

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING**

**REGULAR SESSION - OCTOBER 4, 1999**

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on October 4, 1999, at 9:30 a.m., in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa., with Mike Shelton, Chairman, Wm. L. McDowell, Member, and William. F. Thorn, Member, present.

**VOUCHERS AND PAYMENT OF BILLS**

The following vouchers/warrants, as well as August payroll, were approved for payment by unanimous motion of the Board: **Voucher (War.)** #59094-59301...\$305,872.68.

**Hiring Requests & Personnel Actions**

After presentation and brief summary of proposed personnel action authorizations by Dick Toft, Human Resource Director, the Board by unanimous motion, approved the following:

**PAA # Description/Position # Action Proposed Effective Date**

098/99 Records Clerk 4022.03 New Position 10/4/99

099.99 Cook 4023.02 Replacement 10/4/99

100/99 Dep. Officer 4014.08 Replacement 11/29/99

104/99 Plans Ex./B Ins. 402.02 Replacement 10/8/99

**Resolution #C-120-99 IN THE MATTER OF SUPPORTING THE 1999**

**United Way DRIVE WITHIN ISLAND COUNTY**

The Board, by unanimous motion, approved Resolution #C-120-99 supporting the 1999 United Way Drive within Island County and designating the period of October 4<sup>th</sup> through 27<sup>th</sup> as the Island County United Way Fund Drive.

**IN THE MATTER OF SUPPORTING THE 1999 UNITED ) RESOLUTION C-120-99**  
**WAY DRIVE WITHIN ISLAND COUNTY. )**

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**WHEREAS**, United Way of Island County is a major contributor of funding providing support to various organizations serving community needs for infants, youth, adults, seniors as well the elderly and disabled and those with physical and mental health problems;

**WHEREAS**, many of these programs are proactive and address issues before they become County wide problems, it is in the County's best interest to provide active support to United Way;

**WHEREAS**, United Way returns 92% of funds collected directly back into programs that meet the needs and serve the citizens of Island County;

**WHEREAS**, all employees of Island County are encouraged to remember citizens of the County who find themselves in a time of need and who will benefit from our generosity;

**WHEREAS**, it is requested that each department identify an individual to be the department's 1999 coordinator who can answer questions and provide assistance in the conduct of this years' drive;

**BE IT RESOLVED**, that the Board of County Commissioners designates the period of October 4<sup>th</sup> to October 27<sup>th</sup> as the Island County United Way Fund drive.

**ADOPTED** this 4<sup>th</sup> day of October , 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 99-551

**FINDINGS, CONCLUSION, DECISION: APPEAL BY GARY AND RUTH LEWIS**

An appeal hearing was held on September 13, 1999, on the denial of Boundary Line Adjustment BLA#264/99 by Gary and Ruth Lewis, Applicants/owners, represented by Tom Roehl, T. J. Roehl & Associates, Project Planning & Management Freeland. Each Commissioner provided at public meeting September 27<sup>th</sup> a statement as to the basis for having reached their individual decision on the appeal, from which the Public Works & Community Development Director prepared Findings of Fact and Conclusions of Law and Decision for signature of the Board this date. The Conclusion and Decision was:

"The Board concurred with the applicant that the size of the lots resulting from the sectional subdivision should be considered as a factor in determining whether strict adherence to minimum lot size is impractical, and therefore the provisions of ICC 17.03.060.C.5 apply to the lots created by BLA #264/99. The Board finds the denial of BLA 264/99 was in error and directs the Community Development Division of Public Works to approve BLA #264/99"

Commissioner McDowell moved approval of the Board's Findings, Conclusion and Decision in the matter of the appeal by Gary and Ruth Lewis on the denial of Boundary Line Adjustment BLA#264/99. Motion, seconded by Commissioner Shelton, carried by majority vote; Commissioner Thorn voted in opposition.

**BOARD OF ISLAND COUNTY COMMISSIONERS**

**FINDINGS, CONCLUSION, DECISION**

**APPEAL BY GARY AND RUTH LEWIS - AN APPEAL OF THE DENIAL OF BOUNDARY LINE ADJUSTMENT (BLA) #264/99 BY THE COMMUNITY DEVELOPMENT DIVISION OF PUBLIC WORKS**

**BACKGROUND**

Gary and Ruth Lewis (Appellant) through their agent Thomas J. Roehl filed an appeal of the denial of Boundary Line Adjustment (BLA) #264/99 by the Community Development Division of Island County Public Works denying a boundary line adjustment of two parcels R32934 -139-1980 and R 32934 -098-2010. The proposed BLA would result in two lots, one being 4.72 acres the other being 20.02 acres. The existing lots are 5.63 acres and 19.13 acres, respectfully. A BLA is classified as a Type I pursuant to ICC 16.19.040.B and is appealable only by the applicant to the Board of County Commissioners.

The Board of Island County Commissioners (BOICC) held a Public Hearing on September 13, 1999 for the purpose of conducting an open record appeal hearing on the denial of Boundary Line Adjustment BLA#264/99. As indicated on September 13, 1999, according to the procedure to hear appeals, each Commissioner provided at public meeting on September 27, 1999, a statement as to the basis for having reached their individual decision on the appeal [Attachment A; Attachment B]

### **FINDINGS OF FACT**

The following two Island County Codes (ICC) are of particular interest in this appeal.

ICC 17.03.060.C.5. – Lot/Density

ICC 16.06.070.A. Criteria for Approval of a Boundary Line Adjustment, Paragraphs 1., 2., 3., and 4.

