

ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING

REGULAR SESSION - AUGUST 10, 1998

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on August 10, 1998 beginning at 9:30 a.m. in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa. Wm. L. McDowell, Chairman, Tom Shaughnessy, Member, and Mike Shelton, Member, were present. Also attending were Margaret Rosenkranz, Clerk of the Board, and E. Meyer, Adm. Asst. to the Board.

VOUCHERS AND PAYMENT OF BILLS

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

Voucher (War.) #31616-31893..... \$ 312,209.18.

Veterans Assistance Fund [emergency financial assistance to certain eligible veterans; the names and specific circumstances are maintained confidential]: Claim V98-13 approved for \$871.81.

EMPLOYEE SERVICE AWARDS

Employee Ann. Date No. Years Department

Robert P. Gardner 8/17/83 15 Sheriff

Edward C. Proft 8/1/78 20 Sheriff

Karen V. Grossman 8/1/88 10 Health

Catherine M. Kelley 8/1/93 5 Public Defense

EMPLOYEE OF THE MONTH FOR JULY, 1998

MARY BELLONE, Public Works Department

Hiring Requests & Personnel Actions

The Board, by unanimous motion, approved the following personnel authorization actions:

Dept. PAA# Description Action Eff.Date

WSU Ex. 069/98 Off Asst. .50 FTE #1209.00 Replacement 8/18/98

Ctl. Serv. 070/98 Micro Cptr Sup.Tech #706.01 Replacement 9/21/98

Clerk 071/98 Deputy Clerk I #503.03 Replacement 8/18/98

P.Works 072/98 Sur.Water Mgr. #2208.00 Replacement 8/10/98

Health 074/98 Env. Health Dir. #2402.00 Replacement 11/4/98

HEARING SCHEDULED: ORDINANCE #C-105-98 - AUTHORIZING IMPOUND-MENT OF VEHICLES DRIVEN BY SUSPENDED OR REVOKED DRIVERS AND MAKING TECHNICAL AMENDMENTS TO CHAPTER 10.06 ICC,

TRAFFIC REGULATIONS

By unanimous motion, as forwarded to the Board from the Island County Sheriff, a Public Hearing was scheduled for September 14, 1998, at 11:00 a.m., to consider proposed Ordinance #C-105-98, in the matter of authorizing impoundment of vehicles driven by suspended or revoked drivers and making technical amendments to chapter 10.06 ICC, Traffic regulations.

PUBLIC HEARING SCHEDULED: ORDINANCE #C-106-98- ESTABLISHMENT AND OPERATION OF JUVENILE DETENTION FACILITY WITH ONE-TENTH OF ONE PERCENT INCREASE IN SALES AND USE TAX

The Board received an updated ordinance under cover memo from the Deputy Prosecuting Attorney to call for a vote of the public whether to establish a county juvenile detention facility add a 0.1% sales tax to fund it. A Public Hearing is required and the ordinance must be to the Auditor with sufficient lead time to place it on the ballot. The Commissioners were advised that the Auditor must receive the Ordinance by September 18 in order to place the issue on the ballot in November.

By unanimous motion, the Board scheduled a public hearing on Ordinance #C-106-98, Establishment and Operation of Juvenile Detention Facility with one-tenth of one percent increase in sales and use tax, for September 14, 1998 at 11:30 a.m.

Professional Services Contract: HD-07-98, TB Consultant Agreement between Island County and Christopher Spitters, M.D.

As reviewed previously with Tim McDonald, Health Services Director, during the last Staff Session, the Board by unanimous motion, approved Professional Services Contract #HG-07-98, TB Consultant Agreement between Island County and Christopher Spitters, M.D., in the amount of \$3,500 annually to review x-rays for the TB program.

New Application for Liquor License Number 081009-1M,

Domestic Winery, Greenbank Cellars

With receipt of favorable recommendations from the Island County Sheriff and Health Department, the Board approved by unanimous motion, application for Liquor License #081009-1M, Domestic Winery, for Greenbank Cellars.

Inter-local Agreement between Island County and San Juan County for Public Defense Administrative Services

Jane Koetje, Public Defense Administrator, presented for approval and signature an Inter-Local Agreement with San Juan County for Island County Public Defense Administration Department to provide the administrative services for public defense work for San Juan County by screening the requests for a public defender. The period of the contract is for two years ending December 31, 1999, San Juan County to pay Island County \$1,600 per year for said services. The prior contract called for payment to Island County of \$1,200 per year, and Ms. Koetje confirmed her belief, based on numbers of interviews 1996 – current that \$1,600 per year was adequate to cover Island County's cost.

By unanimous motion, the Board approved the Inter-Local Agreement between Island County and San Juan County to provide public defense administrative services for a two year period at \$1,600 per year.

FAIR MANAGER POSITION

Last week the Leroy Pool, Chair of the Island County Fair Board, made a presentation with respect to the decision of the Island County Fair Board to terminate the fair manager position. At his request, the Board continued the matter for one week inasmuch as Mr. Pool wanted an opportunity to provide a letter after a Fair Board meeting that night at which time he indicated he would recommend the position be reinstated.

Pat Nostrand, the individual who served as Fair Manager, now terminated, provided an unopened envelope addressed to the Board from LeRoy Pool, Chairman of the Island County Fair Board, and the following [all submissions on file]:

1. Comments by Patricia Nostrand to be addressed at the Board of Island County Commissioners meeting of 8/10/98 and additional 1-page sheet entitled "Island County Fair – Selected Payroll Budget Details"

The Board recessed for a period of approximately ten minutes in order to read the submissions.

On reconvening, Ms. Nostrand read her comments responding to what had taken place with the fair manager position outlining what she observed had taken place and what she believed were facts that did not support the Fair Board's statements or actions, and felt that the Fair Board put itself in a position of potential large liability for wrongful termination and breach of contract. It was her request that the Board of County Commissioners carefully consider its decision to eliminate the fair manager position for 1998 and guard carefully responsibility to see that the appointed agency operates in a way that reflects the best interests of the county and its citizens.

Chairman McDowell advised that the envelope contained a letter to the Island County Commissioners dated 8/4/98 from LeRoy Pool, Chairman, Island County Fair Board with an attachment, a letter dated 7/22/98 from Thomas J. Coy, Dubuar, Lirhus & Engel LLP, representing Ms. Nostrand with respect to her employment situation for July and August, 1998.

Mr. Pool's letter indicated that the Fair Board met in executive session to discuss finances dealing with Ms. Nostrand's termination and the letter from Ms. Nostrand's attorney, and that the Board voted 7 for and 2 against to uphold the termination of Ms. Nostrand.

