

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING  
REGULAR SESSION - NOVEMBER 26, 2001**

The Regular Meeting of the Board of Island County Commissioners was held on November 26, 2001, at 11:30 a.m. for a Roundtable with Elected Officials, followed by other topics at 1:30 p.m. as outlined on the agenda, *including* Diking Improvement District #4. The meeting was held in the Island County Courthouse Annex Hearing Room, Coupeville, Wa., with William F. Thorn, Chairman, and Mike Shelton, Member, present; Wm. L. McDowell, Member, absent.

**ROUNDTABLE MEETING WITH ISLAND COUNTY ELECTED OFFICIALS**

**Attendance:** Elected Officials: Tom Baenen; Jane Koetje; Maxine Sauter; Suzanne Sinclair  
Others: Elaine Marlow; Dick Toft

**December 24 - Board Meeting Time Change**

The fourth Monday of the month falls on December 24<sup>th</sup>, and is a scheduled regular meeting of the Board beginning at 11:30 a.m. for a Roundtable with Elected Officials, followed by other topics at 1:30 p.m. Inasmuch as December 24<sup>th</sup> is Christmas Eve, Chairman Thorn announced that the Board planned to cancel the 11:30 a.m. Elected Officials Roundtable and the regular session beginning at 1:30 p.m., and schedule instead a special session to begin at 9:30 a.m. to take care of county business.

**Property Re-valuations.**

Mr. Baenen expects that his Office will complete tomorrow the printing and stuffing of re-valuation notices; there are some 55,000 to be sent. A lot of values have gone up; there has been a lot of market activity, and jumps in valuation in all classes of property. A press release was issued for next week's Whidbey News Times, although it was printed this past Saturday, and there will be many anxious property owners who are immediately interested to know the re-valued property value. Information and assistance to Camano Islanders will be set up at Terry's Corner Fire Station for four days in order to answer questions and concerns of those citizens. He has some concern there may be a general misunderstanding by the public over I-747; if someone's statement for taxes last year was \$1,000, this year it will not be \$1,010 as many people think, but \$1,250. I-747 applies only to overall tax district budgets which cannot go up more than 1%.

**Budget Plans**

Chairman Thorn confirmed that the Board scheduled a Public Hearing on December 3, 2001, at 1:30 p.m. on adoption of the budget. Realizing it is an unbalanced budget at this point and that a balanced budget must ultimately be adopted, plans are to continue to hearing to the special session on December 24<sup>th</sup>, and set up times on the December 10 and 17 agendas for follow-on discussions with the Budget Director.

**Meeting With Legislators**

The 2002 Legislative Session begins on January 14, 2002 and the Washington State Association WSAC believes now is the time to meet with legislators about important needs of the county. Since the legislators are already in Olympia in January prior to the start of the session, Commissioner Shelton suggested a meeting be set up here in December with the Board of Commissioners, County Elected Officials, and Appointed Department Heads. He offered to work on getting such a meeting set up for a Thursday or Friday in December.

*Meeting adjourned at 12:10 p.m.; next roundtable - 1/28/02 @ 11:30 a.m.*

**VOUCHERS AND PAYMENT OF BILLS**

The following vouchers/warrants were approved for payment by unanimous motion of the Board: Voucher  
(War.) #111749 - #111909.....\$71,253.77.

**Veterans Assistance Fund:** [emergency financial assistance to certain eligible veterans; the names and specific circumstances are maintained confidential]. The Board, by unanimous motion, approved the recommendation of the Veterans Assistance Review Committee in the amount of \$9,228.11, with vouchers approved now in the amount of

\$1,302.18, the remaining dental costs later [as listed].

### **HIRING REQUESTS & PERSONNEL ACTIONS**

As presented and summarized by Terry Cheuvront, in the absence of the Human Resource Director, the Board by unanimous motion, approved the following personnel action authorizations:

<b>Dept.</b>	<b>PAA #</b>	<b>Description</b>	<b>Position #</b>	<b>Action</b>	<b>Eff. Date</b>
Public Works	121/01	Acct Supv.	2209.00	* Personnel	11/26/01
Public Works	122/01	Office Mgr	2210.00	* Personnel	11/26/01
Health	123/01	Env Hlth Spec	2403.07	New Position [grant]	11/26/01
Health	124/01	Dept. Asst. 75 fte	2420.00	New Position [grant]	11/26/01

(\*Public Works Manager on active duty, with duties distribution between the two above-listed positions, on Active Duty, above two positions with upgraded paygrade until 11/7/02 or earlier if Public Works Manager returns earlier from active duty).