The question before the Board is "Was the denial of BLA #264/99 correct and in accordance with Island County Code?" To answer the question one needs to determine if ICC 7.03.060.C.5. is applicable to BLA 264/99 and if so, do the lots:

fall within the 10% size reductions requirements; and

meet the test for special factors requirements mentioned in ICC 17.0.060.C.5?

While a BLA does not create an additional lot, new parcels are in fact created by BLAs. BLAs result in the reconfiguration of boundary lines and the assignment of new parcel numbers by the Island County Assessor. ICC 17.03.060.C.5 is silent as to its application to specific types of actions that create Lots, however ICC 17.03.060.C. #'s 2, 3, and/or 4 specifically refer to Subdivisions, Short Subdivisions and/or PRDs. Its is therefore the opinion of the Board that ICC 17.03.060.C.5. is applicable to all regulated and unregulated actions that create Lots, including BLAs.

The Board determines that ICC 17.03.060.C.5. is not specific of those factors that make strict adherence to minimum lot size impractical. Applicant is determinative of those factors.

For BLA #264/99 the parcels to be created would be created after the effective date of Chapter 17 as required by ICC 17.03.060.5. For BLA #264/99 the Base Density at the time of submission was 5 Acres. Therefore the 4.72 Acre Lot to be created is larger than the minimum size of 4.5 Acres allowed under the 10% reduction rule found in ICC 17.03.060 C. 5. The applicant's agent submitted testimony to the BOICC that the sectional subdivision produced lot sizes less than the nominal lot sizes, and therefore the strict adherence to the minimum lot size was impractical.

### **CONCLUSION OF LAW AND DECISION**

The Board concurs with the applicant that the size of the lots resulting from the sectional subdivision, should be considered as a factor in determining whether strict adherence to minimum lot size is impractical, and therefore the provisions of ICC 17.03.060.C.5 apply to the lots create by BLA#264/99.

The Board finds the denial of BLA 264/99 was in error and directs the Community Development Division of Public Works to approve BLA #264/99.

DATED this 4<sup>th</sup> day of October, 1999.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

(voted No: William F. Thorn, Member]

ATTEST: Margaret Rosenkranz,

Clerk of the Board

BICC 99-546

**Contract Amendment – DSHS/Division of Child Support**

**Federal IV-D Fund Reimbursement**

The Board, by unanimous motion, approved and signed Contract Amendment with the Washington State Department of Social and Health Services, Division of Child Support, which will allow the reimbursement of a percentage of all services relating to Title IV-D child support activities handled by the Court and will be retroactive to July 1, 1999. The maximum estimated amount for reimbursement to Island County is \$2,949.28

**Claim for Damages R99-034CD, Larson Heating**

Betty Kemp, Director, GSA/Risk Management, addressed Claim for Damages #R99-034CD filed by Larson Heating September 1, 1999 alleging damages as a result of rock thrown by County mower hitting passenger side front fender of van. The Claim was reviewed by the Road Shop Supervisor as well as the County Engineer, both verifying and recommending claim be paid. Mrs. Kemp concurred with that recommendation.

By unanimous motion, the Board approved Claim for Damages R99-034CD by Larson Heating based on Risk Management recommendation.

**Claim for Damages R99-029CD, Paul D. Harell**

Mrs. Kemp, submitted recommendation with regard to Claim for Damages #R99-029CD by Paul Harell. Claim was filed with Risk Management on August 10, 1999, alleging injury to foot while an inmate in the Island County Jail, now an inmate in the Clallam County Correctional Facility. Claim was reviewed by the Island County Sheriff's Office, with report on file dated September 28, 1999, and recommends denial of the Claim. Mrs. Kemp concurred with the recommendation of denial.

The Board by unanimous motion accepted the Risk Manager's recommendation and denied Claim for Damages R99-029CD by Paul D. Harell.

**HEALTH CONTRACTS APPROVED**

Having discussed with Health Department personnel recently at staff session, the Board by unanimous motion, approved the following contracts:

Contract #HS-08-99, in the amount of \$6,976, Island County and the Center for Community Support [developmental disabilities – 3 month bridge contract]

Contract #HD-07-99, in the amount of \$32,336, for School Health Specialist Services – with Island County and the South Whidbey School District

**PUBLIC INPUT**

Pete Friedman, 5201 S. Bercot Road, Freeland, requested a time where he could meet with the Commissioners and talk about issues related to Bercot Road. The ditches there are functioning barely. He lives along Bercot Road and receives the water from two different directions from the County ditches. During storm events several years' ago there was some flooding and Mr. Friedman took corrective action at that time and paid for the damage to his property then. He is most concerned about the future. There are a number of areas uphill currently undeveloped and for sale, and he can foresee some changes in the near future that will affect runoff in that area and he is not confident that facilities are adequate to handle

much more future development.

**Follow-up:** Chairman Shelton will talk to the Public Works Director, Larry Kwarsick, to see if there has been any further developments that perhaps have not been communicated to folks living along Bercot Road about what the County may already be doing. Also, he will ask that Mr. Kwarsick schedule this issue for discussion at Staff Session on October 20<sup>th</sup> and ask that Mr. Friedman be called and advised of the time the matter will be discussed during the Public Works agenda between 9:00 and 11:30 a.m.