In the Chair's opinion the Board did not have enough information to act on the recommendation. ICC Chapter 2.20A.040.c provides that the Board of County Commissioners act in a prompt and expeditious manner in reviewing and approving decisions of the Fair Association regarding the hiring and firing of the Fair Manger, and the Board's failure to act on said decisions within 30 calendar days of receipt of same constitutes automatic approval and ratification of said decisions. The first letter was received from an individual Fair Board member dated 7/14/98 received on 7/16/98, with subsequent letter from the Fair Board Chairman dated 8/4/98 received today, and the Chairman assumed therefore the 30-day period would begin the date of the new submission.

The Board referred the matter to Betty Kemp, Director, GSA, and Dave Jamieson, Deputy Prosecuting Attorney, and continued the matter until 1:30 p.m.

When the Board re-convened at 1:30 p.m. the Chairman had in hand a copy of Pat Nostrand's written comments, and announced that no action would be taken by the Board at this time, and that the Board would look further into the issues and concerns.

Interagency Agreement between State of Washington, Department of Social & Health Services and Island County Juvenile Court Services

Liz McKay, Juvenile Court Services Director, presented for approval and signature, the Consolidated Juvenile Services, changed this year to be a year long contract. The County will receive from the contact funds for intensive supervision which pays for one probation officer and services the County can purchase for children and families in the way of counseling, assessments, etc. Option B is included in the contract but eliminated from the statute, included here only for purposes of carry-over money. SODA [sex offender money] has changed in that previously the State provided a given amount, now the County will receive \$22.93 per day for every child who is an adjudicated sex offender and from that money, purchase sex offender services necessary for those children to remain in the community. Added to the contract are impact funds from House Bill 3900 that changed the Juvenile Justice Act.

Commissioner Shelton moved approval of the Interagency Agreement between the State of Washington Department of Social and Health Services and Island County Juvenile and Family Court Services with the dollar amount of \$70,361. Motion seconded by Commissioner Shaughnessy, carried unanimously.

After above action was taken, Ms. McKay explained that \$70,361 is the amount for intensive supervision services, along with item D.1, \$77,732 under House Bill 3900 impact money, and an undetermined amount for SOP.

Commissioner Shelton moved correction of the previous motion, moving approval of the Interagency Agreement between the State of Washington Department of Social and Health Services and Island County Juvenile and Family Court Services correcting the dollar amount as follows: \$70,361 for intensive services, an additional maximum consideration of \$77,732 under House Bill 3900 Impact funds; and an undetermined amount for sexual offender disposition program. Motion, seconded by Commissioner Shaughnessy, carried unanimously.

Resolution #C-107-98 Authorizing the Presiding Judge of the Superior Court to Enter into and Sign Contracts for the

Provision of Mandatory Parenting Seminars

Ms. McKay advised concerning a new local court rule effective in September regarding mandatory parenting seminars. For anyone filing for an action involving parenting plans the parties must complete a parenting seminar before the Court will take action on said plan. Island County Superior Court Judges wish to contract with an agency to conduct these parenting seminars and a resolution adopted by the Board of County Commissioners is necessary to authorize the presiding Superior Court Judge to enter into such contract. No county money is involved in this contract.

By unanimous motion, the Board adopted Resolution #C-107-98 authorizing the presiding judge of the Superior Court to enter into and sign contracts for the provision of mandatory parenting seminars.

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

RESOLUTION

ISLAND COUNTY RESOLUTION NO. C-107-98

IN THE MATTER OF AUTHORIZING THE PRESIDING JUDGE OF
THE SUPERIOR COURT TO ENTER INTO AND SIGN CONTRACTS
FOR THE PROVISION OF MANDATORY PARENTING SEMINARS

WHEREAS, RCW 26.12.172 authorizes Superior Courts to adopt mandatory parenting seminars by local rule and the Island County Superior Court Judges have adopted local rule 16 establishing mandatory parenting seminars in Island County; and

WHEREAS, the Island County Superior Court is in the best position to evaluate proposals for the provision of mandatory parenting seminars; and

WHEREAS, the mandatory parenting seminars are to be self-funded with no fiscal liability to Island County;

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Commissioners of Island County hereby authorizes the Presiding Judge of the Island County Superior Court to enter into and sign contracts for the provision of mandatory parenting seminars.

Dated this 10th day of August, 1998.

Board of County Commissioners

Island County, Washington

Wm. L. McDowell, Chair

Tom Shaughnessy, Member

Mike Shelton, Member

Attest:

Margaret Rosenkranz, Clerk of the Board

BOND RELEASE – KATHWOOD COURT PRD 02/94

Larry Kwarsick, Director, Public Works Department, recommended release of Bond #5895327 in that conditions of Kathwood Court PRD #02/94 had been met for completion of drainage and road requirements, sanitary sewer systems, and trails and recreation areas as required by Island County Engineering, Health and Planning & Community Development departments. Staff completed inspection and confirm requirements met.

By unanimous motion, the Board released bond for Kathwood Court PRD 02/94, Bond #5895327 in the amount of \$281,204.00.

ADOPT-A-ROAD LITTER CONTROL AGREEMENT

The Board, by unanimous motion, approved Adopt-A-Road Litter Control Agreement with Thomas G. Mayes, dba Mayes Insurance Agency; Cross Island Road from West Camano Drive to Ridge Road.

CONTRACT/BOND – Wilder Construction Company

As presented and recommended for approval by Mr. Kwarsick, the Board by unanimous motion approved Contract and Contract Performance Bond from Wilder Construction Company per bid awarded July 27, 1998, for the 1998 ACP Overlays on Camano Island in the amount of \$262,559.00 including taxes.

SUPPLEMENTAL AGREEMENT NO. 1 – GLENDALE/HUMPHREY ROAD AND STREAM RESTORATION AGREEMENT PW-972019

The Board, on unanimous motion after presentation and brief description by Mr. Kwarsick, approved Supplemental Agreement No. 1 with Datum Pacific, Coupeville, for the Glendale/Humphrey Road and associated stream restoration project. This matter was discussed with the Board at the last staff session with Public Works Department. The Scope of Work is being modified slightly to include revised design and drawings as needed to conform to permit requirements of approving agencies and to provide for potentially existing compensation up to \$15,000 additional dollars.

