

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING**

**REGULAR SESSION - JUNE 7, 1999**

The Board of Island County Commissioners met in Regular Session on June 7, 1999, beginning at 9:30 a.m., with Commissioners Shelton, McDowell and Thorn present, held in the Island County Courthouse Annex, Basement Hearing Room, Coupeville, Wa. Minutes from the Regular Meeting of May 24, 1999, and Special Session held on May 26, 1999, were approved and signed.

**VOUCHERS AND PAYROLL APPROVED**

By unanimous motion, the Board approved the following vouchers, along with the May payroll:

Voucher (**Warrant #**) #51467-51765 .....\$ 386,134.75.

[voucher 9980483 to be submitted to WSDOT for reimbursable portion]

**CITIZEN NAMED TO BOARD OF EQUALIZATION**

By unanimous motion, the Board appointed Jane Strohecker, Camano Island, to serve on the Island County Board of Equalization for a term to run from June 1, 1999 to May 31, 2002.

**Hiring Requests & Personnel Actions**

The Board, after review and summary description by Dick Toft, Human Resources Director, approved by unanimous motion, the following Personnel Action Authorizations:

**Dept. PAA# Description Position No. Action Eff. Date**

Public Works 055/99 Assoc Planner 1708.01 Replacement 6/7/99

Public Works 067/99 Acct. Asst, temp 1 yr. 2214 New Position 6/7/99

GSA 066/99 Parks Mt. Labor. 8 mo. 1506.01 Replacement 6/10/99

Pr.Atty. 063/99 Dep. Pros. Sup. Ct. 1812 Replacement 7/5/99

Pr.Atty. 064/99 Dep. Pros Dist. Ct. 1805 Replacement 7/5/99

**DEED/REAL ESTATE EXCISE TAX AFFIDAVIT FOR PURCHASE OF FORT NUGENT COUNTY SURPLUS PROPERTY**

Lee McFarland, Assistant Director, GSA/Property Management, presented for the Board's approval and signature a Deed to Karl C. and Darlyne A. Krieg, and the Real Estate Excise Tax Affidavit for sale of the Fort Nugent Property for \$4,000.00 [sale of surplus property authorized under Resolution #C-56-99 dated May 17, 1999]. Mr. McFarland pointed out that this was a small piece of property left over from a road realignment project on Fort Nugent Road, an unbuildable corner piece of property.

By unanimous motion, the Board approved the Deed to Karl C. and Darlyne A. Krieg and the Real Estate Excise Tax Affidavit for the purchase of the Fort Nugent Surplus Property in the amount of \$4,000.00.

**CONTRACT AGREEMENT WITH DEPARTMENT OF ECOLOGY SHORELANDS**

Don Meehan, Extension Agent, WSU, presented for approval and signature CZM306 Grant Agreement #G-0000001

between the State of Washington Department of Ecology, and Island County for the project "Beach Watchers 1999-2000 Volunteer Training Program". Contract has been reviewed and approved by the Deputy Prosecuting Attorney and Risk Manager, subject to the Board's initialing the handwritten correction page 12 correcting the year 1999 to 2000.

By unanimous motion, the Board approved CZM306 Grant Agreement #G-0000001 between the State of Washington Department of Ecology and Island County, RM-99-EXT-0045, for the Beach Watchers 1999-2000 Volunteer Training Program, for local share amount \$28,000.00, and authorizing the Board to initial the change on page 12 as noted.

### **COUNTY DESIGNATED MENTAL HEALTH PROFESSIONAL NAMED**

In accordance with RCW 71.24 and WAC 275.57, the Board by unanimous motion appointed Julie McClary, M.A., as County Designated Mental Health Professional. Designation ceases upon notification of termination by the County Commissioners or upon termination of employment with the community mental health agency.

### **Contract Amendment TO Consolidated HEALTH Contract C07711(3)**

The Board, by unanimous motion, approved Contract Amendment #2 to the Consolidated Health Contract C07711(3), adding \$250 to the child death review program.

### **Claim for Damages #R99-008CD, Marco Courounes**

Betty Kemp, Director, GSA/Risk Management, presented her recommendation in the matter of Claim for Damages #R99-008CD filed by Marco Courounes in the amount of \$650,000 alleging Sheriff attached real property belonging to claimant without notice. Based on the information furnished by the Island County Sheriff, Ms. Kemp recommended the claim be denied.

The Board concurred with her recommendation, and by unanimous motion denied the claim from Marco Courounes.

### **Claim for Damages #R99-009CD, William & Peggy Anne Porter**

Ms. Kemp presented recommendation in the matter of Claim for Damages #R99-009CD filed by William and Peggy Anne Porter in the amount of \$425,000 due to alleged maintenance of trespass and nuisance by Island County on private road, Tillicum Way, and private tidelands which claimant holds an ownership interest in. Ms. Kemp reported that the appropriate departments investigated the claim and based on all the facts, she recommended denial of the claim.

The Board accepted Ms. Kemp's recommendation, and by unanimous motion denied the claim from William and Peggy Anne Porter.

### **Claim for Damages #R99-012CD, James Patterson**

Ms. Kemp next presented recommendation on Claim for Damages #R99-012CD filed by James Patterson in the amount of \$136,000 based on County's failure to issue a building permit and remove a stop work order alleged to have been unfairly issued prohibiting claimant from completing restaurant. The claim was reviewed with several County employees who were a part of the permit process. Recommendation is that the Board deny the claim.

The Board, by unanimous motion, denied Claim for Damages #R99-012CD by James Patterson.

### **Claim for Damages #R99-013CD, Brian Peterman**

Ms. Kemp presented recommendation on Claim for Damages #R99-013CD filed by Brian Peterman in the amount of \$100,000 claiming damages due to Animal Control and the Sheriff allowing his neighbor to create and maintain a nuisance in the form of a home constituting a shelter for approximately 20 to 40 dogs. The claim was reviewed by the Island County Sheriff's Office and information obtained from the County Animal Control Officer, an independent contractor. Based on the available information, Ms. Kemp recommended denial of the claim.

The Board accepted Ms. Kemp's recommendation and by unanimous motion, denied the claim of Brian Peterman..