### **Grant Agreement – Salmon Recovery Lead Entity Grant**

Grant Agreement with Washington State Department of Fish & Wildlife, was presented for approval of the Board, relating to a Salmon Recovery Lead Entity Grant. Julie Buktenica, Watershed Coordinator, explained that the grant would pay for the County to be the lead entity in the salmon recovery for the Water Resource Inventory Area [WRIA-6]. Other cities or community group funds available through the State would go through the County as lead entity in obtaining those grant funds. Other work the County will do includes working with the Health Department on stream gauge study and a well study, creek and estuary survey. Funds for the project include \$100,000 grant funds from Fish & Wildlife, with a \$50,000 cash match from Island County Road Fund. These particular funds are not for capital projects. One of the deliverables will be a project list working with salmon technical advisory group made up of agency representatives led by Washington Conservation Commission. The project list will go to public review to allow citizen input.

Mr. Kwarsick's opinion was that use of the \$50,000 cash match from the Road Fund was a legitimate use of the Road Fund. All the matching funds for watershed plans to date have come from the Road Fund because of the overriding importance of the roadway system and its drainage functions.

By unanimous motion, the Board approved Grant 99-1196B with Washington State Fish & Wildlife for Lead Entity for Salmon Recovery.

### **HEARING HELD: renewal of Franchise #312R, Sunset Development Community Club existing water distribution system**

A Public Hearing was held at 10:20 a.m. as scheduled and advertised for the purpose of considering the renewal of Franchise #312R, Sunset Development Community Club, an existing water distribution system in Appian Way, Best Road and Torrence Lane, Section 19, T33N, R2E.

Mr. Kwarsick confirmed that County Engineer, Lew Legat, by letter dated September 16, 1999, reported that the existing system was constructed in County rights-of-ways. There are no current plans for expansions of the system. Sunset Development Community Club will upgrade the system in the future and at that time will apply to the County for necessary permits/approvals. Departments requested to comment have responded with no objection to the franchise. The franchise has been reviewed and approved as to form by the Deputy Prosecuting Attorney and the County's Risk Manager.

Commissioner McDowell questioned intent of item #15 of the franchise:

"The holder of this franchise should remove any asbestos pipe from County right-of-way. However, it may be abandoned in place subject to the responsibility to remove and dispose of said asbestos pipe at some future date as may be required by the County should future road maintenance construction or improvement so dictate."

Mr. Kwarsick explained intent of section #15 was encourage franchise holder to remove asbestos pipe, and suggest that the County does not want to pick up any financial or legal responsibility to remove asbestos pipe in the future should the water distribution system abandon the pipe.

Dick Rezabek, Sunset Development Community Club Secretary, stated that all plumbing is PVC; valves are brass. The pipe down to the well is cast with a plastic insert. Section #15 of the franchise does not affect this water distribution system.

The Chairman pointed out a typographical error in Section #16, the word "fist" should be corrected to read "first".

No other members of the public spoke for or against said franchise.

The Board, by unanimous motion, approved the renewal of Franchise 321R, Sunset Development Community Club's existing water distribution system, with correction of the typographical error in Section #16.

**PUBLIC HEARING SCHEDULED: Ordinance #C-119-99 (PLG-032-99), regarding Freeland and Clinton**

The Board, by unanimous motion, on presentation from Planning Staff, scheduled Ordinance #C-119-99 (PLG-032-99), regarding Freeland and Clinton for public hearing on October 18,

1999 at 1:30 p.m. [GMA doc. # 4849]

**PUBLIC HEARINGS SCHEDULED: Ordinance #C-121-99 Oak Harbor Interlocal Agreement AND Ordinance #C-122-99 Oak Harbor**

**UGA Zones, Goldie Road Industrial Zones**

By unanimous motion, the Board scheduled Ordinance #C-121-99 (PLG-043-99) Oak Harbor Interlocal Agreement [GMA doc. #4850] and Ordinance #C-122-99 (PLG-044-99), Oak Harbor UGA Zones, Goldie Road Industrial Zones [GMA doc. # 4851], for public Hearing on October 25, 1999 at 2:45 p.m. Note: staff also provided for the record information regarding: ZAA-CPA 723/99 UGA Industrial zone [GMA doc. #4797].

**PUBLIC HEARINGS SCHEDULED: Penalties and Enforcement;**

**Signs and Lighting; Cultural Centers**

The Board, by unanimous motion, scheduled for Public Hearing on December 6, 1999 at 1:30 p.m. the following ordinances, presented at this time by Phil Bakke, Comprehensive Plan Manager:

Ordinance #C-123-99 (PLG-028-99), regarding Penalties and Enforcement [GMA doc. # 4852]

Ordinance #C-124-99 (PLG-030-99), regarding Signs and Lighting [GMA doc. # 4853]

Ordinance #C-125-99 (PLG-031-99), regarding Cultural Centers [GMA doc. # 4854]

**GMA PUBLIC HEARINGS HELD:**

**Ordinance #C-98-99 (PLG-025-99) Rural Forest & Commercial Ag Zones**

**Ordinance #C-109-99 (PLG-038-99) Zoning Atlas for Langley UGA-L**

**Ordinance #C-110-99 (PLG-039-99) Modified Findings & Legislative Intent – RAIDs**

A Public Hearing was held at 10:45 a.m., as advertised and scheduled for hearing, on the above noted three Growth Management related Ordinances.