### **RE-APPOINTMENT TO HOUSING AUTHORITY OF ISLAND COUNTY**

By unanimous motion, the Board reappointed Lisa A Clark to serve another five year term to expire December 6, 2006, on the Island County Housing Authority. Certificate of Appointment approved and signed, placed on file with the Clerk of the Board.

### **STAFF SESSION SCHEDULE FOR DECEMBER**

The Board approved by unanimous motion for distribution the Staff Session schedule for December, 2001, outlining the two regular staff sessions for that month to be held on December 5 and 19 beginning at 9:00 a.m.

### **AGREEMENT #PIE-SA02-04 [RM-EXT-01-0107] BETWEEN PUGET SOUND WATER QUALITY ACTION TEAM AND ISLAND COUNTY WSU**

As presented by Don Meehan, outlined in his memorandum to the Board dated November 21, 2001, the Board by unanimous motion approved Agreement #PIE-SA02-04 [RM-EXT-01-0107] between Puget Sound Water Quality Action Team and Island County WSU in the amount of \$1300 representing funding support for two educational events sponsored by WSU Beach Watchers: "Wonders of the Islands and Sound Waters; Near the Shores".

### **CHRISTENSEN BUILDING LEASE**

Pulled from today's calendar, to be presented after Lessor has signed.

### **CONTRACT #HD-11-00 (I) COLLABORATION FOR CHILDREN CHILD CARE CONSULTATION PROGRAM**

Pulled from today's calendar, to be presented after the Contractor has signed the Contract.

### **RESOLUTION #C-151-01 DECLARING COUNTY PROPERTY SURPLUS**

Lee McFarland, Assistance Director, General Services Administration (GSA) presented a proposed resolution for the purpose of declaring a county Drainage Easement surplus as described on Exhibit A, for consideration of the County being granted a Trail Easement described in Exhibit B, related to development of the English Boom property on Camano Island. Mr. McFarland confirmed his recommendation was for approval of the Resolution.

By unanimous motion, the Board approved Resolution #C-151-01 in the matter of declaring County property surplus.

### **BEFORE THE BOARD OF COUNTY COMMISSIONERS**

**OF ISLAND COUNTY, WASHINGTON**

**IN THE MATTER OF DECLARING)  
COUNTY PROPERTY SURPLUS )**

**RESOLUTION NO. C-151 -01**

WHEREAS, Island County Code Chapter 2.31, Sale Or Lease Of Surplus County Property, was adopted on April 11, 1994; and

WHEREAS, Island County owns property as identified on Exhibit "A"; and

WHEREAS, Island County Code Chapter 2.31.030.A.5 allows an exception to real property easements being sold at public auction; and

WHEREAS, Island County Code 2.31.030.B allows real property or easements to be sold by private negotiation when not being sold at public auction; and

WHEREAS, the Board of Commissioners of Island County Washington feel it is in the best interest of the Citizens of Island County that a drainage easement be granted on surplus property as shown on Exhibit "A" for consideration of a Trail Easement to the County as shown on Exhibit "B"; and

WHEREAS, Island County Code 2.31.010 requires the Board of County Commissioners to declare this property surplus prior to granting an easement; NOW THEREFORE,

BE IT HEREBY RESOLVED by the Board of County Commissioners of Island County, Washington that property as shown on Exhibit "A" is surplus to County needs and may be conveyed in return for an easement to the County as shown on Exhibit "B".

Adopted this 26 day of November, 2001

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

WILLIAM F. THORN, CHAIRMAN

MIKE SHELTON, MEMBER

[Absent – Wm. L. McDowell, Member]

*BICC 01-755*

**ATTEST:**

ELAINE MARLOW

*CLERK OF THE BOARD*

*[Exhibits placed on file with the Clerk of the Board]*

**DRAINAGE EASEMENT - ISLAND COUNTY TO MAX L. & JEANNINE V. REINIG**

As explained by Mr. McFarland, the property with respect to the Drainage Easement [RMGSA-01-0102] as presented and recommended for approval, is located above English Boom waterfront trail property on Camano Island. As a result of granting this easement, improvements to the existing drainage area will result in less damage to the County's property.

By unanimous motion, the Board approved Drainage Easement from Island County to Max L. & Jeannie V. Renig, situated in a portion of the SW ¼ and Govt. Lot 3, Sec. 16, TWP 32N, Rge 3E, W.M., Parcel No. R33216-235-0300.