**HEARING SCHEDULE: ORDINANCE #C-63 -99 (CD-01-99) – Amending Island County Comprehensive Plan and Implementing Land Use Ordinances**

The Board, by unanimous motion, scheduled for Public Hearing Ordinance #C-63-99 [CD-01-99] Amending Island County Comprehensive Plan and Implementing Land Use Ordinances, for June 21, 1999 @ 1:30 p.m., Courthouse Annex Basement Hearing Room, Coupeville, Wa.

**Ordinance #C-64-99 [PLG-011-99], Reclassifying a 20-acre parcel from Rural Forest (RF) to Rural (R) - Stanwood School District**

Phil Bakke, Comprehensive Plan Manager, Island County Planning Department, presented for Board action, an ordinance in the matter of reclassifying a 20-acre parcel from Rural Forest (RF) to Rural (R) by the Stanwood School District. Exhibit A provides the Legal Description of the parcel. Also included as part of the package was a copy of the Administrative Approval of ZAA 721/99, along with two maps: one showing how the Zoning Atlas would look if the ordinance were approved; the second map the current original map [changing map #937]. The property is located off the east side of Elger Bay Road, north of Mountain View Road on Camano Island. The

Planning Director reviewed Zoning Amendment Application #ZAA 721/99, completed and accepted as a complete application on April 5, 1999. Pursuant to ICC 17.03.220 the Planning Director approved the reclassification from RF to R on May 27, 1999, and as a result of that approval, the ordinance is presented for Board approval to amend the Island County Zoning Atlas to reflect the reclassification.

By unanimous motion, the Board approved Ordinance #C-64-99 [PLG-011-99] in the matter of reclassifying a 20-acre parcel form rural Forest to Rural, Stanwood School District.

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

IN THE MATTER OF RECLASSIFYING A 20-ACRE PARCEL FROM RURAL FOREST (RF) TO RURAL (R) – STANWOOD SCHOOL DISTRICT	) ) ORDINANCE C-64-99 ) PLG-011-99 )
---	---

**WHEREAS**, an application for Zoning Amendment, ZAA 721/99, was accepted as complete for review on April 5, 1999; and

**WHEREAS**, the applicants proposed to reclassify a 20-acre parcel from Rural Forest (RF) to Rural (R); and

**WHEREAS**, a SEPA Threshold Determination of Non-Significance (DNS) on the parcel, R23230-212-3930, located off the east side of Elger Bay Road north of Mountain View Road, Camano Island, WA, was not found to have adverse environmental impacts; and

**WHEREAS**, the proposal was evaluated for consistency with the Comprehensive Plan and applicable development regulations per ICC 16.19.100, and conforms with the requirements provided for a reclassification pursuant to Section 17.03.220.D.1; and

**WHEREAS**, the proposed reclassification from Rural Forest to Rural was approved by the Island County Planning Director on May 27, 1999, pursuant to Section 17.03.220; and

**WHEREAS**, as a result of the approved reclassification from Rural Forest to Rural the official Island County Zoning Atlas must be updated to reflect the reclassification.

**NOW, THEREFORE, IT IS HEREBY ORDAINED** that Parcel R33130-212-3930, described in attached Exhibit A, was reclassified from Rural Forest to Rural and the official Island County Zoning Atlas will be updated to reflect the reclassification.

Approved and adopted this 7<sup>th</sup> day of June, 1999.

**BOARD OF COUNTY  
COMMISSIONERS OF**

**ISLAND COUNTY, WASHINGTON**

*Mike Shelton, Chairman*

*William F. Thorn, Member*

*Wm. L. McDowell, Member*

**ATTEST:** *Margaret Rosenkranz*

Clerk of the Board

BICC 99-331

**Exhibit A**

**Legal Description**

**ZAA 721/99**

That portion of the East ½ of Section 30, Township 31 North, Range 3 East, W.M., described as follows:

Commencing at the Southwest corner of the Northwest ¼ of the Southeast ¼ of said Section 30; thence South 89° 25' 09" East, along the South line thereof, a distance of 1046.01 feet to the Easterly right-of-way of Elger Bay Road, as described under Auditor's File Nos. 171837 and 158237; and also the TRUE POINT OF BEGINNING; thence continue South 89° 25' 09" East, a distance of 287.51 feet to the Southeast corner of said Northwest ¼ of the Southeast ¼; thence North 0° 44' 03" East, along the East line thereof, a distance of 1329.62 feet, to the Northeast corner of said Northwest ¼; thence continue North 0° 44' 03" East, a distance of 237.69 feet, thence North 89° 35' 55" West, parallel with the North line of the Northwest Quarter of the Southeast Quarter of said Section 30, a distance of 824.69 feet, to the Easterly right-of-way of Elger Bay Road, as described under Auditor's File Nos. 171837 and 158237; thence South 18° 13' 44" East, along said East right-of-way, a distance of 1653.00 feet, to the TRUE POINT OF BEGINNING.

Containing 20 acres.

Assessor's Parcel Number: R33130-212-3930

(Referenced map attached) [on file with the Clerk of the Board]

**HEARING SCHEDULED: ORDINANCE #C-65-99 [PLG-012-99] Technical Amendments to Island County's Zoning Atlas**

Mr. Bakke presented a second ordinance, in this case, for the purpose of scheduling a public hearing, to consider

Ordinance #C-65-99 [PLG-012-99] Concerning Technical Amendments to Island County's Zoning Atlas. The ordinance consists of a packet of five technical mapping amendments to the official Island County Zoning Atlas.

By unanimous motion, the Board scheduled Ordinance #C-65-99 for public hearing at 10:45 a.m. July 12, 1999.

**AWARD OF BID FOR 1999 Whidbey ACP Overlays**

As recommended by Larry Kwarsick, Public Works Director, the Board by unanimous motion awarded bid for Whidbey ACP Overlays 1999, under CRP 99-03 to the low bidder, Krieg Construction Inc., in the amount of \$403,012.94.

**AWARD OF BID FOR 1999 Camano ACP Overlays**

In the case of awarding bid for Camano ACP Overlays 1999, under CRP 99-04, as recommended by Mr. Kwarsick, the Board awarded bid to the low bidder, Lakeside Industries, in the amount of \$320,040.00.

**Award of bid for New Cat D3CIII Dozer**

Again, with the recommendation of bid award to the low bidder, the Board by unanimous motion, awarded the bid for a new Cat D3CIII Dozer to N.C. Machinery in the amount of \$44,700.81, less trade-in and including sales tax.