CONFIRMATION OF BID AWARD – AND FINDINGS OF FACT REGARDING AWARDING OF BID (Awarded at Staff Session 8/5/98) Construction

of Wilkes Gary Heights Drainage (vic. Lots 22/23 – Fowler)

During Staff Session on August 5, 1998, Mr. Kwarsick and staff presented to the Board the results of analysis of the bids submitted for the Wilkes Gary Heights drainage project [aka Fowler Drainage Project] and at that time the Board awarded bid to the lowest responsible bidder, Pacific North Construction, Inc., Woodinville, in the amount of \$109,664.00. As follow-on to that award, Mr. Kwarsick presented for the Board's adoption today Findings of Fact regarding award of the bid to the lowest responsible bidder.

By unanimous motion, the Board approved confirmation of bid award of 8/5/98 for the construction of the Wilkes Gary Heights drainage project to Pacific North Construction, Inc. of Woodinville, the lowest responsible bidder in the amount of \$109,664.00, and approve Findings of Fact regarding awarding of bid.

BEFORE THE BOARD OF ISLAND COUNTY COMMISSIONERS

IN RE: THE MATTER OF AWARDING) FINDINGS OF FACTS REGARD-
THE BID FOR FOWLER DRAINAGE) ING AWARDING OF BID
PROJECT, DSR #29091, W.O. 239)

WHEREAS, when the low bid is determined by the Board of Island County Commissioners as not being the lowest and best bid for a County road construction project, the Board must enter written Findings of Facts explaining the rejection of the lowest bid; now, therefore, the Board makes the following

FINDINGS OF FACT

1. On June 22, 1998, Island County called for competitive bids for completion of a County road project entitled Fowler Drainage Project, a Public Assistance Program project designated as DRS #29091. Bidders were required to provide bids on Schedule A and Schedule B.

2. The County road construction project involves the placement of 410 linear feet of 26" HDPE culvert, 109 linear feet of 30" concrete culvert, manholes, quarry spalls, an energy dissipater, and other drainage control devices.

3. On July 16, 1998, Island County issued an Addendum No I that stated "The attached concrete mat energy dissipater shall be bid as an alternate to Schedule B."

4. On July 23, 1998, the County Auditor opened bids received by the bid deadline. Eight bids were received ranging from \$97,880 to \$243,575 for Schedule A, from \$3,600 to \$10,035 for Schedule B and from \$5,000 to \$22,325 for Addendum No 1. The lowest bid was received from BBG Group who did not submit a bid for Schedule B.

5. The Island County Public Works Department noting that the low bidder did not submit a bid for all items, submitted a request to the Prosecuting Attorney's office seeking advice as to whether the County can lawfully award the contract to the lowest bidder. The Prosecuting Attorney, by memo of July 29, 1998, a copy of which is attached hereto, gave advice to the Public Works Department.

6. At an Open Public Meeting on August 5, 1998, this Board considered award of the bid for the Fowler Drainage project. The Board noted the advice of the Prosecuting Attorney's office and that BBG Group did not provide a price for all bid items.

7. The second low bidder, Pacific North Construction, Inc. had provided prices for all bid items, including Schedule B, and is deemed to be the lowest responsible bidder.

8. Based upon the foregoing, this Board rejects the bid of BBG Group and awards the bid to Pacific North Construction, Inc., subject to Pacific North entering into the required contract, furnishing bonding and any other necessary requirements.

Dated this 10th day of August, 1998.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Wm. L. McDowell, Chairman

Mike Shelton, Member

Tom Shaughnessy, Member

Attest: Margaret Rosenkranz,

Clerk of the Board

EASEMENTS FOR ISLAND COUNTY FAIRGROUNDS

EASEMENT TO WHIDBEY TELEPHONE CO. PARCEL R32903-442-4110

EASEMENT TO WHIDBEY TELEPHONE CO. PARCEL R32903-362-4170

The Board received by letter dated August 6, 1998, from Mary Solt, easements to Whidbey Telephone Company for the two parcels of Island county Fairgrounds, said easements by the phone company in order to provide phone service to the HOPE Building being constructed adjacent to the area. Phone service is needed for the security system that activates the smoke detectors and is needed to obtain an occupancy permit, vital prior to August 18 so the building can be used during the Fair.

By unanimous motion, the Board approved the Easements for Island County Fairgrounds to Whidbey Telephone Company, Parcel # R32903-442-4110 and Parcel #R32903-362-4170.

Hearing HELD: Ordinance #C-85-98, PLG-020-98 Adopting a New Ordinance, Chapter 16.06 ICC, Governing Land Division in

Island County, Continued from July 27, 1998

A Public Hearing was held scheduled for 1:30 p.m. on Ordinance #C-85-98 [PLG-020-98] Adopting a New Ordinance, Chapter 16.06 ICC, governing Land Division in Island County, continued from July 27, 1998, with public testimony having already been taken and closed. The Ordinance was first scheduled to be heard on July 27th but at that time the Board ended the day without having had an opportunity to hear this ordinance due to deliberation on the Site Plan Review and PRD ordinance amendments.

Public Attendance: Earle Darst, Brian Bird, Shayne Thatcher, Chris Douthitt; Rufus Rose; Reece Causey; Dick Chapin

Mr. Dearborn described the proposed ordinance before the Board, noting three versions:

- version introduced when hearing dates were set 6/22/98
- Planning Commission recommendation 7/14/98
- Final version dated 7/27/98 as the Planning Commission recommendation with a

series of technical changes shown in bold [as was done with chapters 16.15 and 16.17]

Staff submitted a comment memo dated 6/19/98, now a little out of date since many of those issues were raised on a draft that pre-dated the draft the Planning Commission considered. Also on record are detailed comments from Tom Roehl by e-mail dated 7/24/98, and a letter from Shayne Thatcher, P.L.S., Survey Manager, Datum Pacific dated 7/8/98.

After public testimony is taken today, Mr. Dearborn suggested the Board go through the ordinance issue by issue and resolve final issues. Once that was done, the ordinance is to be forwarded back to the prosecuting attorney for final review as to form, and as with other ordinances the Board acted on thus far, final enactment would not occur until September 28th. Since this is an official control and implements 58.17 any change the Board makes in the Planning Commission recommendation has to be accompanied with findings and once the Board identifies any substantial changes, if any, to the Planning Commission recommendation, Mr. Dearborn will prepare findings supporting those

changes, also ready when the Board takes its final Acton on September 28th.

He reviewed the technical changes from the Planning Commissions 's Recommendation:

Page 3 - Boundary Line Adjustment. Since the county is trying to encourage the re-combination of lots, the argument was made why there was any review at all if two lots are being converted into one. There are a series of changes in the 7/27/98 version of the ordinance that make it clear that a lot combination is effectively an action that a property owner can take by recording a document .

Page 5 – This change does the same thing about lot combinations. The change on page 5, item E makes it clear that neither a lot combination nor a boundary line correction would require any review by the County.

