

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING  
REGULAR & SPECIAL SESSIONS - FEBRUARY 28, 2000**

**SPECIAL SESSION**

The Board of Island County Commissioners met in Special Session on Monday, February 28, 2000, at 9:30 a.m., prior to the Regular Board meeting at 11:30 a.m. for the Elected Officials Roundtable. The purpose of the Special Session was to allow the Board to meet in Executive Session with legal counsel to discuss pending and/or potential litigation, as allowed under R.C.W. 42.30.110 (1) (i). The Special Session was held in the Office of the County Commissioners, 502 N. Main Street, Coupeville, Wa., and lasted approximately 1-1/2 hours. No announcement was made on conclusion of the session.

**REGULAR MEETING**

The Regular Meeting of the Board of Island County Commissioners was held on February 28, 2000, beginning at 11:30 a.m. with the monthly Roundtable with Elected Officials, followed by other meeting items as listed on the Agenda beginning at 1:30 p.m., including Diking Improvement District #4. The meeting was held in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa., with Wm. L. McDowell, Chairman; William F. Thorn, Member, and Mike Shelton, Member, present.

**ROUNDTABLE MEETING WITH ISLAND COUNTY ELECTED OFFICIALS**

**Attendance:** Elected Officials: Greg Banks, Robert Bishop; Marilee Black; Mike Hawley; Suzanne Sinclair; Maxine Sauter

**Others:** Margaret Rosenkranz

**Budget Constraints.** Discussed continuing concern about County budget and the impacts of 695 and county departments prioritization of functions and duties, working with a figure of 5% reduction [still a fair target for reduction for only for 2001]. Should the County receive funding to backfill to some degree what was lost through 695, it remains important that departments project forward inasmuch as there are on-going expenses [see Memorandum 2/18/00 from Chairman McDowell]. For every year that passes, there are built in costs, i.e. labor contract costs and increased medical premiums, without foreseeable increases on the revenue side. WSAC Legislative Steering Committee information shows a combined total loss by the year 2004 under 695 of 5-1/2 million (Island County, Coupeville, Oak Harbor, Langlely and Island Transit based on 2000).

**Technology Committee** Technology Advisory Committee has held two meetings and is beginning to look at how we are doing business and how technology can impact that. The next meeting is this Friday. The group is starting to draw a conceptual bubble chart between offices and eventually a drawing will come forth from that to indicate where we can see some additional technological benefit from programs and hardware changes.

**Telephone System.** There continue to be some frustrations with the new phone system. Central Services believes problems can be corrected, certain there is nothing that cannot be fixed. Cathy Caryl sent out an e-mail Wednesday asking to be made aware of any problems that departments may continue to have, or questions about phone configurations, noting the system is versatile and most likely could be customized to department specifications. E-911 calls from the Island County Courthouse remain a problem after hours because the call goes to I-COM with only an Island County Courthouse location and the call could be coming from any one of the buildings. The Sheriff has discussed this issue with the Safety Committee and Cathy Caryl priced out a fix. The Sheriff will bring this issue forward for at his next staff session with the Board.

Roundtable adjourned at Noon; next roundtable 3/27/00 @ 11:30 a.m.

**MINUTES APPROVED**

By unanimous motion, the Board approved and signed the following minutes: February 7, 2000 Regular Session; February 9, 2000 Special Session; and February 14, 2000 Regular Session.

**VOUCHERS AND PAYMENT OF BILLS**

The following vouchers/warrants were approved for payment by unanimous motion of the Board: Voucher/Warrants #69338 - #69719.....\$ 416,518.57.

**Veterans Assistance Fund:** [emergency financial assistance to certain eligible veterans; the names and specific circumstances are maintained confidential].

Claim V2K-1 approved in the amount of \$1,851.49

Claim V2k-2 approved in the amount of \$1,325.00

**SECOND ALTERNATE ON I-COM BOARD OF DIRECTORS APPOINTED**

The Board, by unanimous motion, appointed Dick Toft, Oak Harbor, to serve as the second alternate to Wm. L. McDowell on the I-COM Board of Directors [Island County Emergency Services Communications Center]. The I-COM Board of Directors meets the first Monday of each month at 3:00 p.m. when often times neither Commissioner McDowell nor Commissioner Thorn can attend.

**CONTRACT #RM-BOC-00-0022, AGREEMENT FOR CONSULTING SERVICES BETWEEN ISLAND COUNTY AND KEITH DEARBORN, LLC**

The Board, by unanimous motion, ratified its action taken at Staff Session 2/23/00 approving and authorizing the Chairman's signature on Contract #RM-BOC-00-0022, Agreement for Consulting Services between Island County and Keith Dearborn, LLC.

Additionally, the Board by unanimous motion authorized the Chairman's signature on Declaration to be filed with the Western Washington Growth Management Hearings Board verifying that the Board executed a contract with Mr. Dearborn to assist the County in completing actions needed to comply with the Growth Management Act, and pursuant to the contract, Mr. Dearborn is the duly authorized representative of the County for any compliance proceedings before the Western Washington Growth Management Hearings Board [GMA doc. #5514].

