

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING
SPECIAL SESSION - CAMANO ISLAND - NOVEMBER 8, 1999**

SPECIAL SESSION

The Board of Island County Commissioners met in Special Session, Monday, November 8, 1999, beginning at 8:00 a.m., prior to the Regular Board meeting beginning at 9:30 a.m., held in the Hearing Room, Courthouse Annex, Coupeville. The purpose of the special session was to allow the Board to meet in Executive Session with special legal counsel to discuss pending and/or potential litigation, as allowed under R.C.W. 42.30.110 (1) (i). The Executive Session lasted approximately 1-1/2 hours. No announcement was made on return to open regular session.

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

[Mike Shelton, Chairman-absent]

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST: _____
Margaret Rosenkranz, Clerk of the Board

REGULAR SESSION

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on November 8, 1999, beginning at 9:30 a.m. in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa. Members Wm. L. McDowell and William F. Thorn were present at 9:30 a.m.; Mike Shelton, Chairman, absent. Chairman Shelton was present for the afternoon session beginning at 1:30 p.m.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board: Voucher (War.) # 62008 – 62315....\$563,593.70. Also approved by unanimous motion was the October payroll.

EMPLOYEE SERVICE AWARDS

Cathy Caryl	20	Jennifer Chong	5
<i>11/7/79 Central Serv</i>		<i>11/28/94 Health</i>	
Debbie Thompson	10	Kelli Turpin	5
<i>11/1/89 Prosecutor</i>		<i>11/1/94 Public Works</i>	
Kathy Carpenter	10	Cheryl May	5
<i>11/27/89 Health</i>		<i>11.28/94 Solid Waste</i>	
Barbara McNaughton	5		
<i>10/12/94 Commissioners[Camano]</i>			

EMPLOYEE OF THE MONTH – OCTOBER, 1999

Mike Beech, Sheriff's Department

PRESENTATION TO JAMES ARNSBERGER FOR HIS MANY YEARS OF SERVICE AS A VOLUNTEER ON BEHALF OF THE CITIZENS OF ISLAND COUNTY

The Commissioners, along with Gay Dubigk, Executive Director, Northwest Private Industry Council, presented a special award plaque and letter of appreciation to James "Jim" Arnsberger, with sincere appreciation and thanks for his many years of dedication and contribution given to Island County, not only on the PIC, but in many other volunteer capacities as well, including:

- United Way Good Neighbors/Human Services Advisory Council 1980-82
- Island County Park Board 1977-1986
- Senior Transportation Advisory Board 1981-1988
- Local Employment and Training Advisory Council
- Private Industry Council 1983-1999

As Commissioner Thorn and Ms. Dubigk recalled, a quote Mr. Arnsberger will always be remembered for: "I liken my position to that of a burr under the saddle blanket ...not enough to cause any great pain but just enough to keep the rider and horse aware of each other!"

RESOLUTION NO. C-142-99 PROCLAMATION RECOGNITION AND SPECIAL OBSERVANCE OF THURSDAY, NOVEMBER 11TH, VETERANS DAY

The Board, by unanimous motion, adopted Resolution #C-142-99 Proclaiming Recognition and Special Observance of Thursday, November 11th, Veterans Day.

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

**IN THE MATTER OF PROCLAIMING
RECOGNITION AND SPECIAL)
OBSERVANCE OF THURSDAY,)
NOVEMBER 11TH, VETERANS DAY)
_____)**

**P R O C L A M A T I O N
RESOLUTION C-142-99**

WHEREAS, millions of American men and women have answered the call to duty in defending the hard-won freedoms we enjoy today; and

WHEREAS, this day, November 11th, Veterans Day, is the occasion on which we remember, recognize and honor the unselfish service, in all wars and military actions of our veterans; **NOW, THEREFORE**,

BE IT RESOLVED that the Board of Island County Commissioners hereby invite all citizens within the greater Island County area to join with us in this very special observance of Veterans Day. Let us recognize the hardships and sacrifices of those we know as Veterans, and let us give them the special recognition they so greatly deserve.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON
[absent - Mike Shelton, Chairman]
Wm. L. McDowell, Member
William F. Thorn, Member**

ATTEST: Margaret Rosenkranz
Clerk of the Board
BICC 99-624

CHAIRMAN OF THE BOARD - 2000

In accordance with R.C.W. 36.21.100, the Board acted to appoint the Chairman of the Board for the next year.

Commissioner McDowell was by unanimous motion, selected Chairman of the Board for the year 2000. Correspondence, documents, resolutions, ordinances, should be prepared as follows effective 1/1/2000:

Wm. L. McDowell, Chairman
William F. Thorn, Member
Mike Shelton, Member

HIRING REQUESTS & PERSONNEL ACTIONS

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

<u>PAA #</u>	<u>Description</u>	<u>Action</u>	<u>Eff. Date</u>
119/99	Pub. Health Nurse III .75 fte	Increase in Hours	11/8/99
120/99	Pub. Health Nurse .5 fte	Increase in Hours	11/8/99
121/99	Pub. Health Nurse .75 fte	Reduction in Hours	11/8/99
122/99	Licensing-Camano .4 fte	Replacement	11/8/99
112/99	Off Mgr.-Engineering	Replacement	11/8/99
118/99	Planning Manager	Replacement	11/8/99

HEALTH CONTRACTS APPROVED

By unanimous motion, the Board approved the following two health-related contracts:

- Contract between Island County and the State of Washington, Department of Social & Health Services, Division of Vocational Rehabilitation, Interagency Agreement # HS-10-99 in the amount of \$8230.00.
- Contract Amendment 1 to contract #HS-06-99 between Island County and Island Employment Services, in the amount of \$110,371.00.

SIGNATURE ON CONTRACT BETWEEN LUCENT TECHNOLOGIES INC. AND ISLAND COUNTY FOR PHONE SWITCH PURCHASE, #RM-CENT-99-0083

Cathy Caryl, Director, Central Services, presented for the Board's approval a contract for the purchase of phone switch. She confirmed having gone through the contract and determined that all of the licensing contracts are acceptable for the software. This includes a one year warranty, including software. Licensing is part of the contract. There will be a maintenance contract proposed after one year, which will include software.

By unanimous motion, the Board approved a Contract with Lucent Technologies Inc. for Phone Switch Purchase, #RM-CENT-99-0083, in the amount of \$147,524.30 plus tax.

BECCA BILL LAWSUIT – MEDIATOR FEE AGREEMENT

The Board, by unanimous motion, approved participation in the Mediator Fee Agreement with Hugh Spitzer associated with the BECCA Bill Lawsuit.

HEARING HELD: RESOLUTION #C-143-99, APPLYING FOR COMMUNITY DEVELOPMENT BLOCK GRANT FOR A COMMUNITY MENTAL HEALTH CENTER

A Public Hearing was held at 10:15 a.m. before the Board of Island County Commissioners, as scheduled and advertised, for the purpose of considering the adoption of a proposed resolution in the matter of applying for a Community Development Block Grant (CDBG) for a Community Mental Health Center, and inviting public comment on specific needs within the community for eligible activities under the CDBG program. This follows the Board of County Commissioners adoption of Resolution #C-136-99 on October 25, 1999 scheduling this date and time for the hearing. The Board of Island County commissioners based upon some initial discussion believed there were some

definite needs within the community that should be addressed in a public hearing. A hand-out sheet was provided for those who wanted additional information on community development block grant programs.

Larry Kwarsick, Public Works/Community Development Director, explained that general purpose grant funding is available for a variety of categories, including housing, public and community facilities and economic development, but must meet at least one of three National objectives of the program: (1) principally benefits persons of low income; (2) prevent or eliminate slum blight; or (3) meet urgent community development needs which pose a serious and immediate threat to the public health or safety.

Victoria L. McCarty, Camano Island, speaking as the President of the Volunteers of the Board of Directors of Community Mental Health, asked for favorable consideration of the application of Community Mental Health for this grant. She explained that for the last 2-1/2 years she heard in CMH Board meetings about the efforts to try to enhance the present building in Island County. She told the Commissioners that she was even more interested after having followed a client up the stairs of the Mental Health facility in Coupeville, and wondered if either she or the client would fall to the bottom. Service to the client is paramount; the CMH Board wants to make the best possible accommodation particularly for those who have limitations climbing stairs.

Kris Laaninen, Executive Director, Community Mental Health, reviewed the reason for the need to relocate the mental health facility and the process which the CMH Board went through in determining the overall general location and the site search process. A North Sound Regional Support Network (NSRSN) some 2-1/2 years' ago in an audit found CMH out of compliance in terms of ADA requirements. Aside from the fact the building needed to be "grandfathered" in terms of ADA access issues, NSRSN required there be a paved handicap parking spot. CMH in working with the County learned that doing so would create serious drainage problems and would have to wait until the Town of Coupeville completed its overall renovation of the sewer system. NSRSN stated that CMH should continue to work to alleviate the problem. An architect for CMH drafted a preliminary proposal to enclose the exterior staircase to create a common interior entrance to allow access to the entire building. The design was taken to a structural engineer who ruled out the renovation because the building structure itself could not tolerate such a renovation and believed that even a moderate earthquake would place occupants of the building at risk.

CMH then began to consider alternatives for leasing available space and even considered moving facilities to Oak Harbor. The most significant problem with that was that the Coupeville location allows central accessibility for all residents of Whidbey Island. CMH is under a contract requirement obligated to provide core services within 30 miles or 30 minutes of the majority of clients who would use the services. Moving the facility to Oak Harbor would not remove CMH's obligation to maintain core services in a building central to Whidbey Island. Narrowing in on Coupeville, CMH began looking at available real estate and land. Coupeville was chosen because, in addition to NSRSN requirements, it is close to the Hospital, Courts, Juvenile Services and other key services. Property was located adjacent to Service Alternatives in Coupeville, and the site considered highly suitable; zoned for professional activities, close to key professional components to the community, and within 1/2 block of the bus stop and close to Whidbey General Hospital. Upon finding the site, a contractor was secured as a consultant and Rick AlMBERG worked with them to collaborate with the architect to generate a proposed budget for a building which was proposed to be placed on 1 acre of land for which there is already a conditional use permit. She pointed to the architect drawings posted on the wall: a very simple rectangular shaped building, a modest and conservative design, but adequate to fully meet the needs. Parking would be in the back of the building and the building would face the end of First Street NW; natural plantings would compliment the natural setting in that area.

CMH Board of Directors allocated \$100,000 from capital savings held in reserve for the completion of the project and they are asking for an award of the maximum \$750,000 grant to provide the primary foundation of funding. Remaining funds would come from loans secured through the Washington State Health Care facilities funding, and there is a possibility if the present building can be sold by Island County that there may be a way to use proceeds and continue utilization of the original Referendum 27 dollars. CMH is also embarking on a capital campaign seeking major contributions from foundations and corporations in this area. total project cost is estimated to be approximately \$800,000; close to \$1 million dollars when all is said and done. The building itself is estimated at \$700,000 and the property is \$192,000. CMH acquired the services of a consultant to assist in writing a block grant due on November 19th.