**TRAIL EASEMENT - MAX L. & JEANNINE V. REINIG TO ISLAND COUNTY**

In this case, a Trail Easement [RM-GSA-01-0101] is being conveyed by Max L. & Jeannine V. Reinig to Island County. The trail easement is located on the northern portion of the Reinig property that abuts on the English Boom waterfront trail property, and Mr. McFarland explained that the trail easement would allow upper access so that the County can develop the trail to the beach.

By unanimous motion, the Board approved the Trail Easement from Max L. & Jeannie V. Reinig to Island County, located in a portion of the SW ¼ and of Government Lot 3, Sec. 16, Twp 32N, Rge3E, W.M.

**HEARING HELD: ORDINANCE #130-01 ORDINANCE REDESIGNATING HAZARDOUS MATERIAL INCIDENT COMMAND AGENCY**

As scheduled and advertised, a Public Hearing was held beginning at 1:45 p.m. on Ordinance #C130-01, an Ordinance Redesignating Hazardous Material Incident Command Agency, forwarded under memo dated October 15, 2001, from Betty Kemp, Director, GSA. If adopted, the Ordinance would amend section 9.32.010 of the Island County Code (ICC) to change the Command Agency for hazardous materials incidents in the unincorporated areas of Island County from the Island county Emergency Services Department to the Washington State Patrol. Additionally, it would delete existing ICC 9.32.020 through 9.32.050 dealing with agreements for assistance, terms of assistance agreements, verbal assistance agreements and effective date.

At the time of hearing when the Chairman called for comments from the public, no one came forward with comments either for or against proposed Ordinance #C-130-01.

By unanimous motion, the Board adopted Ordinance #C-130-01, Ordinance Redesignating Hazardous Material Incident Command Agency, naming the Washington State Patrol as the hazardous material incident command agency for unincorporated Island County.

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

ORDINANCE REDESIGNATING HAZARDOUS  
MATERIALS INCIDENT COMMAND AGENCY

ORDINANCE NO. C-130-01

WHEREAS, RCW 70.136.030 requires counties to designate hazardous materials incident command agencies within the county's boundaries; and

WHEREAS, by Ordinance CC-82-09, October 18, 1982, codified as chapter 9.32 of the Island County Code (ICC), this Board designated the Island County Emergency Services Department as the hazardous materials incident command agency for all hazardous materials incidents in the unincorporated limits of Island County; and

WHEREAS, by letter to Annette Sandberg, Chief of the Washington State Patrol, on November 22, 2000, this Board advised the Washington State Patrol that Island County no longer has qualified personnel to provide the necessary services as the command agency for hazardous materials incidents and that Island County relinquishes command agency designation to the Washington State Patrol; and

WHEREAS, the Washington State Patrol has updated its incident command agency designation list to include that it is the hazardous materials incident command agency for the unincorporated area of Island County; and

WHEREAS, it is necessary to amend chapter 9.32 ICC to reflect the Washington State Patrol as the designated command agency for hazardous materials incidents; NOW, THEREFORE,

BE IT HEREBY ORDAINED that chapter 9.32 ICC is amended as shown on the attached Exhibit "A." Material lined through is being deleted and material underlined is being added.

Reviewed this 22<sup>nd</sup> day of October, 2001, and set for public hearing on the 26th day of November 2001 at 1:45 p.m. in the Commissioner's Hearing Room.

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

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

**ATTEST:**

Elaine Marlow, Clerk of the Board

BICC 01-687

Ordinance C-130-01 is adopted this 26 day of November, 2001 following public hearing.

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

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

**ATTEST:** Elaine Marlow,  
Clerk of the Board

**APPROVED AS TO FORM:**

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

**PUBLIC INPUT OR COMMENTS**

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At the designated public input period set aside for 2:00 p.m., the Chairman acknowledged members of the audience who indicated a desire to comment further on the subject of roadside herbicide spraying. This issue was heard by the Board last week in two different meetings: the regular Board meeting on November 19, 2001, and at Staff Session November 21, 2001. Comments today were requested to be at a minimum in that substantial information has been submitted already at this point. Approximately eight people were present, along with various County staff members.