**CONTRACT #HS-13-99 - COMMUNITY MENTAL HEALTH SERVICES**

The Board, by unanimous motion, approved and signed Contract #HS-13-99 between Island County and Community Mental Health Services in the amount of \$82,750.

**STAFF SESSION SCHEDULE – MARCH, 2000**

The Board authorized the distribution of the Staff Session schedule for March, 2000, outlining regular staff sessions to be held on March 1 and 15, 2000.

**RESOLUTION #C-17-00 AUTHORIZING RESOLUTION AND INTERLOCAL AGREEMENT WITH STANWOOD-CAMANO SCHOOL DISTRICT**

A follow-on to previous discussion with the Board at various staff sessions, on presentation by Lee McFarland, Assistant Director, GSA, the Board by unanimous motion approved Resolution #C-17-00 in the matter of entering into an Interlocal Agreement between the Stanwood-Camano School District No. 401 and Island County Providing for the Construction of Athletic Fields, and approved and signed the Interlocal Park Agreement with the District, agreement #RM-PARK-99-0102, to provide \$64,300.00 to aid in the construction of athletic fields at two new elementary schools on Camano Island.

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

In The Matter of Entering Into An Interlocal Agreement )  
Between The Stanwood-Camano School District No. 401 ) **Resolution No: C-17-00**  
and Island County Providing For The Construction of )  
Athletic Fields )

WHEREAS, the County desires to provide funding to aid in this project; and

WHEREAS, the District has agreed they are responsible for the operation, scheduling and maintenance of the athletic fields following construction: NOW THEREFORE

BE IT HEREBY RESOLVED, by the Board of County Commissioners of Island County, Washington, that the County is authorized to enter into an Interlocal Agreement with the Stanwood-Camano School District No. 401.

Adopted this 28<sup>th</sup> day of February 2000.

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

*Wm. L. McDowell, Chairman*

*William F. Thorn, Member*

*Mike Shelton, Member*

**ATTEST:**

*Margaret Rosenkranz,*

Clerk of the Board BICC 00-109

**HAZARDOUS MATERIALS EMERGENCY PREPAREDNESS GRANT AND EARTHQUAKE MITIGATION GRANTS APPROVED**

As outlined and discussed previously in staff session with the Board by GSA/Emergency Services Department personnel, the Board by unanimous motion approved grant agreement #EM010162 (RM-GSA-00-0017) Hazardous Materials Emergency Preparedness Grant for \$3,000 with a County soft match of \$750.00, and #EM019145 (RM-GSA-00-0016), Earthquake Mitigation Grant for \$3000 and a County soft match of \$1,500.

**CONTRACTS FOR 2% HOTEL/MOTEL LODGING TAX REVENUES**

The Board, by unanimous motion, approved Amendment No. 1 to a Contract for 2% Hotel/Motel Lodging Tax Revenues, Year 1999 Contract with South Whidbey Historical Society, #RM-BOC-99-0028 extending date of completion to no later than December 31, 2000. The Board also, on unanimous motion approved a Contract for 2% Hotel/Motel Lodging Tax Revenues Year 2000 with the Freeland Chamber of Commerce, #RM-BOC-00-0010 for the approved amount December 20, 1999, \$4,194.00.

**HIRING REQUESTS & PERSONNEL ACTIONS**

After presentation by Dick Toft, Human Resource Director, the Board by unanimous motion approved the following personnel actions, all effective 2/28/00:

<b>Dept.</b>	<b>PAA#</b>	<b>Description/Position #</b>	<b>Action</b>
Pros. Atty	014/00	Leg.Sec/Juv.Ct. #1809.12	Replacement
Pros. Atty.	023/00	Leg.Sec.-Felony #1815.01	Reclassification
Pros. Atty.	024/00	Leg.Sec.-Sup Ct/Juv #1809.01/02	Reclassification
Pub. Works	019/00	Truck Dr I #2240.04	Replacement
Pub. Works	020/00	TruckDr.I #2240.03	Replacement
Assessor	021/00	Data Entry/Comp #113	Replacement
Commrs.	022/00	DA-Camano PT #608.01	New Position

**PUBLIC HEARING: ORDINANCE #C-11-00 IN THE MATTER OF REVISION OF THE MEETING DATE OF THE ISLAND COUNTY BOARD OF HEALTH**

As introduced on February 7 and set for this date and time, a public hearing was held at 1:45 p.m. to consider Ordinance #C-11-00, In the Matter of Revision of the Meeting Date of the Island County Board of Health from the fourth Monday of each month at 5:00 p.m., to the third Monday of each month at 5:00 p.m. No one in the audience at the time commented either for or against the proposed revision date and time. By unanimous motion, the Board adopted Ordinance #C-11-00.