**Attendance:**

Staff: Keith Dearborn, Phil Bakke, Jeff Tate, Vince Moore

Public: John Graham and Bill Sievers [Attendance Sheet **GMA Doc. #4840**]

**Ordinance #C-98-99 (PLG-025-99) Rural Forest & Commercial Ag Zones**

The Public Hearing on Ordinance #C-98-99 (PLG-025-99) Rural Forest & Commercial Ag Zones was continued from August 23, September 13, and September 27, 1999. Today's hearing as far as public comment is specifically to be to on a proposed amendment as discussed at the previous hearing.

As the Board requested at last Monday's hearing, Mr. Dearborn drafted a revision to the ordinance responding to concerns that both the Coalition and Larry Kwarsick raised about unintended consequences sent via e-mail on September 29, 1999.

The amendment was reviewed by Larry Kwarsick who advised Mr. Dearborn it satisfied the concern he had raised [GMA Doc. # 4841]:

"Modify ICC 17.03.100.E and ICC 17.03.110.E as follows:

5. The Lot size limitation set forth above shall not apply when:

a. the new Lot is to be sold, exchanged or transferred through boundary line

adjustment pursuant to Chapter 16.06 ICC to an adjacent RF, CA or RA property Owner who will continue to maintain Permitted or Conditional Uses; or

b. an Existing Lot is proposed to be modified through a boundary line adjustment

and will not subsequently be further modified in size or used in combination with unregulated subdivision such that new Lots are created that are less than the required minimum lot size."

Correction noted: b) second line "is" needs to be corrected to "in" . Paragraph a) is existing language that is no longer proposed to be struck out.

### Public Comment

John Graham, Citizens Growth Management Coalition, confirmed that he had received a copy of the proposed amendment via e-mail. He thought the Coalition's concern was met, which had been that the ratcheting effect be stopped.

No others spoke either for or against the proposed amendment to Ordinance #C-98-99.

Mr. Dearborn described conceptually what is being done:

If you have an existing lot, a lot that existed on December 1, 1998, legally established, in either CA or RF, you can create a new lot if you are subsequently transferring that lot to an adjacent farmer or forester; or for an existing lot you can modify its boundaries through a boundary line adjustment irrespective of the minimum lot size; after that, must comply with the minimum lot size to make any further changes, and that small lot cannot be used in combination with a larger lot in some kind of lot creation modification process if trying to in any way create further lots that are less than the minimum lot size.

The Commissioners agreed that was the intent.

By unanimous motion, the Board adopted Ordinance #C-98-99, PLG-025-99, in the matter of amending Chapter 17.03 ICC regarding the Rural Forest and Commercial Agriculture Zones,

modified today with the proposed language dated 9/29/99 reading:

5. The Lot size limitation set forth above shall not apply when:

a) the new Lot is to be sold, exchanged or transferred through boundary line

adjustment pursuant to Chapter 16.06 ICC to an adjacent RF, CA or RA

property Owner who will continue to maintain Permitted or Conditional Uses; or

b) an Existing Lot is proposed to be modified through a boundary line

adjustment and will not subsequently be further modified in size or used in

combination with unregulated subdivision such that new Lots are created that are

less than the required minimum lot size."

[GMA doc. #4842]

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

IN THE MATTER OF AMENDING )

CHAPTER 17.03 ICC REGARDING THE ) ORDINANCE C-98-99

RURAL FOREST AND COMMERCIAL ) PLG-025-99

AGRICULTURE ZONES )

**WHEREAS**, in order to comply with the June 2, 1999 Final Decision and Order of the

Western Washington Growth Management Hearings Board, the Board of Island County

Commissioners adopted on July 12, 1999, certain amendments to the Rural Agriculture Zone through Ordinance C-76-99; and

**WHEREAS**, the Board upon adoption of these amendments to the Rural Agriculture Zone determined that it would be appropriate to modify ICC 17.03.100.E.5 and ICC 17.03.110.E.5 so that these subsections are the same as the amendment adopted for ICC 17.03.090.E.5; and

**WHEREAS**, in 1998, the County completed environmental review under Chapter 43.21C RCW, SEPA, on its Comprehensive Plan and Development Regulations including the Rural Agriculture Zone; and

**WHEREAS**, pursuant to WAC 197-11-600, the County SEPA official has determined that the proposed changes to Chapter 17.03 ICC are not likely to have significant adverse environmental impacts that were not considered in the environmental documents prepared for the Comprehensive Plan and Development Regulations; **NOW, THEREFORE**,

**IT IS HEREBY ORDAINED** that the Board of Island County Commissioners hereby

adopts the amendments to Chapter 17.03 ICC attached hereto as Exhibit A. Material stricken through is deleted and material underlined is added.

Reviewed this 2<sup>nd</sup> day of August, 1999 and set for public hearing at 3:30 p.m. on the 23<sup>rd</sup> day of August, 1999.

**BOARD OF COUNTY COMMISSIONERS OF**

**ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

**ATTEST:**

Margaret Rosenkranz,

Clerk of the Board

BICC 99-446

APPROVED AS MODIFIED [per attached] AND ADOPTED this 4<sup>th</sup> day of October, 1999.

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

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

**ATTEST:**

Margaret Rosenkranz,

Clerk of the Board

**APPROVED AS TO FORM**

as to original proposal and original Exhibit A

David L. Jamieson, Jr. 8/2/99

Deputy Prosecuting Attorney

& Island County Code Reviser

*[Secretary's note: Exhibit A and modification noted are on file with the Clerk of the Board]*

**Ordinance #C-109-99 (PLG-038-99) Zoning Atlas for Langley UGA-L**

Jeff Tate referenced the set of maps attached to proposed Ordinance #C-109-99, and noted that Jack Lynch, Langley Planning Director, by phone requested one of the maps be modified. At this time, Mr. Tate presented modification to Map 726 as requested by Mr. Lynch and explained the change was on the left hand side of the Map: a corn-cob or pipe shaped piece of property that says "Town of Langley" – which on the corrected map reflects the correct designation as a public facility. The zone is still UGA-L and this is consistent with the Comprehensive Plan. Arrows point to what the properties were and Mr. Tate added a dashed line to further clarify the difference within the UGA-L for the potential zoning to point out a distinction between the north half and the south half.