Page 8 [bottom of page] Makes it clear that the phrase "For example, map requirements may not be needed for the combination of two Lots;" needs to be deleted since there is no map now required.

Page 9, Section 070 #2, the addition "or result in a change in zoning classification" is a staff request. In the new zoning code at this point there are only two known parcels of land where there is split zoning. The question of concern to staff has been through boundary line adjustment effectively creating a rezone. Mr. Dearborn did not see how that would be accomplished, even on the two parcels split-zoned. The parcel boundary can be modified and does not change the zoning; zoning can only be changed through a rezone or a legislative action.

Page 10, minor technical change.

Page 11, items 1, 2, 3 and 4, - not necessary and deleting them causes no change in substance but were deleted in a modified form from the subdivision section and forgotten to have same deleted from the short subdivision section.

Page 11, F.2 are technical changes to make it clear this is preliminary short subdivisions in the preliminary short subdivision section.

Page 12.A. Clarification change

Page 12.F. Sentence added the Planning Commission decided to recommend but Mr. Dearborn inadvertently left out of the recommendation when prepared. Since the time period is being changed to 5 years from the current 4 years plus 1 for completion of a preliminary subdivision, the Commission thought the 5 year period ought to apply to existing approved pending final approvals. This provision would only apply from the date of preliminary approval and there is not some kind of new extension of preliminary approvals being granted.

Page 12.G. Language needs to be deleted - restates what will be required in the next section.

Staff is still extremely concerned about one issue, which is between boundary line adjustments and plat alterations, concerned the ordinance is not clear and concerned about BLAs and the creation of lots that are smaller than needed for health or zoning. Mr. Dearborn is concerned that staff may have issues the Board need to be aware of before final action is taken. He also has a list of other staff issues which he will identify for the Board's awareness as a part of final deliberations.

Public Testimony

Shayne Thatcher who expressed concerns by letter already mentioned, emphasized that for preliminary plats he was told that the final plat process is a check list. His point was that surveyors should do short plats and long plats from the preliminary stage, otherwise the decisions affecting the approval of that plat have already been made at conditional approval based on information collected in a less than qualified manner. Concerning exempted items from the regulations, Mr. Thatcher provided Mr. Dearborn with a copy of the statute passed by the State Legislature [58.04] concerning property line agreements and allows for another method of establishing a boundary line which he would like to see included in the County ordinance.

Mr. Dearborn has the copy of 58.04 and will put same in the record, which requires a surveyor to have established the correction. The County's regulation as now written would effectively allow corrections to occur by agreement with no survey.

Dick Chapin, Bellevue, owning about 4.5 acres of property at Bush Point for some 25+ years, complimented staff and Mr. Dearborn for what he thought was a real state of the art land division ordinance. As a property owner he was particularly pleased with it because it eliminates a great deal of unnecessary red tape and time consuming process. As a land use attorney, he thought it was a very well drafted ordinance in that the existing ordinance contained vagueness, while the new ordinance very clear cut. From planning perspective, he likes the new ordinance because it has the necessary amount of public protection and does not allow abuses that can take place in a boundary line adjustment ordinance. In his opinion, 16.06.070.A.7 answers concerns of staff in that the applicant has to acknowledge in writing compliance with all applicable county codes before the lot can be developed.

To be clear for the record, Mr. Dearborn disclosed that he and Mr. Chapin were law partners for a period of time. If there was any one person responsible for the initiation of State law change to allow for consideration of RAIDs it is Mr. Chapin who used the illustration of his Bush Point property before the Land Use Study Commission and the Legislature and made a very strong point about the need for the 1997 amendments.

Rufus Rose, South Whidbey, also Chairman of the Island County Planning Commission, referred to page 17, 16.06.140 – there had been some discussion on the Planning Commission and Mr. Rose had expressed a concern that when open space is made we reflect on the horizon that the GMA imposes on us for our comp plans, a 20 year horizon, seek some assurances that this County consider that and that the notion of perpetual open space may be inappropriate when granting various applications – consider whether or not the dedication of open space is perpetual or not or for the period that the growth management requires the comp plan to cover. Need the ability to reconsider "set-asides" in the light of what the culture of Island County is as opposed to what it is now. When he did a short plat years' ago he was required for approval to deed right of way; subsequently, a court case determined that practice illegal.

Mr. Dearborn commented that on Page 17, section .140, the last sentence was intended to deal with the second issue raised by Mr. Rose and make it clear someone cannot exact a dedication unless there is a site specific impact the dedication is being done for. That issue was raised by the Property Rights Alliance and the amendment recommended by the Planning Commission.

Brian Bird, Greenbank, observed the end result in this process was lower density, higher acreage parcels. He suggested going back down to a 5 acre scenario from 10 acres – if GMA wants to keep the county rural and simple, simplify the process.

With no other members of the public indicting a desire to speak on the subject at hand, the public testimony portion was closed.

Staff raised a number of issues and Mr. Dearborn reviewed five he saw as significant policy questions or procedures:

1. As a part of approval of a short plat or long plat, verify the impact to easements on the property from the land division. When this was discussed before, the Planning Commission and Board said that the easement issue is between the parties who have easements and the County does not need to get in the middle of that issue. Staff would like the certificate of title to disclose all easements and application to portray all easements on the map so as to verify that the subdivision does not affect easements. When a plat is recorded it has to be signed by the owner and by the lien holder is there is a lender. There has been an issue in other jurisdictions as to whether an easement holder has to sign a plat before it can be recorded. Mr. Dearborn checked with three or four counties and none today make any determination on easements as a part of their final plat recording or preliminary review of a plat or short plat. As best as he can determine, with one exception – City of Seattle case where they had not defined owner in their ordinance, he knew of no jurisdiction that requires an easement holder to sign before a plat can be recorded. The County's subdivision ordinance and definition of owner makes it clear that a grantee of an easement is not an owner therefore will not have to sign the face of the plat and if they do not have to sign the face of a plat there should be no reason for certificate of title having to disclose all easement holders' interest. While he could not assure the Board there would never be a challenge on this issue, Mr. Dearborn

believed the ordinance was drafted so as to be internally consistent.

2. The Planning Commission also did not support staff recommendation that the applicant identify with markers the four corners of property as a part of preliminary application requirements. When staff looks at a parcel of land they want some idea where the boundaries are. He understands that problem, particularly for a larger parcel of land. The Planning Commission felt this was an unnecessary burden at the application stage and if there was a problem with the identification of a feature it could be done after acceptance of the application.
3. Removed from the application requirements that setbacks be identified for existing structures. The proposed ordinance originally required all existing structures to be identified on the application map submitted and dimensioned so that specific setbacks for existing structures would be identified. The concern staff has is that they would not know until then that they had allowed a lot to be created with a structure that no longer has a conforming setback. Mr. Dearborn's observation is that the more money an applicant is required to spend at the beginning the less willing they are to consider any change without a fight after that point. Most applicants are going to want at least a boundary survey. If they don't do it at that point they are going to do it at the final and will not be able to plat more than they own as shown by survey.