**Bid Determination on used dozer – reject all**

In the case of bids received for a used dozer, Mr. Kwarsick advised that staff recommended rejection of all bids, as discussed with the Board during a recent staff session. Intention is to continue to evaluate availability of used equipment that would match the County's anticipated purchase price. There is a possibility of calling for bids again for a used dozer after this construction season. The Board concurred.

**HEARING HELD: Franchise #309(R) renewal for existing water distribution system in Goldie Road for US Navy**

A Public Hearing was held at 10:20 a.m. for the purpose of considering Franchise #309(R), renewal of an existing water distribution system in Goldie Road for the U. S. Navy. Inasmuch as staff is currently working out the details of the franchise terms and conditions with the Navy, Mr. Kwarsick asked that the hearing be continued to June 28<sup>th</sup>.

By unanimous motion, the Board continued the Public Hearing on Franchise #309(R) until June 28, 1999 at 2:15 p.m.

**Easement/Abutters Agreement, etc – Easement & Covenants and Extinguishment of Prior Easement & Abutters Agreement & Covenants – Island County to Gail J. Allen, Mary G. Tankard,**

**Frank A and Marjorie A. Naval for access through the**

**County Patmore Pit Property**

Roy L. Allen, Assistant Public Works Director/Stormwater Manager, presented for approval, Easement and Covenants and Extinguishing Prior Easement & Abutters Agreement & Covenants, Island County to Gail J. Allen, Mary G. Tankard, Frank A and Marjorie A. Naval, property located in Sections 1 & 2, T31N, R1E, dealing with the relocation and re-establishment of an easement across County Patmore Pit Property. Mr. Allen reviewed the proposal with the Board using a map to show the location of the agreements involved. Agreement provides sharing in the cost of the maintenance, 1/3 with the Park, 1/3 with Naval and 1/3 with Tankard.

By unanimous motion, the Board approved the easements, covenants and extinguishing prior easement, abutter's agreement and covenants between Island County and Island County to Gail J. Allen, Mary G. Tankard, Frank A and Marjorie A. Naval, for access through the County Patmore Pit Property.

**Resolution #C-66-99 (R-33-99) – Closing out of misCELLANEOUS COUNTY ROAD PROJECTS AND  
PUBLIC WORKS PROJECTS**

As presented and recommended for approval by Mr. Kwarsick, the Board by unanimous motion approved Resolution #C-66-99 (R-33-99) closing out eight miscellaneous County Road Projects and Public Works Projects covering the years 1996, 1997 and 1998.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**OF ISLAND COUNTY, WASHINGTON**

**IN THE MATTER OF CLOSING ISLAND )**

**COUNTY'S COMPLETED COUNTY ) RESOLUTION NO. C-66-99**

**ROAD PROJECTS AND MISC. PROJECTS ) R-33-99**

**WHEREAS**, R.C.W. 36.77.070 requires the publication of the true and complete costs, and a brief description of all County Road Projects where the day labor, either estimated or actual cost, exceeds twenty-five hundred dollars. **NOW, THEREFORE,**

**BE IT HEREBY RESOLVED** that the following County Road Project(s) and the total costs as shown on the attached sheet(s) are hereby approved and those C.R.P.'s with day labor in excess of \$2,500 be published in the local newspaper.

**NUMBER WORK ORDER NO. NAME**

CRP 97-02 101 Ault Field/Goldie Road Signal

PWP 6-96 228 Catholic Church Parking Lot

CRP 98-04 128 Crescent Harbor Road

PWP 2-98 93 Juniper Beach Outfall

CRP 98-12 185 Pine Street Drainage

CRP 98-08 256 Whidbey Island Misc. ACP Overlays 1998

CRP 98-01 82 Mabana Road Shoulder Repair

CRP 98-07 254 Camano Island Misc. ACP Overlays 1998

**NOW BE IT FURTHER RESOLVED** that the projects on the attached sheet(s) are completed and therefore are closed to all charges as of May 19, 1999.

**APPROVED** this 7<sup>th</sup> day of June, 1999.

**BOARD OF COUNTY COMMISSIONERS**

**ISLAND COUNTY, WASHINGTON**

*Mike Shelton, Chairman*

*Wm. L. McDowell, Member*

William F. Thorn, Member

**ATTEST:** Margaret Rosenkranz

Clerk of the Board BICC 99-337

*[attached sheets are on file with the Clerk of the Board attached to Resolution #C-66-99]*

**HEARING Scheduled: Ordinance #(C-67-99 (R-30-99) AND ORDINANCE #C-68-99 (R-31-99) regulating speed limit on portions of East Camano Drive and Arrowhead Road**

Public Works/Road staff presented a proposal to schedule a public hearing on Camano Island to consider modifying speed limits on portions of East Camano Drive and Arrowhead Road, proposed for June 22 at 3:30 p.m. , Terry's Corner Fire Hall, following the already-scheduled hearing on Ordinance #C-60-99 [R-27-99] regulating speed limits on miscellaneous Camano Island Roads. Mr. Kwarsick reminded that the alternates include alternates for Arrowhead Road as well looking to establish school speed limit, with alternative to consider on the Arrowhead Road speed limit of 35 or 40 mph.

Commissioner Thorn moved Commissioner Thorn moved to schedule a Public Hearing on Ordinance #C-67-99 (R-30-99) and Ordinance #C-68-99 (R-31-99) regulating speed limit on portions of East Camano Drive and Arrowhead Road, on June 22, 1999 at 3:30 p.m., Terry's Corner Fire Hall, 525E. North Camano Drive, Camano Island.

Commissioner McDowell could not second the motion, having gone back and reviewed the file and paperwork from the Board's consideration just a year ago when the Board held a hearing and made a decision. He did not agree there was any reason to reduce the speed from 50 mph on East Camano Drive in light of the speed study results showing that the 85% driven speed is between 53 and 57 mph.

Chairman Shelton recalled that the Commissioners discussed with staff during recent staff session several different ideas; the proposal came back with Alternate #1 [R-31-99] 50 to 40 mph and what is currently 35 would stay 35 mph; and Alternate #2 [R-30-99] 50 to 40 mph and 35 raised to 40 mph. He was willing to consider the proposals at public hearing, his preference being Alternate #2 based on previous public testimony that the big concern was this is the main arterial to the south end of Camano Island and to lower the speed limit unnecessarily restricts and causes people to spend considerable amounts of time in their automobile.

