members of the Board of Island County Commissioners hereby certify that they have reviewed said inventory of personal property for the year 1996 and believe the same to be complete, accurate and true to the best of their knowledge and belief, based upon the information submitted and certified by the individual elected officials and county department heads.

ADOPTED this 3rd day of **March, 1997**.

**BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman

Mac McDowell, Member

ATTEST: Tom Shaughnessy, Member

Art Hyland, Auditor & Ex-

Officio Clerk of the Board

LIQUOR LICENSE CLASS P - GIFT DELIVERY SERVICE, THE GROTTO,

724 HACIENDA DRIVE, COUPEVILLE

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The Board received for review and recommendation, Liquor License #080236E application by Jessie Evelyn and Wouter VanLonden, Class P license for gift delivery services or florist with wine, at 724 Hacienda Drive., Coupeville. Both the Health Department and Sheriff

recommended approval. By memorandum dated 2/24/97, Vince Moore, Island County Planning Director, recommended denial since there is no permit on file for the conduct of this business at this location and unless the gifts and/or flowers are made/grown on premise, it would not qualify for a home occupation under Island County Code 17.02 and that depending on the volume of the business, traffic considerations might also be an issue.

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The Board took no action on the application at this time, continuing the matter until next week to clarify with the Planning Director what appears to be a conflict of names and location between that stated on the application and Mr. Moore's memorandum.

CLAIMS FOR DAMAGES

Claim #97-001 Dick and Joan Caldwell, 1827 S. Driftwood Lane, Coupeville

Betty Kemp, Director, General Services Administration/Risk Management, presented the Board with a recommendation with regard to Claim for Damages filed by the Caldwells on January 3, 1997. The injury described was loss of full use/enjoyment of their residence for each day the affected portion of South Driftwood Way (Plat of Ledgewood Beach, Central Whidbey) was closed after March 13, 1996; and if the road is not opened within the foreseeable future, the fair market value of the residence. Damages claimed: (1) \$10,731 for damages already incurred; (2) an amount not quantifiable for damages for future loss due to all vehicular and safe pedestrian access; (3) and if the road closure is permanent, an amount not less than \$425,000 to \$475,000. The claim was investigated by Ms. Kemp, Roy L. Allen, County Engineer. Ms. Kemp and Mr. Allen, along with a representative from the Washington State Counties Risk Pool, were on site Thursday. Due to recurring and unstable conditions on Driftwood Way, the County cannot guarantee uninterrupted access to the residence. As of this date, the road is still unstable. Ms. Kemp and Mr. Allen recommend denial of the claim.

It was Mr. Allen's opinion that this slide area and slumpage was due to ground water and not surface water runoff. The ground water lubricates the old slide plain at two subsurface levels. Island County has no way to control ground water flow and manage it, rather, it is an act of nature and causes the whole thing to slip, with no means of controlling the water moving through the soil. As far as looking into the possibility of rebuilding the road, intention is to come to the Board with a recommendation to rebuild it as a primitive road and sign it as such, and use light weight type fill.

Commissioner Shaughnessy moved that the Board deny Claim for Damages #97-001 from Dick and Joan Caldwell as recommended by the Risk Manager and County Engineer. Motion, seconded by Commissioner McDowell, carried unanimously.

Claim #97-014 Ruth Froman 1836 Driftwood Way, Coupeville

This claim, according to Ms. Kemp, filed by Ms. Froman on February 3, 1997, alleged Damage to property because of inadequate maintenance by the County to maintain the drainage system of the housing development above her property. Lew Legat, Assistant County Engineer, investigated the claim and recommended denial since it is not the County's responsibility to design, improve or maintain the drainage system for the housing development. The property is Lot #2, Block 1, Plat of Ledgewood Beach. Claimant is asking for the fair market value of the property as of the day of the landslide, \$150,000.

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Mr. Allen noted this property is located next to the old Mitre house that collapsed. These two lots lie below the section of the road that dropped and the lots similarly dropped and ended up on the beach. There is no evidence of any ditches overflowing or being obstructed. The real source of the problem is ground water.

Chairman Shelton advised that during the period of heavy rains he drove the uphill part of the Plat of Ledgewood Beach and concurred with the Engineer's assessment. Even with the large amount of rain there was no failure of any of the road ditches in the Plat of Ledgewood Beach and the claim is without merit.