After some discussion and noting the confusion the dashed lines cause and could cause in the future, everyone agreed that the dashed lines on the right be taken out on Modified Map 726. And Mr. Tate agreed that change would be a more "user-friendly" change.

**Public Comment.** No one in the audience spoke either for or against Ordinance #C-109-99 or modified Map 726.

By unanimous motion the Board adopted Ordinance #C-109-99, PLG-038-99 in the matter of Amending the Island County Zoning Atlas to Implement the Adopted Langley Interlocal Agreement, with the addition of modified Map #726 [GMA doc. #4848] indicating the public facilities for Langley, including deleting the dashed lines to the right of the public facilities.

*[GMA doc. #4847].*

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

<p>IN THE MATTER OF AMENDING THE</p> <p>ISLAND COUNTY ZONING ATLAS TO IMPLEMENT THE ADOPTED LANGLEY</p> <p>INTERLOCAL AGREEMENT</p>	<p>)</p> <p>) ORDINANCE C- 109-99</p> <p>) PLG-038-99</p> <p>)</p>
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**WHEREAS**, on June 28, 1999 the City of Langley and Island County executed an Interlocal Agreement to govern land use decisions within the Langley UGA; and

**WHEREAS**, public hearings were held on February 22, 1999, April 5, 1999, April 19, 1999, May 3, 1999, May 17, 1999, June 21, 1999 and June 28, 1999 to receive public testimony on the proposed Agreement; and

**WHEREAS**, the Board of Island County Commissioners adopted ordinance C-100-99, amending Chapter 17.03 ICC to implement the Langley Interlocal Agreement officially creating the Urban Growth Area – Langley (UGA-L) Zone; and

**WHEREAS**, in 1998, the County completed environmental review under Chapter 41.21C RCW, SEPA, on its Comp Plan and Development Regulations including the Langley Urban Growth Area; and

**WHEREAS**, pursuant to WAC 197-11-600, the County SEPA official has determined that the proposed changes to the Zoning Atlas relating to the adopted Langley Urban Growth Area are not likely to have significant adverse environmental impacts that were not considered in the environmental documents prepared for the Comp Plan and Development Regulations; and

**WHEREAS**, amendments to the Island County Zoning Atlas are needed to implement the adopted Langley Interlocal Agreement; **NOW, THEREFORE**,

**IT IS HEREBY ORDAINED** that the Board of Island County Commissioners hereby adopts the amendments to the Island County Zoning Atlas attached hereto as Exhibit A to implement the adopted Langley Interlocal Agreement.

Reviewed this 13<sup>th</sup> day of September, 1999 and set for public hearing at 10:45 a.m. on the 4<sup>th</sup> day of October, 1999.

**BOARD OF COUNTY COMMISSIONERS  
OF**

**ISLAND COUNTY, WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

**ATTEST:** Margaret Rosenkranz

Clerk of the Board

BICC 99-508

APPROVED, WITH MODIFICATION TO MAP 726, AND ADOPTED this 4<sup>th</sup> day of October, 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

*[ note: Exhibit A on file with the Clerk of the Board]***Ordinance #C-110-99 (PLG-039-99) Modified Findings & Legislative Intent – RAIDs**

Mr. Tate presented Ordinance #C-110-99, in the matter of Amending the Findings of Fact of the Island County Comprehensive Plan and Development Regulations Pertaining to Areas of More Intensive Rural Development. The Ordinance proposes changes to Ordinance #C-95-99 adopted on August 23, 1999 as follows:

Delete Finding #75 concerning conservation easements for Bayview and Livingston

Bay Heights

Finding #77 through #85. Language reflected from Growth Board Hearing Order

and going through RAID by RAID reiterating what the Hearings Board said for

each RAID and County response for each of those RAIDs.

Charts attached show those changes. The shaded areas show the new revised RAIDs

under what had been the old RAID boundary and totals for each region, and Island

County total.

Additional page shows parcel size break down chart of what was adopted on 9-28-99

and the revision as of October 4, 1999.

At this time, Mr. Tate presented one additional suggested Finding, No. 86: [GMA doc. #4843]

86. Revised statistics tables are attached which show changes in estimated theoretical development potential and parcel/lot statistics. In summary, the changes to respond to the Growth Board order reduce RAID acreage by 1,026 acres (10%) and the theoretical development potential of RAIDs by 670 lots (gross) or 240 lots (net).

Mr. Tate confirmed that the change requested is on the map for Useless Bay/Bayview RAID reflecting the 4-1/2 acre corner, although there is no specific finding associated with that particular piece of property.

