

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING**

**REGULAR SESSION - SEPTEMBER 8, 1997**

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on September 8, 1997, beginning at 9:30 a.m., in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa. Mike Shelton, Chairman, Wm. L. McDowell, Member, and Tom Shaughnessy, Member, were present. Also in attendance were Margaret Rosenkranz, Auditor/Clerk of the Board, and E. Meyer, Secy. to the Board. The following minutes from previous meetings were approved and signed: August 11, 18, and 25, 1997.

**VOUCHERS AND PAYMENT OF BILLS**

The following vouchers/warrants were approved for payment by unanimous motion of the Board:

**Voucher (War.) #9971 - #10171..... \$283,556.78**

**August Payroll - Approved**

**Veterans Assistance Fund: ..... \$1150.00**

[Emergency financial assistance to certain eligible veterans; the names and specific circumstances are maintained confidential]. By unanimous motion, the Board approved the recommendation of the Veterans Assistance Review Committee and approved Claim #V97-35 in the amount of \$1150.00.

**Greenbank Farm Purchase:** The Board, by unanimous motion, approved a voucher in the amount of \$2,906,355.97.  
**Total: \$3,191,062.65**

Five vouchers were held and checks not issued, associated with payment to Langley deputies

in regard to Island County Fair security, in order to provide further review and obtaining legal

opinion whether or not this is the appropriate form of reimbursement. The Chairman of the Board will discuss the matter with the Sheriff and ask that the Sheriff review methodology with the Deputy Prosecuting Attorney [Vouchers #97409, 02, 03, 04, 06].

**EMPLOYEE SERVICE AWARDS**

**EMPLOYEE DEPARTMENT NO. YEARS Ann. Date**

Richard C. Jones Public Works 5 years 9/14/97

Sharon Samplawski County Clerk 15 years 9/22/95

Jan Ford Commissioners 20 years 9/21/97

**EMPLOYEE OF THE MONTH - AUGUST, 1997**

Donna Keeler, Island County Planning & Community Development Department

**HEARING HELD: Resolution #C-48-97 - Emergency APPROPRIATION TO the 1997 Conservation Futures Fund Budget (Establish budget for Purchase of Greenbank Farm)**

A Public Hearing was held as scheduled and advertised at 9:55 a.m. to consider Resolution #C-48-97, for the purpose of appropriating \$2,900,000 from the 1997 Courthouse expansion Fund to be transferred to the 1997 Conservation Futures Fund Budget for the purpose of establishing a budget for the purchase of the Greenbank Farm property, from revenue received from the proceeds of the sale of bonds. The bond proceeds having been placed in the Courthouse Expansion Fund until this point.

No comments were made either for or against by members of the public.

By unanimous motion, the Board adopted Resolution #C-48-97.

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF DECLARING

AN EMERGENCY IN THE 1997 RESOLUTION C-48-97

CONSERVATION FUTURES FUND BUDGET

*WHEREAS*, it appears that an emergency exists in the 1997 Conservation Futures Fund budget that could not be foreseen when that budget was adopted; and

*WHEREAS*, the Conservation Futures Fund will incur expenditures in excess of the 1997 budget authorized by the Board of Island County Commissioners, due to the purchase of the property known as the Greenbank Farm; and

*WHEREAS*, funds are budgeted in the 1997 Courthouse Expansion Fund to be transferred to Conservation Futures Fund for the purchase of the Greenbank Farm; and

*WHEREAS*, there is a need to recognize Two Million, Nine Hundred Thousand dollars (\$2,900,000) to allow expenditures in excess of the 1997 Island County Conservation Futures Fund budget heretofore authorized by the Board of Island County Commissioners; and

*WHEREAS*, RCW 36.40.140 requires that a public hearing be held at which any person may appear and be heard for or against this proposed emergency appropriation; *NOW, THEREFORE*;

*BE IT RESOLVED*, that a public hearing be held at 9:55 a.m. on the 8<sup>th</sup> day of September, 1997, at the usual meeting place of the Board in Coupeville to consider this proposed emergency appropriation to the 1997 Conservation Futures Fund budget.

*ADOPTED* this 25<sup>th</sup> day of August, 1997.

Board of County Commissioners

Island County, Washington

[Mike Shelton, Chairman, absent]

ATTEST: Mac McDowell, Member

Margaret Rosenkranz, Auditor Tom Shaughnessy, Member

& Ex-Officio Clerk of the Board

*IT IS HEREBY APPROVED AND ORDERED* that the amount of Two Million, Nine Hundred Thousand dollars (\$2,900,000) be appropriated and distributed as shown within the 1997 Conservation Futures Fund budget.

Source of Funds

Conservation Futures Fund

Transfer from Courthouse      132-000-39784      \$ 2,900,000

Expansion Fund

Application of Funds

Conservation Futures Fund

Greenbank Farm - Land      132-000-57687-161      \$ 2,900,000

*ADOPTED* this 8th day of September, 1997.

BOARD OF COUNTY COMMISSIONERS

OF ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Mac McDowell, Member

Tom Shaughnessy, Member

ATTEST: Margaret Rosenkranz

Auditor & Ex-Officio Clerk of the Board

**INTERLOCAL AGREEMENTS FOR SALE OF SURPLUS PROPERTY THROUGH ISLAND COUNTY GSA DEPARTMENT: ISLAND TRANSIT & FIRE DISTRICT #2**

Lee McFarland, Assistant Director, GSA/Property Management, presented Agreement for the sale of Fire Protection District #2 Surplus Property through Island County Department of General Services Administration, and Agreement for the Sale of Island Transit Surplus Property through the Island County Department of General Services Administration, both agreements pursuant to the Intergovernmental Cooperation Act, Chapter 39.34 RCW, and were reviewed and approved by the Deputy Prosecuting Attorney and Risk Manager. Fire District #2 and Island Transit agree to reimburse Island County for their proportionate shares based upon sale prices, of legal notice costs and other out of pocket costs of Island county.

The Board, on unanimous motion, approved Interlocal Agreements between Island County and Fire District #2 and Island Transit, as presented.

**APPOINTMENTS/REAPPOINTMENTS - COMMITTEES**

By unanimous motion, the Board made the following appointments:

**Central Whidbey Historic Preservation Advisory Committee**

Reappoint Marguerite Walker, Coupeville, Term: August 13, 2001

**Island County Housing Authority**

- Appoint Rick Urban, Freeland, to fill unexpired term to 12/6/99
- Accept Resignation 8/14/97-William T. Good, Freeland (served since 8/1/83) .

**LIQUOR LICENSE Application #366893, The Green Door Restaurant**

By unanimous motion, having in hand recommendations of approval from the Sheriff and Health Department, the Board approved Application for Liquor License #366893-4I Class CD by Randy Lee and Sally Ann Jacobson, d/b/a The Green Door Restaurant, 3070 S. State Highway 525, Greenbank.

**Resolution #C-49-97 - annexation of Town of Coupeville to**

**Sno-Isle Regional Library District**

By letter dated August 29, 1997, the Board received a request from the Town of Coupeville's attorney, Dale K. Roundy, requesting in accordance with RCW 27.12.370, that the Board of County Commissioners by resolution call for an election to be held on the date of the November 4, 1997 general election to consider the annexation of the Town of Coupeville by the Sno-Isle Regional Library District. Included in Mr. Roundy's transmittal was a copy of a letter to the Auditor specifying the form of the ballot title to be included with other measures for consideration at the November 4, 1997 general election, Town of Coupeville Resolution #09-21 authorizing an election concerning annexation of the Town by the Sno- Isle Regional Library District, and Ordinance #548 requesting an election regarding the annexation by the Sno-Isle Regional Library District. Based on the request of the Town of Coupeville, the Auditor presented for the Board's consideration Resolution #C-49-97 in the mater of authorizing an election proposing annexation to the Town of Coupeville to the Sno-Isle Regional Library District. RCW 27.12.370 provides that: "The county legislative authority or authorities shall by resolution call a special election to be held in such city or town at the next date provided in RCW 29.13.010 but not less than forty-five days form the date of the declaration of such finding, and shall cause notice of such election to be given as provided for in RCW 29.27.080".

Robin Hertlein, representing the Town of Coupeville, was present in support of the action.