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

**IN THE MATTER OF REVISION OF THE MEETING DATE OF THE ISLAND COUNTY BOARD OF HEALTH** )  
 )  
 ) Ordinance No. C-11-00  
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**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 Board of Commissioners desires to assure that the Board of Health meet at a time and place convenient to its members;

Whereas, The Island County Board of Commissioners wishes to revise Ordinance C-132-99 adopted November 8, 1999, and

**NOW THEREFORE, BE IT RESOLVED**, that the Island County Board of Health shall change its meeting day from the fourth Monday of each month to the third Monday of each month beginning March, 2000. The meeting time shall remain at 5:00 p.m. in the Island County Commissioners Hearing Room or at other times and places as shall be determined by the Island County Board of Health.

**REVIEWED** this 7<sup>th</sup> day of February 2000 and set for public hearing at 1:45 p.m. on the 28<sup>th</sup> day of February 2000.

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

[absent-Wm. L. McDowell, Chairman]  
*William F. Thorn*, Member  
*Mike Shelton*, Member

**BICC 00-57**

**ADOPTED** this 28<sup>th</sup> day of February, 2000, to be effective March 1, 2000.

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

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

**FERRY ADVISORY COMMITTEE REPORT**

Jack Leengran, Chairman, Clinton Ferry Advisory Committee reported on activities of the Committee. Julie Hodson was unable to attend at this time and report on activities associated with the Keystone Ferry Advisory Committee. The Clinton Ferry Advisory Committee was represented at the rally organized by Ferry Dependent Counties Coalition February 17<sup>th</sup> in Olympia, along with Mike Shelton. As far as work on the Clinton dock, it appears there will be a half-wood half-concrete dock in Clinton unless some major funding source comes along. As far as closure of the dock in Mukilteo during construction, there is still debate whether there will be a three week total closure or an 8 week partial closure. As far as the "pulse" of South Whidbey folks on that issue, a survey was taken resulting in about 50/50 the 3 week total closure versus 8 week partial closure. His personal opinion was that a 3 weeks closure would be much easier to take than an 8 week disruption. Also, the 3 week closure will give about 2-1/2 times more service to Edmonds than the 8 week closure, and the 3 week closure will save about \$100,000 in total cost.

**ACCESS EASEMENT-SARATOGA ROAD CULVERT REPLACEMENT-FRED FREI**

As presented and recommended for approval/acceptance by Larry Kwarsick, Public Works Director, the Board by unanimous motion approved Access Easement for the Saratoga Road Culvert Replacement project, Fred Frei the owner of parcel 480-4150; Work Order #277, CRP 99-06; Sec 2, Twp 30N, R 3E.

**HEARING HELD: FRANCHISE APPLICATION #317(R) – RENEWAL FOR EXISTING WATER DISTRIBUTION SYSTEM IN COUNTY RIGHT-OF-WAY WALNUT COURT AND A PORTION OF SOUTH CAMANO DRIVE IN THE PLAT OF JORDAN ACRES SUBMITTED BY JORDAN ACRES WATER SYSTEM**

A Public Hearing was held for the purpose of considering Franchise Application #317(R) – Renewal for existing water distribution system in County right-of-way Walnut Court and a portion of South Camano Drive in the Plat of Jordan Acres submitted by Jordan Acres Water System. County Engineer, Lew Legat, provided by way of Memorandum dated February 8, 2000, his review and recommendation of approval, confirming all departments requested to comment had responded with no objection to the proposal and the documents reviewed as to form by the Prosecutor's Office. No one in the audience commented either for or against renewal of Franchise #317(R).

By unanimous motion, the Board approved Franchise #317R, a 25 year renewal of an existing water distribution system in County R/W Walnut Court and a portion of South Camano Drive in the Plat of Jordan Acres by Jordan Acres Water System, Camano Island.

**HEARING HELD: FRANCHISE APPLICATION #316 – EXISTING WATER DISTRIBUTION SYSTEM IN LEHMAN ROAD AND PORTION OF EAST CAMANO DRIVE - DRIFTWOOD SHORES WATER SYSTEM, INC., CAMANO ISLAND**

A Public Hearing was held to consider Franchise Application #316 – Existing water distribution system for County right-of-way Lehman Road and a portion of East Camano Drive submitted by the Driftwood Shores Water System, Inc., Camano Island. The County Engineer's Memorandum dated February 18, 2000, recommendation of approval with conditions. The Health, Planning and Public Works/Community Development departments approved the proposal with the stipulation that the proposed water system receive approval from the State Department of Health prior to implementation of any construction activities. The Public Works Department also require documentation reflecting approval of the water system prior to issuing the utility permit for construction purposes. Documents were reviewed as to form by the Prosecutor's Office.

Tom Freeland, Reichhardt & Ebe Engineering, Bellingham, agent and project engineer for the Applicant, was present in support of the franchise and to respond to any questions there may be. He confirmed that the recommended conditions of

approval were acceptable, that being to receive approval from the State Department of Health and a utility permit from the Public Works Department.