**Public Comments**

John Graham, Citizens Growth Management Coalition, commented that by and large he and the Coalition had been happy to work with the County in all remand issues; however, the RAID issue was not one the Coalition received a fair hearing on, referencing the Coalition's letter 8/20/99 to the Board [GMA doc. #4625 ]; an e-mail from Mr. Graham to Mike Shelton on 8/24/99 [GMA doc. # 4643] complaining that all the Coalition's points on RAIDs were dismissed out of hand

and everyone else's got discussed but theirs; and a letter from the Department of Ecology dated 9/9/99 concerning the West Beach RAID [GMA doc. #4743]. The Coalition does not agree with the remand actions taken on RAIDs, in particular, the Bayview RAID, quoting from the 8/20/99 Coalition letter:

"Bayview. We note that the County has added an area of approximately 150 acres that lies West of Bayview road and extends from Gabelein Road on the south to Howard Road on the north. We know of no development or platting in this area and do not agree that it should be included."

Mr. Graham advised that when the time came, the Coalition would inform the Growth Board about its disagreement with those RAIDs.

No further comments were made from members of the public.

By unanimous motion, the Board approved Ordinance #C-110-99, PLG-039-99 with the additional Finding of Fact No. 86 presented this date by Jeff Tate. [GMA doc. # 4844]

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

IN THE MATTER OF AMENDING THE FINDINGS OF FACT OF THE ISLAND COUNTY COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS PERTAINING TO AREAS OF MORE INTENSIVE RURAL DEVELOPMENT.	) ) ORDINANCE C-110-99 ) PLG-039-99 ) )
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**WHEREAS**, various parties filed petitions with the Western Washington Growth Management Hearings Board ("Board") to review Island County's adopted GMA Comprehensive Plan (Comp Plan) and Development Regulations; and

**WHEREAS**, the Board entered its Final Decision and Order on June 2, 1999; and

**WHEREAS**, the Board found the logical outer boundaries of eight Rural Residential RAIDs invalid and therefore modified boundaries are needed to govern land use in these RAIDs. The specific RAIDs are:

1. Harrington Lagoon
2. Lands Hill
3. Livingston Bay Heights
4. Penn Cove
5. Teronda West
6. Useless Bay/Bayview
7. West Beach

1. West Deer Lake

**WHEREAS**, the Board also found the density permitted in the Livingston Bay Heights RAID invalid; and

**WHEREAS**, on August 23, 1999, the Board of Island County Commissioners adopted ordinance C-095-99, amending Chapter 17.03 ICC changing the density of the Livingston Bay Heights RAID; and

**WHEREAS**, on August 23, 1999, the Board of Island County Commissioners adopted ordinance C-095-99, amending the Island County Zoning Atlas changing the boundaries of Harrington Lagoon, Land's Hill, Livingston Bay Heights, Penn Cove, Teronda West and Useless Bay/Bayview and providing additional information to the Growth Management Hearings Board for the West Beach and West Deer Lake RAIDs; and

**WHEREAS**, amendments to the Findings of Fact are needed to reflect the amendments to the Zoning Atlas and 17.03 ICC; **NOW, THEREFORE**,

**IT IS HEREBY ORDAINED** that the Board of Island County Commissioners hereby adopts the amendments to the Findings of Fact for Areas of More Intensive Rural Development.

Reviewed this 13th day of September, 1999 and set for public hearing at 10:45 a.m. on the 4<sup>th</sup> day of October, 1999.

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

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

**ATTEST:**

Margaret Rosenkranz

Clerk of the Board

BICC 99-516

APPROVED AS MODIFIED WITH 86 AND ADOPTED this 4<sup>th</sup> day of October , 1999.

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

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

**ATTEST:**

Margaret Rosenkranz

Clerk of the Board

**APPROVED AS TO FORM:**

David L. Jamieson, Jr.  
 Deputy Prosecuting Attorney  
 & Island County Code Reviser

*[note: Amendments to Findings of Facts, along with Modification to Finding #86, are on file with the Clerk of the Board]*

**Resolution #C-126-99 (PLG-027-99) In the Matter of Amending chapter 17.03 Island County Code Regarding Impact Fees**

Phil Bakke, Comprehensive Plan Manager, presented Resolution #C-126-99 (PLG-027-99), regarding Impact Fees resulting from the 1999 Comprehensive Plan Annual Review Cycle. Comprehensive Plan Amendment CPA 706/99 is an application regarding a request to require that Island County commission a study to initiate a study to implement impact fees. The application was submitted by John Graham on behalf of the Citizens Growth Management Coalition January 23, 1999. The Planning Commission held two public hearings on the proposed amendment: June 8, 1999 in Coupeville and July 7, 1999 on Camano Island.

He summarized the Planning Commission Findings [Exhibit 1 to the ordinance]:

The County Road system has been determined to be adequate from level of service [LOS] and funding basis through the year 2020 using the high population projections; that Island County Parks meets LOS standards through 2020; that no school district in Island County expressed any formal opinion or interest in the initiation of impact fees during this process; the placement of impact fees would inhibit the County's efforts to achieve affordable housing; and recommended that the Board deny the application. He explained that typically it is up to the school district to address the County and ask for initiating impact fees. One issue discussed in great detail by the Planning Commission was that two of the school districts, possibly three, were experiencing declining enrollment and in that situation, would be unable to impose impact fees since impact fees are associated with new additional students. Again, at this point in time there has been no school district that has approached the County about impact fees.

**Public Comments.**

John Graham, speaking as the President, Citizens for Sensible Development [CSD], stated that CSD and the Coalition would continue to try for impact fees and a study to be done, believing

there was enough evidence to at least merit a thorough study and did not agree with the Planning Commission's denial.

Bill Sievers, Freeland, disagreed with Mr. Graham's view and agreed with the recommendation of the Planning Commission that impact fees are not necessary.

There were no other comments from members of the public.