Commissioner Shaughnessy moved that the Board deny Claim for Damages #97-014 by

Jean Froman as recommended by the Risk Manager and County Engineer. Motion, seconded by Commissioner McDowell, carried unanimously.

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WASHINGTON STATE DEPARTMENT OF SOCIAL AND

HEALTH SERVICES STANDARD WORK ORDER "BECCA" CONTRACT

Elizabeth McKay, Director, Juvenile Court Services, requested approval and signature of the Board on Work Order under "Becca" (named after a young girl the "Becca Bill" when a proposal in the Legislature and now referred to as the "Becca law") funding allocated to Island County. Becca impact funds are for Truancy, At-

Risk Youth and Child in Need of Services programs based on actual work done in 1995-96. The actual contract for which Becca funds are a part of was signed by the County with DSHS at the beginning of the bien-nium and covers all of the money Island County receives through DSHS. The term of the contract is June 30, 1997, with Becca funds in the amount of \$36,492.00.

This funding from Becca was discussed with the Board during the budget process (budget workshop 10/30/96), and Ms. McKay proposed to hire a person to facilitate the Truancy, At-Risk Youth and CHINS process, to track juveniles who are involved in the Becca process, assist parents, assist the court, prosecutor and juvenile court services. Although the term of the work order is to 6/30/97, Ms. McKay explained that the intention is to bring the dollars into the budget and use the funds through the course of 1997, since funds are based on work already done.

Commissioner Shaughnessy moved to approve the Standard Work Order for \$36,492.00 from Becca impact funds through the Basic State Contract between Island County and DSHS. Motion, seconded by Commissioner McDowell, carried unanimously.

STATUS: MAXWELTON ROAD CULVERT REPLACEMENT

Larry Kwarsick, Public Works Director, provided a status report on the Maxwellton Road Culvert Replacement Project (CRP#97-01). The Board declared an emergency and authorized Mr. Kwarsick to deal with the problems resulting from the storm. The culvert failed and was in jeopardy of collapsing and substantial risk was involved by not taking immediate action. At this time the culvert has been installed and in process of backfilling. The County Engineer's estimate was \$53,000; low bid was \$42,930.00 from Brad Mason Trucking & Excavating. Mr. Kwarsick expected several change orders forthcoming as a result of

problems encountered during construction: (1) original culvert started leaking during the side by side trenching requiring immediate repair to culvert sections; and (2) as part of acquisition/right of entry, some considerations authorized that will be passed on through the contract. The stream work was done by March 1. It is not yet known when the road will be open to traffic, but it should not be a long period of time.

ADOPT-A-ROAD LITTER CONTROL PROGRAM - GLYNNEDEN GARDENS

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For the Board's approval, Mr. Kwarsick submitted an Adopt-A-Road Litter Control agreement from Glynneden Gardens for Smuggler's Cove Road from SR 525 southwesterly one mile to just past Eagle Bluff Road, South Whidbey Island. By unanimous motion, the Board approved the Agreement as submitted by Glynneden Gardens.

SUPPLEMENTAL AGREEMENT #4 - REID MIDDLETON CONTRACT

GOOD ROAD SLOPE STABILIZATION PROJECT

The Board received Supplemental Agreement #4 to the existing contract with Reid Middleton regarding the Good Road slope stabilization project, modifying the contract to extend completion date by 45 days, use mechanical stabilized earth which is cheaper than the originally proposed cantilever solidier pile wall; geotechnical subconsultant work added; and the County's obligation to provide right of way information is identified. There is no increase in compensation, according to Roy Allen, associated with Supplemental Agreement #4.

Commissioner Shaughnessy moved that the Board approve Supplemental Agreement #4 with Reid Middleton as recommended. Motion was seconded by Commissioner McDowell. Motion, as made and seconded, carried unanimously.

RESOLUTION #R-15-97 REVISING RESOLUTION #R-6-97

WOODLAND BEACH ROAD CLOSURE, CAMANO ISLAND

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Mr. Kwarsick requested that the Board amend conditions established during emergency as described under Resolution #R-6-97 dated January 6, 1997, closing Woodland Beach Road

to vehicular traffic and adopt Resolution #R-15-97 presented today and reopen the road for single lane and limited use of the road for passenger vehicles only. He expected a proposal this week from an architect/engineer contractor to address long range solutions to the problem at Woodland Beach.