Molly Hoolihan, Oak Harbor, family member of a person with severe and chronic mental illness, President of the Whidbey Island Support and Advocacy Group, and a member of the Board of CMH, was very aware of the CMH Board efforts and the issues pertaining to serving the mentally ill. She felt the current building was not really safe, not comfortable and in pretty shabby condition, and for persons who suffer neuro- biological brain disorder through no fault of their own who have to suffer the indignity of having to be seen in this building is another insult to what they have already been suffering. These folks deserve parity, along with insurance, as any other real medical problems.

Sally Wyatt, Oak Harbor, a long time client of Island Mental Health, stated that she had seen the current building deteriorate, and confirmed that the building did not follow ADA Guidelines. The building is crowded; floors and walls are in pretty bad shape and the back of the building leaks. She hoped the project would be approved for both staff and clients.

Linda Morris, Langley, stated that for all of the reasons already given, she supported the block grant application. She thanked staff, consumers and the advocates of Island Mental Health, as well as Mr. Kwarsick who brought his expertise and proactive involvement to this issue.

By unanimous motion, the Board approved Resolution #C-143-99 in the matter of applying for a Community Development Block Grant for Community Mental Health Center.

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

IN THE MATTER OF APPLYING FOR A)
COMMUNITY DEVELOPMENT BLOCK)
GRANT FOR A COMMUNITY MENTAL) RESOLUTION C-143-99
HEALTH CENTER)

WHEREAS, Island County is applying to the State Department of Community, Trade and Economic Development for funding assistance;

WHEREAS, it is necessary that certain conditions be met as part of the application requirements;

WHEREAS, a Public Hearing was held on November 8, 1999, before the Board of Island County Commissioners to review information about the range of activities that could receive CDBG funding, including community facilities, economic development projects, housing, and public facilities all of which must principally benefit low-to-moderate income citizens and how to propose projects; to respond to proposals for, and questions about, community development and housing needs in the county; and to inform citizens about identified projects that are county priorities and applications being considered; and

WHEREAS, Island County has established policies in its adopted Growth Management Comprehensive Plan which include the County's coordination and planning for the provision of public services, and their related facilities, in the most cost effective manner incorporating both the public and private sector; the identification of possible gaps and duplications in the delivery of all social and health service programs services; and the participation in the planing and decision-making processes of regional health planning agencies to assure efficient delivery of health care services; and

WHEREAS, based upon the testimony presented by Community Mental Health Services at the November 8, 1999 public hearing, the Board of Island County Commissioners has determined that the existing community mental health facility is inadequate and out of compliance with ADA requirements, and that a structural analysis of the existing mental health facility has determined that it is not feasible to renovate the existing facility;

NOW, THEREFORE, be it resolved that the Board of Island County Commissioners authorizes submission of an application to the State Department of Community, Trade and Economic Development to request \$750,000 to construct a new community mental health and certifies that, if funded, it:

Will comply with applicable provisions of Title I of the Housing and Community Development Act of 1974, as amended, and other applicable state and federal laws;

Has provided opportunities for citizen participation comparable to the state's requirements (those described in Section 104(a)(2)(3) of the Housing and Community Development Act of 1974, as amended); has complied with all public hearing requirements and provided citizens, especially low-and-moderate-income persons, with reasonable advance notice of, and the opportunity to present their views during the assessment of community development and housing needs, during the review of available funding and eligible activities, and on the proposed activities;

Has provided technical assistance to citizens and groups representative of low-and moderate-income persons that request assistance in development proposals;

Will provide opportunities for citizens to review and comment on proposed changes in the funded project and program performance;

Will not use assessments against properties owned and occupied by low-and-moderate-income persons or charge user fees to recover the capital costs of CDBG-funded public improvements from low-and-moderate-income owner-occupants;

Will establish a plan to minimize displacement as a result of activities assisted with CDBG funds; and assist persons actually displaced as a result of such activities, as provided in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended;

Will conduct and administer its program in conformance with Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, and will affirmatively further fair housing (Title VIII of the Civil Rights Act of 1968); and

Has adopted (or will adopt) and enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations; and has adopted (or will adopt) and implement a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction, in accordance with Section 104(1) of the Title I of the Housing and Community Development Act of 1974, as amended; and

Will provide, upon request, and prior to any obligation of funds being made, a complete and accurate CDBG Federal Funds Disclosure Report detailing the required applicant/grantee information, and as appropriate other government assistance provided or applied for, interested parties and expected sources, and uses of funds.

Island County designates Larry Kwarsick as the authorized Chief Administrative Official and authorized representative to act in all official matters in connection with this application and Island County's participation in the Washington State CDBG Program.

Reviewed and Approved this 8th day of November, 1999, after public hearing which was set by Resolution No. C-136-99.

Board of County Commissioners
Island County, Washington
[Mike Shelton, Chairman – absent]
Wm. L. McDowell, Member
William F. Thorn, Member

ATTEST: Margaret Rosenkranz,
Clerk of the Board BICC 99-629

**RESOLUTION #C-144-99 (R-47-99) – SET WINTER ROAD CLOSURES AND
LOAD RESTRICTIONS THROUGH APRIL 30, 2000**

As presented and recommended by the Public Works Director, Larry Kwarsick, and Dick Snyder, Construction

Engineer, the Board by unanimous motion, approved Resolution #C-144-99 (R-47-99) setting the winter road closures and load restrictions through April 30, 2000.

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

IN THE MATTER OF ISLAND COUNTY) RESOLUTION NO. C-144-99
ROAD CLOSURES AND LOAD) R-47-99
RESTRICTIONS)

WHEREAS, some Island County roads are constructed over relatively thin sub-bases, and sometimes directly over natural soil; and

WHEREAS, Island County roads constructed under aforesaid conditions are very vulnerable to rapid breakup during freezing and thawing periods; and

WHEREAS, the reason for this rapid breakup is because the road base will not adequately drain when frozen. (Thus, a rapid thawing from the top down – particularly from a rain or rapidly melting snow – results in excess water being trapped in this upper, thin surface layer. The action of heavily loaded trucks on this saturated, thin layer, can cause the pavement to quickly break up. This breakup occurs when the thin layer of saturated soil directly beneath the pavement becomes mushy through repeated pounding by tire impact. In this mushy condition, the saturated soil provides little, if any, support to the pavement. Since the soil below is frozen, the moisture cannot drain off. The mushy soil then starts pumping up through cracks in the pavement, with the ultimate breakup of the pavement. However, when the full road base thaws uniformly, then the excess moisture can escape and drain off as designed and the road base remains relatively stable.); and

WHEREAS, reduced weights and speed help prevent the early breakup of roads from conditions as cited above;

THEREFORE, BE IT HEREBY RESOLVED by the Board of County Commissioners of Island County, Washington, THAT the following notice be published once in a newspaper of general circulation in the County; THAT the wording and intent of same is a part of this Resolution; and THAT the Island County Engineer is hereby duly instructed and ordered to execute the action implied therein.

NOTICE IS HEREBY DULY GIVEN, that, under the authority of Chapter 36.75.270 and 46.44.080, Revised Code of Washington, all Island County roads subject to damage during periods when inclement natural forces are at work, will be closed to all vehicles exceeding the gross weight indicated for each tire size shown in the following tables (when said roads are posted in accordance with Item 4 below), **WITH THE EXCLUSION** of holders of a special permit from the Island County Engineer authorizing the operators of such vehicles as: School buses, emergency vehicles, and trucks transporting perishable commodities necessary to the health and welfare of local residents. (However, under the provision of this notice, in no case shall the gross load exceed the gross loads as set forth in R.C.W.46.44

WINTER LOAD RESTRICTIONS

(Same as Washington State Department of Transportation Emergency
Load Restrictions, WAC 468-38-080)

<u>Conventional Tires</u>		<u>Tubeless or Special with .5 Marking Tire</u>	
<u>Tire Size</u>	<u>Gross Load Each Tire</u>	<u>Tire Size</u>	<u>Gross Load Each Tire</u>
7.00	1800 lbs.	8-22.5	2250 lbs.
7.50	2250 lbs.	9-22.5	2800 lbs.
8.25	2800 lbs.	10-22.5	3400 lbs.
9.00	3400 lbs.	11-22.5	4000 lbs.
10.00	4000 lbs.	11-24.5	4000 lbs.
11.00	4500 lbs.	12-22.5	4500 lbs.
12.00 or over	4500 lbs.	12-24.5 or over	4500 lbs.

EMERGENCY LOAD RESTRICTIONS

(Same as Washington State Department of Transportation Emergency

Load Restrictions, WAC 468-38-080)

When a rapid surface thawing over a fully frozen road base occurs (i.e., warm rain over frozen ground, or rapidly melting snow), the Emergency Load Restrictions as cited below shall be immediately imposed as directed by the Island County Engineer.

<u>Conventional Tires</u>		<u>Tubeless or Special with .5 Marking Tire</u>	
<u>Tire Size</u>	<u>Gross Load Each Tire</u>	<u>Tire Size</u>	<u>Gross Load Each Tire</u>
-			
7.00	1800 lbs.	8-22.5	1800 lbs.
7.50	1800 lbs.	9-22.5	1900 lbs.
8.25	1900 lbs.	10-22.5	2250 lbs.
9.00	2250 lbs.	11-22.5	2750 lbs.
10.00	2750 lbs.	11-24.5	2750 lbs.
11.00 or over	3000 lbs.	12-22.5 or over	3000 lbs.

- 1) High pressure pneumatic tires shall have the same rating as set forth in the above tables.
- 2) No allowance shall be made for any second rear axle that is suspended from the frame of a vehicle independent of the regular driving axle, and commonly known as a "Rigid Tail Axle".
- 3) The load distribution on any vehicle shall be such that it will not load the tires on said axle in excess of the prescribed load set forth in this order; provided that a truck, truck tractor, passenger bus or school bus having conventional 10.00 x 20 tires, or larger, may carry a maximum load of 10,000 lbs. on the front axle over any county highway placed under Regular Winter Load Restrictions.
- 4) Should there be evidence that any truck supplying motive power for any type of trailer is inadequate to handle with safety the specific maximum load for such trailer, the load on the trailer shall be reduced sufficiently to allow said truck and trailer to operate with safety. Any loading in excess of the specified maximum load will be considered a violation of this order. Island County roads shall be subject to closure during the effective dates stated below; said closure to be identified by continuous or intermittent posting at such locations upon each road as may be necessary by the Island County Engineer, as conditions require, to protect and maintain the same during each period.

THIS ORDER SHALL BECOME effective and be in full force on or after the date of adoption through the 30th day of April 2000, and the foregoing regulations will be rigidly enforced.

ADOPTED this 8th day of November, 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 99-630

PURCHASE ORDER #02638: ISLAND ASPHALT - MAXWELTON ROAD

Dick Snyder presented a request for the Board's approval of Purchase Order #02638, to Island Asphalt in the amount of \$9,150.00, for a project on Maxwellton Road to dig up and patch two spots. There have been problems at the intersection for several years and attempt to repair at minimum cost was done the summer of 1998, paving the road from the highway to the intersection with Langley Road. The temporary repair did not last and the proposal is to dig that out and repair with new base and new asphalt on the right hand lane. Quotes were obtained from three contractors under the Small Works Roster.

By unanimous motion, the Board approved Purchase Order #02638 with Island Asphalt.