By unanimous motion, the Board adopted Resolution #C-49-97 as proposed.

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

**IN THE MATTER OF AUTHORIZING AN ELECTION )  
PROPOSING ANNEXATION OF THE TOWN OF ) RESOLUTION C-49-97  
COUPEVILLE TO THE SNO-ISLE REGIONAL )  
LIBRARY DISTRICT )**

**WHEREAS**, the Town of Coupeville has, by resolution, requested annexation to the Sno-Isle Regional Library District; and

**WHEREAS**, the Board of Trustees of the Sno-Isle Regional Library District has concurred with the request and has notified

the Town of Coupeville of that fact, ***NOW THEREFORE***

***BE IT RESOLVED***, that the Island County Auditor is directed to conduct a special election on Tuesday, November 4, 1997 to place before the voters of the Town of Coupeville this proposed annexation.

***ADOPTED*** this 8th day of September, 1997.

**BOARD OF COUNTY COMMISSIONERS**

**OF ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman

Mac McDowell, Member

Tom Shaughnessy, Member

**ATTEST:** Margaret Rosenkranz,

Auditor & Ex-Officio Clerk of the Board

**Resolution #C-50-97 Transferring Funds within various 1997**

**Island County Fund Budgets**

As prepared and presented by the Auditor, the Board by unanimous motion, adopted Resolution #C-50-97, transferring \$283,925 from Commissioners Contingency to various Current Expense funds for those expenditures determined necessary and approved by the Board from the Contingency fund. Copy of Contingency Status Report provided to the Board by the Auditor dated 9/5/97.

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF  
ISLAND COUNTY, WASHINGTON

IN THE MATTER OF TRANSFERRING FUNDS )  
WITHIN THE 1997 ISLAND COUNTY CURRENT ) RESOLUTION C-50-97  
EXPENSE FUND BUDGETS )

***WHEREAS***, there are funds budgeted in the 1997 Current Expense Fund budget, Commissioner Contingency line for expenditures that were unknown at the time of adoption of the 1997 budget; and

***WHEREAS***, it has now been determined that various budgets are in need of additional funds to cover approved expenditures, and

***WHEREAS***, various departments have budgeted funds that are beyond known needs and have requested a transfer of those funds to the Commissioner Contingency line, ***NOW THEREFORE***

***BE IT RESOLVED***, that the amount of Two Hundred Ninety Eight Thousand Nine Hundred Twenty-Five dollars (\$298,925) be transferred within the 1997 Island County Current Expense Fund budget, as shown on Exhibit A,

***ADOPTED*** this 8th day of September, 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

**Exhibit A****Source of Funds**

<b>Current Expense Fund</b>	Commissioners Contingency	001-000-51992-141	\$	283,925
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**Application of Funds****Current Expense Fund**

<b>Transfer to Public Health</b>	Clerical Nursing Assistant, New Position	001-000-59704	\$	4,292
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	Environmental Health Specialist, 90 day temp	001-000-59704		5,350
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<b>Assessor</b>	Al Peysen Contract	001-020-51424-141		4,600
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<b>Central Services</b>	Voice Mail System	001-026-51880-164		25,000
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<b>Civil Service</b>	Secretary, Chief Examiner, extra hours	001-051-51671-110		330
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<b>Commissioner</b>	Site Plan Review	001-025-51160-141		918
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<b>District Court</b>	Director of Adult Probation, reclass	001-030-52330-110		1,175
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<b>General Services Admin</b>	Christensen Building Lease	001-054-51820-145		15,865
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<b>Maintenance</b>	Night Custodian, extend hours	001-028-51830-110		8,050
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<b>Miscellaneous</b>	Adult Day Care (Extended Services)	001-036-55505-149		10,000
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	USGS Study Funding	001-036-53191-151		48,000
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<b>Office Equipment</b>	Equipment List	001-056-51992-164		62,995
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<b>Planning</b>	McConnell/Burke Contract Phase 3	001-053-55800-141		16,000
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	Plans Examiner, new position	001-053-55800-110		21,500
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	Overtime, Higman	001-058-55800-111		11,700
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	McConnell/Burke Contract Camano Projects	001-053-55800-141		3,300
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	Eserhut Contract	001-053-55800-141		4,850
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<b>Sheriff</b>	Traffic Safety Overtime	001-040-52122-111		40,000
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	<b>Total</b>		\$	283,925
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**Source of Funds**

<b>Current Expense Fund</b>	LEOFF Disability Board (Long Term Care)	001-052-52115-149	\$	15,000
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**Application of Funds**

<b>Current Expense Fund</b>	Commissioner Contingency	001-000-51992	\$	15,000
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**Public Input or Comments**

Rufus Rose, Clinton, Member, Island County Planning Commission, referenced information from the Washington Center for Real Estate Research, Washington State University at Pullman, two reports and executive summaries regarding the effect of the Growth Management Act in Washington State. He spoke with Glenn Crelin, Director, on Friday afternoon about more current information on the impacts of GMA and Mr. Crelin indicated that a report was completed April, 1997, dealing with impacts of GMA on lots in Vancouver, Wa. and Clark County, and faxed Mr. Rose a copy of the executive summary of that report. Mr. Rose gave a copy of the executive summary to the Board and asked them to read the report and make a judgment as to whether or not to spend \$15.00 for a copy of the complete report. It is Mr. Rose's understanding the essence of the report is that as a direct result of GMA implementation in Clark County, lots have increased in cost 35.5%. Documents Mr. Rose provided to the Board included:

1. available publications list
2. Description of what Washington Center for Real Estate Research does
3. Executive Summary from the April 1997 report
4. Update of the documents available.

**PUBLIC WORKS EMERGENCY RESPONSE MUTUAL AID AGREEMENT**

In accordance with State of Washington County Road Administration Board, and as presented by Larry Kwarsick, Public Works Director, Roy Allen, County Engineer and Lew Legat, Assistant County Engineer, the Board by unanimous motion adopted a Public Works Emergency Response Mutual Aid Agreement created to enable agencies to assist other agencies on an as-needed basis when faced with a disaster/emergency situation.

**RESOLUTION #C-51-97 DECLARING REAL PROPERTY SURPLUS TO COUNTY NEEDS (PORTIONS OF GREENBANK FARM PROPERTY)**

Mr. McFarland presented for approval Resolution #C-51-97, explaining that in order to complete the entire transaction by closing on September 15, it is necessary to declare the portion of the Greenbank Farm Property surplus to County needs, i.e. that portion to be transferred to ownership of the Port District and Nature Conservancy. This includes the lots as listed, water system and water rights, water system easements, the property to the Nature Conservancy, as well as all personal property to go along with those associated parcels.

Mr. Kwarsick advised that negotiations concluded last Wednesday with Stimson Lane and resulted in defining the personal property and the price for the personal property, included in this resolution and the condition of sale contract, all accommodated for within the bonds identified for the Port of Coupeville. There are only water rights issued for the non-potable water system currently used only for farm irrigation and not for human consumption. There are no water rights associated with the potable water system. The County reserved one of the water connections to the existing water system.

By unanimous motion, the Board adopted Resolution #C-51-97 as presented.