Chairman Shelton seconded the motion, and motion carried by majority vote, Commissioner McDowell voting in opposition.

**Performance & Payment Bond – Alpha Steel Buildings, Inc., Construction of Sign Shop/Equipment Storage Building**

As presented by Mr. Kwarsick and recommended for approval by Dave Bonvouloir, Solid Waste Manager, the Board by unanimous motion, approved Performance and Payment Bond from Alpha Steel Buildings, Inc., the successful bidder for the Construction of Sign Shop/Equipment Storage Building.

**APPROVAL/SIGNATURE ON FINAL PLAT ALTERATION**

Scott Johns, Land Use Review section, Public Works, presented for final approval, an alteration to the existing plat of Whidbey Heights Subdivision (PLP-001/92), Final Plat Alteration #PLA 443/98, Jeff Newhouse, property located north of Strawberry Point, North Whidbey. The project was granted conditional preliminary approval on April 26, 1999 and on review of the Plat Alteration application, Mr. Johns confirmed that conditions of preliminary approval met. County staff therefore recommended that the Board approve Final PLA. The primary purpose of the alteration is that the lots as originally configured were impacted significantly by easements, one in particular, and also want to narrow access to the beach and make it available for one golf cart per parcel owner.

The Board, by unanimous motion, concurred with staff recommendation and approved Final Plat Alteration #PLP

443/98.

### **EXECUTIVE SESSION**

As allowed under RCW 42.30.110(1)(i) the Board met in Executive Session beginning at 11:00 a.m., to discuss with legal counsel representing the County pending potential litigation. The session lasted approximately 1-1/2 hours. No announcement afterwards in open session.

### **1:30 p.m. Workshop: GMA WORKSHOP**

Attendance: Board of Commissioners: Shelton, McDowell, Thorn

Consultant: Keith Dearborn

Staff: Larry Kwarsick; Matt Nash

Public: Approximately 30 + members of the public [*GMA Doc. #4234*].

- Changes in Capital Facilities Plan
- Changes to the Land Use Element of the Comprehensive Plan
- Changes in 17.03, 17.02, 16.14C, & 16.15
- Four issues - Non-Residential Uses:
  1. regulations for guest cottages;
  2. non residential uses and standards in the Rural Zone, Rural Residential Zone, Rural Ag Zone, Rural Forest Zone and Commercial Ag Zone;
  1. signs and lighting in those same zones in those same five zoning classifications; and
  4. non residential design guidelines in those five zoning classes.

A copy of proposed Ordinance #C-63-99 [CD-01-99] Amending the Island County Growth Management Act Comprehensive Plan and Implementing Development Regulations, released today for public hearing June 21, 1999 at 1:30 p.m. [*GMA Doc. #4235*].

Mr. Dearborn noted that The Coalition filed an appeal of the Comp Plan and Development Regulations adopted September, 1998, and identified a number of areas where they felt the Plan and Regulations were deficient. Many areas identified were areas the Coalition admitted and the County felt, had never been raised or addressed and The Coalition agreed with the County to ask the Growth Board to delay a decision on those issues for 90 days to allow the County time for review of those subjects and consider adopting revised regulations. The Growth Board gave a 90 day extension for them to make a decision. The County has to report back to the Growth Board by the end of June as to the action the County is going to take on the four NR issues agreed to be reconsidered [noted above]. Proposed Ordinance #C-63-99 is being released today and members of the public are asked to provide written comments by 14 June for the Board to consider on the 21<sup>st</sup>. If the Coalition finds the changes acceptable, they will advise the Growth Board and dismiss their appeal. If the Coalition finds actions of the Board all or in part not acceptable, the County will be before the Growth Board in hearing on the four issues. The Growth Board decision was received last Thursday but none of those issues are matters for today's discussion, but will be addressed later in the summer. Prior to the hearing before the Growth Board a stipulation was agreed pertaining to certain changes in the Code that were clarifying changes that followed through on and carried out legislative intent of the Board.

There were also two changes [copies also available today – [*GMA Doc. #4236*]. the County agreed to modify, neither believed to be of substance: (1) to the Capital Facilities Plan, and (2) how to make determinations of adequacy. These

are not part of the public hearing on June 21<sup>st</sup>, but will be scheduled for a public hearing sometime in July].

Larry Kwarsick, Public Works Director, provided an overhead presentation [GMA Doc. #4237]. Comp Plan amendments themselves are isolated to the section of the Plan dealing with small scale recreation & tourism uses, and essential public facility policies. The key issues of the proposal before the Board as noted by Mr. Kwarsick were:

- document is balanced and contains some proportionality
- no Non Residential uses have been eliminated from consideration
- reasonable standards are being proposed
- additional opportunities are being offered in the Rural Ag, Rural Forest and Commercial Ag zones.

### **Small Scale Recreation & Tourism Uses**

1. B&B inns – scaled down now to run from 3 to 6 rooms
2. B&B inns - at scaled down version would be conditionally allowed in Rural Forest, Rural Ag and Commercial Ag zones
3. Country Inns now start at 7 rooms

### **Essential Public Facilities**

Under this provision essential public facilities are split into two categories. Comp Plan amendments make sure not to site EPFs on Resource Lands or Critical Areas regulated by the County unless there is a demonstration there is no alternative siting options and restating the fact there needs to be consistency between the siting of essential public facilities within Resource Lands and Critical Area lands and Comp Plan.

### **Code Amendments**

16.14C SEPA. Modification of time frame for issuance of the threshold determination. Code change would result in consolidation of SEPA and the decision-making on the application itself.

19. Land Use Review. Community Meeting concept proposed for the larger non-residential

Type III uses in those five different zones, except home industries and smaller country inns, 20 units or less. Community meeting would be a pre-application requirement held in the area of the project, noticed, primarily held and sponsored by the applicant, with people given an opportunity to speak. Results of that meeting would be presented at the time of application submittal.