Commissioner Shaughnessy moved adoption of Resolution #R-15-97. Motion, seconded by Commissioner McDowell, carried unanimously.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF ISLAND COUNTY, WASHINGTON

**IN THE MATTER OF OPENING A PORTION)
OF WOODLAND BEACH ROAD TO ONE)
LANE FOR PASSENGER VEHICLES ONLY,)
CAMANO ISLAND, SECTION 3, T31N, R2E**

) **RESOLUTION R-15-97**

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WHEREAS, RCW 47.48.010 authorizes local governments to restrict vehicular traffic whenever the condition of such road is dangerous to the traveling public; and

WHEREAS, an emergency exists, caused by severe weather conditions during the period of December 26, 1996, to January 1, 1997, which caused extensive erosion and settlement of portions of the roadway; and

WHEREAS, by Resolution R-6-97, Woodland Beach Road was closed to vehicular traffic; and

WHEREAS, upon investigation the Board of county Commissioners has determined it to be advisable to revise closure of the road to one lane for passenger vehicles only; and

WHEREAS, the closure of county roads for safety reasons is a function of police power properly exercisable by the Board of County Commissioners; **NOW, THEREFORE**,

BE IT HEREBY RESOLVED by the Board of Island County Commissioners that Woodland Beach Road beginning at a point approximately 275 feet westerly of Sunset Drive to the end of roadway is reduced to one lane of traffic and opened to passenger vehicles only.

ADOPTED this 3rd day of March, 1997.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Mac McDowell, Member

Tom Shaughnessy, Member

ATTEST: Art Hyland

County Auditor & Ex-Officio

Clerk of the Board

CONTRACT WITH FAKKEMA & KINGMA - TOPOGRAPHIC SURVEY
& MAPPING SERVICES - COURTHOUSE EXPANSION PROJECT

A request was presented by Mr. Kwarsick to approve a contract with Fakkema & Kingma, to provide topographic surveying and mapping services of proposed Island County Courthouse Expansion Project in Coupeville, not to exceed \$18,950.00. His thought was that by the time the contract is entered into and notice to proceed given, some time will have gone by. There are some time constraints with the work inasmuch as some will be by photogrammetric survey and that work needs to be done before Spring or run the risk of losing some direct aerial access. He gave assurance to the Board he would not give notice to proceed until after the March 11 meeting of the Coupeville Town Council.

Mr. Kwarsick stated that this was the last bit of work he felt needed to be done before revisiting with the Board the whole financial plan, assuming the Town approves the County's plan next week. This work is a planning issue in that so much is based on photogrammetric surveying and has value regardless of whether the expansion is approved or not. The work will not be thrown away and will be available at any point in time it is needed.

Commissioner Shaughnessy moved that the Board enter into Professional Services Agreement #PW-972008 with Fakkema & Kingma, Inc., with the caveat that notice to proceed not be given until after approval from the Town of Coupeville. Motion, seconded by Commissioner McDowell, carried unanimously.

STATUS: MADRONA WAY EMERGENCY ROAD CLOSURE

Mr. Kwarsick discussed with the Board the status of Madrona Way, which under Resolution #R-1-97 dated January 6, 1997, due to embankment failure on December 30, 1996, was closed to vehicular traffic and reduced to one lane in the vicinity of bluff failure.

Emergency repairs were completed as of 1/14/97 and recommends the road closure be lifted and will be going out with notification to officially open the road to the general public. Resolution #R-1-97 does not require an amendment of that resolution in order to reopen the road. A section of Madrona Way needs some additional repair and the Department is working with the contractor in terms of that, but there is no reason at this time why the road cannot be reopened.

ACCEPT DECLARATION OF TRUST: SHORT PLAT #69/96 \$4,225.00

On Mr. Kwarsick's recommendation and confirmation that proposed Declaration of Trust is adequate, the Board by unanimous motion accepted Declaration of Trust in the amount of \$4,225.00 from Tara Properties guaranteeing construction of roads in Short Plat #69/96.

RESOLUTION #PLG-006-97 IN THE MATTER OF INCORPORATING THE EXISTING SERVICE AREA FOR THE MAPLEWOOD PARK WATER SYSTEM INTO THE COORDINATED WATER SYSTEM PLAN (CWSP)

Debra Little, Development Services Manager, Island County Planning Department, recommended approval of Resolution #PLG-006-97 incorporating the Maplewood Park Water System into the CWSP, Tax Parcel #S6590-00-00006-2, to provide water service to a new six lot subdivision on Woodland Drive, located north of Camaloch Golf Course, Camano Island. There are no overlapping water systems. As part of the resolution, included are conditions as recommended by Don Robinett in a letter dated February 19, 1997.