***BEFORE THE BOARD OF COUNTY COMMISSIONERS***

***OF ISLAND COUNTY, WASHINGTON***

*IN THE MATTER OF DECLARING REAL )*

*PROPERTY (PORTIONS OF GREENBANK ) RESOLUTION NO. C-51-97*

*FARM PROPERTY) SURPLUS TO COUNTY )*

NEEDS. )

WHEREAS , pursuant to an Interlocal Agreement dated August 1, 1996, said Agreement having been amended and superseded by that Interlocal Cooperation Contract with the Port of Coupeville approved by the County on July 14, 1997, the County and the Port agreed to acquire the Greenbank Farm Property subject to the terms and conditions of the Interlocal Cooperation Contract; and

**WHEREAS, under the 1996 Agreement and the 1997 Contract, the County agreed to pay the costs of purchasing all Open Space and Forested lands (except the portion of the open space lands, if any, acquired by the Nature Conservancy), and the Port agreed to pay the costs of purchasing the remaining Farm Land and the improvements thereon (except any portions acquired by other parties); and**

WHEREAS, the Board of Island County Commissioners in open public session on July 23, 1997 signed Resolution C-39-97 authorizing the purchase of the Greenbank Farm Property pursuant to a Purchase and Sale Agreement between The Trust for Public Land and Island County dated June 2, 1997; and

WHEREAS, the County may dispose of county property to another governmental agency by means of private negotiation upon such terms as may be agreed upon and for such consideration as may be deemed by County to be adequate; and

WHEREAS, the Nature Conservancy has notified The Trust for Public Land that they desire to purchase a portion of the Forested Lands from the County and the Trust for Public Land and the County have amended the Purchase and Sale Agreement accordingly; and

WHEREAS, the County may dispose of property to the Nature Conservancy, a private organization, by means of a private negotiation, for the fee appraised value of the property when the Board of County Commissioners sets forth its reasons by resolution; and

WHEREAS, the Board of County Commissioners desires to enter into a negotiated sale with the Nature Conservancy for the following reasons: The surplus property to be sold to the Nature Conservancy lies adjacent to the U.S. Government property known as Lake Hancock which is managed by the Nature Conservancy and is a natural addition to that property; and

WHEREAS, the fee appraisal (including the timber value of the property to be surplussed and sold to the Nature Conservancy established the value at One Hundred Eighty Four Thousand One Hundred and Forty Four dollars (\$184,144.00); and

WHEREAS, the Board of Island County Commissioners are also aware that the non-potable and potable water systems located on Parcels 14 and 21 (parcels described on Exhibit B) will be surplus to County needs; and

WHEREAS, easements for access and maintenance of the aforementioned potable water systems as described on Exhibit C will also be surplus to County needs; and

WHEREAS, personal property acquired as part of the purchase as described on Exhibit E will also be surplus to County needs; and

WHEREAS, the Board of Island County Commissioners believe that it is in the best interest of the County and the Citizens thereof that said property be declared surplus; and

WHEREAS, it is in the best interest of the County that subject property, water systems, easements, and **personal property** as described on Exhibits A, B, C, and **E** respectively be declared surplus prior to the closing date of the purchase of the Greenbank Farm Property in order that subject property may be conveyed to The Port of Coupeville and The Nature Conservancy, in accordance with

*applicable signed agreements at the sale price as set by the Board of Island County Commissioners and shown on Exhibit D, at the time of subject closing; and*

*WHEREAS, September 15, 1997 has been set as the closing date for the acquisition of the Greenbank Farm Property by the County and it is in the best interest of the County and the other parties to consolidate the transfer processes between the County and the Port of Coupeville and the Nature Conservancy with the County's acquisition of the Greenbank Farm Property; and*

*NOW, THEREFORE, BE IT HEREBY RESOLVED that Property, Water Systems and Easements as shown on Exhibits A, B, C, and E are declared surplus to the needs of Island County in accordance with Island County Code 2.31 and shall be sold to the Port of Coupeville and the Nature Conservancy as follows: Parcels 1,2,3,4,5,6,16,17, 18, 19, 23, 24, and 33 as described on Exhibit "A", Water Systems and Water Rights on parcels 14 and 21 as described on Exhibit "B" and Water System Easements on Parcels 14 and 21 as described on Exhibit "C" to the Port of Coupeville for the sum of One Million Two Hundred Twenty Five Thousand One Hundred and Fourteen Dollars (\$1,225,114.00), parcels 29, 30 and 31 as described on Exhibit "A" to the Nature Conservancy for the sum of One Hundred Eighty Four Thousand One Hundred and Forty Four dollars (\$184,144.00).*

*ADOPTED this 8th day of September, 1997.*

**BOARD OF COUNTY COMMISSIONERS**

**ISLAND COUNTY, WASHINGTON**

*Mike Shelton, Chairman Wm. L. McDowell, Member*

*Tom Shaughnessy, Member*

**Attest:** *Margaret Rosenkranz,*

*County Auditor & Ex-Officio*

*Clerk of the Board*

**OTHER DOCUMENTS ASSOCIATED WITH THE Purchase of  
Greenbank Farms Property**

Mr. Kwarsick commented on a variety of documents necessary to be approved and signed associated with the purchase of Greenbank Farms Property, including an Executory Conditional Sales Contract, prepared by bond counsel, binding the County and the Port together (real estate contract) to be signed today. With regard to other associated documents yet to come, Mr. Kwarsick asked for a motion of the Board authorizing Board execution of same between now and closing when received, other document such as escrow closing instructions, deed conveying a portion of the property to the Nature Conservancy, examining and approving deed from Stimson Lane to Island County, along with any other documents presented .

The Board adopted a motion unanimously authorizing the Board to execute other documents as presented between now and closing, as outlined by Mr. Kwarsick, along with any other documents presented this week to effect the sale of the Greenbank Farm as agreed to with the Port District and Nature Conservancy.

By unanimous motion, the Board then approved Voucher #9720653 in the amount of \$2,906,355.87, the purchase price, with source of funds from bond proceeds which are on hand and invested.

**SECURITY AGREEMENT – HUMPHREY ROAD DRAINAGE OUTFALL**

As presented to the Board, and recommended for approval by Mr. Kwarsick and Mr. Allen, the Board approved a

Security Agreement between Island County and Lyrch & Associates & Skagit State Bank related to Humphrey Road Drainage Outfall project under County Road Project, CRP 97-06, Work Order #120.

**CRP-97-09 [#R-54-97] - NORTH CAMANO DRIVE GUARDRAIL AND OVERLAY**

CRP 97-09, under Road Resolution #R-54-97 was approved by unanimous motion of the Board, as presented by the Public Works Director, for a total appropriation of \$292,000.00, which includes engineering, construction by contract and contingencies. The project is included in the officially adopted Annual Road Program as Item #16, with construction to be accomplished by contract.

**Resolution #R-55-97, Approve Plans & Specs and authorize call for bids for North Camano Drive Guardrail & Overlay,**

**CRP 97-09, W.O. 213, Federal Aid Project # P-STPH-TA96-(225).**

The Board, by unanimous motion, adopted Resolution #R-55-97, approving Plans & Specs and authorizing call for bids for North Camano Drive Guardrail and Overlay, CRP 97-09, W.O. 213, Federal Aid Project #P-STPH-TA96-(225), bids to be opened on October 1, 1997 at 11:00 a.m.]

BEFORE THE BOARD OF COUNTY COMMISSIONERS  
OF ISLAND COUNTY, WASHINGTON

<p>IN THE MATTER OF APPROVING PLANS &amp; )  SPECIFICATIONS AND AUTHORIZING CALL )  FOR BIDS FOR CONSTRUCTION OF <b>NORTH</b> )  <b>CAMANO</b> DRIVE GUARDRAIL AND OVERLAY, )  97-09, WORK ORDER NO. 213,) FEDERAL  AID PROJECT <b>NO.</b> _____)</p>	<p><b>RESOLUTION R-55-97</b></p>
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WHEREAS, sufficient funds are available in the Island County Road Fund for construction of the North Camano Drive Guardrail and Overlay project; NOW THEREFORE,

BE IT HEREBY RESOLVED that the Plans and Specifications are approved and that the County Engineer is authorized and directed to call for bids for furnishing said construction. Bid Opening is to be the 1st day of October 1997, at 11:00 a.m. in Hearing Room 4, Courthouse Annex, Coupeville.

ADOPTED this 8th day of September, 1997.

**BOARD OF COUNTY COMMISSIONERS**

**ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

Tom Shaughnessy, Member

ATTEST: Margaret Rosenkranz, County Auditor

& Ex-Officio Clerk of the Board

**AGREEMENT - Adopt A Road Litter Control**

**Program – Swantown Neighbors**

Approved by unanimous motion of the Board was an Agreement for an "Adopt a Road Litter Control Program" for Swantown Road from Wieldraayer Road to the west end of Swantown Road, by a group called "Swantown Neighbors".

**PETITION FOR VACATION – PORTION OF RIGHT OF WAY - STILLAGUAMISH AVENUE ABUTTING Lot 12, Division 4, Plat of Buena Vista and Lots 36 - 40 Block 7, 1st Plat of Utsalady - petitionerS McGill/Beich**

By unanimous motion, the Board referred Petition for Vacation by Michele A. McGill and Fredrick R. Beich, for a portion of right-of-way on Stillaguamish Avenue abutting Lot 12, Division 4, Plat of Buena Vista and Lots 36 through 40 Block 7, 1st Plat of Utsalady, Camano Island, to the County Engineer for review and recommendation back to the Board.