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By unanimous motion, the Board approved Franchise #316 by the Driftwood Shores Water System, Inc., Camano Island.

**AWARD OF BID FOR CULVERT SUPPLIES**

Based on the County Engineer's Bid Award Recommendation dated this date and bid cost analysis attached, the Board by unanimous motion awarded bid for culvert supplies for the period 2/28/00 to 2/28/01 to the lowest overall bidder, Washington Culvert Company, Arlington, Wa., for initial stock deliveries, in the amount of \$21,725.05; any additional quantities needed for the remainder of the year may be provided by either bidder, Washington Culvert Company or Hardware Sales.

**AWARD OF BID FOR ONE NEW 2000 TRUCK CAB AND CHASSIS**

Per receipt of bids on February 14, 2000, and based on the Engineer's Bid Award Recommendation dated today with bid cost analysis provided, the Board awarded bid for one (1) new 2000 Truck Cab and Chassis to the lowest overall bidder, Western Truck Parts, Sacramento, Ca., in the amount of \$78,520.16.

**AWARD OF BID FOR ONE NEW 2000 EXCAVATOR/TRACKHOE**

From bids received on February 14, 2000, Mr. Kwarsick submitted the Engineer's Bid Award recommendation today's date, bid cost analysis provided, for award of bid for one (1) new 2000 Excavator/Trackhoe. In this case, award is recommended to the lowest overall bidder meeting bid specifications, Smith Tractor and Equipment Co., Mt. Vernon, Wa., in the amount of \$102,989.34, based on Findings of Fact for award of bid to other than the lowest bidder. The apparent low bidder, Farmers Equipment, Lynden, Wa., failed to include required bid bond. The next lowest bidder, N. C. Machinery, Tukwilla, Wa., bid an alternate machine that does not fulfill specification requirements.

By unanimous motion, the Board awarded bid to Smith Tractor in the amount of \$102,989.34, and approved and signed Findings of Fact to Award Bid to Other than the Lowest Bidder.

**FINDINGS OF FACT**

Award of Bid to Other than Lowest Bidder  
Board of Island County Commissioners  
Island County, Washington

WHEREAS, as required under RCW 36.32.245, RCW 36.32.250 and RCW 43.19.1911 when low bid is rejected the awarding official, being the Board of Island County Commissioners must enter written Findings of Facts, based upon the record presented to them justifying rejection of the lowest bid and in favor of the bid that is actually awarded.

THEREFORE, it is the intent of this writing with the following attachments to be entered into record/file as Finding of Facts as justification to award bid to other than low bidder.

REVIEWED, this 28<sup>th</sup> day of February, 2000 and approved by the Board of Island County Commissioners.

**BOARD OF ISLAND COUNTY COMMISSIONERS**  
**Island County, Washington**  
*Wm. L. McDowell*, Chairman  
*William F. Thorn*, Member  
*Mike Shelton*, Member

**ATTEST:** Margaret Rosenkranz  
Clerk of the Board BICC 00-121

**FINDINGS OF FACT**

On February 28, 2000, the Board of Island County Commissioners awarded the bid for one new, year 2000 Excavator/Trackhoe with trade-in of equipment #241 to Smith Tractor and Equipment Co., Inc. for the sum of \$102,987.33 which includes Washington State Sales Tax and credit for Island County's trade-in.

Although Smith Tractor and Equipment Co., Inc. was not the initial low bidder they were awarded the bid based upon the following "Findings of Fact" pursuant to RCW's 43.19.1911, 36.32.245 and 36.32.250, attached.

Per RCW 36.32.250, no bid may be considered for public work unless it is accompanied by a bid deposit in the form of a surety

bond, postal money order, cash, cashier's check or certified check in an amount equal to five percent of the amount of the bid proposed.

Farmers Equipment Company did not provide a bid bond in the amount of five percent in the form of a cashier's check or certified check as required in Island Counties bid packet under **General Provisions**, (page 2, item 4) **Bid Deposit** when the bids were opened. They had submitted two bids, one as an alternate bid, neither was accompanied with a bid bond, therefore their two bid proposals were not considered.

In determining the lowest responsible bidder, the agency (Island County) shall consider any preferences provided by law to Washington products and vendors and to RCW 43.19.1911, and 43.19.704 and further may take into consideration the quality of the articles proposed to be supplied, their conformity with specifications, the purposes for which required, and the times of delivery.

The second low bidder NC Machinery Co. provided two bid proposals, one of which was an alternate bid. This alternate bid was the third low bid in line after Farmers Equipment Company's two bids were disqualified for failure to produce the required bid bond.

Upon review of NC Machinery's alternate bid we found the machine bid, Cat 311B, did not meet our specifications specifically:

Page 7; Item 2,d, Engine horsepower rating,  
Page 8; Item 7,d, track length;  
Page 9, Item 9, Boom and Stick Arm (a through e and h.).  
This machine is too small for our purposes.