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Laurie Keith, Langley, President, Whidbey Island No Spray Coalition, provided a letter dated today clarifying points and summarizing:

Additional relevant facts to consider:

- very few studies have been done on the synergistic effect of herbicide combinations
- those that have been done show dramatic increases in toxicity levels with synergistic interaction
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- often studies and statistics of pesticide/herbicide effects are done on healthy white males; certain populations, namely children, those with compromised immune systems and those diagnosed as chemically injured have less tolerance for chemical exposure.
- numerous Island County residents are experiencing symptoms coinciding with the roadside spray

Her letter offered direction as far as further inquiry/research into the topic. WINS position is that the County take the least toxic alternative and after review of the materials provided, implement manual, mechanical and cultural methods of vegetation management or other non toxic means. Mrs. Keith indicated she was told by Mr. Thorn that progress on this matter would be communicated to the group by the first of the year. Should a decision be made to continue herbicide application Mrs. Keith requested there be an evening public hearing held prior to the purchase of the chemicals, and that she be notified in writing. She noted that an ongoing debate on this as well as potential lawsuits would factor in as another cost of maintaining the herbicide spray policy. Attachments to her letter included:

\*50 additional petition signatures

\*Island County Road/Public Works Department Memorandum 1/25/01 regarding Vegetation Management

Modification [specifically alternate herbicide applications  
*[letter and attachments placed on file]*

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Chairman Thorn clarified the record with respect to the statement in Ms. Keith's letter "We have been told by Commissioner Thorn that progress on this matter will be communicated to us by the first of the year" in that his comment was not that there would be some kind of decision by the first of the year, rather that the Commissioners were looking at the matter and it would take some time to assimilate all the information, but no time table indicated.

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Lori Oneal, Clinton, representing the Chemically Injured, read her letter under today's date regarding no spray as a public health policy. In summary:

- article from 11/23/01 Whidbey News Times by Rick Levin "County Fights Back on Road Spray Debate", Tim McDonald, quoted to say: "There's nothing in the data that we can find to indicate that this is an environmental or a health issue," in regard to the county's use of Crossbow, Direx 4L and Round-up Pro. She found the statement misleading and requested further investigation of the issue.
- some history of pesticide and chemical poisoning after Vietnam and Gulf Wars, and nerve poisons discovered in WWII; early signs of poisoning from chemicals; and the need for education. [Reference: Chemical Exposure and Disease, Dr. Janet Sherman; Dr. Leonard Horowitz, MD; further references to be provided e-mail]
- believed to be documented cases of chemical contamination on Whidbey Island: two Federally designated superfund sites in Oak Harbor; Oak Harbor School District site where Dursban was illegally dumped; and Cultus Bay landfill report of illegally dumped pesticides.
- Wa. Dept. of Agriculture unable to obtain permits to spray Rodeo/Glyphosate for Spartina in Island County this year due to 9<sup>th</sup> Circuit Court of Appeals case *Talent vs. Headlands*
- Chemically Injured are being further damaged by these chemicals [reference: 1998 UW study by Dr. Clem Furlong]
- While Commissioners McDowell and Shelton questioned changing current County policy for a segment of the population who are highly allergic, she pointed out that it is not an allergy, rather a bio-cummulative chemical poisoning ; estimates of 30% of the U. S. population adversely affected by exposure to these chemicals [reference: Dr. Leonard Horowitz] . *[Letter along with packet of information/references placed on file].*

Commissioner Shelton took exception to the comment about a segment of the population, indicating that he has been trying to absorb everything people are telling him and did not take lightly any member of the population who adversely suffers from whatever.

Theresa Ghandi, Coupeville, referred to materials provided a year ago including a packet of science, physicians of greater responsibility, and other information since then, and wondered if the Commissioners had read either the 7 pages or the 75 pages. She had some concerns about last Wednesday's meeting during which not enough time was given for Laurie Keith and Lori Oneal to speak. She reminded the Commissioners that there were 1300 citizens who signed the petition, serious about the matter and discussing legal action.

Commissioners Thorn and Shelton confirmed having read pieces of that information. The Chairman reiterated that the Board has the matter under advisement, it will take some time to assimilate it fully and decide how to respond as a County, for all the people and not just those who are affected.