Commissioner Shaughnessy moved approval of the Resolution as presented by Ms. Little; motion, seconded by Commissioner McDowell, carried unanimously.

**BEFORE THE BOARD OF ISLAND COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF INCORPORATING THE)
EXISTING SERVICE AREA FOR THE)
MAPLEWOOD PARK WATER SYSTEM)
INTO THE COORDINATED WATER) RESOLUTION PLG-006-97
SYSTEM PLAN)
)

WHEREAS, the Maplewood Park Water System has prepared and submitted a water system plan per the Island County Coordinated Water System Plan, RCW 70.116, and WAC 248-56; and

WHEREAS, the water system plan and existing service area of the Maplewood Park Water System has been reviewed for consistency with the Island County Comprehensive Plan, the Island County Coordinated Water System Plan, and other applicable State and local codes and regulations.

WHEREAS, the Island County Public Works Department does not object to approval of the Maplewood Park Water System Service Area provided the conditions in the attached February 19, 1997, memorandum from Don Robinett to Debra Little are met.

NOW, THEREFORE, BE IT HEREBY RESOLVED by the Board of Island County Commissioners that the water system plan and existing service area for the Maplewood Park Water System Water Company be incorporated into the

Island County Coordinated Water System Plan.

ADOPTED this 3rd day of March, 1997.

**BOARD OF COUNTY
COMMISSIONERS**

ISLAND COUNTY WASHINGTON

Mike Shelton, Chairman,

Wm. L. McDowell Member

Tom Shaughnessy, Member

ATTEST: ART HYLAND, AUDITOR &

EX-OFFICIO CLERK OF THE BOARD

The action proposed by this resolution has been reviewed and found to meet the current Island County Zoning and Land Use Statutes.

Vincent J. Moore, Director of Planning and Community Development

RESOLUTION #PLG-004-97 DELEGATING AUTHORITY TO ISLAND COUNTY HEALTH
DEPARTMENT TO REVIEW & APPROVE "GROUP B" WATER SYSTEM BOUNDARIES INTO
THE CWSP

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Donna Keeler, Manager, Comprehensive Planning, Island County Planning Department,

as follow-on to staff session February 19, 1997, presented proposed Resolution #PLG-004-97, with regard to processing new water systems into the CWSP. The recommendation that the Health Department review and approve Group B water system boundaries came about because of the time consuming and largely ministerial nature of the process. By memorandum dated February 19, 1997, Deputy Prosecuting Attorney Dave Jamieson commented that based on 1995 legislation, if the Board believed it appropriate for the Planning or Health Department to review the public water system boundaries and if the boundaries do not overlay with another public water system to incorporate that public water system into the CWSP, then the Board could delegate that authority by adoption of a resolution.

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Commissioner McDowell recalled having discussed in staff session this subject, and that the Board had agreed if there was a down-sizing of a water system area that would also come to the Board, in addition to the Board continuing to review Group A water system boundaries and Group B appeals, but did not see that included in the resolution. He suggested adding language such as: "the Board of County Commissioners shall approve or disapprove proposals to reduce the size of an existing service area".

The Board agreed. Ms. Keeler revised the Resolution accordingly by including in the third "WHEREAS" paragraph the words "or requests for reduction in service area".

With that, Commissioner Shaughnessy moved approval of #PLG-004-97. Motion, seconded by Commissioner McDowell, carried unanimously.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF DELEGATING AUTHORITY TO THE ISLAND COUNTY HEALTH DEPARTMENT TO REVIEW AND APPROVE "GROUP B" WATER SYSTEM BOUNDARIES INTO THE COORDINATED WATER SYSTEM PLAN)))))	RESOLUTION PLG-004-97
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WHEREAS, The Island County Coordinated Water System Plan requires that the Planning Department bring new and revised water systems which are to be incorporated into the Coordinated Water System Plan to the Board of County Commissioners for approval; and

WHEREAS, RCW 76.19.070 was amended in 1995 to expand the water system boundary review process to provide that the county legislative authority may delegate approval authority to the County Planning Department or other designated agency; and