The third low bidder and actually the fourth lowest bid was provided by Smith Tractor and Equipment Co., Inc. After review of their bid proposal, we determined they were in fact the lowest responsible bidder who complied with our minimum specifications. Therefore the Board of Island County Commissioners awarded the bid to Smith Tractor and Equipment Co., Inc. based upon the aforesaid "Findings of Facts".

**SUPPLEMENTAL AGREEMENT NO. 1 – TO STANDARD CONSULTANT AGREEMENT NO. PW-982061-  
BAYVIEW ROAD IMPROVEMENTS**

The Board approved, by unanimous motion, Supplemental Agreement No. 1 to Standard Consultant Agreement No. PW-982061 for the Bayview Road Improvements under CRP 98-17, Work Order #229, between Island County and Pertect Engineering, Inc., moving completion date to June 30, 2001, and increases maximum authorized expenses by \$33,378 of which \$21,500 is for establishment of a management reserve fund.

**CENTENNIAL CLEAN WATER FUND GRANTS APPROVED**

On presentation by Mr. Kwarsick, along with Julie Buktenica, Watershed Project Manager, the Board by unanimous motion approved the following Centennial Clean Water Fund Grants for submittal:

Centennial Clean Water Fund Grant between Island County and the Department of Ecology for the Camano Watershed Program – comprehensive planning. Anticipated completion date is December 2003, the DOE share is \$250,000 and County share \$83,333, for a total project of \$333,000. Camano watersheds were ranked #3 for watershed action planning pursuant to WAC 400-12. Island County has made a commitment to proactive management of non-point pollution by initiating completing and implementing watershed planning on Whidbey Island.

Centennial Clean Water Fund Grant between Island County and Department of Ecology for the Agricultural BMP Program Review, with anticipated completion date January, 2006. DOE share is \$185,625; County share \$61,875, for a total project cost of \$247,500. This will provide timely and pertinent information to the County about the Program's effectiveness in protecting critical areas from impact by agricultural activities and ensure that adjustments to the Program can be made as needed and enforcement applied where appropriate. [GMA doc. #5513].

**BOND FOR RELEASE OF RETAINAGE – WOODLAND BEACH ROAD, CRP 98-06**

As recommended by Mr. Kwarsick, the Board by unanimous motion approved a bond for release of retainage by Contractor, BBG Group L.L.C., to release cash retainage in the amount of \$33,516.06, and in lieu of cash being held, and acceptance of the Retainage Bond in the same amount, associated with the he Woodland Beach Road project under CRP 98-06.

**HEARING SCHEDULED: ORDINANCE #C-18-00 - TECHNICAL  
AMENDMENTS TO SHORELINE MASTER PROGRAM**

On presentation by Marc Mullin, Associate Planner, Island County Planning Department, the Board by unanimous motion scheduled a public hearing on Ordinance #C-18-00 (PLG-004-00) Technical Amendments to Shoreline Master Program, for

March 13, 200 at 10:45 a.m.

**RESOLUTION #C-19-00 COMMENT ON WORKING DRAFT OF THE STATE DEPARTMENT OF ECOLOGY'S STATE MASTER PROGRAM APPROVAL/ AMENDMENT PROCEDURES AND SHORELINE MASTER PROGRAM GUIDELINES**

As proposed and presented by Mr. Mullin the Board by unanimous motion approved Resolution #C-19-00 [PLG-006-00] responding to a request for comment on the working draft of the State DOE's State Master Program Approval/Amendment Procedures and Shoreline Master Program Guidelines, with the County's response contained in Exhibit A, a four page letter to the Department of Ecology signed by Chairman McDowell, and Exhibit B, a copy of Shoreline Master Program Guidelines Executive Summary of Revisions being considered 12/17/99.

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

IN THE MATTER OF RESPONDING TO A ) RESOLUTION C-19-00  
REQUEST FOR COMMENT ON THE ) PLG-006-00  
WORKING DRAFT OF THE STATE )  
DEPARTMENT OF ECOLOGY'S STATE )  
MASTER PROGRAM APPROVAL / )  
AMENDMENT PROCEDURES AND )  
SHORELINE MASTER PROGRAM )  
GUIDELINES. )

**WHEREAS**, the State Department of Ecology, in a letter dated December 17, 1999, has requested comments on the working draft rule entitled "State Master Program Approval/ Amendment Procedures and Shoreline Master Program Guidelines"; and

**WHEREAS**, as a result of public comment received by the Department of Ecology, the working draft is a revised version of the first formal draft issued in April of 1999; and

**WHEREAS**, an Executive Summary, dated December 17, 1999, accompanied the draft guidelines that outlines the changes that have been made as a result of the public comment that was received; and

**WHEREAS**, Island County agrees with the policy direction outlined in the Executive Summary, but feels that the policy direction has not yet been fully incorporated into the draft guidelines; and