Sally Goodwin, Clinton, a medical/family doctor, here representing herself and Elise Miller, Executive Director,

Institute for Children's Environmental Health, Langley, and read Ms. Miller's e-mail dated today sent to each Commissioner, which in summary indicated:

- highlighted her experience in the field of children's environmental health and toxic exposures; founded Institute for Children's Environmental Health which partners locally, regionally, nationally and internationally with government, academic and community-based groups to help reduce and eliminate environmental exposures that can undermine children's health.
- working with scientists, doctors, nurses and public health officials, learned how little testing has been on synthetic chemicals in relation to human health. Those that have been tested have only been evaluated one at a time that is, none have been tested for synergistic health effects.
- majority of testing has not taken into account the unique susceptibilities of the developing fetus and child. Many of these chemicals bio-accumulate in body fat, are passed on from mother to child in utero and during breast-feeding, and can persist in the environment for generations.
- there has been an increase in various chronic illnesses and diseases in children that may be related to environmental exposures [statistics were provided from data on the web sites of the U.S. EPA, the National Institute for Environmental Health Sciences and the Mt. Sinai School of Medicine.]
- health problems may be due to a complex interaction of social, genetic and environmental factors, environmental health concerns are the least researched and the most preventable.
- almost all pesticides in use are derived from a class of chemicals known as organophosphates;
- new data suggests these chemicals are doing more harm than good for a number of reasons:
  - 1) can drift and blow into areas that are not intended to be sprayed; 2) can seep into and contaminate ground water; 3) "Inert" ingredients are often toxic but are not labeled; and 4) Frequent and broad applications can actually increase pest populations over time.
- Examples of commonly used pesticides, which have now been determined by the EPA to be too toxic to stay on the market, include: 1) Dursban (chlorphrifos) will be taken off the market December 31, 2001; 2) Diazinon will be prohibited in homes next year and in gardens in 2003; 3) Malathion and acephate (Orthene products) are now being reviewed and probably taken off the market in the next couple years.
- children's health and our community's health may be at stake when synthetic chemicals that have not been thoroughly tested are used, and it is important to take preventative action in the face of scientific uncertainty and use the least toxic available alternatives. Urge the Commissioner to undertake these immediately not only protect our children's health, but the ecological health of the entire community for the future generations.

One of the points that Chairman Thorn made was that the Commissioners had received very broad condemnation of chemicals in the environment; he agreed with that, but at the same time, important to keep focused on the subject: roadside spraying with four discrete chemicals. Both herbicides and pesticides have been mentioned, and while there may be some strong concerns about pesticides [insecticides] which he would share, pesticides are not the issue in this particular case.

**HEARING HELD: ORDINANCE #C-141-00/R-64-01 – AN ORDINANCE REGULATING SPEED LIMIT ON COUNTY ROAD KNOWN AS CAMPBELL ROAD**

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As scheduled and advertised, a public hearing was held on Ordinance #C-141-00/R-64-01 at 2:15 p.m., An Ordinance of Island County, Washington regulating speed limit on County road known as Campbell Road, located in Section 22, Township 29N., Range 3E. As described by Bill Oakes, Public Works Director, the ordinance would regulate the speed limit on the section of road 300 feet east and west of Old Pietila Road (a private road) MP 0.91 to MP 1.02 at 20 mph "when children are present".  
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At the time of hearing no one in the audience indicated a desire to speak either for or against said Ordinance when the Chairman called for comments.

By unanimous motion, the Board adopted Ordinance #C-141-00/R-64-01, An Ordinance of Island County, Washington regulating speed limit on County road known as Campbell Road, located in Section 22, Township 29N., Rage 3E.

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

**AN ORDINANCE OF ISLAND COUNTY,  
WASHINGTON, REGULATING SPEED LIMIT ON  
COUNTY ROAD AS SHOWN ON ATTACHED  
EXHIBIT "A", AMENDING ISLAND COUNTY CODE,  
TITLE X, CHAPTER 10.01**

**ORDINANCE NO. C-141-01  
R- 64 -01**

**WHEREAS**, an engineering and traffic investigation has been made relative to the above described road; and

**WHEREAS**, from review of the information obtained during said engineering and traffic investigation, the existing speed limit is greater than is reasonable and safe under the conditions found to exist during days Whidbey Island Waldorf School is in session upon the road described on the attached Exhibit "A"; and

**WHEREAS**, the engineering and traffic investigation also revealed the need to adjust the speed on the road listed on the attached Exhibit "A"; and

**WHEREAS**, regulation of maximum vehicle speeds and traffic control upon County roads is a function of police power properly exercisable by the Board of County Commissioners; NOW, THEREFORE,

**BE IT HEREBY ORDAINED** by the Board of County Commissioners of Island County, Washington, as follows:

The maximum speed on the road listed in the attached Exhibit "A" shall be as shown in said Exhibit, and the Island County Code is amended to read as shown on said Exhibit. Underlined material is added to existing county code and interlineated material is deleted.

**THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT FIFTEEN DAYS FROM AND AFTER ITS PASSAGE INTO LAW.**

**REVIEWED** this 5 day of November, , and set for public hearing on the 26 day of November , 2001, at 2:15 p.m.

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

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

**ATTEST:**

Elaine Marlow, Clerk of the Board

**PASSED INTO LAW** this 26 day of November, following public hearing.

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

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

**ATTEST:** Elaine Marlow, Clerk of the Board

BICC 01-725

**APPROVED AS TO FORM:**

DAVID L. JAMIESON, JR.  
Deputy Prosecuting Attorney  
and Code Reviser

**HEARING HELD: FRANCHISE #8(1)R, PONDILLA ESTATES COMMUNITY ASSOCIATION -  
RENEWAL OF EXISTING WATER DISTRIBUTION SYSTEM**

A Public Hearing was held at 2:20 p.m. as advertised to consider the renewal of Franchise #8(1)R, Pondilla Estates Community Association for an existing water distribution system in the Plat of Pondilla Estates, Division #1, Sec. 25, Township 32N, Range 1W., W.M.

Bill Oakes confirmed that after review of the requested renewal, staff found there are no plans for expansion of the current system. As noted in the October 12<sup>th</sup> memorandum from Richard K. Snyder, P.E., County Engineer, all departments requested to comment responded with no objections to the proposal. The Prosecuting Attorney's Office reviewed and approved the documents as to form and the document also has been approved by Risk Management.

Although no one in the audience expressed a desire to speak either for or against said renewal of the franchise, the President of the Pondilla Estates Community Association was present in support of approval of the franchise and available to respond to any questions.

By unanimous motion, the Board approved renewal of Franchise #8(1)R, Pondilla Estates Community Association for the renewal of an existing water distribution system in the Plat of Pondilla Estates, Division #1, Sec. 25, Township 32N, Range 1W., W.M.

**HEARING HELD: FRANCHISE #123(R), EL CAMANO COMMUNITY CLUB, INC. RENEWAL OF  
EXISTING WATER DISTRIBUTION SYSTEM**

A Public Hearing was held at 2:25 p.m. as advertised for the purpose of considering approval of the renewal of Franchise #123(R), El Camano Community Club, Inc. for an existing water distribution system, in the Plat of El Camano, Sec. 4, Twp. 30 N., R 3E., W.M. [Camano Is.].

In this case, Mr. Oakes advised that after staff review, it was determined that there are no plans for expansion of the current system. As indicated in Mr. Snyder's November 19<sup>th</sup> memorandum all departments requested to comment responded with no objections to the proposal. The Prosecuting Attorney's Office reviewed and approved the documents as to form and the document also has been approved by Risk Management.

No one in the audience expressed a desire to speak either for or against said renewal of the franchise.

By unanimous motion, the Board approved renewal of Franchise #123(R), El Camano Community Club, Inc. for an existing water distribution system, located in the Plat of El Camano, Sec. 4, Twp. 30 N., R 3E., W.M.

**RESOLUTION #-C-152-01-01/R-67-01 - ADOPTION OF THE JANUARY 1997 LOCAL AGENCY  
GUIDELINES, APPENDIX 25.142 (REAL PROPERTY ACQUISITION & RIGHT-OF WAY PROCEDURES)**

Resolution #C-152-01/R-67-01 In the Matter of the Adoption of the January 1997 Local Agency Guidelines, Appendix 25.142 (Real Property Acquisition & Right-of Way Procedures), as presented by Mr. Oakes and Mr. Snyder, both recommending approval, was approved by unanimous motion of the Board.

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

**IN THE MATTER OF THE ADOPTION )  
OF THE JANUARY 1997 LOCAL )  
AGENCY GUIDELINES, APPENDIX 25.142 )  
(REAL PROPERTY ACQUISITION & )  
RIGHT-OF-WAY PROCEDURES )**

**RESOLUTION C-152-01  
R-67-01**

WHEREAS, RCW 36.85 provides: authority to the Board of County Commissioners to secure land by gift, purchase, or condemnation for any county road or the drainage thereof, and

WHEREAS, chapter 8.26 (RELOCATION ASSISTANCE RCW REAL PROPERTY ACQUISITION POLICY) establishes policy to encourage and expedite the acquisition of real property for public works programs, and

WHEREAS, WAC 468-100 (UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION) promulgates rules to implement chapter 8.26 RCW , and