WHEREAS, the Board of County Commissioners has determined the review and approval of Group B water system boundaries should be delegated to the Island county Health Department except in the case of an appeal of a Health Department decision regarding review and approval of Group B Water System boundaries or requests for reduction in service area; and

WHEREAS, the Board of County Commissioners has determined Group A water system boundaries shall continue to be reviewed and approved by the county legislative authority; and

WHEREAS, the Board of County Commissioners has determined that appeals of Health Department decision(s) regarding review and approval of Group B Water System boundaries shall be made to and considered by the County Legislative authority; **NOW THEREFORE**,

BE IT HEREBY RESOLVED by the Board of Island County Commissioners that the Island County Health Department shall review and approve Group B water system boundaries except in the case of an appeal of a Health Department decision regarding review and approval of a Group B Water System and/or requests for reduction of existing Service Areas.

APPROVED AND ADOPTED this 3RD day of March, 1997.

**BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman

Mac McDowell, Member

Tom Shaughnessy, Member

ATTEST: Art Hyland, Auditor

& Ex-Officio Clerk of the Board

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DECISION ANNOUNCED: APPEAL #049/97 BY

ERNEST & PATRICIA DIRE

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With regard to Appeal #049/97 by Ernest & Patricia Dire, an appeal of the Hearing Examiner's Decision dated January 16, 1997, heard by the Board on February 24, 1997 in closed appeal hearing for the record, Commissioner McDowell was prepared to read his statement of decision in the matter of the appeal by Ernest and Patricia Dire. The Board indicated on February 24th that a decision would be announced at public meeting within 14 days based on testimony. Commissioner McDowell read his statement into the record and asked for concurrence on the part of Commissioners Shelton and Shaughnessy:

Statement by Commissioner McDowell Re: Appeal #049/97 by Ernest & Patricia Dire, an appeal of the Hearing Examiner's Decision dated 1/16/97, heard by the Board on 2/24/97

The Hearing Examiner made an erroneous interpretation in Paragraph VI of Conclusion of Law thereby leading to an incorrect or erroneous conclusion and decision. Among other things, Paragraph VI cites portions of Island County Code 16.20A.020B and WAC 173-14-140(3). The Hearing Examiner did not discuss RCW 90.58.020 Legislative findings--State policy enunciated--Use Preference. Among other things the fourth paragraph states:

"Alterations of the natural condition of the shorelines of the state, in those limited instances when authorized, shall be given priority for single family residences and their appurtenant structures....".

Use preference for alteration of the shoreline natural condition is given to single family

residences. In fact, the RCW mentions single family residences ahead of all other preferences. Clearly a goal and policy of the Shoreline Management Act is for allowing Single Family Residence. One method in which the goals and policies are created is by the inclusion of various exemptions in the RCW. One exemption is the \$2500 exemption that more or less states if the project cost is no more then \$2500 and does not materially interfere with the normal public use of the shoreline, it is exempt. This exception has no other caveats. The Dire application has a cost of less than \$2500.

The Hearing Examiner concludes in last section of Paragraph VI that:

"...even if exempt from shoreline substantial development permit requirements, and that an applicant cannot undertake such development unless the development is consistent with the Shoreline Management Act and the Island County Shoreline Management Master Program. This proposed fill is in direct contravention of a prohibition on fill within associated wetlands, as indicated above.

The Hearing Examiner's conclusion does not take into consideration the primary or preferential use of state shoreline that is being altered is for a single family home. Therefore the exemption has priority since it helps carry out a preferred use or goal of the Shoreline Management Act and cannot be prevented by an interpretation that

somehow a prohibited use takes preference over a use that is always allowed by exemption. I might add, especially when that exemption clearly supports a goal of the Shoreline Management Act. Simply put, an action that is exempted to meet the goals of the Shoreline Management Act cannot then be prohibited.

Additionally, the Hearing Examiner states, among other things in Section VII Conclusions of Law that:

"The Island County Hearing Examiner of the Island County Planning Department does not have the authority to overturn the direct prohibition contained in ICC 16.21.075(B)(1)."

Section 16.21.075(B)(1) & (2) contain the words "shall be permitted" and "shall not be permitted" where as, Section 16.21.075(B)(3) contains the words "strictly prohibited."