**WHEREAS**, due to the on-going budgetary constraints related to I-695 and the burden of additional State mandated requirements, tasks, studies, evidence, science and projects that would be required in order to comply with draft guidelines, Island County will not be able to satisfy the goals and requirements of the guidelines without significant financial assistance from the State; and

**WHEREAS**, Island County will not assume responsibility if a taking claim is filed due to a loss of reasonable use of a parcel incurred as a result of implementing these guidelines; and

**WHEREAS**, Island County will not assume responsibility if personal property is damaged or lives harmed as a result of a property owner not being able to adequately protect their homes due to implementation of these guidelines, **NOW, THEREFORE**,

**IT IS HEREBY RESOLVED** that the Board of Island County Commissioners have reviewed the working draft rule entitled "State Master Program Approval/Amendment Procedures and Shoreline Master Program Guidelines" and offer additional comments attached hereto as Exhibit A.

**IT IS FURTHER RESOLVED** that the Board of Island County Commissioners have reviewed the Department of Ecology's Executive Summary dated December 17, 1999, attached hereto as Exhibit B, and believe that further integration of these revisions into the guidelines is necessary.

**APPROVED AND ADOPTED** this 28<sup>th</sup> day of February, 2000.

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

**ATTEST:** Margaret Rosenkranz

Clerk of the Board BICC 00-127

EXHIBIT A

February 28, 2000

SMA Guidelines Update  
Washington State Department of Ecology  
Shorelands and Environmental Assistance Program  
P. O. Box 47600  
Olympia, WA 98504-7600

RE: Revisions to Shoreline Master Program Guidelines

To Whom It May Concern:

The Department of Ecology has requested comments regarding the recent working draft of the "State Master Program Approval/Amendment Procedures and Shoreline Master Program Guide-lines." The rule, if adopted, would replace the existing shoreline guidelines (Chapter 173-16 WAC).

Island County offers the following comments regarding the draft Shoreline Master Program Guidelines.

Page 25 – Sub-section (ii) states that local government shall be required to conduct an analysis that will inventory current shoreline space and to then calculate future shoreline demands and needs. If the intent is to require a similar analysis as that which is listed in RCW 36.70A.215, commonly referred to as a buildable lands analysis, this task would be formidable, expensive and extremely limited in its functional use as a planning tool. While it is recognized that an inventory of current conditions is valuable, projecting future demands and needs of shorelands is an exercise in futility given the number of very broad social, economic, geographic and demographic assumptions that would need to be made. Furthermore, shorelines are not urban growth areas. Urban growth areas are assigned zoning and densities in order to encourage growth. Zoning, densities and boundaries of the urban growth area are modified over time in order to adjust to shifting population trends. An analysis of future demands along the shoreline should not be used as a means of establishing shoreline environment designations. Environment designations should be based on existing shoreline conditions.

Page 31 – Sub-section (b) Allowing viable use, reads "the master program regulations and the development regulations allow some viable use on all lots or parcels, **except** where the environmental limitations such as steep slopes or wetlands preclude development." The term viable use is new and is not defined. Is viable use synonymous with reasonable use? If so, why change the terminology? If not, it needs to be defined. Furthermore, as written above, it is clear that if a lot is encumbered by environmental limitations such as steep slopes or wetlands, that "allowing viable use" is not a priority. Island County will not support any amendment to the Shoreline Management Act which precludes the ability to attain reasonable use of an existing parcel by means of constructing a single-family residence. If such an amendment is adopted and implemented in such a way that the presence of an environmental limitation precludes the ability to construct a single-family residence on an existing parcel, it will be Island County's position that the State would be accountable if a taking issue were to arise.

Page 32 – Sub-section (ii)(B) states that residences should not be allowed in the natural environment. This effectively creates a 200 foot setback for those parcels. The natural designation applies primarily to land in public ownership. In those limited instances where a privately owned parcel has a natural designation, a greater setback may be appropriate but no residential development within the shoreline jurisdiction is unreasonable. It may be appropriate to incorporate lot dimension standards that are applicable during the subdivision process that would eliminate the long narrow lot phenomena or to improve vegetation retention/enhancement provisions. A greater setback from the OHWM may be appropriate, but residential development within the shoreline jurisdiction should be conditionally allowed.

Page 39 – Section (1)(b) Principles states "...prevent the destruction of or damage to any site having..." Does the term site refer to the entire parcel or the actual location of the resource? Island County would not support any amendment that precludes development of an entire parcel due to the presence of an archaeological or historic resource that is located on a portion of the property. Additionally, it is suggested that the above sentence read as follows "prevent the unauthorized destruction, damage to or alteration of any site having..." Often times the tribes will approve the alteration of historic sites by allowing the resource(s) to be moved to a different location, provided the tribe is involved in the process. Under sub-section (c), a new sub-section (iii) should be added that addresses mitigation. The first two sub-sections state that work must be stopped if a resource is discovered and that if there is a known resource, an archaeologist must inspect and evaluate the site. This section should go further to state that there are ways to move, alter or modify the resource.