WHEREAS, the State of Washington prepared the Washington State Department of Transportation Right of Way Manual (M-26-01) and Local Agency Guidelines Manual (M36-6) (LAG Manual) to help Washington’s public agencies plan, design, construct, and maintain transportation facilities, and

WHEREAS, LAG Manual Chapter 25.02 provides that the local agency must have secured approval of acquisition procedures and provides minimum acquisition procedure standards, and

WHEREAS, LAG Manual Appendix 25.142 establishes right-of-way acquisition and relocation procedures requirements for every County using Federal Funds, and

WHEREAS, LAG Manual Appendix 25.142 requires acquisition of Real Property to be in accordance with Chapter 8.26 RCW and Chapter WAC 468-100 and applicable Federal regulations,

WHEREAS, Island County desires to receive federal funds for any phase of county road projects, and adopt a right of way acquisition procedure which assures fair and equitable treatment of displaced persons (“displacees”), and encourages and expedites the acquisition of real property for road right-of-way acquisition and public works programs by negotiation and agreement with owners, to reduce litigation and relieve congestion in the courts, to assure consistent treatment for owners affected by road and public works programs, and to promote public confidence in Island County’s land acquisition practices;

NOW THEREFORE, BE IT HEREBY RESOLVED that:

1. The Board of County Commissioners rescinds Island County’s existing Right-of-Way Procedures adopted December 22, 1997, by Resolution R-62-97, and Revisions to Island County Real Property Right-of-Way Procedures adopted May 7, 2001, by Resolution C-68-01; and
2. The Board of County Commissioners rescinds the existing Administrative Settlement Policy delineated in memorandum to the Board of County Commissioners dated July 19, 1994; and

The Board of County Commissioners desires to acquire Real Property in accordance with STATE UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION (RCW 8.26) and state regulations (WAC 468-100-001) and to implement the above statutes and Washington Administrative Code; and

The Island County Board of County Commissioners hereby adopts the attached Real Property Acquisition and Right-of-Way Procedures, which conform to the requirements of the January 1997 Washington State Department of Transportation’s Local Agency Guidelines, Appendix 25.142, as Island County’s Acquisition Procedures for Real Property, Road Right-of-Way and

Public Works Programs; and

The Public Works Department is responsible for real property acquisition and relocation activities on projects.

ADOPTED this 26 day of November, 2001.

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

William F. Thorn, Chairman

Mike Shelton, Member

[absent-Wm. L. McDowell, Member]

**ATTEST:** Elaine Marlow, Clerk of the Board  
*[attachments/Exhibits on file with the Clerk of the Board]*

BICC 01-764

**BID AWARD – 2001 GUARDRAIL PROJECTS – WHIDBEY AND CAMANO**

As recommended by the Public Works Director and County Engineer, the Board on unanimous motion, awarded bid for 2001 Guardrail Projects for Whidbey and Camano Islands, to Coral Construction, Wilsonville, Oregon, in the amount of \$22,020.00, under CRP 01-06. This was the low bid, with the County Engineer's estimate having been \$34,549.00. Although located in Oregon, Mr. Oakes indicated that the firm has an office in Woodinville, Wa. This was a case of single bid, although one other bid was received very late and therefore not opened.

**PLANNING AND COMMUNITY DEVELOPMENT AGENDA ITEMS**

At the request of Phil Bakke, Director, Planning and Community Development, the following items for scheduling were pulled from today's agenda, not yet having completed the review process by the Prosecuting Attorney's Office:

- PLG-020-01 Penalties and Enforcement
- PLG-021-01 Development Standards for Schools
- PLG-022-01 Site Coverage Variance Standards
- PLG-024-01 Mobile Homes zoned Rural
- PLG-025-01 Height Variance Standards
- PLG-026-01 Standards for Schools
- PLG-027-01 Au Sable Special Review District.

Mr. Bakke anticipated review would be completed most likely in time for the next Board meeting and at time would present the matters to schedule for public hearing, suggesting the first meeting in January, 2002.

**HEARING HELD: ORDINANCE #C-135-01 - AMENDMENT OF ORDINANCE  
#C-117-01 BURNING PERMIT AND ENFORCEMENT PROGRAM**

A Public Hearing was held at 3:00 p.m. as scheduled and advertised, on Ordinance #C-135-01, Amendment of Ordinance #C-117-01, Burning Permit and Enforcement Program. #C-135-01 was drafted to correct the civil penalty amount of section 14.03D.050( C ) to be \$150 rather than "up to \$250". At the time of hearing, several interested citizens were present. Staff included: David L. Jamieson, Jr, Chief Civil Deputy Prosecuting Attorney; Lee McFarland, Assistant Director, GSA; Fred Weefer, Fire Warden.