1 & 2 refer to the issue of after a proposal has reached the threshold of requiring a substantial development permit (SDP) (i.e. not exempted) then 1 & 2 state whether they will or will not be permitted (i.e. issued an SDP). ICC 16.21.075(B)(3) however, by use of the words "strictly prohibited" it states that it is not allowed or is prohibited (the issues of permitting or exceptions is

not considered). I agree the Hearing examiner does not have the authority to overturn Code, however, the Hearing Examiner made an incorrect interpretation of Island County Code Section 16.21.075B (1) (2) and (3) by assuming that if an application is exempted from an SDP then section 16.21.075(B)(2) would somehow strictly prohibit an action that was exempted from SDP requirement.

I find the Hearing Examiner made an erroneous conclusion and decision and I find that the driveway does not require a Substantial Development Permit. The applicant is not required to request an exemption as the finding finds the driveway is exempt from a Substantial Development Permit under the \$2500 exemption.

The Hearing Examiner also erred in Paragraph X of preliminary information. Among other things that paragraph states:

"However the applicant has failed to provide a mitigation plan or ...".

The Hearing Examiner apparently failed to recognize a mitigation plan prepared by Shapiro and Associates, Inc. was submitted by Mr. Roehl on October 8, 1996, and is listed in the index. Among other things, the report states:

"The impacts could be minimized by constructing the driveway with the narrowest possible roadway prism and by keeping the alignment as close to the existing fill slope as zoning allows. Planting the north and west edges of the driveway where it would cross the wetland with an assortment of native shrubs and trees after construction could mitigate for adverse effects on the wetland as a result of the intrusion."

While the report is short (1 page), the impact is only on 900 sq. ft. out of a 8,712,000 sq. ft. of wetland. The report is certainly proportional in size and content to the size of the area of wetland impacted to the wetland total size.

Access is needed to a single family homesite if the applicant is going to have reasonable economic use of the property . The applicant has attempted to obtain an access easement from his neighbor to no avail. The only access controlled by the applicants is through the area that contains 900 sq. ft. of a 8,712,000 sq. ft. Category B wetland meadow. Therefore, two choices are available, a bridge or sufficient fill to cross the 900 sq. ft. The fill is less than 250 cu. yds. and less than \$2500. The bridge cost would be at least a magnitude of ten, if not 30 to 50 times the cost of the fill.

A bridge would not allow reasonable economic use of the property. Therefore, I find that application under the reasonable use section of 17.02.110 is appropriate. I also find the applicant has met the criteria of reasonable use. A prior decision of the Hearing Examiner was made part of the record, USA 007/91 Laura Garrison. USA 007/91 was also an application under reasonable use Section 17.02.110. Under reasonable use, the Hearing Examiner in 007/91 stated in the Conclusion of Law, "Because the alteration is necessary to allow reasonable economic use, it is not necessary for the applicant to meet the other conditions for Use Approval or alteration of a wetland." In the Dire application the alteration is necessary to allow reasonable economic use, therefore, just as in the 007/91 decision and consistent with prior Hearing Examiner decisions, it is not necessary for the applicant to meet the other conditions for Use Approval or alteration of a wetland.

The Engineering Department and Health Department personnel have not provided any objection and have stated they have "no problems" with this proposal.

Based upon the foregoing, the decision is:

a) The application of Ernest and Patricia Dire for Use Approval USA 470/95 is consistent with the goals and policies of the Shoreline Management Act and Island County Shoreline Master Program and zoning ordinance, and

b) Is hereby APPROVED subject to the following conditions:

1. The applicant shall meet the mitigation measures stated in Sentences 3, 4, and 5 of the Fourth Paragraph of Shapiro & Associates' Report dated July 10, 1996.

2. the applicants are not required to apply for a Shoreline Substantial Development Permit since the proposal is a exempted action under the \$2500 cost exemption.

3. The driveway will be placed to fit in the gap between the trees and the property line mentioned in the Appeal Hearing.

4. That portion of the driveway located in the approximately 900 sq. ft. of the approximately

8,712,000 sq. ft. of the wetland meadow shall be in substantial conformance with the site plan entitled "A Residential Site Plan for Patricia and Ernest Dire" prepared by T. J. Roehl & Associates and submitted with the appeal documents.

Signed by: Wm. L. McDowell"

Commissioner McDowell moved that the Board approve his statements and conditions just read, and direct the Planning Department to prepare Findings of Fact, Conclusions of Law and Decision on behalf of the Board to implement the statements. Motion was seconded by Commissioner Shaughnessy.