Essential Public Facilities - divided into two classes: Class A- large facilities, such as state-wide facilities, community colleges, detention facilities, etc.; and Class B - large facilities related to the County itself, such as school facilities, solid waste facility, etc. Other criteria imposed through essential public facility siting would be the demonstration during the application there be consistency with the Comp Plan and Development Regs, and analysis of alternative sites. To site an EPF in the Rural Forest and Rural Ag zones would require a demonstration of an overwhelming need and the lack of any reasonable alternatives. EPFs would be prohibited from the Commercial Ag zone. Alternative siting would not be required for public schools if the school site has been identified and established in the Comp Plan as a land use for public purpose.

16.15 Site Plan Review. Requires demonstration of the fulfillment of the community meeting. For an EPF there are also pre-application and community involvement requirements. Written statement required for Type III projects on how project was fulfilling standards and criteria for approval [some reasonable narrative explaining how those standards would be fulfilled]. This does not pertain to home industry applications regardless of type or to any type II

minor land use applications for siting NR uses in those 5 zones.

The Site Plan Review Ordinance augmented/added standards:

- no significant adverse environmental impacts that could not be mitigated by reasonable mitigation measures
- for a proposal that has an overriding public benefit and there is a demonstration that every effort has been made to mitigate, the decision makers can approve the Non Residential use  
[ primarily deals with siting of EPFs].
- no undue burden or impact on existing facilities, utilities or services
- total compliance with development and performance standards
- site is physically suitable for the type of use
- location, design and operating characteristics of the development not be detrimental to public interest, health, safety or welfare
- proposal/design must fulfill definition of Rural Character as defined in the Zoning Ordinance
- proposals within Rural Ag and Commercial Ag zones must be located so as to avoid  
prime Ag soils or interfere with Ag use of the land
- decision making authority would have additional opportunities to mitigate impacts for NR uses in these zones and could impose conditions above and beyond those stated in the Ordinance if necessary to preserve the purpose of the underlying zone; conditions must be supported by written findings.

Zoning Code Amendments occur in the Definition Section, Zoning Designations as permitted or conditional uses, and Land Use Standards of the Zoning Ordinance, including revised definition of Agricultural processing; new definition for an animal shelter, conditional uses, essential public facilities, farm housing and farm use, farm produce, farmers markets and forest product stands, forestry processing, kennels and school site.

Highlights from Zoning Designation – Additions to Existing Ordinance. Under the current ordinance all of the uses allowed in the Rural zone that could potentially be sited on a piece of property RA, RF, or CA, if they went through a Farm or Forest Management Plan, for these types of uses now proposed is that a land owner would not have to go through that plan and could actually have the ability to site uses through the conditional use process.

Rural Residential zone contiguous to a mixed use RAID or non municipal UGA

churches would be a conditionally allowed use in RR zone

Rural Forest, Rural Ag and Commercial Ag zone home industry and B&B inns would be allowed as a conditional use. Day Care nursery & small day care centers are additional things that could be allowed in these three zones. Small group homes, 6 or fewer residents, would be allowed as a conditional use.

Surface Mines in the Commercial Ag zones would be prohibited. There is no intent

to prohibit a Forest, Commercial or Rural Ag land owner from the ability to take care of gravel needs by excavating on their own site.

Gift shops, antique stores and craft shops, all non residential uses potentially allowable in the Rural zone, proposal deletes that but would allow them in the array of zones at the home industry scale in the five NR zones.

B&B inns limited to 6 rooms and Country inns start at 7

Small Day Care and group homes limited to 7. Day Care and group homes greater than 7 become NR uses and have to be sited in one of the NR zones.

Home industry divided into two types depending upon the number of employees, size or nature of the home industry [A- Type III application would be more than two employees, not exceeding 5 working or reporting to the site, or if the size is greater than 800 sq. ft. or 50% of the gross floor area but less than 4,000 sq. ft. Type II – stay within the number of employees

or size of operation.

**Home industry** greater than 4,000 sq. ft. no outright prohibition but would need larger parcel to accommodate such an industry.

**Home occupation** clarification: more than one home occupation authorized on a single parcel provided that the number of employees and gross square footage associated with the combination of home occupations falls within the overall

perimeters.

**Retail sales** limited to products and services produced on premise. One full

full time person other than immediately family member being employed in

the home occupation.

Country Inns – No more than 1 Country Inn or B&B Room or Bed & Breakfast Inn operation per contiguous ownership.

7 to 20 rooms requires 10 acre parcel

21 to 30 rooms requires a 15 acre parcel

31 to 40 rooms requires a 20 acre parcel

20 rooms or less does not require a community meeting

B&B Inns – predominant use of the property is still single family residential use; meals for B&B facilities are limited to registered guests; owner lives on property in the single family dwelling unit and there are no more than 6 attached or detached guest rooms.

Personal Mini Storage Facilities. Parcel has to be at least 5 acres. Upper limit of 17,000 sq. ft. gross area of footprints of all building foundations for parcels less than 10 acres in size and 25,000 sq. ft. for parcels greater than 10 acres. Must comply with NR sign standards for rural design, a new section.

Farm and Forest Product Stands. Cap on size of structure in Rural Ag & Rural Forest of 2500 gross sq. ft. Includes seasonal farmers markets as one of the opportunities under this concept. No less than 70% of the gross square foot area of selling space would be dedicated to the sale of perishable farm and produce and plants.

Guest Cottages. No more than one permitted per single family dwelling unit. No more than 35 building permits for

guest cottages shall be issued by the County each calendar year but the County has ability to reconsider this limitation during second annual review of the Comp Plan. Permit application must be submitted in the name of the owner of the lot or parcel. Guest cottage is not to exceed 1,000 sq. ft. of gross floor area regardless of how it is located on the property.

Churches. Parcel has to be at least 2-1/2 acres in size. In the RR zone Churches must be located adjacent to mixed use rural center RAID or non municipal UGA.

Day Care Nurseries, Small Day Care Centers and Day Care Centers. Daycare nurseries and group homes are permitted uses in R, RR, RA, RF or CA zones. Small day care center or group homes 7-12 persons in Rural, Rural Ag, rural Forest or Commercial Ag zones. No structural or decorative alteration allowed which would alter the residential character of an existing residential structure use as a day care/group home.

Golf Courses. Prohibited in Commercial Ag zone. Smaller golf courses, par three 9 or 18 hole, would be Type II decision. Regulation 18 hole would be quasi-judicial Type III decisions. Applications accompanied by design plan and best management practices plan. Use of pesticides, herbicides or fertilizers known to leach into groundwater are prohibited.