**REIMBURSABLE AGREEMENT between Washington State Parks & Recreation Commission & County Road Department for repair work at Camano Island State Park North Beach parking lot**

The Board approved, by unanimous motion, Reimbursable Agreement between Washington State Parks & Recreation Commission and the Island County Road Department for repair work at the Camano Island State Park North Beach Parking Lot. Work consists of repairing of crack, chip and seal the north beach parking lot and cleaning ditches at the north beach parking lot, and State Parks will pay Island County \$5,400 for said repair work.

**SUPPLEMENTAL AGREEMENT #2 - KCM, Inc. - Comprehensive Stormwater and Flood Hazard Management Plan**

Supplemental Agreement #2 with KCM, Inc., was approved by unanimous motion of the Board, for the Comprehensive Stormwater and Flood Hazard Management Plan completion, adding

\$9,766.00 for services after June 30, 1997, for a new total agreement of \$106,266

**HEARING HELD: Ordinance R-52-97 – Renaming Miscellaneous North Whidbey County Roads**

A Public Hearing was held at 10:30 a.m., as scheduled and advertised, for the purpose of considering Ordinance #R-52-97, renaming the following North Whidbey County Roads, done in association with I-COM (Island County Emergency Service Communications Center):

*EXISTING NAME DESCRIPTION PROPOSED NAME*

Bakerview Road Intersects Troxell Road **Ala Lane**

Polnell Road E - W portion from Navy property **Old Polnell Rd**

to intersection with Duncan Rd

Camano Street Southerly portion (Plats of Greenbank **Camano Vista St**

Estates Div #2 & Aqua View)

Camano Street Northerly portion (Plats of Greenbank **Greenbank Drive**

Estates Div #1 & 2)

Helder Road Entire length from Troxell to Jones Road **Koontz Road**

Wilson Place Entire length (Plat of Patton's Retreat, **Sunburst Place**

Div. #1

Unnamed Road Frontage Rd - W. Side of Jones Rd. **Skagit Vista Drive**

(Plats of Sunrise Hills Div. #1 & #2)

Mr. Legat reported receipt of a petition from a group of residents residing on Bakerview Road

opposing the change from Bakerview Road to Ala Lane, and correspondence from people residing on Polnell Road petitioning the road name change to Old Polnell Road [which is proposed]. For Bakerview Road, staff recommendation is to adopt the I-COM recommendation.

Bob Steele, 5021 N. Bakerview, Oak Harbor, spoke against the proposed name change for Bakerview Road, reading from a petition from Bakerview Road residents dated June, 1997, to I-COM outlining the reasons it is unacceptable to them to change the name:

"1) This road established over 20 years ago and predates the new road, N.W. Bakerview Place in Coupeville, which gives us 'grandfather rights'.

2) There are 14 homes and households in Oak Harbor which will be adversely affected versus 8 homes and households in Coupeville.

3) The mileage between Bakerview Road, Oak Harbor and N. W. Bakerview Place, Coupeville exceeds 19 miles.

4) Oak Harbor and Coupeville have different telephone prefixes and zip codes.

5) In the past 4 years we have had occasion to use 911 at least 10 times. The E.M.T.'s and Whidbey Ambulance know where we are. To change the name would not enhance nor expedite our service and would, in fact jeopardize the response time.

6) On the map of Whidbey Island published by The Pathfinder, 1005 Charles St., Everett Wa. 98277, Bakerview road, Oak Harbor is clearly shown, conversely there is no N.W.

Bakerview Place, Coupeville. This was published in 1979 and updated in 1982. If there can be only one Bakerview, then it is incumbent that Coupeville find another name for N.W. Bakerview Place."

Ken Cave, 5010 Bakerview Road, Oak Harbor, added that one of the major dilemmas related to Ala Spit, which is accessed via Geck Road. His suggestion was that Geck Road should be the road changed to "Ala Lane" since it leads to Ala Spit. Should Bakerview Road be changed to Ala Lane, people will turn down that road looking for Ala Spit which will be a major problem in that there is no turn-around at the end of the street.

Arlene Peden, 457 Bakerview Road, Oak Harbor, agreed with Mr. Steele. She did not understand the theory of staff using "as the crow flies" for mileage in considering a road name change.

Betsy Cave, 5010 Bakerview Road, Oak Harbor, pointed to an article in the paper showing why there really is no confusion between the road name in Oak Harbor and Coupeville: two different names; theirs separated by a space and is a "road" whereas in Coupeville it is all one word and is a "place". There has been no problem with 911.

Charlene Kurth, 714 E. Wilson Place, Oak Harbor, spoke in opposition to changing the name Wilson Place to Sunburst Place, and submitted for the record a petition signed by every resident of Wilson Place requesting that if the road name is not Wilson Place that it be renamed Old Wilson Place.

Rich Murphy, Address Data Coordinator, I-COM, reviewed and explained some of the background data used in road

name address changes. To residents on Wilson Place, he apologized, noting normally a 45 day period is given prior to the public hearing, which in this

case had not been done. On behalf of I-COM, he indicated the name Old Wilson Place was acceptable. In terms of the road name proposed for Bakerview Place and Wilson Road, he pointed out that the type, "road", "place" or "court" is not taken into consideration when judging whether a road is similar or same sounding.

In the case of Bakerview Road, the 19 mile radius is a criteria in the ordinance adopted July last year, a figure that represents half the length of the Island. Road mileage is not used because roads can weave around a long ways, therefore a direct distance is used. The road designation for Coupeville and North Whidbey name of Bakerview are both one word; even if it were two words, it sounds the same when a call comes in. Although enhanced 911 will give the address, there will be times when a computer can be down and dispatchers and field personnel must always be able to clearly identify roads. Regarding grandfathering of one name over another, the ordinance does not address the time a name has been used. What strongly affected the decision was how many people would be affected, and Bakerview on North Whidbey meets the criteria of having two sequences of addresses (forms somewhat of an "L" shape) and has north addressing and east addressing; therefore, part of those citizens were scheduled for re-addressing anyway to make that into a continuous sequence of addressing. When he looked at the count of people strictly affected by just the name change he came up with 6 people on N. Bakerview and 7 on the Coupeville Bakerview.

Commissioner Shaughnessy advised that after conversation with the Executive Director of I-COM last week specifically on the issue of Bakerview Road versus Bakerview Place, she agreed that because of the difference, not only mileage between the two as well as "road" versus "place, along with CAD system coming on line and that one road has a Coupeville address while the other an Oak Harbor address, in this case Bakerview Road could be left as is.

Therefore Commissioner Shaughnessy moved that the Board adopt Ordinance #R-52-97

with the exception of allowing Bakerview Road to remain "Bakerview Road"; and Wilson Place be renamed "Old Wilson Place". Motion, seconded by Commissioner McDowell, carried unanimously.

With regard to Mr. Cave's comments concerning Ala Spit and Geck Road, Commissioner McDowell suggested Mr. Cave meet with the County Engineer to begin a petition to change Geck Road to Ala Lane to forward to the Board for consideration.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF RENAMING MISC. )

COUNTY ROADS, NORTH WHIDBEY ISLAND ) **ORDINANCE NO. R-52-97**

WHEREAS, The Board of County Commissioners adopted Ordinance No. C-32-96

(Interim 9-1-1 Addressing Policy) which allows the County to address the renaming of roads to avoid confusion; and

WHEREAS, the Board of Island County Commissioners has been requested by

I-COM to rename the roads listed on Attachment "A";

WHEREAS, the renaming of said roads as shown would not be duplicating existing road names in Island County; NOW, THEREFORE,

BE IT HEREBY ORDAINED by the Board of County Commissioners of Island County, Washington:

1. That the County roads listed on Attachment "A" shall be renamed effective 45 days from the date of passage.

2. Island County Public Works shall fabricate and install a road sign to be posted on the effective date.

3. I-COM shall notify, by mail, owners of property abutting on the road of the public hearing date, and the name change, address number change, if any, and the effective date of this ordinance.