Page 41 – Sub-section (c)(i)(A) states that use regulations shall address uses such that no net loss of wetland area/function occurs as a result of "the construction, reconstruction, demolition, or expansion of any structure." This may be appropriate, but for the purposes of reconstruction, it must be clear that a property owner can reconstruct a structure at a size or intensity no greater than that which had previously existed, provided the structure was legally established, recently functional and damaged as a result of natural disaster, fire, etc.

Page 42 – Sub-section (ii) refers to the term “life of the development.” This term should be defined or standards created to address how this is determined and who is the expert who makes such a decision. A house may have a life of 50 years if the owner does not maintain the structure or it may have a life of 400 years if the owner maintains the structure, up dates it, adds on to it, etc.

Page 42 – Sub-section (ii) reads “do not allow new development that would require structural shoreline stabilization over the life of the development.” This may be appropriate for new structures built on newly created lots, but for new structures that are built on pre-existing lots that were created in the 1950’s, it is not possible. There are numerous lots that are 50’ wide, 60’ deep located along the shoreline that are vacant. When these lots are developed with SFR’s, many will require shoreline stabilization, especially given that it is likely that the area is already predominantly bulkheaded.

Page 48 – Sub-section (iv) reads “adopt provisions such as maximum height limits, setbacks, and view corridors, to minimize the impacts to existing views from public property or substantial numbers of residences.” With regards to establishing view corridors to protect views enjoyed by a substantial number of residences, Island County supports protecting the views of adjacent lots located along the shoreline, but if this type of provision is intended to provide protection to those adjacent residences located landward of vacant waterfront tracts, the County is opposed to such a control. While a control such as height limits is an appropriate measure, requiring property owners to situate their residence on a particular portion of their property for the sole purpose of protecting a view shared by an upland owner is not.

Page 53 – Sub-section (ii)(A) states that “new structural stabilization measures shall not be allowed except to protect or support an existing approved use...” This may be appropriate for new structures on new lots, but many of the shoreline lots are very narrow and very shallow. Small lots are usually located in an already existing platted area that is heavily developed. New development on one of these remaining vacant lots may not be possible without some kind of shoreline stabilization in order to provide the owner with reasonable use.

Page 53 – Sub-section (ii)(H) states that “an existing shoreline stabilization structure may be replaced with a similar structure if there is a demonstrated need to protect uses or structures from erosion...” If this statement suggests that the replacement of an existing, legally established bulkhead may require geo-technical evidence, a biological site assessment, or a shoreline process evaluation, this is unacceptable. DOE’s executive summary states that bulkheads “do not require a geotechnical report for residential bulkhead replacement.” Without technical evidence, what does it mean to demonstrate need? It would be helpful if the WAC actually stated that demonstration of need does not necessarily include providing technical evidence.

Page 54 – Section (b) “Piers and Docks” it is stated that piers and docks shall only be allowed for water-dependent uses and public access. If this statement remains as written, piers and docks could not be allowed in association with a single-family residence as they are not water dependent. Using public access as justification for approving construction of a pier or dock could lead one to believe that if someone builds a dock or pier for their own use that they would have to allow the general public the right to also use the structure. Either piers and docks should be added to the list of examples included in the definition of water-dependent use or the term public access should clearly allow access structures such as private stairs and docks to be considered public access.

There are number of sections in the draft guidelines that suggest that local government will be required to perform significant additional studies, inventories, reports, etc. Given the budget constraints that have come as a result of the passage of I-695, staffing and funding resources are minimal. For Island Count to comply with the draft guidelines as written, significant financial support would be necessary from the State.

Thank you for the opportunity to comment on the draft guidelines.

Very truly yours,  
*William “Mac” McDowell*  
Chairman, Island County Commissioners

[Exhibit B on file with the Clerk of the Board]

### **FINANCIAL REPORTS – PERIOD ENDING JANUARY 31, 2000**

Suzanne Sinclair, Island County Auditor, provided a copy of her financial report for the period ending January 31, 2000. With only one month into the new year, nothing stood out in terms of alarming trends with regard to revenues or expenditures.

The Treasurer’s Report was not available at this time.

### **FINAL APPROVAL OF PLANNED RESIDENTIAL DEVELOPMENT PRD 140/96, POSSESSION POINT ESTATES II**

Larry Kwarsick appeared before the Board to present Final approval of Planned Residential Development PRD 140/96,

Possession Point Estates II, by Terry Swanson, Assessor's Parcels R32814-504-4440 & R32814-400-4860, an item not yet ready when Public Works items were considered earlier in the meeting. Commissioners McDowell and Thorn were present; Commissioner Shelton absent from this portion. On review of the submitted final plat staff found it in conformance with requirements of Island County Code and RCW and recommend approval of PRD 140/96 with acceptance of a Declaration of Trust in the amount of \$66,983.45 with Whidbey Island Bank acting as Trustee guaranteeing completion of the public water system, private roadways and final drainage and erosion and sedimentation control measures.