Under discussion, Commissioner Shaughnessy expressed his agreement with Commissioner McDowell's statements and conditions. The issue for him came down to a matter of interpretation and in reading the WAC, it seemed clear that the primary or preferred use of the state shoreline that is being altered is for a single family home, which is the case here. Also, there is the matter of "reasonable use" and in looking at the alteration of 900 sq. ft. versus the total size of the wetland, 8,712,000 sq. ft. he felt 900 sq. ft. certainly was a reasonable use.

Chairman Shelton agreed with the conclusion reached by Commissioner McDowell . Based upon this decision he hoped the interpretation for future applications would be as the Board has directed. He expressed the importance of the County making necessary clarifications in the Code and Shoreline Master Plan to eliminate the confusing terminology and directed the Planning Department to commence those changes.

Motion, as made and seconded, carried unanimously.

HEALTH CONTRACT #HS-02-97 - ISLAND COUNTY MILLAGE

Tim McDonald, Health Services Director, presented for Board approval and signature, Contract No. HS-02-97 between Island County and Catholic Community Services, representing \$12,000 from County Millage Funds dedicated for mental health services, in this case to be used for early intervention mental health services to children and families.

Contract #HS-02-97 was by unanimous motion of the Board, approved and signed at this time, for a period of six months.

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PERSONNEL ACTION AUTHORIZATIONS

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Dick Toft, Human Resources Director, presented for Board action four Personnel Action Authorizations, and the Board by unanimous motion, approved the PAA's as outlined below:

Sheriff's Department

PAA #25/97 Corrections Officer, Position #4015.11, replacement, effective 4/1/97

PAA #28/97 Lieutenant, Position #4010.01, replacement, effective 4/1/97

Public Works Department

PAA #26/97 Solid Waste Attendant I, 16 hr. week, Position #2249.02, replacement, eff. 3/3/97

[NOTE: with regard to recruitment for this position, Mr. Toft later advised that: (1) The pool of substitute workers (part-time) that are identified and on file with the County came about as a result of a hiring action that included putting an ad in the newspaper. This included the Stanwood - Camano News where three of the individuals saw the ad and applied. (2) Despite

previous interactions with the Waste Warrior program, they were not the source in the establishment of the pool of substitutes. Point in question is that there is no Waste Warrior program at all on Camano. (3) Human Resources Office will maintain the file on substitutes for Solid Waste.]

District Court

PAA #27/97 Court Clerk, Dist. & Munic. Court, Position #1005.00, replacement, with hire date of 3/14/97 and funding source the Law & Justice Fund.

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RESIGNATION IN COUNTY ELECTIVE OFFICE

Chairman Shelton read the following letter from Art Hyland, Island County Auditor, dated

February 27, 1997:

"To: Island County Commissioners

As a follow-up to my February 11 letter, I am now notifying you I resign my office effective 12:01 a.m. March 17, 1997. Pursuant to Article II, Section 15, within 60 days from that date, the Board must act to appoint a successor, or cede the decision to the Governor. This means the Republican Central Committee must present to you three candidates well before that 60 day deadline, so that you have the opportunity to act in time.

I see by the papers that the central committee has already scheduled a meeting for interviews on March 13. This is interesting as this is prior to the date of the vacancy. It appears to me there's no legal restriction on them meeting for this purpose prior to the effective date, only the small risk that a reversal of this process (such as an unlikely change of heart by me) could conceivably take place mooting the reason for their meeting. So they should proceed as best advised.

Sincerely, Art Hyland"

Commissioner Shaughnessy moved that the Board accept the resignation of the Island County Auditor effective 12:01 a.m. March 17, 1997. With reluctance, Commissioner McDowell seconded the motion. Motion, as made and seconded, carried unanimously.

Chairman Shelton assured that the Board would not allow the position of Auditor to remain vacant while going through the process of seeking a candidate and planned on March 10 to appoint an interim auditor.

There being no further business to come before the Board at this time, Chairman

Shelton adjourned the meeting at 11:40 a.m. The next Regular Session will be

held on Monday, March 10, 1997, beginning at 9:30 a.m.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

Tom Shaughnessy, Member

Attest:

Art Hyland, County Auditor &

Ex-Officio Clerk of the Board