Mr. Rose noted to Mr. Dearborn that one of the other things being done with the zoning code is creating the ability to do lot averaging in RAIDs and in the Rural Area.

4. Section .050.A. Staff believe all Planning Director determinations should be appealable to the Hearing Examiner, and the ordinance was originally written that way. The Property Rights Alliance argued that those determinations should not be appealable to the Hearing Examiner, that the Planning Director ought to be able to make those as Type I decisions. Mr. Dearborn concurred with that because when in an appeal of a short plat or hearing for a subdivision someone who is concerned about the project has every right to argue this information is not available and more information is needed so the fact that the Planning Director determined there was no need for such submittal does not leave an applicant free and clear forever from having to provide that information.
5. Staff feel there should be a requirement that water availability be established with the application, not after the application has been dealt with. This ordinance does not by itself create any special standards or requirements; those are substantively created in the concurrency ordinance and the same holds true for the critical areas.

Mr. Dearborn thought these were all issues the Board had discussed directly, but wanted to make sure the issues had been identified in the record. He urged the Board consider finding time at a Wednesday Staff Session for planning staff to make their concerns and specific comments on the ordinance known to the Board directly rather than through his translation.

Mr. Dearborn commented that Tom Roehl raised a number of issues in his 7/24/98 transmittal on behalf of Island County Property Rights Alliance with the 7/14/98 Planning Commission with inserts and changes:

Page 3. 030.I Mr. Roehl's request is to strike "created prior to January 1, 1985". That language was added by the Planning Commission. Today the exception would not be restricted to lots created prior to January 1, 1985. The Planning Commission discussed the date at length, selected that date because that is when the Zoning Code 17.02 went into affect and felt that after that date someone would have to be very ignorant to illegally have created a lot after 1/1/85.

Page 3. 040 Boundary Line Adjustment. Delete "which results in no change in zoning classification". Mr. Dearborn confirmed that someone cannot by boundary line adjustment create a change in zoning classification and the language is there to remind people of that and he saw no reason to delete the language. Staff views the language as is proposed – it would allow them to reject an application that created a split-zoned parcel. The Zoning Code does not provide for rezones to create split zoned parcels.

After discussion with the Board and the Board's desire this be stated in simple words, Mr. Dearborn agreed to look into clarifying such as with legislative intent and/or working on the language further. He was not sure a change in language was needed here but perhaps in the Zoning Code to make it clear.

From more than one Commissioner, Mr. Dearborn heard they wanted to encourage boundary line adjustments; the fact that both lots may be non-conforming should not deter making them more conforming. All Commissioners have said they want to encourage making those lots workable. He thought the ordinance was clear on that but wanted to be doubly sure there was no way to interpret it otherwise. The question of split zoned parcels, he heard from one or two Commissioners they did not want to create split-zoned parcels. There are two split-zoned parcels currently:

Bayview on the South side of the Road, about 30 acres; a small portion of it has an existing shop operation and some equipment repair and some staging for equipment and storage. A large portion of the parcel is wetlands and extends out into the south.

Shopper on North Whidbey, a large parcel with a small portion for the small mini-market and gas station facility.

This is an issue the Board will be resolving in the Zoning code. This language does not preclude the creation of split zoned parcels [read language on page 3, Boundary Line Adjustment]. Absent a policy statement that the County will not allow split zoned parcels to be created by boundary line adjustment, the ordinance as drafted now would allow that to occur.

Page 4 Mr. Dearborn recommended all of Mr. Roehl's changes – conform to definition of owner to the way Owner has been worded in other ordinances. Guarantor was a typo and should be grantee. The addition of "was" under the public road definition is a good change.

Page 5. The change requested to "Vacation" is another good suggestion. The changes recommended after that in .050 come back to the question of vacation, alteration, boundary line adjustment, and what all the differences are. Mr. Dearborn wants to go back and look at both the statute and case law and Mr. Chapin's bar review article to feel totally comfortable with Mr. Roehl's recommendation here. The word applications versus decisions Mr. Dearborn will review for consistency.

Page 6. Same for top of page 6.

Page 6. .060 1.e) reference to "as last recorded" was a staff request the Planning Commission incorporated and Mr. Dearborn cannot say who is right on this particular issue. It seemed to him that the last recorded legal description is a piece of paper, there, known, and ought to be the legal description unless there is something more specific.

Here, in response to a question from the Chairman, Mr. Thatcher stated that almost all of the regulations require that the survey match the legal description of record. If he has differences he must disclose same on the survey.

Page 7. Changes noted by Mr. Roehl on page 7 have either already been caught or are changes Mr. Dearborn thought good catches by Mr. Roehl. He did suggest a slight re-write to #10.B to make it clearer. What is being asked for is that if an owner is making an application for land division and own contiguous property, need to show that contiguous property as part of the submittal and Mr. Dearborn thought this could be re-worded slightly to make it even more clear.

Page 8. All of the changes Mr. Roehl identified are changes that have either been caught or should be caught, with the exception of #11. This ordinance does not stipulate what has to be submitted on critical areas, only that "reports and determinations that are required by Island County Critical Area Regulations, Chapter 17.04 ICC". Need to decide on 8/24 what kind of critical determinations will be required as part of a complete application and what are going to be materials submitted after application.

Page 9. Again, Mr. Dearborn felt the change on Page 9 was another good catch by Mr. Roehl.

Page 10. All changes in item 8 were changes Mr. Dearborn thought the Board should consider. He particularly noted 8.b change. He was not sure he understood what the difference in the language was between the way proposed and the way Mr. Roehl suggests. It is a policy decision the Board has to make whether to allow that type adjustment.

Page 11. B. The addition Mr. Roehl suggests Mr. Dearborn did not think necessary, but he did not think it would change the effect to include it.

Page 11. .080 B. The language recommended by Mr. Roehl to add "or a form provided by the County Assessor" probably should first be reviewed by the Assessor.

Page 11. .090.C. No substantive change proposed by Mr. Roehl's language.

Page 12. Changes recommended have already been caught.

Page 13. .110.C. The same recommendation for subdivisions as Mr. Roehl proposed for short sub-divisions. The language does not change the meaning and is simpler. Page 13. .110.F Already discussed – something the Planning Commission wanted to do and again this would not extend preliminary approval.