4. I-COM shall also notify appropriate agencies of the road/street name change, the effective date, and shall notify appropriate County departments so that County maps will show the changes.

REVIEWED this 11th day of August, 1997, and set for public hearing on the 8th day of September, 1997 at 10:30 a.m.

**BOARD OF COUNTY COMMISSIONERS**

**ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

**Attest:** Margaret Rosenkranz, Tom Shaughnessy, Member

County Auditor & Ex-Officio

Clerk of the Board

**ADOPTED** this 8TH day of September, 1997, after public hearing.

**BOARD OF COUNTY COMMISSIONERS**

**ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

Tom Shaughnessy, Member

**Attest:** Margaret Rosenkranz,

County Auditor & Ex-Officio

Clerk of the Board

**ATTACHMENT "A"**

<u>Existing Name</u>	<u>Road Log No.</u> <u>Mile Post</u>	<u>Description of Road Section</u>	<u>Proposed Name</u>
Bakerview Road	RL # <u>68510</u>	Intersects Troxell Rd (Plat of Hope View) (NW 32-34-2E)	Ala Lane
Polnell Road	RL # <u>61984</u>	East-West portion from Navy property to intersection with Duncan Rd (SE 4-32-2E &	Old Polnell Road

		SW 3-32-2E)	
Camano Street	RL #32745 & Ptn. #32560	Southerly portion (Plats of Greenbank Estates Div. #2, and Aqua View) (SW 16-30-2E)	Camano Vista Street
Camano Street	RL #32567 & Ptn. #32560	Northerly portion (Plats of Greenbank Estates Div. #1 & #2 (NW & SW 16-30-2E)	Greenbank Drive
Helder Road	RL #68380	Entire length from Troxell to Jones Rd (boundary bet. SE 31-34-2E/NE 6-33-2E & SW 32-34-2E/NW 5-33-2E)	Koontz Road
Wilson Place	RL #68463	Entire length (Plat of Patton's Retreat Div. #1 (SE 29-33-2E)	Sunburst Place
Unnamed Road	RL #68393	Frontage Road on west side of Jones Rd (Plats of Sunrise Hills Div. #1 & #2) (SW 5-33-2E)	Skagit Vista Drive

**HEARING HELD: Franchise #293, Howard Robb, for sewer collection lines in Sandstone Lane in plats of Rocky Point Tracts, Div. #1, 2, 3, Camano Island**

A Public Hearing was held as advertised to consider Franchise #293, by Howard Robb, for sewer collection lines in Sandstone Lane in the Plats of Rocky Point Tracts, Divisions 1, 2 & 3, Camano Island. The applicant, Howard Robb, was present for the hearing, along with a number of other concerned citizens from Camano Island.

Mr. Kwarsick explained that Mr. Robb previously applied for and obtained through Binding Site Plan #11/86, approval from the County to site and operate an off-site community drainfield as approved by the appropriate health agencies. Subsequent to that land use decision, Mr. Robb applied for and received Franchise #238 authorizing subsequent placement of a transmission line within county roads in the plat of Bayshore Terrace, Brokaw Road and North Camano Drive, connecting up the off-site community drainfield with individual lots being serviced by that drainfield. Mr. Robb has now applied for follow-on franchise for Sandstone Lane in the Plat of Rocky Point Heights, and relates to the interconnection of individual residential lots and the drainfield sites. The transmission line will connect up to the existing transmission line. Mr. Robb's existing franchise was obtained in 1987 for a 25-year period. Mr. Kwarsick recommended consistent with the County's prior actions approving the site plan and franchise #239, the Board approve the franchise as a stand alone franchise. For the record, Mr. Kwarsick acknowledged receipt of a petition signed by individuals on Camano Island suggesting and requesting the Board deny the application, but contains no justification for making such request.

Mary Ann Krindler, 974 N. Sandstone Lane, presented a petition against the franchise consisting of 86 names of residents within the Rocky Point Tracts. The Rocky Point Community Association board met and discussed this matter on August 26, recommending that due to their history with Howard Robb and the water line system, the Board of County Commissioners deny the franchise. In October of 1989, the group was approached by Mr. Robb to continue his sewer line to access property along Brokaw Road (now Blackberry Lane); the Association asked for a bond to cover legal matters to ensure things done properly, but at that time, told this would take another year. However, the sewer line was installed and ended up being approximately 1' above the water line. The State engineer in Spokane confirmed he had approved same; however, residents do not believe it meets Island County Health Department requirements. Public records show Mr. Robb received approval from the Island County Health Department January 28, 1997 for

Rocky Point Community Sewer System, Sandstone Lane lateral collection system, 17 lots approved for connection, a total design for 14,400 gallons per minute, maximum bedrooms 120. One of the complaints of the Association is they were never approached with application process or notified this was going through.

Mrs. Krindler owns 3 of the 17 lots. When she purchased additional lots she was provided with the title papers along with covenants, restrictions and by-laws, in which contains a declaration of Rocky Point Community Sewer System, which was never brought up to the Association. The Title Company indicated that due to previous filing of the Rocky Point Community Sewer System it legally had to be included. They want this taken off their title reports, and understand the first step is for the Board of County Commissioners to deny the franchise, and the second step for the community to start a new petition requesting that the Rocky Point Community Sewer System be removed from their By-laws and CC&R's. On behalf of the Association, she asked the Board to deny the franchise, and if not, to provide residents additional time to approach the matter and involve the whole community. Within a five week period, she collected 86 names, but there are just slightly more than 200 lot owners.

Gary Davis, 843 W. Rocky Point Drive, President, Rocky Point Community Association, supported Mrs. Krindler's comments. Mr. Davis bought a lot last year in Rocky Point and was quite surprised when his title insurance contained Howard Robb's community sewer association as an easement on his title insurance. He requested that the Board deny the franchise, or at least hold a public hearing on Camano Island.

Howard Robb, 624 W. 1140 N., Applicant, said the only reason he could see this came out on title reports is that with State approval shows it is Bayshore Terrace or Rocky Point and that area lying between there and where the pod is for the drainfield. He does not own nor does he want to own the property, rather has 4 lots which he would like to serve. He confirmed this is a private system as opposed to a public system and is not a sewer district.

The Chairman saw some fairly important semantics involved, because a community drainfield is not a sewer system and does not have the ability to do what a legally organized sewer district could do. Another question relates to the Island County Health Department and the alleged sewer line within 1' of the water line.

Mr. Robb was there most of the time during installation; normally if crossing a sewer line it has to be shielded 20' each way which he thought had been done. The water line in some areas actually was not located according to maps. There is a sewage waste system management contract in place filed of record, a non-profit corporation formed for the maintenance and operation of the system.

Mr. Kwarsick suggested, in his opinion, that was why the matter showed up on title reports -

because as an obligation to operate the private system, health agencies have required this agreement to be in place and the agreement probably references the plats within it. The questions of the documentation of title need to be addressed to the title companies by the residents to have the title companies accurately represent what the document is and how it does or does not affect title.

Siri Klovstad, Island County Health Department environmental section, in terms of the existing transport lines and how they might affect the adjoining water lines and separations, etc., noted that Rob Hallbauer had been working with Lisa Brown from the State Department of Health to approve the plans and specs for this project, and Lisa Brown approved same. This community drainfield is of sufficient size that the permitting agency is the State of Washington. Mr. Hallbauer was working on a nitrate grant at the time he was reviewing this matter with Lisa Brown, and looked at the wells in the area and found very little nitrate increase at all, still well below the drinking water standards but did require an increase in the amount of monitoring to one well particularly that is immediately down from this drainfield and reserved the opportunity to rescind approval if found it does affect ground water too much.

The Chair commented that the County was being asked through the franchise application to use

County road right-of-way for transport lines. Some of the issues raised seem to be outside the scope of the franchise agreement. If the Board grants the franchise it certainly is expected that all transmission lines would be done according to code and not risk any contamination of a water system.

Commissioner Shaughnessy agreed with the Chairman's comments.

Mr. Kwarsick, responding to a question from Commissioner Shaughnessy about notification, indicated that the major issues were dealt with through a public hearing he believed had been held on Camano Island, which is typical for the Hearing Examiner to do (1987 process). As a franchise, this matter was published and noticed in the newspaper, but there was no statutory requirement for direct property owner notification.