HEARING HELD: ORDINANCE #C-119-99 (PLG-032-99) AMENDING CHAPTER 17.03 ICC TO COMPLY WITH THE ORDER OF THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD: FREELAND AND CLINTON

A Public Hearing was held beginning at 10:45 a.m., having been continued from 10/18/99, 10/25/99 and 11/1/99, on Ordinance #C-119-99, PLG-032-99, Amending Chapter 17.03 ICC to Comply with the Order of the Western Washington Growth Management Hearings Board Relating to Freeland and Clinton.

Attendance:

Staff/Consultant: Keith Dearborn; Phil Bakke; Jeff Tate
Public: Charlie Stromberg, Coalition; Mary K. Doody, Press
[Attendance Sheet GMA #5055]

Keith Dearborn explained that no changes were being recommended in the boundaries established for Freeland and Clinton; both are believed to comply with the logical outer boundary rules of GMA. This was a matter challenged several weeks ago by the Coalition, and today Jeff Tate will review the reasoning used to establish the logical outer boundaries for Freeland and Clinton under GMA.

Jeff Tate provided to the Commissioners and Public a copy of his Memorandum dated 11/8/99 "Subject: Freeland & Clinton, Coalition's identified Areas of Concern" consisting of 6 pages and 2 charts, including topics: history 1997 to date; some of the issues that came up during that time; establishment of the designation criteria; how the designation criteria relates to the language in the RCW; and how the designation criteria relates to these specific RAIDS. The memo also includes a detailed description of each of the Freeland and Clinton commercial and mixed use RAIDS, rationale for each change in boundary discussing what sort of development patterns and features exist to create a rationale for what the RAID boundary is. [GMA doc. #4991].

Maps were posted on the wall similar to what had been presented in the last few months showing the quarter section maps with dots representing what parcels are developed. The maps show the RAID boundary, water system boundary, parcels that have been subdivided or developed since July 1, 1990, mixed use Freeland and Clinton RAIDS as well as the Residential Freeland and Clinton RAIDS and identifies several areas where there are special provisions in the Code that restrict development in those areas and it shows some park land and a mobile home park in Freeland.

In 1997 the GMA added the provision that allows the County to recognize areas of more intensive development without designating them as urban growth areas (UGAs). In November of 1997 the Planning Commission adopted preliminary criteria for the establishment of some designation criteria to identify non residential, residential and mixed use RAIDS. December of 1997 the Board adopted the recommendation of the Planning Commission.

Mr. Tate reviewed the four main criteria set out in RCW36.70A.070. and how each applies to Freeland and Clinton RAIDS.

1. Preservation of Existing Natural Neighborhoods

Three different types of RAIDS are identified in the Comprehensive Plan: Residential, Non-Residential and Mixed Use. Within the designation criteria in the Comp Plan, all three of these types of RAIDS in order to be designated must have existed prior to July 1, 1990. Additional consideration may be given to parcels that are adjacent to or between existing developed areas providing for some limited amount of infill. Freeland and Clinton have been recognizable and established areas of more intensive development for several decades. Both areas have a clearly identified residential area and a clearly identified mixed use or commercial area, thus the approach was taken to create a Freeland residential RAID and Mixed Use RAID, and the same approach in Clinton because there are two different types of criteria used to establish those RAIDS and beyond designating the RAIDS there are two very different sets of standards for development, scales of intensity and uses allowed in those different RAIDS.

2. Use of Physical Boundaries Such as Bodies of Water, Streets and Highways

and Land Forms and Contours.

The designation criteria for all three types of RAIDS states that consideration should be given to physical boundaries such as roads, land forms and contours and water bodies. The Freeland and Clinton residential and mixed-use RAIDS are located along the shoreline and use this feature for a large portion of their boundary. Roads were also used as a way to define the boundary in a number of instances in both Freeland and Clinton as a way to distinguish between a difference in parcelization and development patterns on each side of the road. In the case of Freeland, a large wetland system and a steep hill were also used to define the boundary.

3. Prevention of Abnormally Irregular Boundaries.

The designation criteria for all three types of RAIDS states that consideration should be given to prevent abnormally irregular boundaries. This criteria was used in Freeland on the south side of the highway as one of the components in defining the RAID boundary. There are a number of plats that are intermixed with a number of larger 5 and 10 acre parcels. Drawing the boundary to only recognize these plats would create a meandering irregular boundary. In Clinton, this criteria was partially used on the south end of the RAID along the west side of the boundary. The boundary follows Humphrey Road rather than following the plat lines which would create an abnormal irregular boundary.

4. Ability to Provide Public Facilities and Services in a Manner That does not Permit Low Density Sprawl.

The Freeland and Clinton residential and mixed use RAIDS are entirely within water districts, except for six parcels in Freeland. The water districts in both of these areas are much larger than the RAID designation. Water service alone was not used as a criteria to define the RAID boundary. Sewer service exists within Freeland in the Holmes Harbor area. This sewer system has been designed to allow expansion or connection to another system.

Other significant dates:

March 9, 1998. Phase A Draft Comprehensive Plan presented, including the first complete recommendations of RAIDS based on adopted designation criteria.

Between March 9, 1998 and September 28, 1998, the Planning Commission and Board held numerous hearings, consulted with Health, Public Works, and Planning, received and heard testimony which resulted in a number of changes to the staff recommendation. Within both Freeland and Clinton, modifications were made to the periphery boundary defining the residential and mixed use RAIDS. Uses and intensity of development within these RAIDS were also issues that were discussed during this process.

September 28, 1998. The Board adopted finalized RAID boundaries for Freeland and Clinton as a part of the Island County Comprehensive Plan and Development Regulations.

Using the map posted on the wall, Mr. Tate took the time to describe those boundaries and the rationale for their location [as described in his 11/8/99 memorandum beginning at the bottom of page 3:

RESIDENTIAL RAID

Freeland

The Freeland RAID boundary starts at the shoreline at the northern most point of the plat of Holmes Harbor Golf and Yacht Club. The boundary heads due west along the plat boundary. Parcels to the south of the north boundary are all within the plat, are served by a water and sewer system and are typically about 1/6 of an acre. Most of the larger tracts in the plat are golf course fairways. The RAID boundary then heads north, west and then

to the south to incorporate a single 10 acre parcel within the RAID. This parcel has been included because it was annexed to the Holmes Harbor Water District in 1993, has paid for water hookups and is paying taxes to the Water District. The boundary continues south along the west side of the plat of Holmes Harbor and follows the plat boundary back to the east on the south side of the plat. At Honeymoon Bay Road, the boundary heads south all the way to SR 525. Honeymoon Bay Road is a feature that distinguishes between parcelization on the east and on the west. Parcels to the east are all platted and are typically less than 2.5 acres, with a few that are about 3.3 acres. To the west of Honeymoon Bay Road, parcels are 5 acres and larger. At SR 525, the boundary follows the highway for a short distance where it continues south along parcel lines and the water district boundary. The distinguishing factor of this portion of the RAID boundary is the distinction between lot sizes on the east side of the boundary versus those on the west side. Parcels on the east side vary in size but can typically be characterized by lot sizes ranging between .34 acres and 1.8 acres with some intermixed 5 acre parcels. The boundary then heads east and south along the water district boundary down to Fish Road. The boundary then follows Fish Road in a north easterly direction to the south boundary of the plat of Wildwood Park. At the plat of Wildwood Park, the boundary heads east and north to Scenic Avenue. The boundary that has just been described bounds a variety of parcel sizes. There are three plat (Wildwood Park, Orchard Park and Vessel Court) that are within this area, as well as a number of parcels between .34 acres and 10.00 acres. One of these 10.00 acre parcels is a mobile home park (the ten acre parcel at the far southwest boundary of the Freeland RAID). At Scenic Avenue, the boundary heads east to the southern boundary of the plat of Harbor Hill and follows this plat to the east, north, east and north again. At the northeast corner of the Harbor Hill plat, the boundary continues north to the highway and back west along SR 525 for a short distance until the intersection of the highway and Newman Road. The RAID boundary follows Newman Road to the west and follows a parcel line to the north and to the west to the plat of Harbor Park. The justification for using these parcel lines in defining the RAID boundary is that, with the exception of one parcel, all the parcels to the west and south of the RAID boundary are less than 2.5 acres, while the parcels just outside of the RAID are larger than 5 acres, some of which also contain a major wetland system. The one parcel that is within the RAID boundary in this area and is larger than 2.5 acres has already received approval to subdivide into 30 single family residential parcels. At the plat of Harbor Park, the boundary heads north along the east side of the plats of Harbor Park, East Harbor Terrace and the Village Green until East Harbor Road. This boundary also recognizes a significant change in topography. To the east of the boundary is a large, steep hill that could prove to be difficult to develop without significant expense and difficulty. At East Harbor Road, the boundary follows the road along the east side of the plat of Hazen's Beach. At the north end of Hazen's Beach, the boundary heads west to the shoreline and follows the shoreline back to the starting point.

Mr. Tate explained that the hatching on the map represents a portion of the appendix of 17.03 indicating these three parcels south of the water district boundary but north of Fish Road are all subject to one unit per acre density.

Phil Bakke pointed out that the area at the very far south end Mr. Tate referred to outside the water district does in fact have a density cap of 1.5 rather than 1 unit per acre.

Mr. Tate went on to note that the black dots represent parcels developed as of today. Parcels in blue may have a black dot as well, those are parcels that have been developed or created since July 1, 1990. A parcel with a black dot without blue background is one that existed prior to July 1, 1990. To verify that, Mr. Tate went through building permits one by one for each of the plats and each parcel in each of the quarter sections to see which ones were developed after July 1, 1990. Most of Holmes Harbor shows parcels that have had homes built since 1990 but plat was in the mid Sixties. Plat of Spinaker Ridge [Clinton] there are no black dots shown because the plat was created after July 1 1990. Blue squares or blue parcels that have not been developed but created: blue means it has been developed with a single family residence or the lot itself was created through a subdivision. Where there is a parcel with no dot on it and not colored blue it is a parcel that existed prior to July 1, 1990.

Mr. Tate clarified that the blue indicates parcels that have been created since 1990 or pre-existing parcels that have been developed since 1990. If colored blue with a black dot, the parcel has been developed since 1990.

