

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING
REGULAR SESSION - MARCH 19, 2001**

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on March 19, 2001 beginning at 9:30 a.m. in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa., with William F. Thorn, Chairman; Mike Shelton, Member; and Wm. L. McDowell, Member, present.

By unanimous motion, the Board approved and signed the following minutes: March 1, 2001 Special Session; March 5, 2001, Regular Session.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board: Voucher (War.) # 95142 - 95385\$1,154,311.22.

HIRING REQUESTS & PERSONNEL ACTIONS

By unanimous motion, the Board approved the following Personnel Action Authorizations, effective this date:

- PAA 31/01 Courthouse Facilitator .2fte #2009.00 New Position
- PAA 32/01 Associate Planner #1708.01 Replacement

RESOLUTION #C-39-01 INITIATING A LAWSUIT FOR DAMAGES DONE TO AN ISLAND COUNTY-OWNED VEHICLE; BENJAMIN D. MCQUEEN

Based on paperwork and explanation as presented by Betty Kemp outlined in memorandum dated March 14, 2001, the Board by unanimous motion approved Resolution #C-39-01 initiating a lawsuit for damages done to an Island County-owned Vehicle.

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

**IN THE MATTER OF INITIATING A LAWSUIT)
FOR DAMAGES DONE TO AN ISLAND COUNTY) No. C-39-01
-OWNED VEHICLE)**

WHEREAS, on April 18, 2000 Jennifer Dillon, a Juvenile Court Services intern, was driving a 1995 Ford Taurus GL owned by Island County, and while stopped at the intersection of Maxwellton Road and State Route 525, the vehicle was rear-ended by a vehicle driven by Benjamin D. McQueen, which vehicle was registered to his father, Steven W. McQueen; and

WHEREAS, the McQueen vehicle and driver were not insured for liability; and

WHEREAS, Island County sustained damages to its vehicle in the amount of \$2,201.57; and

WHEREAS, the Island County General Services Administration has repeatedly contacted Benjamin D. McQueen and Steven W. McQueen requesting payment for Island County's damages, but no payment has been made; NOW, THEREFORE,

IT IS HEREBY RESOLVED that Island County, through the Island County Prosecuting Attorney, should initiate a lawsuit to recover the damages due to Island County for the rear-end collision caused by Benjamin D. McQueen.

DATED this 19th day of March, 2001.

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

ATTEST: Margaret Rosenkranz
Clerk of the Board BICC 01-193

APPOINTMENT NAMED TO LODGING TAX ADVISORY COMMITTEE

By unanimous motion, the Board appointed Keith Englund, Camano Island, to the Lodging Tax Advisory Committee

[commonly known as the first or basic 2%), replacing Dodie Fox as the representative of the Camano Island Chamber of Commerce.

RESOLUTION #C-40-01 SALE &/OR DISPOSAL OF SURPLUS COUNTY PROPERTY

As prepared and presented by Lee McFarland, GSA/Property Management, the Board by unanimous motion approved Resolution #C-40-01 Sale and/or Disposal of Surplus County Property, surplus Prosecuting Attorney’s law books which had been located in the Dutton Building.

**STATE OF WASHINGTON
COUNTY OF ISLAND**

**IN THE MATTER OF THE SALE) Resolution No. C-40 -01
AND OR DISPOSAL OF SURPLUS)
COUNTY PROPERTY)**

WHEREAS, Island County has certain property which have lost its economic value/utility to the County; and

WHEREAS, pursuant to Island County Code Chapter 2.31, such items may be disposed of; and

WHEREAS, the items described on attached Exhibit “A” are now and have been the property of Island County, State of Washington; and

WHEREAS, it is in the best interest of the County and the citizens thereof that said items listed in Exhibit “A” be sold or disposed of in accordance with Island County Code Chapter 2.31; NOW THEREFORE,

BE IT HEREBY RESOLVED THAT the items listed on Exhibit “A” shall be sold or disposed of in accordance with Island County Code Chapter 2.31.

ADOPTED this 19th day of March 2001.

**BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON
WILLIAM F. THORN, CHAIRMAN
MIKE SHELTON , MEMBER
WM. L. MCDOWELL, MEMBER**

**ATTEST: MARGARET ROSENKRANZ,
CLERK OF THE BOARD BICC 01-194**

CLAIM FOR DAMAGES, R01-004CD, JIM KOEPKE

Continued to next week’s agenda on recommendation of Betty Kemp, GSA/Risk Management.

LOCAL GOVERNMENT CERTIFICATION, APPLICATION FOR EMERGENCY SHELTER GRANTS PROGRAM - HOUSING AUTHORITY OF ISLAND COUNTY

Forwarded by letter dated March 12, 2001 from Steven R. Gulliford, Executive Director, Housing Authority of Island County, the Board by unanimous motion approved Local Government Certification, Application for Emergency Shelter Grants Program Funds, Housing Authority of Island County, to accompany the application for Emergency Shelter Grants Program funds for this fiscal year. Funds are used to provide three emergency shelters in the Oak Harbor area, two for the general population, one a domestic abuse victim’s shelter.

REVIEW MONTHLY FINANCIAL REPORTS FROM AUDITOR & TREASURER

The financial reports from the Auditor and Treasurer were submitted for review and discussion.

Auditor’s Report

Suzanne Sinclair, Island County Auditor, earlier advised the Board that the Auditor’s Report would be a little late, and would be forwarded as soon as possible. [will be placed on file when received]

Treasurer’s Report

Maxine Sauter, Island County Treasurer, submitted a written financial report for the period ending February 28, 2001, under cover memorandum March 12, 2001, reflecting the Current Expense Cash Report [supplemented later by property tax receipt

information from last year]. Because of getting the tax statements out late, she estimated the loss of some \$15,000 in interest. An area of concern continues to be Investment interest since interest rates have gone down again, for example, this morning the interest rate was 4.9%. for six month investments, the lowest rate in a long time. *[report are on file].*

The Commissioners were alarmed as far as figures showing the potential to not meet revenue forecasts, the report viewed as an early warning and the need to be cautions about what extra expenditures are approved. There as interest expressed about the potential to review the budget in a few months should the downward trend continue.

ADOPT-A-ROAD LITTER CONTROL PROGRAM AGREEMENTS

By unanimous motion, the Board approved and signed two new Adopt-A-Road Litter Control Program Agreements, and as always has been the case, appreciation expressed for folks who participate in these agreements:

- Central Whidbey Lions Club; Libbey Road from Highway 20 to the end of Libbey Road
- Central Whidbey Lions Club; West Beach Road from Deseret South to Libbey Road

COUPEVILLE MENTAL HEALTH FACILITY – CLOSING (SETTLEMENT) DOCUMENTS

Larry Kwarsick, Public Works Director, reviewed with the Board various closing documents presented today for approval, associated with the Coupeville Mental Health Facility project. He noted that the \$65,000 had been received from Community Mental Health, placed in Treasurer's Trust Account to be transferred as part of the settlement for the purchase. The Settlement Statement includes a holdback account in the amount of \$30,000, deposited by the County into the holdback account and not released until seller completes construction of NW First Street extension and is accepted by the Town of Coupeville.

By unanimous motion, the Board approved the various closing/settlement documents for the Coupeville Mental Health Facility project, including:

- .. Coupeville Mental Health Facility –Closing (Settlement) documents
- .. Settlement Statement
- .. Closing Agreement and Escrow Instructions, Purchase & Sale Transaction, Escrow #S75907
- .. Supplement to Closing Agreement and Escrow Instructions
- .. Addendum to Closing Agreement and Escrow Instructions for Holdback of funds
- .. Notice of Compliance with A.P.R. 12
- .. Statutory Warranty Deed
- .. Real Estate Excise Tax Affidavit
- .. Agreement to Convey Utility Easement; "Exhibit A" Servient Tract Description – Stuurmans; "Exhibit B" – Easement Description

CONTRACT FOR TREATMENT/DISPOSAL OF REFRIGERATION UNITS

As presented by Dave Bonvouloir, Solid Waste Manager, and recommended for approval, the Board by unanimous motion approved Contract #RM-SW-00-0087 between Island County and Island Appliance, Camano Island for treatment and disposal of refrigeration units. This involves furnishing all equipment to evacuate refrigerants from refrigerating appliances and removal of refrigeration appliances form the Solid Waste complex at Coupeville and the Camano Island drop box/recycle park.