By unanimous motion, the Board approved Final Plat PRD 140/96 and accepted the Declaration of Trust in the amount of \$66,983.45 with Whidbey Island Bank, Trustee.

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

Application: Final Planned Residential Development, PRD 140/96  
Date of Preliminary Approval: November 23, 1998

**Name and Address of Applicant:**

Applicant & Owner: Terry Swanson  
P. O. Box 1047  
Clinton, WA 98236

**Requesting The Following:** Final approval of the Possession Point Estates II PRD, consisting of nine residential lots together with five tracts reserved for access, a water system, a community area and undisturbed open space on approximately 22.64 acres.

**Upon The Following Property:** Most of the site is located along the west side of Possession Road on Possession Point, south of Clinton, in the Northeast quarter of the Northeast quarter of Section 14, Township 28 North, Range 3 East, W.M. and the Southeast quarter of the southeast quarter of Section 11, Township 28 North, Range 3 East, W.M., on South Whidbey Island, Island County, Washington. A portion of the site is located on the east side of the county road. (Assessor Parcel Numbers R32814-504-4440 & R32814-400-4860)

**This Final Planned Residential Development conforms to (1) the requirements of the PRD Ordinance as established by ICC Chapter 16.17 that was in effect prior to December 1, 1998, and (2) the conditions of preliminary approval established by the Board of Island County Commissioners on November 23, 1998.**

**APPROVED AND ADOPTED** this 28<sup>th</sup> day of February, 2000.

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

*Wm. L. McDowell*, Chairman  
*William F. Thorn*, Member  
[absent when signed - Mike Shelton, Member]

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

**EXECUTIVE SESSION**

The Board convened in Executive Session at 3:30 p.m., to meet with legal counsel to discuss pending and/or potential litigation, as allowed under R.C.W. 42.30.110 (1) (i). The Special Session was held in the Office of the County Commissioners, 502 N. Main Street, Coupeville, Wa., and lasted approximately 1 hour and 15 minutes. No announcement was made on return to open public session.

**HEARING HELD: ORDINANCE #C-151-99 [PLG-049-99] AMENDING CHAPTER 17.02 ICC TO COMPLY WITH THE ORDER OF THE WWGMHB RELATING TO CERTAIN PROVISIONS OF THE COUNTY'S CRITICAL AREAS REGULATIONS RELATING TO EXISTING AND ON-GOING AGRICULTURAL ACTIVITIES**

A Public Hearing was held at 7:00 p.m., continued from February 9, 2000, on Ordinance #C-151-99 [PLG-049-99] Amending Chapter 17.02 ICC to comply with the order of the WWGMHB Relating to Certain Provisions of the County's Critical Areas Regulations Relating to Existing and On-going Agricultural Activities.

**Attendance:**

Public 7 [Attendance Sheet GMA doc. #5515]  
Staff/Consultant: Larry Kwarsick  
Keith Dearborn

As the Chairman commented, those people on record with mailing addresses, e-mail or fax had been notified last week that the proposed amendments were not prepared and made available to the public on February 22; therefore, the public hearing tonight would be continued to a future date to be decided this evening. Those who attended were offered an opportunity to either provide public testimony on Amendments 8, 9 and 10 this evening, or wait until the future hearing and provide comment on Amendments 8, 9 and 10 along with any new proposed amendments to be released next week. Those who commented on Amendments 8, 9 and 10 on February 9<sup>th</sup> or those who provided comments in writing need not repeat those comments tonight. Mr. Dearborn and Mr. Kwarsick after tonight will go through all comments received either in written form or made at the last hearing and prepare amendments which will be available on March 6 [by mail, e-mail or fax].

John Graham, Citizens Growth Management Coalition, confirmed he had no further comments to offer at this time other than those he provided orally and in writing at the February 9<sup>th</sup> hearing. His opinion was it made a difference to the Hearings Board whether the Coalition is on board with the BMPs or not. The question of standing in the Freeland-Clinton situation was denied to WEAN in part he thought because the Coalition refused to join and the Hearings Board noticed that. He mentioned that the Wall Street Journal planned on Wednesday to come out with a story on Island County's BMP process and the last word he received was that the paper agreed with his suggestion that the tenor of the story be more on governing rather than on the issue, and that it be a story of a county trying very hard to balance competing interests and doing a pretty decent job. Mr. Graham believed this issue was close to an acceptable BMP compromise and urged the Commissioners to stay the course.

By unanimous motion, the Board continued the hearing to March 20, 2000 at 7:00 p.m.  
[Notice of Continuance GMA doc. #5516]

There being no further business to come before the Board at this time, the Chair adjourned the meeting at 7:10 p.m. The next regular meeting is scheduled for March 6, 2000 at 9:30 a.m.

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

\_\_\_\_\_  
Wm. L. McDowell, Chairman

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William F. Thorn, Member

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Mike Shelton, Member

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