Clinton

The entire eastern portion of the Clinton RAID is defined by the shoreline. It extends northerly along the shoreline from the ferry terminal past the development of Brighton Beach and continues north past a series of very old, developed parcels that are typically no wider than 60 feet. The northern most extent of the RAID boundary is

consistent with a change in this small lot parcelization pattern. The RAID boundary then heads south along the backside of a series of small shoreline parcels until Galbreath Road. At this point the RAID boundary follows Galbreath Road to the plat of Clinton Heights. This road was used as a boundary because it is an obvious break between small parcels to the east that, with the exception of one 4.60 acres parcel, are all less than 2.5 acres in size and larger parcels to the west that are all larger than 5 acres. The boundary continues south along the west side of the plats of Clinton Heights and Spinnaker Ridge which are both fairly dense (lots that are smaller than one acre). The boundary heads due south past the plat of Spinnaker Ridge across the highway. The parcels to the east of the RAID boundary in this area are typically developed parcels that have existing commercial (mostly retail) operations. Some of these parcels are larger than 2.5 acres, but do contain existing commercial operations that are located along both the north and south side of the highway as a driver would exit the Clinton area. Just south of the highway (and no more than 1 parcel removed from the highway) the RAID boundary heads due east. The boundary then heads due south again along existing parcel lines with parcels to the east being primarily less than 2.5 acres and parcels to the west being 5 acres and larger. With the exception of 5 parcels, all the parcels to the east of this portion of the RAID boundary are less than 2.5 acres and most are smaller than 1 acre. The 5 parcels to the east that are larger than 2.5 acres are all smaller than 5 acres and one of those is an Island County Park. The boundary then heads due east along a parcel line to Anderson Road. The boundary then heads south and east along Anderson Road to Humphrey Road. There is one parcel that is bounded by Anderson Road on its west and south sides that is approximately 35 acres. This parcel was included because it is bound on all sides by a clearly defined built environment. To the north and east of this parcel is a very dense and intensively developed plat. To the west and south is Anderson Road. This parcel is also within the Clinton Water District. At Humphrey Road, the RAID boundary heads south along the road just past the south boundary of the Columbia Vista plat. Humphrey Road clearly distinguishes between the parcelization on the east side of the road from that on the west side of the road. Parcels on the east side are typically less than ½ acre and are within very old plats. These plats are separated by a few larger parcels ranging in size from 3.00 to 7.00 acres (totaling 8 separate parcels) and one 10.00 acre parcel. Just south of the plat of Columbia Vista, the RAID boundary heads due east to the shoreline. At the shoreline, the boundary heads north to the ferry terminal. The entire RAID boundary is within the Clinton Water District.

Mr. Tate confirmed that the water district boundary continues for about ½ mile south of the south edge of the RAID boundary, quite a bit larger than the RAID boundary itself.

MIXED-USE RAID. The mixed-use areas for Freeland and Clinton on the map posted on the wall are in the red color.

The commercial (RC Zone) portion of the Freeland and Clinton RAIDs recognize existing commercial development and infrastructure that is in place which permits commercial development. It began with an area defined by the Island County Economic Development Council (EDC). The EDC performed a land use inventory and needs assessment for commercial lands. Using this recommendation as a starting point, designation criteria for RAIDs was applied to the Freeland and Clinton commercial areas. Boundaries were then modified based on RAID designation criteria, as well as consultation with the Freeland and Clinton Water Districts and public input.

On March 30, 1999, County staff met with representatives of the Coalition to view a series of maps and aerial photographs the Coalition presented to show their concerns with the County's designation of logical outer boundaries for RAIDs. The Coalition had differing amounts of information regarding their concerns for each of the RAIDs. Freeland and Clinton were two of the RAIDs that were presented at this meeting.

FREELAND

As noted in the Declaration of Emil King, dated April 1, 1999, the RAID of Freeland fell under the "Second Level of Detail." RAIDs under this level of detail had been reviewed by the Coalition, but there were either missing photographs of the entire boundary had not been addressed. The Coalition presented a map of Freeland that "directed red arrows towards the eastern boundary of the Holly Berry Farm just below the Holmes Harbor Plat, and all of the southern boundary. There was missing aerial photograph information and Coalition concerns for the northern and eastern boundary."

CLINTON

Also noted Mr. King's Declaration was the Clinton RAID. This RAID fell under the "Third Level of Detail." RAIDs under this level of detail had aerial photographs present, but no RAID boundary indicated on the photo, no critical areas outlined

and no areas of concern identified. The Coalition did not identify any areas of concern for the Clinton RAID.

Mr. Tate noted that on July, 8, 1999, the Hearings Board delivered its Order for a Motion for Reconsideration and Clarification. The Order further clarified the Board's desire for the County to continue its analysis of Freeland and Clinton as potential UGAs, but established a timeline for doing so. The timeline requires that the County take interim action by November 30, 1999 to preclude the development of a new pattern of sprawl and permitting urban growth without provisions for urban services. There is no change proposed to the boundaries of the Freeland and Clinton residential and mixed-use RAIDs. All of these RAIDs are consistent with the adopted designation criteria for RAIDs. The intensity and scale of residential and commercial development has been reviewed with respect to historical development patterns versus what the adopted ordinance would allow. The County's approach at this time is to propose modifications to amend the ordinance to limit the scale and intensity of uses to that which has historically taken place.

Attached to Mr. Tate's memo were two charts showing the Clinton and Freeland residential RAIDs and the parcelization break down and inventory of the parcel sizes within those raids.

Mr. Dearborn advised there were on-going studies to determine whether Freeland and Clinton should be designated UGAs, with that decision coming to the Board of Commissioners by the end of next year for final determination. There are two committees, one in Freeland and another in Clinton, conducting those studies with consultant and staff support. Copies were entered for the record of the study area maps: Freeland, GMA doc. #5056; Clinton, GMA doc. #5057. Mr. Dearborn confirmed that no decision had been made to establish a UGA. In the case of Freeland and Clinton the current area discussed for UGA determination is actually smaller than the RAID boundary. He believed that the RAID boundary even if the UGA boundary is smaller will serve as a reasonable transition area, an area that would continue to be managed in the same way to ensure the UGA boundary can be revisited over time and expanded as needed. This does not preclude an expansion area.

Commissioner McDowell agreed with Mr. Tate's explanation there was no new pattern of development; boundaries are consistent with the historical development; logical outer boundaries appear to be roads, geographical boundaries, existing utility boundaries, topography, all consistent with what is called for by RAIDs.

PUBLIC INPUT

Charlie Stromberg, representing the Coalition, said he had tried to contact Mr. Tate two times this last week to get access to maps and materials. Mr. Tate this morning did provide a copy of his memorandum but he had not seen the maps and was told they would be provided later; he would not have a chance to respond in detail in an accurate way to what was presented. He is very interested in the study areas for the non-municipal UGAs, larger than he had seen before, especially in Freeland reaching all the way to Mutiny Bay. The Coalition has been very much in support of the idea of doing non-municipal UGA studies for Freeland and Clinton, essential to provide areas of more intense development for low to moderate income housing, affordable housing, logical commercial areas and also to keep a lot of growth from getting into the rural areas and cause them to be really urban areas. The Coalition supports the general thrust, but the problem is that throughout the public hearings on the Comp Plan, the Freeland and Clinton areas seem to be designed to be non municipal UGAs and not sized based on a RAID criteria, and beyond the 1990 development, the logical outer boundaries. The Coalition provided air photos before and some in the last week or so that illustrate those problems are real.

Mr. Stromberg was concerned that the RAID boundaries may be too large; non municipal UGAs are not formed at this time; and could see mixed results coming out of the committees as to how large they might be, and the ability to put together sewer districts, water districts, and storm drainage boundaries and possibly districts to pay for those that relate to the whole mixture of urban uses and treating them as cities even though they will not be incorporated. It is not suggested these need to be incorporated at all, but for the boundaries in the Freeland area he still had a problem with the fact that Holmes Harbor Golf Course while platted a long time ago as of 1990 the development was 8%; since then they secured a sewer system and things have started to happen but development levels are not enormously high. The Coalition thinks it is an important part of a non municipal UGA; however, densities have been granted on there from 3 to 6 dwelling units per acre which he sees as a type of non municipal use density. The Orchard area to the south of the golf course is a large undeveloped area, a big break in the RAID continuity. Coming down on the SW boundary when crossing Highway 525 is where he thought the County reached

too far in establishing boundaries. There are very large lots, subdivisions quite a distance from other development. The southern boundaries, western and eastern boundaries from a residential point of view are very sketchy and he wanted an opportunity to respond to those in more detail. The commercial areas were also a significant concern to the Coalition. On the western boundary and the southern boundary especially once crossing Highway 525; there are no commercial developments that define an outer boundary. There is a modification in Appendix A where the Freeland Chamber of Commerce said the County should not have gone across 525 but since it did, it should restrict the kinds of commercial uses that go on there and there is a list of uses that are restricted. The worry of the Freeland Chamber of Commerce is about the viability of Main Street and really don't want any competition to Main Street at the point in time. He thought it very dangerous to have those commercial areas [shown in red on the map] zoned for commercial at very significant densities before the non municipal UGA is defined.

Mr. Stromberg found on the Clinton map the western boundary in the north and all the way down reaches out beyond areas that have been developed. He also had a problem with the commercial areas for Clinton in that major parcels were added to that in the last portions of the hearings and those he thought went significantly beyond the areas that could be called developed or logical outer boundaries because of existing retail development. In light of all that he asked for another opportunity to respond to the amount of data presented and find a better solution.

Mr. Dearborn clarified there had been no new information presented; the boundaries were established almost 14 months ago and information today was information available previously. He recalled that Mr. Stromberg attended the Planning Commission hearing and meetings where specific boundaries for Freeland were established and the "walk" Mr. Tate provided around the edge of the boundary was the one the Commission took in great detail step by step looking at each parcel and the logic of each parcel and do not believe there to be any technical reason to provide further opportunity for public comment.

Commissioner McDowell noted the concern of continuing to slide these matters out; this seemed to be an easy issue in that it had been continued a number of times already and the information available for weeks and potentially months and there is no new information that has not been available as far as the location of those boundaries.

Mr. Dearborn also noted that there had been nothing new on Clinton. Staff has been aware of the concern regarding Holmes Harbor and the density in Holmes Harbor, and understood the concern about including the tree farm in the boundary. That discussion was held by the Planning Commission who decided to include it, which looking at the map was for obvious reasons, sandwiched between small development areas, and excluding it would create substantially abnormal boundary and create two RAIDs in effect.

Mr. Bakke pointed out that there had been no change in the urban growth area study boundaries established last winter and were recommended by the Planning Department because they are the same boundaries that the County used to help the Planning Commission and Board establish the RAID boundary.

Commissioner Thorn pointed out that this is a study area boundary, not binding, and it may be larger or smaller when all is said and done. The compelling thing to him about both areas was that they represent a significant contribution to the ability to handle the growth that is coming and represent unique opportunities to provide affordable housing and mixed use areas where you have true village ability and feel, and he thought these could be extremely habitable areas. He had no problem with the boundaries.

BOARD ACTION

Commissioner Thorn moved approval of Ordinance #C-119-99 (PLG-032-99) as amended by Amendment No. 2 and attached hereto. Motion, seconded by Commissioner McDowell, carried unanimously [GMA doc. #5020]

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF AMENDING CHAPTER)	
17.03 ICC, TO COMPLY WITH THE ORDER OF)	ORDINANCE C-119-99
THE WESTERN WASHINGTON GROWTH)	PLG-032-99
MANAGEMENT HEARINGS BOARD RELATING)	

TO FREELAND AND CLINTON)
)

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 its Decision on Reconsideration on July 8, 1999; and

WHEREAS, the Board found that the Freeland and Clinton RAIDs did not comply with the requirements of the GMA and remanded these matters to the County for further action; and

WHEREAS, the Board directed the County to take interim action, pending its urban growth area (UGA) decision for these two areas, to preclude the development of a pattern of low density sprawl and the permitting of urban growth without provision of urban services; and

WHEREAS, the County has established Advisory Committees for Freeland and Clinton to provide recommendations on whether to designate Freeland and Clinton unincorporated UGAs; and

WHEREAS, work plans have been adopted by the County to guide the work of each committee; and

WHEREAS, the Board has given the County until December 1, 2000 to take final action on the UGA determinations for Freeland and Clinton; and

WHEREAS, in 1998, the County completed environmental review under Chapter 43.21C RCW, SEPA, on its Comp Plan and Development Regulations; and

WHEREAS, pursuant to WAC 197-11-600, the County SEPA official has determined that the proposed changes to Chapter 17.03 ICC relating to Freeland and Clinton 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, RCW 36.70A.390 authorizes the County to adopt interim zoning regulations; **NOW, THEREFORE,**

IT IS HEREBY ORDAINED in order to comply with the July 8, 1999 Order of the Western Washington Growth Management Hearings Board, the Board of Island County Commissioners hereby adopts as interim regulations the amendments to Chapter 17.03 ICC, attached hereto as Exhibit A relating to Freeland and Clinton. Material stricken through is deleted and material underlined is added.