PURCHASE ORDER APPROVED – STREAM GAUGES & FLOW METERS

The Board, by unanimous motion, approved Purchase Orders #04180 and #04181 for the purchase of Stream Gauges and Flow Meters needed in association with the County's Watershed program involved with salmon recovery efforts.

REVISED MBIA INSURANCE CORPORATION COMMITMENT TO ISSUE FINANCIAL GUARANTY INSURANCE POLICY, APPLICATION #2001-001726-01

With regard to the \$5,000,000 Island County Limited Tax General Obligation Bonds 2001, and MBIA Insurance Corporation Commitment to Issue Financial Guaranty Insurance Policy, Application #2001-001726-01 approved 3/12/01, Mr. Kwarsick now presented for the Board's approval and signature a revised MBIA Insurance Corporation Commitment to Issue Financial Guaranty Insurance Policy, Application #2001-001726-01 as of March 14, 2001, now including actual final bond numbers;

there are no other changes in the policy or cost.

By unanimous motion, the Board approved and signed the revised MBIA Insurance Corporation Commitment to Issue Financial Guaranty Insurance Policy, Application #2001-001726-01 as of March 14, 2001.

HEARING HELD: ORDINANCE #C-21-01, PLG-006-01, ICC 17.02.110 TO COMPLY WITH THE INVALIDITY ORDER OF THE WWGMHB REGARDING TYPE 5 STREAM BUFFERS

A Public Hearing was held at 10:45 a.m. as scheduled and advertised for the purpose of considering Ordinance #C-21-01, PLG-006-01, in the matter of ICC 17.02.110 to comply with the Invalidity Order of the Western Washington Growth Management Hearings Board [WWGMHB] regarding Type 5 Stream Buffers adopted on February 12, 2001.

Attendance:

Public: Mary K. Doody, Coupeville Examiner [Attendance Sheet GMA doc. #_____]
Staff: Phil Bakke, Planning & Comm. Dev. Director; Jeff Tate, Planning Manager

Hand-outs:

- Ordinance #C-21-01, PLG-006-01, in the matter of ICC 17.02.110 to comply with the Invalidity Order of the Western Washington Growth Management Hearings Board [WWGMHB] regarding Type 5 Stream Buffers adopted 2/12/01 [GMA doc. # _____]
- Proposed Findings of Fact for Interim Amendment of ICC 17.-2.110 to comply with the invalidity order of the WWGMHB Regarding Type 5 Stream Buffers [GMA doc. #_____]

Jeff Tate explained that the Growth Management Hearings Board made a determination in a June 2nd Order with respect to the 50' buffer for type 5 streams; the County had adopted an interim ordinance making it 50' throughout the entire County. An ordinance was adopted, and was approved by the Hearings Board, making a 50' buffer for type 5 streams in the rural zone and a 50' buffer for type 5 streams in tributary to salmon bearing creeks but 25' in all other circumstances. The Hearings Board determined that was not adequate and asked the County change the 25' buffer to 50'. The County responded by taking the matter to court to defend the 25' buffer in those other circumstances.

In the meantime, the County needed to extend the interim ordinance for 50' everywhere, and the Board adopted on February 12, 2001, an interim regulation, Ordinance #C-21-01/PLG-006-01 adopted under emergency interim provisions allowed in the WAC.

Ordinance #C-21-01 was adopted with the provision that within sixty days following February 12, 2001, the County would hold a formal public hearing, which is being held today, and present Findings of Fact that support adoption of that interim regulation. He made a comment to clarify that there is no requirement with regard to findings of fact being approved as to form by the Deputy Prosecuting Attorney.