Commissioner Shaughnessy addressed the residents from Camano Island and offered to go to Camano to meet with them at another time and explain what is going on and the process, noting he would appreciate it if Mr. Robb were willing to attend as well; however, the franchise is the issue and delaying action today would not be proper. He did not want the Rocky Point community to go out and make the effort of gathering another petition if it would not achieve what they desire, which is to have the system not shown on their titles. He suggested that the Public Works Director and Health Services Director contact the title company to see what the issue is and why this appears on title reports.

Commissioner McDowell was willing to consider having the County Departments forward all the material that may have precipitated this being on title reports and request the title company explain in generic terms why it showed up on titles and offer to provide other documentation they might need from the County. The Chairman agreed, and noted the management agreement is a matter of record, and thought the issue showing on up title reports was in error.

Mrs. Krindler referred back to the petition. They believe if approved, Mr. Robb will put another line from his 3 newly acquired non-perc lots down a new water line and the community does not want to deal with that, now just coming out of a moratorium issue with the State that has taken over 3 years to deal with. Some of the records she reviewed indicate higher nitrate levels than previously anticipated. She asked if the Board could consider a change of location of the franchise, inasmuch as Mr. Robb also owns 3.24 acres just around the corner from the lot he just purchased. According to County paperwork, Mr. Robb has 17 bedrooms hooked up which can handle 80:

"there have been an inadequate number of home or property owners within the plat of Bayshore Terrace to connect this sewer system to pay for its construction. Therefore Mr. Robb is seeking DOH approval to construct another pump station and collection system which will discharge into the existing system. The quantity and quality of sewage will not change, only parcels to be served to extend up one of the streets abutting force main."

Trying to stop Mr. Robb from servicing three lots on his community drainfield by denial of a franchise was a matter the Chairman indicated was not appropriate. The franchise under consideration is only to place utility lines in County road right-of-way, and such franchises are non-exclusive. Higher nitrate levels in a community drainfield is a Health Department issue, not a franchise issue. Mr. Robb developed a community drainfield, went through all of the public hearings and was approved to handle a certain amount of effluent; apparently some lots he owns can be served by this drainfield, and it is not up to the Board to direct Mr. Robb as to who should hook up to the community drainfield. The franchise under consideration is not about who should be able to use the community drainfield; the drainfield was approved by the State of Washington.

Commissioner Shaughnessy noted another step in the process, which is that Mr. Robb still has to obtain a permit.

Mr. Kwarsick acknowledged same and that Mr. Robb had not yet submitted an application for permit to construct within the rights of way. When that occurs, Mr. Kwarsick can ask for the assistance from both the Community and the Health Department to make sure that the lines associated with the installation have the proper separation. With regard to old lines, his suggestion was that the Community work with the Health Department in bringing the matter to their attention.

Commissioner Shaughnessy was more than happy to sponsor a meeting on Camano Island

to make sure everyone understood what was happening and why, and hoped that Mr. Robb

would be willing to attend to speak on his behalf.

Commissioner Shaughnessy moved that the Board approve Franchise #293 by Howard Robb

for sewer collection system in Sandstone Lane in the Plat of Rocky Point Tracts, Divisions 1, 2 and 3. Motion was seconded by Commissioner McDowell.

Commissioner McDowell commented that it seemed to him the issues brought up had to do with the approval or concept of community drainfields and nothing to do with actual lines in the road, other than the placement of those lines this franchise would permit. Staff clearly agreed to ensure that Health Department rules are met with installation of these new lines. The Board is not here today to look at issues of prior action approving a community drainfield, rather strictly the issue of franchise placing utilities in the road right-of-way, which he felt had been adequately addressed.

Motion, as made and seconded, carried unanimously.

**HEARING HELD: RESOLUTION #R-49-97 - VACATION OF MISCELLANEOUS ROADS IN FEEK'S FIRST PLAT OF ISLAND HOME FARM, CONT. FROM 8/11/97**

A Public Hearing was held, having been continued from hearing on August 11, 1997, to consider Resolution #R-49-97, Petition for Vacation of Miscellaneous Roads in Feek's First Plat of Island Home Farm, by Petitioner Mark Arnold. Mark Arnold was present at the time of hearing, as well as a number of citizens.

The Engineer's Report as entered for the Record at the August 11 hearing was as follows:

In favor of said vacation and that the public would be benefited. Right of way proposed to be vacated is Class B, no public expenditures made or non-ascertainable from records, and Sub Class 2, part or all lies within a plated subdivision. However, the Engineer recommended only that portion of the petitioned  $\pm 2,640$  LF east-west right of way leg and the abutting  $\pm 1,320$  LF north-south leg lying north of said east-west leg in the N 1/2 of the SW 1/4 of Sec. 21, Twp 29N, Rge 3E, W.M., be vacated and that the north-south leg of the petitioned vacation that abuts the east-west leg at the westerly end and lies south of said east-west right of way leg and lying in the SW 1/4 of the SE 1/4 of Sec. 21, Twp 29N, Rge 3E, W.M. not be vacated in that it provides potential access to acreage tracks 9, 10, 11 & 12 owned by the CRSTOL Whidbey Corp. & T. Carroll Schueler, lying in the SE 1/4 of the SW 1/4 of Sec 21. The public will benefit as stipulated under ICC 12.03.050 a(3) & a(4) in that the road has never been constructed and much of the right-of-way lies in swampy ground that would be expensive to construct and drain the right of way for road purposes. The right-of-way recommended for vacation does not abut against any public right of way and additional right-of-way would have to be acquired prior to developing the existing R/W for public use.

Mr. Kwarsick recalled that the hearing primarily had been continued because of some question regarding fulfillment of the statutory notice requirements relative to the placement of on-site notice signs. The Department has since gone back and accomplished that to meet full intent of the law.

Additional comments have been received via e-mail this morning from Dean Enell regarding:

(1) need to improve circulation in the immediate areas of concern, that if the county releases interest in R/W might preclude construction of a future roadway extension for Coles Road and provide some relief to the intersection and operation of Maxwellton Road; and (2) some concern

about lack of access to the upper reaches of the Maxwellton Watershed and desire to maintain that sort of an access. Mr. Kwarsick confirmed that the rights-of-ways within this particular plat are isolated and do not connect to any other

public roadways (they do connect to other private easements). With regard to circulation and extension, the alignment of these rights-of-ways are such he could not envision use for any type collector roadway system, and being located in a very environmentally sensitive area, it would be extremely unusual for a public entity to construct roadways in such environmentally sensitive wetland area.

Roy Allen confirmed that notice signs were posted 5 times, in a concerted effort for public notice. A map was displayed during the hearing, as was used at the prior hearing, showing where Coles Road comes down, stops, and the Feek's First Plat of Island Home Farm right of way; Ewing Road. There is no established right of way out to Ewing Road at this point (right of way close but not abutting). The green highlighted area shown on the map is not a part of the petition for vacation.

Marc Fouts, Maxwelton Road, expressed concern that the only salmon-bearing creek on the South end is Maxwelton Creek and did not want to see anything changed that would affect the Creek, and also concerned that lots would be landlocked if this vacation were approved.

Chairman Shelton confirmed the County was not proposing through this vacation to establish any other roads. Mr. Kwarsick further explained that ownership of the rights-of-ways in Washington State in a plat dedication situation are owned by the adjoining landowner, and in this case that adjoining landowner maintains rights to move within those rights of ways even though the public interest is gone, private interest of the owners of all the adjoining lots is maintained.

Dean Enell, Maxwelton Road, Maxwelton Creek, addressed the importance of Maxwelton Creek for environmental and recreation purposes, noting that last Spring he went with the third grade class to plant salmon fry in Maxwelton Creek and the only way to get to the Creek (north) was through private property. Therefore, he suggested a strategic move might be to negotiate a way for the public to get to Maxwelton Creek. He understands there is a 200' to 300' section between Feek's Farm Road and Maxwelton, which if acquired, could provide access all the way to the Creek. Because the County seems to be giving up a substantial amount of land through this vacation without any compensation involved he thought an agreement could be negotiated where in return for this right-of-way to acquire 200-300' of additional right-of-way to get to Maxwelton Creek. The Outdoor Salmon Adventure classroom is further south on the Creek, but it would be good to provide access further north. As far as the future of Maxwelton Valley he asked for assurance that property would be accessed without compromising the wetlands [access to buildable lots].