Page 15, #7. The suggestion to delete "improvements". Mr. Dearborn noted that most jurisdictions require applicants show the roads on the plat map when recording the plat; he noted this to be another discussion to have with staff. Mr. Kwarsick stated that plat maps would show the centerline or alternative monumentation that locates the right of way.

Board Action:

By unanimous motion, the Board continued its deliberations on Ordinance #C-85-98, Chapter 16.06 until **September 14, 1998 at 4:00 p.m.** and in the interim Planning staff to provide the Board at Staff Session on September 9 at 1:00 p.m. discussion regarding their concerns and/or proposed changes to 16.06. [Keith Dearborn to provide staff with a memorandum this subject and a copy of a "consolidated 16.06 version" that was considered by the Board 8/10/98]

HEARINGS HELD:

- **Ordinance C-90-98, PLG-023-98, Adopting a New Ordinance, Chapter 11.04 ICC, Governing Concurrency Procedures & Requirements in Island County**
- **Ordinance C-91-98, PLG-024-98, Adopting a New Ordinance, Chapter 11.03 ICC, Establishing Additional Development Standards Relating to Stormwater Management**
- **Ordinance C-92-98, PLG-025-98, Adopting a New Ordinance, Chapter 11.02 ICC Governing Clearing & Grading in Island County**

Attendance: John Graham, Larry Kwarsick, Earle Darst, Vince Moore, Tom Roehl; and two others unidentified.

Ordinance #C-90-98, PLG-023-98, Adopting a New Ordinance, Chapter 11.04 ICC, Governing Concurrency Procedures & Requirements in Island County; and Adequacy, Chapter 11.05

Due to the length of the previous hearing, the hearings scheduled for 3:00 p.m. began at 3:45 p.m. Before the Board was the recommendation of the Planning Commission for two separate ordinances, one for Concurrency and one for Adequacy, and recommendation from the Public Works Director dated 8/7/98 @ 2:31 PM recommending one document including both subjects. The draft before the board contains all changes the motion of the Planning Commission authorized.

Mr. Dearborn referenced the copy of the Oak Harbor decision and noted the two statutes when working with concurrency ordinance; GMA and the Subdivision Act. Subdivision Act provisions relating to adequacy of facilities were adopted before the GMA was adopted and there is no cross reference between the two. Mr. Kwarsick in his proposed ordinance spelled out specific items for subdivisions from 58.17.110, identified those that have to be found adequate for purposes of subdivision prior to preliminary approval—there has to be that reference in the Code. The subdivision ordinance refers to the concurrency ordinance for those determinations. Some of the C and D facilities are activities or facilities that the County has to find adequate for purposes of 58.17. The ordinance as proposed by the Planning Commission needs to be modified since they took out the portion relating to adequacy, i.e. there needs to be

the creation of a new ordinance or modification of the subdivision ordinance to comply with 58.17 requirements. The subdivision ordinance speaks to making a finding that certain facilities and services are adequate. Mr. Dearborn provided a copy to the Board of Goal 12 of the GMA and took a few minutes to explain how the growth board has interpreted different words in Goal 12.

An important point was that the legislature concluded that not all facilities need to be available, only those selected by the county or city. The Growth Board in the Oak Harbor case made it clear the choice of facilities is a decision of the county or city. C-TED guidance indicates that domestic water is one to make a determination on but did not say when. Mr. Dearborn thought the approach of this County was in all likelihood the best available science on the question of water. The Commissioners have to decide not only what facilities to look at but what facilities are necessary to support development. "Adequate to serve development" is where the LOS issue comes in; that too is completely left up to the judgment of the Commissioners. Standards need to be set in advance. There is no definition that says what kind of development to give guidance, again a judgment call. The next question is what is meant by the phrase "at time of occupancy and use", some have said [argued in the Oak Harbor case] that for roads there is a 6 year window, but everything else has to be adequate at the date of occupancy. The Growth Board in the Oak Harbor case said it is adequate at occupancy or use or a time period established if there is some kind of financing plan [as for a road system] to be able to get the facilities up to speed and adequate by that time period.

The phrase "without decreasing current service levels below established minimum standards" allows the Board's judgment; that acceptable level has already been set by Island County Commissioners for roads and made modifications for some road segments. The Growth Board said that all of these policy decisions in combination must be put together in some kind of a plan, strategy, or procedure. He thought the Growth Board had in its interpretation in Goal #12 provided more flexibility than some would argue is appropriate.

The Planning Commission preferred not having concurrency and adequacy in the same ordinance. Mr. Kwarsick could not articulate what the objection was, but he thought the Planning Commission recognized there needed to be an adequacy provision. In the Oak Harbor Hearings Board case the Hearings Board suggested if adequacy were not covered in regulation it would have to be covered in an articulated methodology. The County in the Capital Facilities Plan adopted level of service standards [LOS] for the types of things in the Capital Facilities Plan. He had proposed that prior to preliminary approval of a short subdivision or long subdivision [regulated under 58.17 that requires a demonstration of adequacy] to rely on those LOS specified in the Capital Facilities Plan. In previous discussions, he had some reservation about special purpose districts that might provide one of the services that under the proposed ordinance would require they fulfill GMA requirements and make sure their plans were consistent with County plans, and assure their capital programs were consistent with County plans. If so, and they took into account, population projections and disbursement and employment disbursement they could make those kind of judgments with regard to adequacy. If not, their facilities would be determined to be adequate. The Planning Commission, aside from splitting apart of the ordinance, made other recommendations: 11.04.040 added a comma in the first paragraph to emphasize that exemptions from the tests for concurrency for category A and B. Under exempt development activity, the Planning Commission wanted to broaden the array of exempt development activity when dealing with permitted uses in the rural, rural residential, rural ag, commercial ag and rural forest zones, and language was included to make sure those permitted uses were not going through the concurrency requirement except for duplex and triplex proposals in the rural residential zone at densities greater than 3 dwelling units per acre [Exempt Development Activity top of page 4]. Page 8, under the test for concurrency in terms of paths - originally proposed had been a 180 day period once concurrency was passed that a development application would have to be submitted, but the Planning Commission recommended it be a one year period.