Mr. Jamieson, summarized Ordinance #C-135-01 before the Board was for the purpose of amending the enforcement section of Ordinance #C-117-01, originally to provide for what a Class 1 infraction was under the state statutes, for up to \$250; the Board earlier amended that to \$150. The problem is that the actual amounts are set by class in chapter 7.80 of the RCW. The County entered into the burning permit and enforcement program pursuant to a memorandum of agreement between the Northwest Air Pollution Authority [NWAPA], Island and Skagit Counties. Per the agreement, the County agreed within its jurisdiction to respond to complaints associated with outdoor burning; in areas where burning has been prohibited or where a permit is either not required or is required and has not been

obtained; or in situations where the County has permitted the burning. The County is to operate under the enforcement policy of the NWAPA complaint investigation enforcement policy which initially is to respond in an educational manner and allow for voluntary compliance in the future. However, if the situation is egregious and the burning is occurring at the time the complaint is registered, a field investigation is typically initiated and violation may result. One of the provisions contained in NWAPA rules as well as WACs and RCWs allows for criminal penalties to be imposed, and NWAPA may impose its own civil penalty of up to \$13,000 per day, and to obtain an assurance of discontinuance as an enforcement matter. The County's ordinance was written incorporating those provisions.

At last week's staff session, the Board indicated a different direction, and Mr. Jamieson prepared another ordinance for the Board to consider at the appropriate time, that would impose a class 2 civil infraction for land clearing burning and class 4 civil infraction for residential fires/recreation fires and storm/flood debris fires.

Commissioner Shelton moved to not approve Ordinance #C-135-01, replacing it with Ordinance #C-153-01 to be set for public hearing on December 17, 2001 at 11:00 a.m. Motion was seconded by Commissioner Thorn.

Diane Rayner, Freeland, submitted into the record a letter under today's date, with attachments: NWAPA Fact Sheet on Toxic Burns; Rayner 3-5-01 letter to NWAPA/DNR Fire Marshall; Rayner letter to Island County Health Department; and 78 references on toxic PVC-PAE & Phosgene Exposures [*letter and attachments placed on file*]. The letter outlined problems with a neighbor burning illegal type materials inside in a wood stove, continuing to do so without enforcement of state burn laws or fines imposed. She specifically called to the Board's attention to the attachment "Why Not Burn Garbage?" from the Northwest Air Pollution Authority showing in writing with picture example typical air pollutants from open burning of residential garbage.

A copy of another letter was handed in for the record, from Nancy Schaaf, Clinton, dated November 13, 2001, asking for enforcement of the maximum fine of \$250 for burning violations. Her letter also noted repeat violators in Possession Shores who burn garbage and plastic in wood stove, and on the beach. [*letter placed on file*]

Laurie Keith, Langley, suggested the concept "tax shift" and supported the idea of taxing resource use, waste production, with fines imposed for pollution problems as a way to support positive change in the environment and raise revenues for county government. She agreed that the initial fine could be minimal, but for repeat violations, should be more than \$250.

The Commissioners explained today's hearing was for the purpose of setting fines for burning illegally without permit outdoors, i.e. outdoor burns--wood materials including land-clearing debris, etc. This is not about burning toxic wastes or indoor burning in wood stoves. They did agree it seemed appropriate that educational information be placed in various prominent places to let folks know what can and cannot be burned, such as the sheet with the graphics Ms. Rayner submitted.

Motion, as made and seconded, carried by unanimous motion.

Mr. Jamieson reminded that Section 1 of the County's agreement with NWAPA provides that NWAPA conduct an extensive media campaign to inform the public about outdoor burning regulations and alternatives to outdoor burning. Also that NWAPA distribute appropriate educational materials to fire protection agencies, contractor associations, solid waste utilities, libraries, and other interested parties. The appropriate education educational materials he was not sure referred to just outdoor burning or all air pollution.

There being no further business to come before the Board at this time, the meeting adjourned at 3:20 p.m., and will meet in Regular Session next on December 3, 2001, beginning at 9:30 a.m.

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

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William F. Thorn, Chairman

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Mike Shelton, Member

[Wm. L. McDowell, Member – absent]

**ATTEST:**

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Elaine Marlow, Clerk of the Board