Public Comment - None

Board Action

Commissioner McDowell moved adoption of the Findings of Fact for Interim Amendment of ICC 17.02.110 to comply with the invalidity order of the Western Washington Growth Management Hearings Board regarding type 5 Stream Buffers, with the change in the heading that indicates Attachment to Ordinance #C-21-01, PLG-006-01. Motion, seconded by Commissioner Shelton, carried unanimously.

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

FINDINGS OF FACT FOR INTERIM)	
AMENDMENT OF ICC 17.02.110 TO COMPLY)	ATTACHMENT TO
WITH THE INVALIDITY ORDER OF THE)	ORDINANCE C-21-01
WESTERN WASHINGTON GROWTH)	PLG-006-01
MANAGEMENT HEARINGS BOARD)	
REGARDING TYPE 5 STREAM BUFFERS)	

WHEREAS, on February 12, 2001 the Board adopted this ordinance as an interim ordinance pursuant to RCW 36.70A.390 to be followed by a public hearing and adoption of Findings of Fact; **NOW, THEREFORE**, the Board adopts the following

FINDINGS OF FACT

1. On September 14, 1998 the Board of Island County Commissioners adopted Ordinance C-62-98, establishing a buffer of 25 feet for Type 5 streams.
2. On June 2, 1999, the Western Washington Growth Management Hearings Board entered its Final Decision and Order and found that the Type 5 stream buffer provisions contained in the Critical Areas Ordinance were not adequate. Specifically, the 25 foot buffer was not big enough to provide protection to Type 5 streams.
3. On April 10, 2000 the Board of Island County Commissioners adopted Ordinance C-03-00 which increased the stream buffer from 25 to 50 feet for all Type 5 streams that are tributary to a salmon bearing stream and for all Type 5 streams in the Rural Zone, but retained the buffer at 25 feet for all remaining Type 5 streams.
4. On November 17, 2000 the Growth Board ordered that in order to remove its previous finding of invalidity the County must make its 50 foot buffer requirement applicable to all Type 5 streams throughout the unincorporated portion of Island County within 90 days (February 14, 2001) of the Order or the Growth Board would recommend that the Governor impose sanctions on Island County.
5. Island County filed a court appeal of the Growth Board's decision disapproving the Type 5 Stream buffers established in Ordinance C-03-00 in Island County v. Western Washington Growth Management Hearings Board, Island County Superior Court No. 00-2-00757-9, but it is necessary that an interim ordinance be adopted to lift the finding of invalidity during the pendency of the lawsuit and to avoid a recommendation of sanctions to the Governor.
6. On February 12, 2001 the Board of Island County Commissioners adopted interim regulations under Ordinance C-21-01 that established a 50 foot buffer for all Type 5 streams that shall remain in effect until the Court approves the Type 5 stream buffer provisions adopted in Ordinance C-03-00. If no decision has been rendered within 6 months of the enactment of C-21-01 (August 12, 2001) the Board has declared that interim Ordinance C-21-01 shall be reenacted.
7. Ordinance C-21-01 was adopted as interim regulations without a prior public hearing. RCW 36.70A.390 provides that ordinances that are adopted as interim regulations require that the County hold a public hearing within 60 days after adoption that include findings of fact that justify the action.
8. On March 19, 2001 the Board of Island County Commissioners held a public hearing related to Ordinance C-21-01 in compliance with the requirements of RCW 36.70A.390.

ADOPTED March 19, 2001 after public hearing in accordance with RCW 36.70A.390.

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

ATTEST: Margaret Rosenkranz
 Clerk of the Board [Adopted Findings GMA # _____]

There being no further business to come before the Board at this time, the meeting adjourned at 10:50 a.m. The Board will meet next in Regular Session on March 26, 2001 beginning at 11:30 a.m.

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

 William F. Thorn, Chairman

 Wm. L. McDowell, Member

ATTEST: _____
 Mike Shelton, Member

 Margaret Rosenkranz, Clerk of the Board