BE IT FURTHER ORDAINED that the amendments referenced above shall remain in effect until the County adopts permanent amendments establishing Freeland and Clinton as UGAs to replace these interim regulations or one year after the adoption date of this ordinance whichever date occurs earlier. Should the County not adopt replacement regulations by then the Board hereby declares its intent to reinact these interim amendments so that they remain in full force and effect until the Board enacts permanent replacement regulations or for six months whichever date occurs first.

Reviewed this 4th day of October, 1999, and set for public hearing at 1:30 PM on the 18th 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 99-560

APPROVED AND ADOPTED this 8th day of November, 1999 following public hearing, as amended by Amendment No. 2, and attached hereto.

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

[Mike Shelton, Chairman – absent]
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 *[Exhibit A and Amendment No. 2 placed on file with the Clerk of the Board]*

HEARING HELD: ORDINANCE #C-132-99 EXPANDING THE SIZE AND COMPOSITION OF THE ISLAND COUNTY BOARD OF HEALTH

A Public Hearing was held for the purpose of considering proposed Ordinance #C-132-99 to expand the size and composition of the Island County Board of Health.

Carol McNeil, Nursing Supervisor, Island County Health Department, reported that the Community Health Advisory Board (CHAB) and Community Health Advisory Team (CHAT) recommended that the Board of Health be expanded to include , the Mayor of Oak Harbor, and one Whidbey General Hospital commissioner for a total of five members. An additional change proposed is that the Board of Health meet on the fourth Monday of every month at 5:00 p.m.

Commissioner Thorn saw the action as long overdue, somewhat flawed, but one he would support at this time. His idea was to get some health experience on the Board of Health which he thought fundamental. Having someone from the medical community including MD's and the nursing community would be very appropriate his intent was to reopen this issue at a future date to try to bring that about.

Commissioner McDowell commented that the current Board of Health is comprised of the three County Commissioners. He has been assured the increased size would not be as a financial lobbying group. He questioned what had been the problem in the past or what do was the on-going problem that warranted additional members.

Ms. McNeil saw it as an issue of more community involvement. Roger Case, M.D., Health Officer, agreed the purpose was for more community involvement, and noted that the Hospital Board was supportive of that.

Debra Jaccard, Island County Public Health Nurse, past member of CHAB and CHAT, suggested the purpose was to create more awareness of health issues and as those issues come up, there be a more well rounded discussion.

Commissioner McDowell thought was described what you are describing was the reason for CHAB and CHAT, so he did not understand unless there had been a problem what the purpose was to expand the size of the Board of Health.

Ms. McNeil was not sure that it was an issue of "what's broken let's fix it", rather an interest in officially broadening representation and then perhaps in the future, may add further expertise on health in the community, a way of putting the public back in public health.

Commissioner Thorn saw the Board of Health, among other things, as a policy-generating Board and he did not feel competent in that area by himself and would like to have the advice and support of medial professionals working with the Board on generating new Island County Health Policy.

Commissioner McDowell thought that was the purpose the Board had staff. He recognized that both Commissioners Shelton and Thorn supported the Ordinance, and agreed to entertain a motion for adoption.

Commissioner Thorn moved that the Board approve Ordinance #C-132-99 in the matter of expanding the size and composition of the Island County board of Health. Motion, seconded by Commissioner McDowell, carried unanimously.

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

IN THE MATTER OF EXPANDING THE SIZE)
AND COMPOSITION OF THE ISLAND)
COUNTY BOARD OF HEALTH)
_____)

Ordinance No. C-132-99

Whereas, Section 70.05.030 of the Revised Code of Washington (RCW) authorizes the Island County Board of County Commissioners to expand the size and composition of the Island County Board of Health; and

Whereas, the Island County Community Health Advisory Board (CHAB) has recommended that the Island County Board of Commissioners consider expanding the Board of Health Membership; and

Whereas, the CHAB also recommends that fiscal decisions and contracts continue to be the prerogative of the Board of County Commissioners; and

Whereas, the Island County Board of Commissioners recognizes that RCW 70.05.050 identifies the Island County Health Officer as executive secretary to the Island County Board of Health; and

Whereas, the Island County Board of Commissioners desires to assure broad representation on the Island County Board of Health as it pursues its powers and duties to have supervision over all matters pertaining to the preservation of the life and health of the people of Island County in accordance with RCW 70.05.060; NOW, THEREFORE,

BE IT ORDAINED that the Island County Board of Commissioners hereby expands the membership of the Island County Board of Health to five (5) members, to include each of the three Island County Commissioners, the Mayor of the City of Oak Harbor, and one Whidbey General Hospital District Commissioner, nominated by the Whidbey General Hospital District Board and approved by the Board of Island County Commissioners; and

BE IT FURTHER ORDAINED that the Board of County Commissioners will review the membership of the Island County Board of Health in two years from adoption of this ordinance and consider future expansion of Board of Health membership; and

BE IT FURTHER ORDAINED that appointment of Island County Board of Health members, for all members other than County Commissioner members, shall be made by the Island County Board of Commissioners in accordance with this ordinance and any future amendments; and

BE IT FURTHER ORDAINED that the Board of Commissioners recognizes the importance of public health interventions provided through the Whidbey Naval Air Station (WNAS) personnel and invites the Commanding Officer of Naval Hospital Oak Harbor (NHOH) to serve on the Board of Health in an advisory capacity as an ex-officio member; and

BE IT FURTHER ORDAINED that the term of appointment for each County Commissioner member shall be simultaneous to that member's term of office as a County Commissioner, the term of office for each non-County Commissioner members shall be simultaneous to the current term of their elected position, and their term of office for the NHOH Commanding Office shall be simultaneous to that command; and

BE IT FURTHER ORDAINED that there shall be no compensation or reimbursement of expenses other than those specifically adopted for the Island County Board of Health by the Island County Board of Commissioners; and

BE IT FURTHER ORDAINED that the salary and expenses for the Island County Health Officer shall be set by the Island County Board of Commissioners; and

BE IT FURTHER ORDAINED that pursuant to RCW 70.05.040 members of the Island County Board of Health shall elect a chair to serve for a period of one year at the first meeting of the expanded Board of Health; and

BE IT FURTHER ORDAINED that a quorum necessary to conduct business of the Island County Board of Health shall be three members, at least two of whom shall also be members of the Board of County Commissioners; and

BE IT FURTHER ORDAINED that beginning in January, 2000, the expanded Island County Board of Health shall meet every fourth Monday of the month at 5:00 p.m. in the Island County Commissioners hearing room or at other times and

places as shall be determined by the expanded Island County Board of Health.

Reviewed this 18th day of October, 1999 and set for public hearing at 11:10 a.m. on the 8th day of November, 1999.

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

Mike

Shelton,

Chairman

Wm. I. McDowell, member

ATTEST:

MARGARET ROSENKRANZ

CLERK OF THE BOARD **BICC 99-632**

William f. thorn, member

ADOPTED this 8th day of November, 1999 following pubic hearing to be effective January 1, 2000.

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

[Mike Shelton, Chairman - absent]

WM. L. MCDOWELL, MEMBER

WILLIAM F. THORN, MEMBER

ATTEST:

MARGARET ROSENKRANZ

CLERK OF THE BOARD

MINUTES APPROVED

By unanimous motion, the Board approved and signed Minutes of Meeting from October 18, 1999 Regular Session.

Chairman Mike Shelton was present for the afternoon session beginning at 1:30 p.m.

GMA PUBLIC HEARINGS - 1:30 p.m.

- **Ordinance C-133-99 (PLG-040-99) - Amending the Comp Plan and Development Regulations to comply with the Order of the Western Washington Growth Management Hearings Board relating to the Rural Forest Zone**
- **Ordinance C-134-99 (PLG-041-99) - Amending the Comp Plan and Development Regulations to comply with the Order of the Western Washington Growth Management Hearings Board relating to Planned Residential Development**
- **Ordinance C-135-99 (PLG-042-99) - Amending the Comp Plan and Development Regulations to comply with the Order of the Western Washington Growth Management Hearings Board relating to Rural Densities in the Rural Area**

Attendance

Staff/Consultant: Keith Dearborn

Public: 15+ attended [Attendance Sheet: GMA doc. #5009]

The three ordinances are an integrated package of changes to address remand from the Growth Board regarding rural densities. Mr. Dearborn noted that the Growth Board stated that the zones did not have a sufficient variety of rural densities in the rural area and required the County to adopt an interim regulation that effectively down-zoned all the Rural zone in Island County from a 5 acre lot zone to a 10 acre lot zone as of August 8, 1999, and to stay in effect until the Growth Board confirms that the action the County takes does comply with GMA and there is a variety of densities in the rural area. If the ordinances are not adopted the 10 acre down zone in the rural area would remain in effect until ordinances are adopted. If the ordinances are adopted and the Growth Board makes a determination of non compliance the 10 acre zone will stay in effect.

ORDINANCE #C-133-99 (PLG-040-99) – RURAL FOREST ZONE

Hand-outs:

- Proposed Amendment #1 to the Rural Forest Zone correcting an inadvertent error to establish a verification process for the zone itself to determine the property is properly classified (with correction to Reference: instead of 17.03.90 Rural Ag, it is 17.03.110 Rural Forest) [GMA doc. #5011]
- Ordinance #C-133-99 [same hand-out as October 18, 1999 GMA doc. #4905]
*[Note: changes made as recommended in a Memo dated 10/22/99 from Code Reviser, Exhibit t B-2
 Corrected version to read: “uses denoted with an asterisk may be followed in the RA, RF or CA zones ...”. On Pages B-4 and B-5 make the proper indents; Item B-8 is to be renumbered with roman numerals rather than regular numbers, its, one through nine; and parenthesis added on page B-10 under D.1.A and B as noted.]*

The Rural Forest (RF) zone today is a 20 acre minimum lot size zone; not long term commercially significant, but lands that are classified as locally significant. The Growth Board directed the County to modify the Earned Development Unit (EDU) program option available for foresters. Ordinance #C-133-99 proposes to do that so it matches the program available to farmers in the Commercial Agriculture zone. Mr. Dearborn described the EDU program as unique: in the RF zone, clustering would allow a property owner to achieve a density of 1 unit to 5 acres – with a cluster-developed project in the forest zone and retaining 85% of the parcel in long term forest use. Rezone criteria proposed in Ordinance #C-133-99 replaces what has been referred to as “automatic opt-out” – withdraw from the tax program and rezoned to Rural. This proposal does not require withdrawal from the tax program and would be able to rezone to Rural based upon inability to make reasonable commercial forest use of the property [refer to WAC criteria guiding designation of long term commercially significant land]. There is no deadline for the verification process. Concerning withdrawal from the tax program, the existing Rural would stay in effect until this ordinance is adopted.