**Board Deliberation:**

Commissioner Thorn stated that in all conscience he could not support the recommendation of denial by the Planning Commission regarding impact fees, for several reasons:

- As long as the County maintains a practice with regard to the road system of shoving projects off into the future until the residual projects match the dollars available there will never be a demand; and if looking at the timeliness of those, that is not always born out.
- Where the Planning Commission stated that none of the school districts in Island County expressed any formal opinion or interest in initiating impact fees, the Stanwood-Camano School District did come before the Board several years back to request impact fees and were directed to talk to several larger builders on Camano regarding mitigation fees in two specific developments. That School District recently passed a \$25 million bond issue imposing significant additional taxes on taxpayers of the District, which could have been

reduced if impact fees would have been collected when originally requested.

- The statement by the Planning Commission referring to RCW 82.02.060(2) indicating that provides for an exemption from impact fees for low income housing but does not provide for affordable housing is misleading. The statute reads that it may provide an exemption for low income housing "and other development activities with broad public purposes".

Affordable housing is a subject of broad public purpose.

For those reasons, Commissioner Thorn could not support Resolution #C-126-99/PLG-027-99.

Commissioner McDowell commented that the Stanwood-Camano School District system had the opportunity to do what was required, i.e. development of a capital facilities plan and formally request [i.e. by letter] impact fees; to date that has not occurred. Today was another opportunity for the District to have done that. Impact fees are for new impacts and cannot be used for addressing existing problems. For the topics covered by impact fees, that has not been demonstrated as a problem. He agreed with the Planning Commission on this issue.

Chairman Shelton was opposed to impact fees. He recalled that several years' ago the then Superintendent of the South Whidbey School District said he did not want to impose impact fees on South Whidbey because the minute impact fees were imposed another levy would never be passed. While the Chair understood the costs associated with building two new schools on Camano, he did not think the levy Commissioner Thorn mentioned being split between two counties passed by an overwhelming margin and it is quite possible that had that school district imposed impact fees the levy would have failed. He mentioned too that he thought the \$25 million could not be generated through impact fees in the six year time frame required. While

Commissioner Thorn suggested the County puts out into the future some road projects, the Chairman thought it was important to understand that impact fees are for improving roads for the purpose of bringing an LOS into compliance, and in Island County that has not been demonstrated in the capital facilities plan as being necessary. A study was done by the Public Works Department who found that in this County the goals can be achieved, even with the high population figure, by 2020 without imposing impact fees, and that being said did not think the basis exists to impose impact fees.

Commissioner McDowell moved approval of Resolution #C-126-99, PLG-027-99 in the matter of amending chapter 17.03 Island County Code regarding Impact Fees. Motion, seconded by Chairman Shelton, carried by majority vote; Commissioner Thorn voted in opposition. [GMA doc. #4845]

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

IN THE MATTER OF AMENDING CHAPTER 17.03, ISLAND COUNTY CODE REGARDING IMPACT FEES	)  ) RESOLUTION C-126-99  ) PLG-027-99
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**WHEREAS**, the application concerning Impact Fees, CPA 706/99 attached as Exhibit A, was submitted in accordance with Section 16.26 Island County Code and forwarded to the Planning Commission with a report from the Planning Department within the prescribed time period; and

**WHEREAS**, the Island County Planning Commission held two public hearings on the proposed amendments on June 8, 1999 in Coupeville, WA and July 7, 1999 on Camano Island, WA and the Findings of Fact are attached as Exhibit "1"; and

**WHEREAS**, the County road system and Island County parks meet the level of service standards through the year 2020, and the school districts in Island County have not expressed an interest in impact fees; and

**WHEREAS**, Island County recently considered implementation of impact fees as a part of the adoption of the County GMA Comprehensive Plan and Implementing Regulations and found impact fees to be unnecessary. **NOW, THEREFORE,**

**IT IS HEREBY RESOLVED** that the Board of Island County Commissioners hereby considers the proposed application for Impact Fees, attached hereto as Exhibit A, to be unnecessary in Island County at this time and is denied.

ADOPTED this 4<sup>th</sup> day of October, 1999.

**BOARD OF COUNTY COMMISSIONERS  
OF**

**ISLAND COUNTY, WASHINGTON**

*Mike Shelton*, Chairman

[Voted No: Wm. F. Thorn, Member]

*Wm. L. McDowell*, Member

**ATTEST:** Margaret Rosenkranz

Clerk of the Board

ee\c:\Res-Ord\PLG-027-99

BICC 99-566

**Resolution #C-127-99 (PLG-029-99) In the Matter of Amending Chapter 17.03 Island County Code regarding a UTILITIES element**

Vince Moore, Planning Director, presented Resolution #C-127-99 (PLG-029-99), regarding an application for the Utilities Element, Comprehensive Plan Amendment #707/99, also the result of the 1999 Comprehensive Plan Annual Review Cycle, submitted by John Graham on behalf of Citizens for Sensible Development January 23, 1999.

This was an issue before the Planning Commission at public hearing on June 24, 1999. At that time the original application language was proposed to be revised in its entirety by the applicant, but as Mr. Moore pointed out, the Code does not provide for the amendment of a proposed Comprehensive Plan amendment after its original submittal docket, establishment and consideration and report by the Planning Department. The Planning Commission looking at the proposed revision decided that would be appropriate to deny the revision without prejudice and deny it on procedural grounds that it was not submitted in a timely fashion. Mr. Moore clarified that while the notice and agenda indicate the applicant withdrew the proposal, that in fact did not occur, rather had modified the proposal substantially.