Mr. Kwarsick corrected an inconsistency between the proposal as sent forward to the Planning Commission, and the Transportation and Capital Facilities Plan which was to include exceptions for the LOS for three roadways: Ault Field Road, Goldie Road and East Camano Drive, that have LOS's established on which needs to be specifically stated in the regulation. He had no objection to the modifications the Planning Commission recommended with regard to the ordinance language, but his preference and recommendation was to maintain adequacy and concurrency as a complete ordinance. He agreed there could be two separate ordinances, however. Since the state subdivision law provides guidance in terms of what types of facilities the subdivision law looks at for preliminary approval, he thought using those seemed to put the County's code fairly sound manner. As Mr. Dearborn pointed out, however, there is nothing in

the Oak Harbor decision that says the County could do less and for certain types of development, could require something different. The seven items [RCW 58.17] to select from are: drainage ways, parks [community], potable water supply, sanitary waste, sites for schools and school grounds, streets or roads, and transit stops. Out of the array of facilities what is suggested is that for buildings, as applicable, there be: water, sewer, surface water, necessary for development and for short plats and long plats, use the list out of 58.17.

Regarding exemptions on page 4, Mr. Kwarsick noted exempt development activity for concurrency, item C, referring not only about residential structures but also providing some incentives for redevelopment. In areas like Freeland and Clinton, there are already some multi-family structures and Mr. Kwarsick wanted to make sure any type of renovation undertaken could be done without having to go through the concurrency process. As to a mixed use, the demonstration applied would be determination of traffic generation before and after; if at or below pre-existing traffic, concurrency would not be required.

Public Comments

John Graham, Citizens Growth Management Coalition, on the issue of where to put adequacy from the point of management he thought it made sense to follow Mr. Kwarsick's recommendation that concurrency and adequacy be in one ordinance. As far as Exemptions 11.04.040.L, he did not understand why vested development activities should be exempt from concurrency and urged that language be deleted from the ordinance. He heard recently that permitted uses were added to the list of exemptions and was concerned, for example, that in rural centers and villages there are some very large commercial structures are permitted uses. That concern was satisfied when it was explained that commercial was not exempt.

Tom Roehl, Project Planning Services, Freeland, and also representing the Freeland Water District and Island County Property Rights Alliance. Prior to this hearing, he expected to see a copy of the ordinance as revised based on changes made by the Planning Commission that he recalled rather than just today. Mr. Kwarsick advised that the ordinance as amended is a 10-page long document, sent to the Planning Commission and the Board .

Mr. Roehl commented extensively to the Planning Commission about the issue of short plats and other permitted developments. His opinion is that the state already made a finding regarding the necessity of a concurrency test [distinguished from what the subdivision law requires]. Transportation, etc. are already a requirement of elements examined through SEPA for a project. The state made the finding that short plats, for example [but would apply to other low level activities], are exempt from SEPA with the exception of re-divisions of platted lands. Short plats occur over a long period of time, and often is years before actually occupied and

impacts on facilities will not occur suddenly. He recalled that the Planning Commission

took a poll and agreed to include short plats in the exemption for the concurrency test, even though findings of adequacy have to be made for short plats.

As far as including standards for schools, the ordinance has more detail than what would normally apply to just "sites". He expressed a question on behalf of Freeland Water District about process, changing the process to reflect what actually is being done now, i.e. a letter of availability instead of imposing requirements on taxing districts to do what the county is going to do – create an inventory system, etc. Water Districts are providers for category C and D facility – water. The ordinance version the Planning Commission had included a set of requirements upon type C and D purveyors. Mr. Kwarsick verified that had been removed.

Mr. Roehl did not believe it necessary to separate concurrency from adequacy in separate ordinances, but if so, believed standards for schools talks about more facilities than just sites, taken out of WAC having to do with grant funding eligibility, making absolute something in the WAC which is flexible. The same calculation system should reflected.

He wanted some consideration to be given to making accommodation for projects

that may or may not have been implemented – have those projects use up the long range inventory of LOS.

Larry Kwarsick remembered that the Planning Commission wrestled with the issue of whether short subdivision should go through the concurrency process or not, and the result was a decision short plats should. Information of record includes the fact that over the last 12 years 52% of the lots created in Island County have been created as a result of short subdivisions and 74% of the land area that has had segregation has been through short subdivision. Short subdivisions are small, but significant form of development in the county. One of the reasons the Commission was concerned about short subdivision and concurrency Mr. Kwarsick thought was because of what might happen with the state system. The Capital Facilities Plan includes specific language stating that any implementing ordinance which includes transportation facilities of state-wide significance should establish review methodologies that are similar but contain substantially different thresholds from those used to evaluate impacts on county arterials and transit routes. For short subdivision the way the ordinance would operate is that since short subdivisions do not generate more than 10 peak hour trips, the owner/applicant would not have to hire a traffic engineer to go through the concurrency process, but could submit an application, receive a certificate of concurrency [good under this proposal for a year] and survive the entire process of the short subdivision and it would constitute a finding of adequacy whenever preliminary approval came.

The original proposal included imposition of duties upon other municipalities or special purpose districts, and it was at Mr. Roehl's suggestion, those requirements were deleted with the intent to rely on existing processes and coordination in place now with those municipalities that provide services. Mr. Kwarsick agreed with Mr. Roehl in the case of schools, but even though schools are identified in the Capital Plan two different ways, both in terms of sites and classroom sizes, for purposes of the ordinance could rely strictly on sites. The Board sent the Planning Commission a review of an ordinance containing both concurrency and adequacy, and the recommendation came back to divide those. Mr. Kwarsick's opinion was that the Board has in front of it 11.04 as a document that has concurrency and adequacy, along with the Planning Commissions report.

As to the issue of vesting mentioned by Mr. Graham, it was Mr. Kwarsick's understanding that concurrency is something before one can even submit an application – there is nothing before an application is submitted. The biggest issue is that concurrency is not SEPA, rather deals with capacity of the roadway, not impacts the development has on roads that are not arterials and other types of transportation issues. Concurrency is not intended as a replacement for SEPA. The concurrency ordinance as written would not cause a level of service decline. If a state facility were brought into the concurrency system it potentially could have an impact. Concurrency is a management tool that works in conjunction with capital facilities planning and is not a method of stopping development.

Mr. Dearborn pointed out that if there is a road problem, concurrency does is stop people from getting approval until the problem is fixed; there still has to be a way found to fix the problem.

Mr. Graham had no problem if the language stated "after the date of this ordinance vested development activity shall be exempt". The word "cumulative" is missing – his concern is cumulative. He did agree he basically was satisfied by Mr. Kwarsick's answer -- that there are other ways to deal with it, i.e. SEPA.

Tom Roehl reminded that the short plat process is responsible for the creation of the vast majority of lots that are not developed; there are many short-platted lots that if there had been a concurrency system would have been put in the inventory. Short plats are commonly used to create lots that are not developed, especially 5 acre tracts so the real impact to the roads will not occur until someone builds a house. He agreed that it should be a relatively painless process to come in and get a concurrency certificate for a short plat as Mr. Kwarsick described, but his concern was in the long range. What Mr. Roehl fears is that someone in the future will tack on to the actual based on a theoretical model.