Equestrian Centers. Divided into two groups, uncovered and covered. Redefined what would be included in an equestrian center and provided setbacks and operating hours specified.

Restaurants. A 40 seat limit would include any outdoor seating. No greater than 5,000 sq. ft. of gross floor area. No take-out dining or drive-through food service permitted, and fast food restaurant prohibited. Fast Food restaurant is now defined in the ordinance.

RV Park or Campground. Minimum parcel size 5 acres; maximum 10 acres. Density not to exceed 3 per acre of gross land area and the site to be predominated by native forest [which constitutes the open space].

Surface Mines.

Setbacks for mineral & aggregate processing activities

200' to a property line, not owned by applicant; setback may be fulfilled in total or in part by easement controlled by applicant and 400' to any existing residential structure on date of application.

Setbacks for mineral extraction and all other activities, including haul routes:

100' to a property line not owned by applicant; setback may be fulfilled in total or in part by an easement controlled by applicant. Setback may be reduced or eliminated if adjoining parcel is an operating or permitted surface mine, if joint reclamation plans have been developed. Setbacks may be increased when necessary to screen and buffer adjacent uses, to protect lateral support of adjacent properties, or public rights of way.

Screening of operations. Existing vegetation & topographic features which would provide screening and which are within 100' of the boundary of the proposed area

of extraction shall be preserved.

Exceptions:

- Proposed extraction area is not visible from any key viewing areas and

corridors identified in the visual analysis, or

- Screening will be ineffective because of the topographic location of the

site with respect to surrounding properties.

Shooting Ranges. Must be designed, constructed and operated to prevent likelihood of discharge of ammunition beyond boundaries of parcel. Rely on technical guidelines in National Rifle Association's Range manual in development and operation of ranges as well as safety recommendations for outdoor shooting ranges. Requirements for warning and trespass signs. Noise attenuation requirements in the form of substantial berms and barriers.

Design, Lighting, Signage and Landscaping Standards. Applicant has the option of complying fully with building design standards or totally screening development from view of adjacent property, shorelines and roadway vistas.

Buildings designed to appear similar in height, size, placement, style, materials, color and design to residential or AG structures, except that for essential public facilities the approving authority may waive design requirements.

Bright/brilliant colors not to be used. Materials for exterior surfaces of all structures to blend color, hue and tone with characteristics of surrounding natural terrain.

Structures of varying heights clustered together are preferred 35' is the maximum building height [excluding existing structures]

Avoid large doors and blank walls visible from adjacent public road or adjoining private property

Only 1 on-premise sign not exceeding 9 sq. ft. in area allowed; larger signs may be considered if architecturally integrated into and attached to the building.

Externally-lit signs shall be illuminated only with steady, stationary, shielded light sources directed downward on the sign. Internally illuminated signs prohibited.

Exterior lighting is to be energy-efficient, shielded or recessed so that direct glare is contained within boundaries of parcel and light directed downward so light source not visible from adjacent property.

No lighting shall blink, flash or be unusually high intensity or brightness. All lighting fixtures shall be appropriate in scale, intensity and height to the use they serve. Decorating lighting limited to incandescent lamps with maximum wattage restrictions and time frames.

Impervious Surface and Site Coverage. Surface water runoff and changing conditions that occur with development and impact of that change on habitat and water quality. One of the key issues is a definite demonstration of loss of water quality and biologic integrity which happens once above the 10% impervious surface requirements. Under the proposal there is a restriction based upon size of parcel of 25% impervious limit or 5 acres or less in sizes, 10% for parcels greater than 5 acres in size. Building coverage is a percent of the gross area just for

NR uses in these five zones.

Additionally, the County had agreed to make some changes dealing with the Capital Facilities Plan and ICC 11.05 dealing with adequacy procedures, summarizing the changes as follows, to be dealt with later this summer:

1. The change in the Capital Facilities Plan deals with section 3.3.2. Current language states "No approval of a non-exempt development activity, as defined in the implementing ordinance, shall be issued by the county after the effective date of implementation of the Plan, unless there shall be sufficient capacity of Category C and Category D public facilities available to meet the standards for levels of service". The proposal is to delete the words "non-exempt".
2. To clarify under Adequacy, some fail safe procedures that were established in the code but not clearly enough established so as to make sure that under adequacy there is regulatory oversight even if there is lack of response on the part of a system owner, and there is not an automatic determination that the system is adequate.

### PUBLIC COMMENTS

Tom Roehl, Project Planning Services, Freeland, spoke on behalf of himself and the Property Rights Alliance, and commended the County on its efforts and objectives trying to be achieved. He pointed out what he saw as a few glitches that should be addressed.

1. Definition of Surface Mining needs to be clear there is a connection to the DNR trigger point, and distinguish that from a small borrow pit that farmers and foresters may have.
2. Screening requirements for Water tanks. Section in Land Use standards now only refers to screening requirements in the Code.
3. Term "boat launch" in some places changed to "public community" – several places where that was missed.
4. Percentages for farm and forest stands with regard to how much of the area can be dedicated towards perishables versus some retail items should stay 50/30%.
5. Concerns about RV Campgrounds being required in a forest setting – example of concern – State Park at Keystone Ferry Landing.
6. Community Meetings. This unnecessarily attaches requirement to projects just as well served by the normal public hearing requirements in a Type III application [i.e. churches at a certain scale]. There are some small recreation and tourist facilities that would fit in that category as well. Should create a threshold to provide certain things are Type II applications, and consider setting a scale for Type III applications in categories not requiring the community meeting process, which can be very expensive. Key issue with community meetings is vesting; either create a special vesting process for community meetings or allow submittal of application first and stop the clock on the 120 day processing time period.
7. No problem with Essential Public Facilities, but suggest schools be consulted.

Marianne Edain, representing WEAN, Langley, indicated while she had not yet finished detailed editing of the proposal, thus far she found many typographical errors. Over the next few days, she would complete her review and provide editorial comments on those typos. It was her opinion there were some very big parts affected by the Growth Board's decision, i.e. there are many references to EDU's and EDU's are not being discussed any further and need to

be dealt with one way or another. The density bonus system needs to be rewritten in light of the Growth Board's decision Exhibit E, 17.03.180, Land Use Standards, starting at sub-E]. There are internal inconsistencies among other things in 6.19.140. She will provide specifics in writing well before June 14<sup>th</sup>.