Mr. Kwarsick pointed out, however, that right of way did not connect up to Maxwelton Road; there is an intervening privately owned piece of property, and to the best of his knowledge, the County never had a dedication or a deed to any interest there. The rights-of-way go across the Creek but it is still private property up and down the Creek. And Mr. Allen commented that on this stretch of the road from Maxwelton Road across the private easement that part of this road appears to be outside of the right-of-way where it is dry and avoiding the wetlands on the north side of it. As far as protection, Mr. Kwarsick felt there would be greater protection afforded if the rights of way were vacated because under Washington State law the County within rights of ways is not obligated to fulfill the wetland ordinance; whereas, once vacated, anyone wanting to build a roadway would have to do so under full scrutiny of wetland and environmental protection regulations.

Being reasonably familiar with the area, Chairman Shelton guaranteed that if the County were ever to build any additional collector roads it would have to be away from this environmentally sensitive area. The green highlighted area on the map off Ewing Road does not go through a significant wetland according to the County Engineer. Any access to those lots from the northerly route on existing County rights-of-ways would absolutely affect significant amounts of wetland. His opinion was that the residents of South Whidbey were well aware of what is trying to be accomplished in terms of the salmon stream. The McVeys were willing to allow Mr. Enell and the

third grade class access and he thought most property owners would do likewise if they knew what is being proposed in the way of education and the environment

Peter Remington, Maxwelton Road, was unclear about whether the County owns this land

or has an easement on it.

Mr. Kwarsick stated the County had an easement; a dedication is an easement to the public and the County does not own fee title to the land under the rights-of-way. The easement comes through the dedication in the original plat itself. Having an easement gives the County the right to build roadways, construct drainage systems, install utilities, those rights that come with that ownership of the right-of-way. The County's limitation on use is sideboarded by roadway types of issues. These specific easements are not considered of value to the County.

Mr. Remington understood why property owners would not want the public coming on their land with a creek, but considering the large interest in use of Maxwellton Creek as an area to raise salmon, he suggested negotiating a small conservation easement for access for things like the school associated with the interest in Maxwellton Creek.

Chairman Shelton advised that the petitioner was not in a position to grant that because he does not own the property all of the way to Maxwellton Road. It is never the County's purpose to landlock someone's property. If those 4 property owners could get an easement along that green highlighted line shown on the map, they might want to use that north-south portion to serve those 4 pieces of property. There has been no plan submitted for the future of this property.

Chad Lanning, Maxwellton Road, clarified that the 300' of property brought up is located on his property. Nothing in the future will be sold on it for easements.

Commissioner Shaughnessy moved that the Board adopt Resolution #R-49-97, Order Vacating County Road and Final Order of Vacation in the matter of the Petition of Mark Arnold et.al for the vacation of County right-of-way in Feek's First Plat of Island Home Farms. Motion was seconded by Commissioner McDowell.

Commissioner McDowell observed that the original dedication certainly was before wetlands were viewed as something of value as opposed to a swamp to be drained. He was sure that today the County would not accept a dedication across a wetland for any kind of transportation purpose. The County may have the right to put a road across that and waive County wetland rules; if the County vacates that property, the property owner does not have the right to waive those rules and the wetland in reality is well protected. For those reasons, along with not vacating that portion that would provide access to otherwise landlocked property, he had seconded the motion.

Motion, as made and seconded, carried unanimously.

[Resolution #R-49-97, Order Vacating County Road, is recorded with the Island County Auditor.]

### **PRELIMINARY APPROVAL - PRD 169/96**

### **and SPR #405/96, MITCHELL**

Debra Little, Development Services Manager, Island County Planning & Community Development, presented the Hearing Examiner's recommendation in the matter of preliminary approval of PRD #169/96 and SPR #405/96 by Terry Mitchell, Applicant/Trustee, and Rob Harbour, Agent. This is for preliminary approval for a proposed 16-lot Planned Residential Development and preliminary Site Plan Review #405/96 approval for the proposed development of a community drainfield system outside the proposed lots to serve the 16 individual lots. The lots and proposed drainfield system are all to be located within the boundaries of the subject parcel, located adjacent to the south side of Polnell Road at its northern boundary, on Parcels R23204-050-4300 and R23204-065-4760, North Whidbey Island. The Hearing Examiner heard the matter on August 7, 1997, and recommended approval subject to conditions stipulated in the Hearing Examiner's Findings of Fact, Conclusions of Law, Decision and Recommendation signed on August 22, 1997. This was a vested application.

By unanimous motion, the Board granted preliminary approval as recommended by the Hearing Examiner, for SPR 405/96 and PRD 169/96.

### **Hiring Requests and Personnel Actions**

As presented by Dick Toft, Human Resources Director, the Board by unanimous motion, approved the following Personnel Action Authorizations (PAA's):

**Department PAA # Description JobNo. Action Effec. Date**

Planning 84/97 Sr. Planner 1709.02 New Position 9/8/97

Central Ser. 85/97 Asst. Director 701.00 Reclassification 9/8/97

Health 86/97 Env. Hea.Spec. 2403.01 Replacement 9/8/97 \*

Pub. Works 87/97 SW Att. II 24 hr/wk 2248.04 Replacement 9/8/97

Pub. Works 88/97 SW Att. I 16 hr/wk 2249.15 New Position 9/8/97

Pub. Works 89/97 SW Tech. I 2257.02 Pers. Action 9/8/97

Juvenile Ct. 90/97 Probation Aide 1406 New Position 9/8/97

GSA 91/97 Risk Mgt. Asst. 1508 Reclassification 9/8/97

Public Def. 92/97 Vol. Program Asst. 1908 New Position 9/8/97

Sheriff/Jail 93/97 Corrections Officer 4015.18 Replacement 9/8/97

\* Leave payout would require not filling the position until 11/28/97; therefore, the Board in it's motion to approve PAA #86/97 included authorization to pay whatever amount is left of the \$7620 payout at the time of hire date from the Current Expense Leave Payout fund.

**HEARING HELD: FORMATION OF A SEWER DISTRICT IN FREELAND AREA**

A Public Hearing was held at 1:30 p.m. as scheduled and advertised to consider the formation of a sewer district in the Freeland area as petitioned and adoption of a resolution, prepared by the Auditor, in the matter of formation of a sewer district in portions of Bush Point and Freeland precincts. Approximately 15 people were present in the audience at the time of hearing.

On August 18, 1997, the Auditor presented a Certificate of Sufficiency in the matter of a petition for the formation of a sewer district in the Freeland Area. At that time, the Board set this date and time for a public hearing to consider the petition in the matter of formation of a sewer district in the Freeland area, and asked staff to review the proposed matter and report back to the Board to assist in finding whether or not the proposed district will be conducive to the public health, welfare and convenience and be of special benefit to the land included within the boundaries of the district in accordance with RCW 57.04.030(3) and RCW 57.02.040(3).

Tim McDonald, Health Services Director, gave the recommendation of the Island County Health Department based on review of the proposal under RCW 57.04, a new statute effective July 1, 1997, and called the Board's attention to RCW 57.04.070, which in part states that no lesser district shall ever be created within the limits in whole or in part in any existing district except as provided under another statute having to do with the county taking over a sewer district and giving that to another district. He used maps posted to show the Freeland Water District which has been in existence for quite some time, and the proposed Freeland Sewer District. Freeland Water District covers a much greater area throughout much of greater Freeland, with the proposed sewer district confined to non-contiguous lots shown on the map. By the red dot at a specific intersection on the map, one can see places this proposed district well within the Freeland Water District. Because the proposed district is within the limits of an existing district, Mr. McDonald recommended the Board deny the proposal in that it is not allowed per statute.