Mr. Kwarsick explained that whether short platted lots were in concurrency or not, they still use up capacity; the fact if they are "exempt" would not make any difference, there has to be an accounting system built in to the program to account for growth and development. The purpose of keeping ledger sheets is as a planning tool; level of service is real – "responsible agencies must take into account exempted development activity that impacts the applicable level of service". He thought the ordinance was written to provide for that accumulation Mr. Roehl suggested. It is incumbent on government to actually have facilities in place, which is what the six year program is all about.

Commissioner Shelton observed that when the accounting system indicated peaked out, the over-riding factor would be to do a traffic count, and if not peaked out, while it might not require anything at that time, as a planning tool it would show the need for the County to be thinking about allocating funds for a particular road.

Mr. Dearborn agreed there had to be an accounting system that looks at accumulative affects; the Board may need to look at this and study it more closely. When looking at exempt activities and cumulate exempt activity, it is not cumulating every theoretical lot under this ordinance

but cumulating the building permits on those lots as the building permit is issued, so if there is a road with 500 undeveloped lots and a level of traffic on that road today, until a building permit is issued for that lot, it is not being treated as generating traffic.

The Chair suggested a change on Page 9, section .060, test for concurrency if the intent is to measure the level of service there.

The idea, as explained by Mr. Kwarsick, was to have a planning and accounting system, but also the real traffic counts. LOS standards are measured on roadways based on real traffic, not theoretical traffic.

Another way to deal with that and accomplish the same result according to Mr. Dearborn was to look at .030, and remember it is not the short plat that was created ten years ago that is at question, that it is the building permits that have been issued that use up the capacity, which refers to exempt activities. Then look at .040 (2) which refers to vested development activities; his reading of that does get confused -- if it is a vested development activity [i.e. a short plat approved 10 years ago] the county still would want to calculate it in capacity; it is the building permits that are issued on the lot that are exempt that would be cumulated in the capacity not the theoretical lots.

In .030 the 3rd sentence Mr. Kwarsick noted states: "For transportation facilities, exempt development activities are considered part of the background capacity and are included in the county's transportation planning and programming efforts". Intent is part of the planning and programming efforts, and the County responsible for the impact of that exempt development activity. Need to clarify that language further on and be consistent.

And Mr. Dearborn indicated that the last sentence in .030 was an extremely important policy statement, a significant statement of commitment.

Mr. Roehl called attention to the sentence after the word " plus" in .060 stating "plus previously approved developments and exempt development activities".

In section .030 Mr. Dearborn suggested the possibility that instead of referring to transportation facilities, refer to category A. Works needs to be done on section .060 too.

Mr. Kwarsick suggested in 060 saying: "which includes existing demand plus previously approved developments [for which there has been a certificate of transportation concurrency] and exempt development activities for which building permits have been issued". He noted that the County updates the capital plan every year, and confirmed the department would stay on top of monitoring by physical traffic counts what is happening in all regions of the county.

Chairman McDowell suggested on page 10 to add " intersections in rural areas not included in those intersections located in state right-of-ways" to make sure that there is no confusion this addresses transit routes that are county owned roads – routes and intersections. LOS C and D he still thinks are county roads and county intersections.

Mr. Kwarsick agreed he would try to refine that language to be clear it does not refer to any state system or state system intersection with a county system. Also need to include the three roads with LOS "E" – Ault Field, Goldie, and N. Camano Drive.

The Commissioners agreed also that staff re-look at the issues brought up and make clarifications for clarity and intent in .060, .020, .030 and .040.

A majority of the Board agreed that Concurrency, chapter 11.04 and Adequacy as Chapter 11.05, be contained in two separate ordinances and made clear when dealing with schools, that it is school sites and not classroom size.

Mr. Kwarsick noted that he developed a manual in narrative form explaining how the system works, proposed as an administrative document that explains the ordinance, like a brochure on how the process works.

Mr. Dearborn pointed out that much of the accounting and record keeping is made Planning's responsibility and not Public Works; there being no one present from the Planning Department, the Commissioners need to at some point advise Planning before the ordinance is adopted [page 6-7]. There is a budget impact from this and a work responsibility and someone needs to not only recognize that but the person who does this has to be trained.

BOARD ACTION: Public Testimony closed. .By unanimous motion, the Board continued its deliberations and hearing until **August 17, 1998 at 11:00 a.m.**, Concurrency Ordinance, Chapter 11.04, and Adequacy Ordinance, Chapter 11.04, [new ordinance number for Adequacy].

Ordinance #C-91-98, PLG-024-98, Adopting a New Ordinance, Chapter 11.03 ICC, Establishing Additional Development Standards Relating to Stormwater Management and Ordinance #C-92-98, PLG-025-98, Adopting a New Ordinance, Chapter 11.02 ICC Governing Clearing & Grading in Island County

As Mr. Dearborn understood, the Planning Commission had either continued, deferred or tabled action on these two ordinances, thus no recommendation before the Board at this time from the Planning Commission. The Board received a memo from Mr. Kwarsick 7/14/98 on known storm drainage problems by RAID and that needs to be reviewed, along with how what he has proposed fits with fish and wildlife protection. Realistically, given the work load of the Planning Commission, he did not see that the Commission would be able to forward something final to the Board until they were finished with the Comp Plan and Zoning Code.

Mr. Kwarsick proposed consideration that the Board adopt an interim ordinance with a sunset provision, i.e. since Langley, Coupeville and Oak Harbor use the DOE Manual, the County consider same in the interim with appropriate exceptions applicable to Island County. The ordinance referred to the Planning Commission was the more traditional ordinance but also had the low impact ordinance. When he and Mr. Dearborn met with the Puget Sound Water Quality Action Team and Department of Ecology, both stated that either ordinance would be approvable, with addition of water sensitive areas. Mr. Dearborn commented to note that those two agencies have no approving authority; these are approved by the Board of County Commissioners, and if appealed, the Hearings Board makes a judgment on them .

Board Action: Public Hearings **continued to August 24, 1998 at 3:00 p.m.** Keith Dearborn to work with the Planning Commission on both ordinances and with Larry Kwarsick's support come forward with a recommendation from the Planning Commission on both subjects between now and August 24.

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

the Chairman adjourned the meeting at 6:10 p.m., to meet next on

August 17, 1998 at 9:30 a.m.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Wm. L. McDowell, Chairman

Tom Shaughnessy, Member

Mike Shelton, Member

Attest: _____

Margaret Rosenkranz, Clerk of the Board