PUBLIC INPUT – Ordinance #C-133-99

John Graham, Citizens Growth Management Coalition, confirmed that the Coalition did not agree with the Ordinance as written. Comments included:

Exhibit A-2 policy M. To parallel the RA ordinance for Ag, the word commercial should be deleted and Policy M should read: “Reclassification to Rural Zoning should be allowed when the owner demonstrates reasonable forest use can no longer be made of the property.”.

Exhibit B-10.D.1 The Coalition proposes this be written as follows:

1. Reclassification from RF to R for lands that are not included in a Forest Management Plan shall be granted if requested by the Owner when:

- a. the land is no longer owned by the County, State or Federal Government and managed for Forestry Use; or
- b. the Owner cannot make Reasonable Forestry Use of the Parcel.

Provided, these reclassifications shall not be granted under 1.b when the inability to make Commercial Forestry Use of the property is due to the action or inaction of the Owner. These reclassifications shall be processed as a Type III decision pursuant to Chapter 16.19 ICC.

The bottom line for the Coalition is that according to the County’s latest figures there are about 100,000 acres of rural areas: 78,490 R; 13,990 RF; and 6,080 RA. The Growth Board wants a variety of densities. An opt out in RF treats RF lands as 1 in 5. The Coalition’s point of view from the beginning has been that there be a substantial percentage of rural lands to be in parcels with base densities of 1 in 5 or less, primarily for reasons of protecting critical areas, providing habitat and preserving rural character. The conditions Mr. Graham could see where a forester could opt out would be such things as forest fire, flood, or a neighbor polluting the land or otherwise making it unusable, but would

not simply economic hard times as a reason, rather global depression or forest prices that would be extremely long term. Opt out should be difficult.

The Coalition is willing to continue to talk. Mr. Graham thought a good idea had been presented to the Coalition last week from county staff which would have dealt with the opt out proposal as follows: base density of RF land would be 1 in 20 as it is now; RF owners could participate in the EDU program as it is now, but the RF opt out would only be upon demonstration that reasonable forestry use has been lost considering the WAC criteria. However, the RF opt out would only be to a new R-10 zone in which there would be no opt out short of a Comp Plan amendment and where there are no density bonuses of any kind. Another alternative explored several weeks' ago would be to leave RF alone and create some other zone that would have 15,000 – 20,000 acres in 1 in 10 zoning. Mr. Graham expressed the Coalition's interest in pursuing this proposal as a way of settling the argument. They understand there is a possibility of an even larger settlement lining some of the RF issues with rural density and critical area issues and he applauded any progress that can be made in that regard.

Tom Roehl, T. J. Roehl & Associates Project Planning & Management Services, Freeland,

representing himself as well as the Island County Property Rights Alliance, provided two letters for the record:

1. 11/8/99 three pages regarding Proposed Rural Forest Zone Changes [GMA doc. #5010]
2. 11/8/99 one page cover letter regarding Proposed Rural Forest Zone Changes with subject ordinance attached changed as he would recommend [GMA doc. #5004]

The RF zone as it currently sits was ratified by the Growth Board, with the guaranteed opt out clause if the property is taken out of the tax program, but the GB told the County to look at the rural densities issue and the variety of rural densities issue. RF was affected only insofar as the EDUs were attached to RF. The remainder of the rural zone was to be looked at as far as the question of a variety of rural densities. In the Final Decision and Order [FDO] the Growth Board opined that the reasons for sending it back to the County had to do with its perceived potential threat of 5 acre zoning in the rural zone, the perceived potential threat of a pattern of 5 acre tracts being harmful to urban growth areas, resource lands and critical areas. The Growth Board mentioned those areas of potential harm as being the basis for the County to relook at the issue.

The County formed a Rural Remand committee, which Mr. Roehl and Mr. Graham, with others, were a part of, and Mr. Roehl reviewed actions and deliberations of that Committee. As far as deleting the word "Commercial" from Exhibit B-10.D.1 as the Coalition proposes, he believed would result in no one being able to get a rezone because if land can grow trees it would not be rezoned out of forest uses, and keep in mind that 90% of the land in the County can grow trees. Those who own RF land went to the Growth Board essentially and won; now this is on the table for no legally justifiable reason other than to settle a dispute with the Coalition. Five acre zoning is made to sound so ugly, when 5 acre tracts are huge – 5 football fields. The overall pattern in Island County is that the 5 acre zoning has not been a threat to rural character and in fact, enhances it because it promotes people living rural lifestyles.

The current ordinance should stay in effect until this new ordinance has been ratified by the Growth Board; if turned down by the Growth Board, the current RF zone and its provisions should stay in effect during the process. And, he thought it needed to be make clear that by adopting this new ordinance, those who have gone through the opt out process not lose that rezoning.

Mr. Roehl proposes two options in the reclassification section [his Memo #5004]. In option B, he suggests two sections to be added to the WAC criteria, one is that also to be considered are actions by the County or another governmental agency that impose new restrictions on Commercial Forest Use; and second, complaints and objections of neighboring property owners regarding practices used to continue commercial forest use.

Mr. Roehl mentioned a provision that needs to be changed both for Rural Forest and Rural AG lands. In order for the EDU program to be a viable option the requirement there be a maximum parcel size of one acre needs to be deleted or replaced with something else, i.e. 2-1/2 acre. [Mr. Roehl's letter #5004, Exhibit B-8 #6]. The 1 acre parcel size works to make it impractical for most people to use EDUs on their same land EDUs are coming from; the 85/15%

ratio does that by default.

David Keller, 1478 Boon Hollow Lane, having a small place, five acres off of Boon Hollow Lane, raise horses so his daughter and wife can ride; raise ostriches to slaughter and eat them, was concerned after having read an article in the Wednesday paper indicating he might lose part of my use of my land because out of the five acres two acres are located in a place that has summer pasture, but in the winter, floods. Taking property away is a very serious matter. It is the small people that live in the community and love the lifestyle that will be affected; the five acres are very important. Right now he has 5 horses. He normally uses the bottom two acres for pasture in the summer when the area is dry [normally from July through about the first of December; once the rains come that marsh floods. He called the State this past year about just that and I was told by the a lady at the Department of Ecology, that if it was pasture, had been used as pasture in the past, it was okay to use it as it currently is. *[Mr. Keller's testimony actually addressed the Critical Areas Ordinance, and a full verbatim transcript of his comments has been entered for the Critical Areas Ordinance, as GMA doc. #5008]*

G. Tim Martin, Attorney, Langley, appearing on behalf of Margaret Waterman, Waterman Enterprises and the Waterman Family in connection with the proposed ordinance, owning property that would be classified in the RF zone under the ordinance. In analyzing the issues disputed today, he read again the GMA and the June 2nd decision of the Growth Board. The Act requires that the County adopt development regulations to assure conservation of natural resource lands: AG, Forest and Mineral resource lands as designated under RCW 6.70A.170. The term forest land is defined by the Act as land primarily devoted to growing trees for long term commercial timber production on land that can be economically and practically managed for such production and that has long term commercial significance. The Act required the County designate all of those forest lands having long term commercial significance. In adopting the Island County Zoning Code effective December 1, 1998, the County determined that no forest lands of long term commercial significance exist in Island County and therefore the County did not designate any. The County did establish a Rural Forest zone having a minimum parcel size of 20 acres, base density of 1 dwelling unit per 20 acres, and provided reclassification criteria based on the property tax classification.

For decades that tax treatment gave land owners in this county an incentive not to subdivide or develop, and that is one of the main reasons for as many large parcels as there are. Although the current ordinance has been cited by some as having an "automatic opt out", Mr. Martin pointed out it was only in the sense that it is voluntary, the land owner pays the taxes. From his personal experience with his clients, it is no small matter; compensating taxes go back several years and is a very substantial amount of money. And he has had clients who did not go through a rezone process over the last 6 to 10 months because they could not afford to.

The Hearings Board noted in June 2nd decision that Island County established a RF zone not as natural resource lands pursuant to section 170 of the Act but as a rural zone, and in that decision on page 35, observed as these are rural designations the County may rezone the land to other rural designations. The Hearings Board did not invalidate the reclassification criteria established by 17.03.220.D.1 for rezoning from the RF to R zone; however, the Hearings Board did consider the RF zone in determining that the uniform 5 acre minimum lot size in the Rural zone fails to provide a variety of parcel sizes as required by the Act and ordered Island County to reconsider its retention of uniform 5 acre parcels throughout the Rural zone and to ensure a variety of rural densities. On page 77 of the Decision, the Hearings Board noted that since the Rural AG and Rural Forest zones can be readily rezoned to 5 acres the County did not meet the variety requirement. The proposed ordinance would amend the reclassification provisions for going from Rural Forest to Rural granted only on demonstration by the owner before the Hearing Examiner at an administrative hearing that the owner cannot make reasonable use of the parcel for commercial forestry use considering the factors contained in WAC 365-190-060. Under the proposal, the rezone would not be voluntary nor based upon the personal wealth of the person applying, but based upon objective factors and decided after an administrative hearing by the Hearing Examiner. This is a significant undertaking for many landowners.

While Mr. Graham suggested that the Board should go even further and delete the reference to commercial from the proposed reclassification provisions and proposed language that the owner would have to prove that he cannot make any reasonable forestry use of the property, Mr. . Martin asserted that such a standard would be vague, uncertain, unlawful and contrary to the stated purpose of the RF zone. ICC 17.03.110 establishing the RF zone states that the RF

zone is established to identify geographical areas where commercial forest management practices can be conducted in an efficient manner. Trees can be grown in some manner in every part of Island County that is not under water, paved, or covered by sand. Mr. Graham identified the types of situations that would qualify for a rezone such as global recessions and earthquakes, and Mr. Martin felt it clear those were not the types of criteria that puts one into the RF zone to begin with and contrary to the intent of the zone. The RF zone is not intended to identify and conserve all parcels where trees grow; only those parcels that are commercially viable. If reasonable forestry use can no longer be made of an RF zone, he asked what rationale legal or factual basis the County had for distinguishing that parcel from any rural parcel. Clearly, the reference to commercial should not be deleted from the rezone criteria.

The change in rezone criteria from the “ automatic opt out” raises a fundamental conceptual issue. As adopted effective 12/1/98 the RF zone has a 20 acre minimum parcel size but provides a rezone process that is automatic [paying taxes], and that is being taken away in order to make it possible for the County to achieve a variety of parcel sizes in the Rural zone. Mr. Martin suggested that if the equation is to be changed the County consider the other part of the equation. It was his understanding that in the process of drafting the ordinance serious consideration was given to making the minimum lot size in the RF zone 10 acres with a base density of 1 dwelling unit per 10 acres. The Hearings Board made a final determination there are no forest lands in Island County having long term commercial significance. There is nothing whatsoever in the June 2nd decision which prohibits Island County from having a 10 acre rural forest zone and he asked that the Commissioners give that serious consideration if the reclassification procedures are made more difficult.