With regard to the farm and forest stands, Ms. Edain explained that WEAN asked for a high percent number because to allow other than locally produced goods could open the door for trinket and curio stands all along the highway, not appropriate in rural areas. The intent of community meetings, as WEAN sees it, is that using these meetings is a way to defuse opposition to a project by presenting the proposal to the people and allowing them an opportunity to comment on it, and possible changes made to the proposal before it gets to the application stage.

Standards for essential public facilities and some others Ms. Edain would like to see, such as

standards related to transportation and large facilities, specifically to include other than auto transportation. Intention is to rely less on automobiles and put the infrastructure in place so as the community develops, there will be infrastructure for alternatives to the automobile.

Mr. Dearborn advised that the County would address the changes the Hearings Board identified in its decision in separate legislation. Today's workshop focuses only on those specific issues the County agreed with the Coalition to reconsider.

Don Stewart, Greenbank, representing the Churches in Langley, primarily the Catholic Church with property in Freeland for future growth currently in RAID designation, for the record, submitted a letter from Gerald Moffat, Pastor, Saint Hubert Parish Community, Langley, asking for a variance to allow a church and private school to be built on the property as planned for 37 years. *[[GMA Doc. #4238]*.

John Graham, representing the Citizens Growth Management Coalition, Freeland, stated that the process of the NR uses had been extraordinarily positive, ending up with a good package, fair, more balanced and better coordinated; in many cases, established entirely new regulations and policies in areas where there had been none at all.

The Coalition has some suggestions and questions, and at this time, Mr. Graham submitted a four-page letter for the record representing the Coalition's official position *[GMA Doc. #4239]*. He thought all could be handled with another work session between the Coalition and Mr. Kwarsick which the Coalition would be open to doing. Mr. Graham did not go through the entire comment letter at this time, rather reviewed those comments and suggestions he thought merited the Board's attention now:

### **#3. Conditions of Approval for NR Uses in R, RA, RF and CA Zones.**

1. If a proposed use is of "overriding public benefit" then shouldn't it be an essential public facility and dealt with as such?

1. Determination of "overriding public benefit" is a major determination and should be made through a public process not the approving authority.

### **#5. Procedural Requirements for Essential Public Facilities**

The Coalition believes that two criteria now applied only to Class A facilities dealing with public notification, and proof of public notification, and 2) should also apply to Class B facilities under 16.19.060C. Class B facilities are significant enough to require public notification.

## **#12. Rural Zone Permitted Uses**

Guest Cottages cannot be a permitted use; now negotiating constraints on them.

Prefer that farmer's markets be a conditional use [traffic for them can get extreme on Saturday mornings]

## **#15. Non-Residential Design, Landscape and Screening Guidelines**

Page 59. P.3(A) (vi) add the following goal (9):

"(9) Provision of cover, corridors and habitat for wildlife".

[rationale – to correct an omission].

## **#16. Surface Mining, Standards – Operation 17.03.180 S 4. B) (I) Page 81**

4. Standards – Operation.

b) Setbacks for mineral extraction and all other activities, including haul routes (i):

The Coalition would agree to a 100' setback to a property line, so long as it is conditioned that the easement be specific as to its purpose and be recorded on the deed of the property on which the easement is given in order to protect innocent purchasers.

## **#17. Guest Cottages 17.03.180 I**

The Coalition asked six weeks ago to start a process of negotiation on Guest Cottages but nothing happened until last Friday. Looking at the package there was no change from three months' ago.

One provision for guest houses was an anti-speculation provision, important because

otherwise, knowledgeable developers could take the major share of the annual quota. The Coalition prefers that Section 2 read:

"Permit applications for a Guest Cottage must be in the name of the resident

Owner of the Lot or Parcel; All owners of the Lot or Parcel must be listed.

No owner can have more than one Guest Cottage permit every ten years.".

The Coalition would like to see the County stipulate that if after the end of the second year the County can change the number up or down from 35, that would allow all the provisions of the Guest House to be challenged.

Although Mr. Graham agreed Mr. Roehl raised an interested point about RV Campgrounds, the Coalition's concern is about campgrounds stuck in the worst possible places, hunks of concrete, eyesores. He did not understand how anyone could argue against community meetings, something he thought a wonderful idea. In many instances if there had been an informal public meeting beforehand a lot of travail could have been avoided. The community meeting serves to

inform the public as well as informing the developer. The Coalition rejects the suggestion that vesting rights be expanded because of community meetings.

Mr. Graham ended by saying that the process works, and would love to see the process used in the last two months or so expanded to include other groups. The process depended upon the use of existing County staff and a willingness to listen and to negotiate. This is one of the largest and most complex bundles of issues in the entire Comprehensive Plan and Regulations, created in three weeks at an estimated cost of less than \$5,000.

Rufus Rose, South Whidbey, had a series of questions he asked on record.

1. Island County spent a little over 2.4 million dollars on GMA through April, not including staff time; does the Board have any idea what the upper limit is, and if not, why not.

2. Planning Commission not involved in this draft; how can that comply with the process.

These issues introduced as issues largely never raised in public before.

3. What authority and mechanism is available to a member of the public to appeal any of these

new provisions – does he as a citizen have the authority to appeal, and if he does not, how

would that be consistent with State law and policy of the United States.

While Chairman Shelton thought Mr. Rose would have the right of appeal, Mr. Dearborn explained that he could appeal to court but not the Growth Board.

4. Design Review standard. He was told an inquiry had been made and the person told he

could not use a certain style of appearance, resulting in a real estate transaction collapsing

because staff indicated what the perspective applicant wanted would not be permitted.

Mr. Kwarsick indicated that in this, Mr. Rose was incorrect. There are design review criteria right now in writing, contained mostly in the appendix accompanying the Zoning Ordinance, a design guideline document. The issue is if a project is completely visible to the public then there are design guidelines but not "motif".

Mr. Dearborn went on to confirm that the Planning Commission concluded its actions on that design guideline document; it is not a requirement that an applicant meet the design guidelines, rather, either meet the design guidelines or screen through landscaping or topography the structure so it is not visible. There are illustrations of types of structures that would match the words in the Code. This is a discussion that started this month a year ago.