Chairman Shelton mentioned that when the Board sent the proposal to the various departments for review

and comment, a memorandum had been received from Mr. McDonald calling into question whether it was possible to create a district within a district. That memorandum was forwarded to legal counsel and Dave Jamieson, Deputy Prosecuting Attorney, provided his opinion under memorandum dated September 5, 1997, that the statute precludes the ability to form this district within the Freeland Water District. Reading in part from the memorandum:

"the word 'district' in RCW 57.04.070 previously was preceded by the word 'water' so that that limitation only applied to water districts. That change was made by the state Legislature in 1996 in Chapter 230, a bill titled 'An act relating to combining of water and sewer districts.' The legislation was effective July 1, 1997. Section 101 of Chapter 230 reclassified every existing sewer or water district as of July 1, 1997, as a 'water-sewer district'. Each water-sewer district has the power to supply water as well as a system of sewers."

Martin Schmidt, Secretary, Freeland Sewer District Association, owner of Interstate Label Company, Freeland, submitted a letter for the record under the date of September 8, 1997, supporting the formation of a sewer district, the letter expressing the opinion of those involved in Freeland. Freeland area is all on septic and he has seen over time how businesses in Freeland have either failed to grow, had to close or were handicapped in one way or another by the lack of adequate sewage disposal facilities. The project next door "Main Street Sewer" is a R. K. Porter project, a private endeavor. He realizes that it may be possible in the future to connect to that but it would be as a client to a private corporation and he was not sure he would want to do that. As a resident and business owner, the reality of actually accomplishing a sewer system for Freeland would afford availability of a sewer system to those who desire it in a relatively short period of time. Until this point he was not aware there might be a conflict with having a district within a district, and Mr. Schmidt indicated he would investigate that further. He said he would love to build this and turn it over to the Freeland Water District for administrative purposes. From a meeting with the people from Main Street Sewer they were advised they did not want to do a project together. As a public entity, Mr. Schmidt understood that a district could apply for state and federal grants, whereas Main Street project is private and not eligible for such funding. When he talked to people representing Freeland Water District, they seemed excited about the prospect of being able to reuse a portion of the water through this particular method of sewage treatment and disposal.

Les Killingsworth, P.E., President, Datum Pacific, Inc., and principal in Adams & Clark, Inc., Coupeville, gave testimony strictly personal a designer of the Holmes Harbor Water District wastewater reclamation facility. He has been involved for many years in developing the project at Holmes Harbor, now operating the facility, designed to handle 550 homes and expect build-out sometime in the next 20 years. The system is operating at 6% capacity now and producing class A reclaimed water used for golf course irrigation. Mr. Killingsworth noted that it would seem unreasonable to have a lot of small sewer districts emerging close to each other without consideration of joining together, and did not believe anyone had approached Holmes Harbor Water district about the possibility of annexation. Holmes Harbor is an already-existing permitted system close geographically to Freeland and almost abuts the Freeland Water District, and there would be no big problem providing a small diameter pipeline to serve this area [talking here about technical issues and not administrative issues or district board issues]. He urged that the Board of County Commissioners table or reject this until the group looks at a regional facility with Holmes Harbor Water District. Under cover letter dated September 8, 1997, Mr. Killingsworth submitted a copy of a Case Study Report for the Holmes Harbor Wastewater Reclamation Facility. If the group agreed and the District was in agreement, it could be done fairly rapidly rather than having to construct

new facilities, go through the permitting process, prepare a comprehensive sewer plan and engineering report, etc. The Holmes Harbor system was designed based on 175 gallons per household per day, but it has been found that the actual use is about 105 gallons per household per day; therefore, it would appear they could probably add another 100 hookups to the system based on those flows.

Tom Roehl spoke on behalf of the Freeland Water District as the Planning Officer. He addressed the comments of Mr. Killingsworth, noting that a method should people want to hook up to the Holmes Harbor Water District system could be accomplished via interlocal agreements between Holmes Harbor Water District and Freeland Water District. If those who want to form the proposed district want to work with the water district there are ways of accomplishing that without placing any burden on existing constituency. Freeland Water District is discussing with folks from Main Street Sewer, public entity at this point, and negotiating with them as to whether or not Freeland Water District will take it over once built. The Commissioners of the Water District are willing and able to work with people who want to develop sewer systems, but it must be done on their terms without additional cost to non users of such a system within the District, and there are a number of ways the Freeland Water District can accomplish same and the Freeland Water District is willing to work with these people.

Ed Stanton, Main Street Sewer District Association, Inc., clarified that the sewer project he and Mr. Porter worked on, Main Street Sewer, started off with private funds, built out with private funds, and did not want grant money. When created Main Street Sewer put together a 50,000 gallon a day sewer plant. Based on 500 gallons a day per home, allows 100 hookups. With only 47 hookups needed on the Main Street project, 53 hookups are left for people in the area. He believed it ill-conceived to form another sewer district which would take at least 3 to 4 years and repeat what has already been done. Main Street is ready to start building and will be available. He confirmed this is a public entity, and when built out about 75%, there will be an election for sewer district commissioners. Mr. Stanton provided a copy of a September 5, 1997, letter from George B. Schlender, Reuse Program Manager, Division of Drinking Water, State Department of Health, regarding Freeland wastewater issues, a portion of which reads:

"To my knowledge there are no Centennial Clean Water Funds or other state

funding for establishing a sewer or water district. Once the district has legally been established and has a responsible official that can sign for the district, then , application for grants and loans may be made to state and federal agencies. All funding applicants must compete with other jurisdictions for funds and apply during normal funding cycles. Because of the invalidation of GMA in Island County, state agencies are hampered on the type of review and approval of water and wastewater planning and project documents. Only projects that are vested prior to the invalidation or service to existing development may be considered."

Mr. Stanton pointed out that Main Street Sewer is not asking for money, rather using private funds to build a public system. Main Street Sewer is vested.

Mel McAbee, 5363 S. Bercot Road, proponent of the proposed Freeland Sewer District, agreed to work with the Freeland Water District, and suggested the Board of County Commissioners approve the sewer district contingent on the Freeland Water District taking it over. He mentioned that if the system is not in place within the next year, a company with 10 employees plans to move to Lynnwood.

The Chairman affirmed it was not legal to form the district. Commissioner McDowell outlined the options he saw available to the group in order to be served by sewers: Freeland Water District; Holmes Harbor Water District; Main Street Sewer.

Bob Porter, 1967 E. Hill Vista Place, Freeland, representing Main Street Sewer, expressed no problem with working with people in Freeland who need sewers. He did point out this is a pilot project, new to state technology, and took three years and many thousands of dollars to get to where he is now, 98% complete. They are more than willing to work with the group, and in fact, are in communication with the Freeland Water District.

Al Peiser, Honeymoon Bay Road, one of the potential users, recognized the options available for sewers in the Freeland area and acknowledged that the Board could not take action in view of the law. Personally he would like to see this go with the Freeland Water District, with the effluent up to the golf course.

Referencing Mr. McAbee's comment about needing something in the ground within a year, Mr. Roehl did not believe even if the district were approved today that anything would be in the ground within a year. The first thing that will have to be done is to develop a general comp plan for facilities. Main Street Sewer, working with a single piece of property, has already done that. Freeland Water District would have to develop such a plan funded by the proponents.

John Hitt, Executive Director, EDC, emphasized the importance of Freeland economically to Island County as well as South Whidbey. People who are interested in business locations who contact EDC usually give Freeland as the number one location preferred. There is an urgent need for coordination of infrastructure.

Based upon the memorandum from legal counsel, Commissioner Shaughnessy moved to deny formation of Freeland Sewer District. Motion, seconded by Commissioner McDowell, carried unanimously.

### **EXECUTIVE SESSION**

The Board met in Executive Session as allowed under R.C.W. 42.30.110(1)(g) to conduct interviews: (1) 2:15 - 2:30 p.m and (2) 2:30 - 2:45 p.m.. Executive Session held in the Commissioners Office, 502 N. Main, Kaul Building, Coupeville, Wa. Final action will be announced in a meeting open to the public.

There being no further business to come before the Board at this time, the Chair adjourned the meeting at 2:45 p.m., to meet next in Regular Session on September 15, 1997, beginning at 9:30 a.m.

### **BOARD OF COUNTY COMMISSIONERS**

#### **ISLAND COUNTY, WASHINGTON**

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Mike Shelton, Chairman

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**Attest:** Wm. L. McDowell, Member

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Margaret Rosenkranz, County Auditor Tom Shaughnessy, Member  
& Ex-Officio Clerk of the Board