Chairman Shelton believed that under the 1984 Comp Plan and Zoning Code if someone wanted to opt out of the forest zone the owner had to go through a rezone process. Mr. Dearborn confirmed that was true, it was not just paying back taxes.

Steve Erickson, WEAN, Langley, commented that this issue also relates to PRDs and Rural densities ordinances to follow and he included by reference the comments he would make later on those ordinances.

The way this ordinance is written, Mr. Erickson said that with the EDU provision RF does get an effective density of 1 unit per 5 acres. The issue is the pattern of development not just direct impacts to adjacent parcels. The County has ample justification to look at how to treat these parcels, even though not designated as forest lands of long term commercial significance. the Hearings Board said that RF is basically rural lands, not a resource land, and remanded the rural zone for correction or reconsideration of the 5 acre zoning. The County could recognize the function of the rural forest parcels as a practical matter – large forested parcels ranging in size from 200-400 acres and all sizes in-between. Functions those RF parcels fulfill: play a very important part in maintaining the rural character, wildlife habitat and wildlife habitat functions including critical areas. Example: a 5 acre parcel is typically about 330 x 660’; setting a 1 acre clearing, would end up with a strip on the side of that 60’ wide each side or about 225’. A thin strip by its nature is highly vulnerable to wind invasion by weeds, residential development provides for closer proximity by domestic predators of wildlife. It comes down to fragmentation causing isolation of wildlife population [refer to his submittals in the record during the 11/1/99 GMA Hearing on critical areas regulation, Type 5 Stream Buffers, Best Management Provisions]. He posed two questions: 1. is it possible to have a density of 1 per 5 and retain those functions in part of the County; 2. if that is possible, how is it possible? Mitigation includes primarily clustering combined on areas where there are actually critical areas increasing buffers so they are more durable and not as easily degraded over time. It is not so much any one parcel but the pattern of them and the magnitude.

While Commissioner McDowell thought Mr. Erickson’s fragmentation concept may be true in the short direction, he pointed out that in the long direction there still are large areas untouched.

Mr. Erickson heard there was a proposal for straight 10 acre zoning; WEAN would oppose that for the same reasons in opposing 5 acre zoning though affects are not as immediately pronounced. EDU provisions result in a density of 1 per 5; it is an average density, not the classic 5 acre subdivision but it allows a lot more opportunity for preservation of critical areas that are on site or near by and retaining habitat viability in general throughout the county. He asked that everyone remember that this is Whidbey Island and not Seattle and 10 acres really was not large lot zoning. WEAN had some heart burn with rezone criteria that refer to the WAC criteria for designating lands of long term

commercial significance because it has already been ruled there are no forest lands of long term commercial significance in the county which means if this forest land does not satisfy the criteria it could be rezoned. The proposal since then has been worded a little better. He understood what Mr. Graham was trying to get at by suggesting deletion of the word “commercial” but thought the clarification to be used would be that those WAC criteria be used in the context of recognizing that these lands are not of long term commercial significance.

Debra Waterman, Langley, thought it sounded like what was trying to be created was a semi-rural community in that rural was lost a long time ago. If the what is trying to be created is large land zoning, 10 and 20 acres, then to turn to the forest land, she wondered how that related to the WAC and lands of long term commercial significance. She resented the fact that forest landowners be the ones to sacrifice and pay the price to guarantee long term open space in Island County, if that is the intent by using forest land. She recalled that in 1984 the County used any land that was in the forest tax program yet when that program was created by the State in 1975 it had nothing to do with zoning, nor was it meant to be. This does not seem fair; example: her next door neighbor who has 20 acres, never in the tax program and allowed 5's; Ms. Waterman's is in forest, 5's and if I have a next door neighbor who has 20 acres never in the tax program, but mine is in forest zone at 20, and takes away her ability to rezone; why can the person next door divide into 5's when she cannot.

Fred Frei, Sr., Frei Tree Farm, Langley, had a picture at home showing old growth in back of the old Frei Farm, now all gone and fallen down. The Douglas Fir is the best tree here for building houses and it will not reproduce under shade. His family has planted immediately after cutting and they do have some trees reproducing where there were alder stands and hemlock stands, and that needs to be considered too.

Tom Roehl drew attention to the version he provided (#5004) Exhibit B-11, Option A. He suggested that instead of referencing the WAC it would be better to list the criteria as he has done in this section. The first item: “the land is no longer owned by the County, State or Federal government and managed for Forestry Uses” should not be in this section because it is one of the designation criteria. If that does not exist, that land should not have to go through this rezone process, and would be a technical correction. There is mention made in the verification section of the amendment that refers to a Type IV technical correction, but other places in the ordinance indicate the current opt out clause is a Type I technical correction – it should be whichever is the simpler process.

For Item B, the section referring to where the owner cannot make Reasonable Use of the Parcel for Commercial forestry, Mr. Roehl listed in his version criteria from the WAC. [and inserted the first, both long and short term economic conditions]. The next criteria he listed were not in the WAC but he thought were important to list:

Proximity of the parcel to urban and suburban areas and rural settlements;

The compatibility and intensity of adjacent and nearby land use and settlement pattern with forest practices.

History of land development permits issued nearby.

Like Mr. Martin, Mr. Roehl too has had clients who have considered the process and could not afford it, or could not meet the criteria and never applied. The Forest zone should be a 10 acre zone because the old opt out clause is being taken away from these land owners and nothing put in its place. He did not think it would be harmful to take away the EDUs but the PRD option should be as the Coalition suggested before, i.e. under that system not get quite to a 5 acre density, and if stay in the forest zone could only use the PRD ordinance to cluster.

John Graham clarified that the Coalition was looking 50 years' ahead and asking how to keep these forests or large blocks of land not yet developed in a way that preserves habitat and rural character. It is the totality, the cumulative effect and the pattern of uses that affects rural character and habitat. In terms of WAC criteria what Mr. Erickson suggested is something Mr. Graham suggested three weeks' ago.

Public Input Closed.

Mr. Dearborn clarified one point: it was not the forest land owners that won the fight before the Growth Board, it was

the County Commissioners and taxpayer dollars that won that fight. Other than Tom Roehl there were no forest land owners represented. Winning that fight was a fight over words and not over substance. The lands in the County still are in forest production. They may be under GMA not long term commercially significant. He cautioned not to count on that as the sole reason to walk away from the subject, because if the question of density is not addressed in a fair and reasonable way, it will be addressed next year or going to Court to address it. Prior to 1998 to get out of the forest zone, 20 acres, the owner had to withdraw from the tax program, but also had to have a development proposal appropriate for the property, a significant deterral to withdraw from the zone. The proposal now is very different. And also prior to 1998, there were TDRs but no place to use them. Now there are EDUs that should be counted in the equation of a forester. If the ordinance is adopted as proposed the forest land owners would be the only ones in the State that could go to a forest resource managers meeting, continuing to commit lands to commercial forest use, not be locked up permanently in that zone and be able to achieve a 5 acre density. In 1984 the argument from foresters was that they did not care about the lot size because they were not developers and just wanted to stay in forestry. The proposal now before the Board is substantially a better deal than prior to 1998.

Commissioner Thorn expressed his view that going to court was absolutely abhorrent to him. He saw this matter as being very close to settling this negotiation; demonstrated since the first of the year negotiation leads to positive results. He said that there is a difference between commercial forestry and forests of long term commercial significance, and he had no problem with leaving the word commercial in. He was comfortable leaving the WAC number included with that qualification. He thought the ordinance as proposed with those several possible changes was reasonable. He liked the choice of the one for 20 with EDUs or R-10 zone without.

Commissioner McDowell indicated he had no problem going to court if that is necessary. He was not comfortable about being close to agreement, but would have no problem waiting some period of time to allow further discussion and negotiation. He viewed Mr. Martin's comments are very important. He asked that since trees can virtually be grown anywhere in the county regardless of how zoned, how was that distinguished from all of rural land, and why does there have to be such a complicated type of rezone. He asked that an amendment be prepared to delete the one acre limitation and also suggested an amendment with regard to the effective date of the ordinance. He had no problem referencing the WAC criteria or listing the WAC criteria.

Chairman Shelton suggested that another way to approach the matter would be to remove the reference to the WAC and add "complaints and objections of neighboring property owners regarding forest practices used to continue commercial forest use". History in Island County shows that forestry has been stopped in certain areas for that particular reason. Using EDUs not exceed 1 acre in size, he thought should be deleted and just not have a density requirement because everything he heard from the Coalition is for larger parcels, therefore why cap it at a one acre size. What really caps the number of houses is a 15% that can be developed versus 85% that has to be set aside. He suggested crossing out item #6 on Exhibit B-8, and the small a and b instead be numbers. He asked for some clarification with regard to proposed Amendment, specifically Type IV versus Type I decision.

Mr. Dearborn confirmed that the verification process is a Type IV decision. A Type IV decision is one made by the Board of Commissioners; a Type I decision is made by the Planning Director.

Chairman Shelton addressed the comment by Tom Roehl about why the County was looking at the RF zone because that part of the Comp Plan was approved by GMHB, noting Mr. Dearborn's response that the County needs to achieve what the Hearings Board would see as an appropriate variety of densities. One of the things historically speaking is the "carrot and stick" syndrome, having relied up on the carrot [tax program] to have people keep their property in forest land. He preferred always to do as much with carrots and as little with sticks as possible. He recalled that Mr. Graham had alluded to the fact that he thought there had been an agreement three weeks' ago, and the Chairman believed they were close to an agreement but the problem turned out to be the rezone criteria. On the one hand there is a set of rezone criteria in the WAC that in the Coalition's viewpoint might allow wholesale rezone, and Mr. Graham proposed that it would take a global disaster to enable a rezone. There seems to be quite a distance between those two positions. He found it interesting to be trying to preserve a rural character that the State of Washington has already decided is long gone in Island County. The last Legislative Session some funding was made available to rural counties and Island County, along with seven or eight other counties, was designated as an urban county because of

the fact there is a density of population in the rural area of the county unequaled, except in Kitsap County.

Mr. Dearborn sensed between the parties there may be some common ground that can be found and if so, he thought it would be worth taking the time to find it. The argument over the rezone criteria is not over the validity of the rezone criteria but the result of the rezone criteria not allowing the County to meet the variety of densities argument.

The only ruling from the Growth Board is whether the County still has to meet the variety of densities or whether it has complied with it. Setting the date for effective date of the ordinance is a policy decision of the Board of Commissioners. Mr. Dearborn summarized from the comments

during the hearing, and noted he would prepare a draft with two or three options on rezone criteria and have those available to the parties, and try to find some common ground in the next two weeks on that issue.

1. strike 1 acre reference
2. technical change
3. changing effective date
4. rezone criteria , and adding one criteria "complaints and objections of neighboring property owners regarding forest practices used to continue commercial forest use".