5. Community meeting concept incredible - wonder what country he is in when Island County

contemplates adding another layer of bureaucracy and expense to what is already an incredibly

expensive process. Common sense needs to be written into the Codes. Rural character in terms of design review depends on whose judgment is being applied.

Mr. Kwarsick confirmed for Mr. Rose that contiguous means as always – one inch of contiguous property is contiguous.

6. Proposed 800 sq. ft. home industry limit precludes any meaningful woodshop, yet is the

kind of thing the Comp Plan goes out of its way to encourage.

7. The numbers [mini-storage] 17,000 sq. ft. of building on a 5 acre parcel would mean less than 8% of a 5 acre parcel could be used.

8. Guest cottage – 35 annual, clearly is a quota and where is the authority to create that kind of quota – a moratorium after a point.

9. Thought Mr. Kwarsick used the term "outrageous" in referring to standards in Type I or Type A, referring to the choice; therefore, the Board should consider that advice – they are outrageous and should be modified.

*[Secretary's note: Tape recording verifies that Mr. Kwarsick did not use the word "outrageous"; rather, he said the standards are not as "onerous" when talking about design, lighting, signage and landscaping standards.]*

10. Nine sq. ft. sign requirements could have outlawed the Red Door on Cultus Bay Road.

When talking about signs, it is important to talk about word area or the frame.

Mr. Kwarsick noted there was a definition of sign area.

11. Proposal preclude shooting in own back yard, constituting a shooting facility?

Mr. Kwarsick confirmed it would not, that this refers to an organized type thing, with memberships, etc.

Mr. Dearborn made the following points for clarification purposes:

- There are two issues the Board is not reviewing now related to NR uses: one, tele-communication towers, the other, schools, because both are reserved in the zoning code for regulation but had no regulation at all. Those are going through the Planning Commission process now, and then to the Board. All of the proposals here are amendments to portions of the Code where standards have already been established.
- There is no elimination of any kind of the uses that were permitted in the Code when it was adopted; all that is being adopted here are standards for the use that in some cases were not developed because no one raised the question [example - height of Non Residential uses in the Rural area].
- There is no appeal of these issues because this matter is pending before the Growth Board.
- The County could have gone through the hearing process. Confident on those matters such as height, sight coverage, signage and lighting the County would have received in the decision, guidance it would prefer not to have received from the Growth Board. The Coalition was also concerned as a matter of policy because issues were being raised they had not raised in the public hearing process and wanted a fair opportunity for the Board to look at those issues. Each member of the Board in looking at the Coalition's appeal agreed if there had been time to talk about height they would have made sure there would be no 4, 5 or 6 story buildings in the rural area and would have dealt with some of these other issues. That is the scope of this review. If the Coalition as the appellant believes their concerns are satisfied, they will withdraw their appeal on those issues; if not it will go through the hearing process. It is the Board of Commissioners who have to decide after public hearing what they adopt.
- County received the Growth Board Order on Thursday. Not everything will always go through the Planning Commission every time the County wants to make a change in the Code; only those that are within the scope of

the review of the Planning Commission will be heard by the Planning Commission.

Mr. Rose contended that this information and or opinion was not understood by the Board, the Planning Commission or the general public. Although the process may be legal, he encouraged the Board reflect on the chance this may establish a model for future behavior. He questioned whether this process fulfilled expectations of the Constitution of the State of Washington.

Commissioner Thorn expressed concern about the insinuation there was almost an "illegal" process going on when in fact there was not. There is a process before the Growth Hearings Board, with appellants that came forward with concerns about the Plan and the Board rightly entitled to talk with those people to try to limit the amount of legal fees on both sides of the fence.

Peggy Berto, Freeland, owns a mobile park and questioned what happens to mobile parks under the proposed regulations.

Mr. Kwarsick stated there were no proposed changes. Mr. Dearborn confirmed that it had been done the way Ms. Berto asked, and the Coalition has not objected at this point to the provisions that would allow that to continue. She is not in rural zoning, but a RAID.

Diane Kendy, Langley, thought that the community meeting aspect for larger projects if in place earlier could have avoided turmoil and agony before the Saratoga Resort application was accepted. She thought the idea was a marvelous concept and strongly supported it.

For the record [*GMA Doc. #4240*], Mr. Kwarsick read from his June 1<sup>st</sup> e-mail message providing a list of the type of projects that would be subject to the proposed community meeting process in the Rural, Rural Forest, Rural Agriculture, or Commercial Agriculture Zones, where conditionally allowed:

Churches;

Country Inns;

Essential Public Facilities;

Gun Clubs and Shooting Ranges;

Mobile Home Parks;

Covered Equestrian Centers;

Schools, not proposed on a designated school site;

Personal Storage facility;

Surface Mines;

Small Scale Tourist and Recreational Facilities such as campgrounds, RV Parks & Restaurants.

Chairman Shelton observed that in spite of the fact that the GMA specifies mineral resource lands as something that needs to be preserved, on one hand, he sees the need to identify those lands while on the other hand, with conditions, there needs to be put in place a way for people to utilize those mineral resources.

Sara Birger, Greenbank, representing herself and the many many people she has been coming into contact with as a new Beach Watcher, new member of the Greenbank Community, thought by and large that the people she meets and talks with support the Board and want to see the issue worked out with the Coalition and would like to hear more about the process. Public meetings are great but difficult for everyone to attend and she suggested things like more letters to the editors, visiting school kids in classes, more interaction. In general the Board is doing a good job but there are some issues she thought that need to be addressed, in particular, rural character and the definition, and the fact that more and more she sees SR525 and SR 20 looking or starting to look like any other mall on the mainland.

Workshop concluded at 3:30 p.m. Everyone reminded of the Public Hearing scheduled for June 21, 1999 at 1:30 p.m. on Ordinance #C-63-99.

There being no further business to come before the Board at this time,  
the Chairman adjourned the meeting at 3:30 p.m., to meet next in  
Regular Session on June 14, 1999, beginning at 9:30 a.m.

**BOARD OF COUNTY COMMISSIONERS**

**ISLAND COUNTY, WASHINGTON**

---

Mike Shelton, Chairman

---

Wm. L. McDowell, Member

---

Wm. F. Thorn, Member

**ATTEST:**

---

Margaret Rosenkranz, Clerk of the Board