Mr. Moore advised that the recommendation of the Planning Commission was denial of the application. The proposed revision had been based on the Citizen Advisory Committee [CAC] to Puget Sound Energy [PSE] recommendations. There were a number of items the CAC had presented which PSE was agreeable to undertake without government intervention, and the Planning Commission heard from PSE who opposed the incorporation of the CAC recommendations into an amendment that would take the form of force by the County, and asked PSE be given time to prove that they would be able to implement the recommendations of the CAC. The Planning Commission agreed and gave the utility a year to demonstrate its acceptance and compliance with the recommendations of CAC. PSE clearly found that the original submission was not acceptable, and PSE as well as the Washington Utilities and Trade Commission testified against it. In the event that the CAC recommendations of CAC are not implemented by PSE, the Planning Commission would be willing to entertain an amendment proposing this as County policy next year.

**Public Comment**

John Graham, speaking on behalf of Citizens for Sensible Development [CSD] agreed Mr. Moore fairly presented the issue

before the Planning Commission and what occurred. He

provided an update at this point, noting that the amendment was intended as a means of putting some "fire" under PSE after the severe power outages experienced last winter, especially on South Whidbey. The Company came out with a report of 13 things that could be done to improve power reliability, of which only one was actually budgeted for. PSE's budget will be presented by January 2000, and should be very clear whether they will accept the other 12 recommendations for upgrading reliability. If PSE adopts a budget creating those improvements the best thing would be continue to do nothing as far as a Comp Plan amendment. In terms of the amendment, he pointed out that he submitted the original amendment prior to the meeting process PSE started, and was the best he could do at the time. Mr. Graham did not object to the decision by the Planning Commission.

No others commented either for or against the recommendation contained in Resolution C-127-99.

By unanimous motion, the Board approved Resolution #C-127-99, PLG-029-99 denying CPA 707/99 as written. [GMA doc. #4846]

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

IN THE MATTER OF AMENDING CHAPTER 17.03, ISLAND COUNTY CODE REGARDING A UTILITIES ELEMENT	) ) RESOLUTION C-127-99 ) PLG-029-99 )
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**WHEREAS**, an application for a Utilities Element, CPA 707/99 attached hereto as Exhibit A, was submitted in accordance with Section 16.26 Island County Code and forwarded to the Planning Commission with a report from the Planning Department within the proscribed time period; and

**WHEREAS**, the Island County Planning Commission held a public hearing on June 24, 1999 in Coupeville, WA and the Findings of Fact are attached as Exhibit "1"; and

**WHEREAS**, public comment was received from Puget Sound Energy in opposition to the proposed amendment, and from the Washington Utilities and Transportation Commission; and

**WHEREAS**, the Island County Planning Commission believes the utility purveyors should be given the opportunity to demonstrate acceptance and compliance with the recommendations of the Puget Sound Energy (PSE) Citizens Advisory Committee without further government participation. **NOW, THEREFORE**,

**IT IS HEREBY RESOLVED** that the Board of Island County Commissioners hereby accepts the recommendation of the Island County Planning Commission and denies the application for a Utilities Element amendment attached hereto as Exhibit A.

ADOPTED this 4<sup>th</sup> day of October, 1999.

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

Mike Shelton, Chairman

William F. Thorn, Member

ATTEST: Margaret Rosenkranz

Clerk of the Board

ee\c:\Res-Ord\PLG-029-99

BICC 99-567

**COMMENT REGARDING PUBLIC HEARING ON ORDINANCE #C-97-99, PLG-019-99 CRITICAL AREA ORDINANCE CONTINUED TO OCTOBER 11, 1999**

Keith Dearborn, Consultant/Special Legal Counsel, commented that as indicated at the end of the Public Hearing on September 13, 1999 on Ordinance #C-97-99 [PLG-019-99], amendments have been prepared and submitted at this time [GMA doc. #4796] and provided a copy at this time to the Board and John Graham. Mr. Dearborn confirmed that copies would be provided by electronic mail all of the documents to all parties who testified at the September 13<sup>th</sup> hearing, and the parties therefore will have the materials a week in advance of the hearing scheduled for October 11, 1999 at 1:30 p.m.

**EXECUTIVE SESSION**

At 1:00 p.m. as scheduled, the Board met in Executive Session as allowed under R.C.W. 42.30.

110 (1) (i) to meet with special legal counsel to discuss pending litigation. The original estimated length of meeting was about 1-1/2 hours, but continued until 4:00 p.m. There was no announcement made on conclusion of executive session.

**Budget Workshop CANCELED**

The Budget Workshop, initially set for 1:30 p.m. and subsequently rescheduled to begin at 2:30 p.m. was canceled due to the unanticipated length of Executive Session. The Budget Workshop was rescheduled for Special Session beginning at 9:00 a.m. on October 19<sup>th</sup> as follows:

9:00 a.m. Assessor

9:30 a.m. Capital Project Funds; Miscellaneous; General Review/Discussion

On conclusion of the Executive Session, the meeting adjourned at 4:00 p.m. Next Regular Session: October 11, 1999 @ 9:30 a.m.

**BOARD OF COUNTY COMMISSIONERS**

**ISLAND COUNTY, WASHINGTON**

\_\_\_\_\_  
Mike Shelton, Chairman

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Wm. L. McDowell, Member

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William F. Thorn, Member

**ATTEST:**  
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Margaret Rosenkranz, Clerk of the Board