BOARD ACTION: by unanimous motion, the Board continued the Public Hearing on Ordinance #C-133-99 (PLG-040-99) and Amendment No. 1 thereto and those other amendments to be brought forward as discussed, to November 22, 1999 at 3:00 p.m., with public testimony to be allowed on the amendments. *[Notice of Continuation GMA doc. #5005]*

ORDINANCE C-134-99 (PLG-041-99) PLANNED RESIDENTIAL DEVELOPMENT

Hand-Outs:

- Ordinance #C-134-99 as provided 10/18/99 [GMA doc. 4906]

[Note: There are no changes proposed to the ordinance since 10-18-99 other than as recommended by the Code Reviser in a 10/22/99 Memo, the Board on 10-25-99 by unanimous motion removed the last two pages attached to the ordinance entitled "Rural Zone PRD Changes" because they are not an identified exhibit and are not to be attached as part of the Ordinance, rather were provided only for information and part of the record only; and noted that Findings still must be attached as an Exhibit.]

As noted by Mr. Dearborn, though one of the Orders of the Growth Board was complimentary regarding changes to the PRD process adopted in December of 1998, the Order asked that the County revisit the size and intensity of PRDs because of the belief there was no cap on the size and intensity. The concern was about the compatibility of PRDs and that the potential a PRD at a certain density might effectively induce public facilities and services that were incompatible with the surrounding rural area. The old PRD ordinance allowed a 100% density bonus in the Rural zone with an open space requirement of 50%. The new ordinance gives greater density bonus as the size of the open space is increased and sets minimum open spaces but does not set maximum open spaces; changes the smallest parcel that can have a PRD from 10 acres to 20 acres; and there is a cap of 80 acres. In total in the R zone there would only be approximately 10,000 acres out of 50,000 acres in the R zone that could use a PRD.

Mr. Dearborn referred to the proposed ordinance and the two tables that previously were attached to the back of the ordinance – now separate sheets for purposes of the record.

RURAL ZONE PRD CHANGES [Table 1]

	Maximum <u>Bonus Density</u>	Minimum <u>Open Space</u>
Current		
10 acres +	100%	50%

Proposed

Up to 20 acres	None	30%
20 up to 40 acres	100%	65%
40 up to 80 acres	125%	80%
Over 80 acres	None	30%

RURAL ZONE PRD CHANGES [Table 2]

Parcel Size	Current Maximum Dwelling Units			Proposed Dwelling Units			Average Density [in acres]	
	Base	Bonus	Allowed	Base	Bonus	Allowed	Density	Average
20 acres	4	+	4 = 8	4	+	2.5 =	6	2.9
40 acres	8	+	8 = 16	8	+	8 =	16	2.5
80 acres	16	+	16 = 32	16	+	16 = 32	32	2.5

Mr. Dearborn addressed the impacts on page Exhibit A-2.I, a provision that Sandy Roberts prior to the hearing expressed concern about. This paraphrases language already adopted for non-residential uses in the rural area. Non-residential uses in the rural area are required to be fully

screened from adjacent properties, public roads and the shoreline or comply with design guidelines. Full screening of the PRD would not be appropriate and the word "fully screened" deleted as well as the reference to shoreline. He described the screening: it is not "I don't want to see is" screening, rather that the density not be right up at the road with no screening at all. Screening does not have to be natural trees, and can be land forms or fences, or a variety of ways to achieve the screening. Rather than the screening requirement itself, Mr. Roberts was concerned about the amount time that was allowed to achieve the screening and used an example of the Grasser Hill Conservation Easement for residential development where 8 years is allowed for trees to reach the maturity to provide screening. Findings are yet to be prepared for this Ordinance and Mr. Dearborn suggested this matter be addressed in the Findings. This provision has been discussed with both Tom Roehl and John Graham. The Coalition to date indicated more concern about the size of the open space than the aesthetics of the architecture or the home, and were not particularly troubled about seeing homes in a PRD as long as the open space was there, protected in perpetuity in a conservation easement.

Public Input

Steve Erickson, WEAN, addressed Ordinance #C-134-99 by noting the following:

- Exhibit C-2 16.17.010 E #5 redundancy "providing for wildlife and fish and wildlife habitat".
- The primary problem falls under the rural density issue: use of PRDs and preservation of open space not required for the larger parcels.
- Comments as follows were requested to be included by reference on the Rural Density Ordinance as well.

Mr. Erickson recalled his testimony previously about problems of fragmentation of habitat throughout the County and how it can be mitigated essentially while retaining density, in this case, an average 5 acre density [not on every parcel at all times]. From a habitat standpoint 60-85% minimum of a given area staying in open space, especially if the criteria in the PRD ordinance for how open space is prioritized, goes a long way towards maintaining larger blocks of habitat. Those larger blocks will be more durable for wildlife and better for habitat. The problems he sees without requiring the use of PRDs is that PRDs would not be used that much even with density bonuses. The density bonuses allowed under the PRD ordinance are not too far different from what was

allowed previously and from 1984 to 1997 there were 31 PRDs approved throughout the County.

One of the issues faced is that up until now everyone has had the benefit of defacto open space, and that has been taken for granted. Looking at the maximum development potential and what is proposed in terms of population increase then the County must work proactively now to preserve those larger areas for habitat. The only viable way he saw to do that was by clustering.

His proposed change would be to add an amendment that for those lots that are 20 acres or larger development requires use of a PRD. He did have a question about how this would apply to unregulated subdivisions, and about the prohibition on a density bonus for parcels over 80 acres. If the intent for those very large parcels is to retain as very large lots then that is an obvious loophole. Again, Mr. Erickson referred to those documents he previously placed on record. The main problem was that he did not think PRDs will be used enough to accomplish what needs to be done.

Mr. Dearborn confirmed that the language in Exhibit C-2 16.17.010 E #5 reads exactly the way the GMA reads. As to the ability to take a larger than 80 acre parcel down below in order to use density bonus system, that could be done, but he pointed out that there is only one parcel in quasi-private ownership over 80 acres in the rural zone, owned by Seattle Pacific University. An inventory was done to make that determination and did not feel it was a concern because the focus of the PRD process has been on private ownership, not public.

John Graham, Citizens Growth Management Coalition, commented that the Coalition had participated in the formation of this ordinance, and Mr. Graham participated in the formation of the PRD ordinance last year, a part of the whole package the Coalition likes.

It seemed to Chairman Shelton that if someone has 40 acre piece of property purchased for the purpose of development, the fact that he can double the density on that 40 acre piece, the fact he can pull together all the infrastructure into a relatively small would be the most attractive show in

town in the Comp Plan for a developer. The problem is the eight 5's that might be the alternative and the development costs for those and infrastructure. The other interesting thing was there has not been an abundance of PRDs, but most of the PRDs that have been built have been pretty successful. He thought PRDs in terms of open space do provide long term hope for the preservation of habitat and other things of concern.

Commissioner McDowell brought up the issue that when someone does a PRD they do so and abide by those rules. Also to be taken into consideration is the "mom and pop" type process where there may be a 20 and divide it off for children or other reasons, but where these folks are not developers.

In that case, Mr. Erickson thought what they would do would be to delineate areas where clusters of the houses would go.

And Commissioner Thorn noted there is an aggregation incentive which appealed to him.

Mr. Erickson thought the PRD framework in terms of the criteria and priorities for the open space, most seem to be a lot better than what used to be, but the problem he had was he did not see that PRDs would be used that widely or that sufficiently and thought the County would need to bite the bullet; if PRDs are that desirable it needs to be not only preferred, but required.

Public Comment Portion Closed

BOARD ACTION:

Commissioner Thorn was gratified with the level of agreement on this particular ordinance and thought this was a good first step as is. He understood what Mr. Erickson was saying and was open to including a requirement for parcels that are 40 acres and up to make the PRD a requirement, though he was prepared to accept the ordinance as is.

The Chairman and Commissioner McDowell supported the ordinance as is.

Mr. Dearborn did point out that Findings and Legislative Intent as Exhibit D still needed to be prepared before the Ordinance was adopted.

By unanimous motion, the Board continued the Public Hearing on Ordinance #C-134-99, PLG-041-99, to November 22, 1999 at 3:00 p.m. [*Notice of Continuance GMA doc. #5006*]

ORDINANCE C-135-99 (PLG-042-99) - RURAL DENSITIES IN THE RURAL AREA

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Hand-out:

- Ordinance #C-135-99 as provided on 10-18-99 [GMA doc. #4907]

[As noted during Board meeting 10-15-99, pursuant to Memorandum dated 10/22/99 from the County's Code Reviser, Findings are to be attached as an Exhibit as noted]

Mr. Dearborn commented that this ordinance modifies tables in the Comp Plan that show statistics relating to the rural area, adds a table showing the relative comparison between the lot sizes in the rural area, and clarifies policies related to UGA expansion. Through work to develop the Langley Interlocal Agreement and in discussions with Oak Harbor, both request rather than having specific areas called expansion areas want a joint planning area treated as an expansion area and managed with that possibility in mind. This would also incorporate into the zoning code two new definitions, (1) rural governmental services; (2) urban governmental services [verbatim GMA definitions] and makes it clear that the conservation easement area of the open space in a PRD [defined in the zoning code] could be used for passive activity such as trails.

Public Input

John Graham, Citizens Growth Management Coalition, pointed out a typographical error on page Exhibit A-3, under note 2: Includes lands classified Rural that are in lot sizes of 9 acres to 20 acres. The correction should be "9 acres and larger".

Mr. Dearborn agreed with the correction Mr. Graham noted for A-3 under note 2. Further, he noted a typographical error to be corrected on page A-1, second line from the bottom in the second paragraph, middle of the line that says "150 aces" should be "150 acres".

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Steve Erickson, WEAN, referred to his previous comments. He noted that the Growth Board remanded the issue back to the County for two reasons: (1) threat to resource lands; and (2) threat to critical areas. The Growth Board also directed that the County either enlarge category B wetland buffers or reanalyze the adequacy of the

ordinances for protecting wildlife. As things stand now and with current development patterns that are projected wildlife habitat is not going to remain viable throughout the county and there will be increasing cumulative impacts to critical areas. He thought those concerns could be mitigated by requiring PRDs on the larger parcels and increasing critical area buffers on smaller parcels.

Fred Frei, Sr., Langley, questioned how the County could provide for affordable housing for people if everyone is so concerned about big plots for wildlife. He has seen a number of different kinds of wildlife come here, skunk, fox, coyote since he has been here; before he was here he thought there had even been elk on the Island. He cautioned that we could not keep everything for the wildlife and must do things for humans too.

Public Comments Closed

Commissioner Thorn saw substantial gains in the definition of resource lands, mineral lands, commercial agriculture. He thought it unfortunate that years' ago there was a pillaging of the Islands and the number of small lots that fall in the rural category. That, however, is a fact, and he thought the County had gone about as far as it could in creating a variety of densities. He was prepared to accept the ordinance as written with correction of the typographical errors.

BOARD ACTION:

By unanimous motion, the Board continued the hearing on Ordinance #C-135-99, PLG-042-99, until November 22, 1999 at 3:00 p.m. *[Notice of Continuance GMA doc. #5007]*

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NOTE: SPECIAL SESSION ON CAMANO ISLAND

7:00 P.M. Public Hearing – Ordinance C-129-99 (R-40-99) establish parking restrictions on Maple Grove Road, Camano Island, in the vicinity of the Maple Grove Boat Ramp and Amending Clerical error in ICC 10.06.030. (Hearing to be held on Camano Island at Country Club Fire Station, 1326S. Elger Bay Road)

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The meeting adjourned at 3:00 p.m., to reconvene in Special Session on Camano Island beginning at 7:00 p.m.

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