

**ISLAND COUNTY COMMISSIONERS – MINUTES OF MEETING
SPECIAL SESSION – FEBRUARY 25, 2003**

The Board of Island County Commissioners met in Special Session on Tuesday, February 25, beginning at 10:15 a.m. in the Coupeville Recreation Hall, 901 NW Alexander Street, Coupeville, Washington, following the Island County Planning Commission which met at 9:00 a.m. The meeting was called for the purpose of a Joint Session of the Board of Island County Commissioners, Island County Planning Commission and the Island County Hearing Examiner. The main topics of review and discussion included: Review of 2002 Annual Review Docket; Review of 2003 Annual Review Docket; Hearing Examiner Report; and General Discussion.

Attendance:

County Commissioners: Wm. L. McDowell, Chair; William F. Byrd, Member; Mike Shelton, Member
Hearing Examiner: Michael Bobbink, Island County Hearing Examiner
Planning Commission: Dave Baumchen, Mike Joselyn, John Edison, Dave Osterberg, Henry Powers
Staff: Phil Bakke, Planning Dir.; Jeff Tate, Assistant Dir.; Joe Burcar, Planner

Handouts: Annual Review Amendments from 1998-2002 (GMA Record #7382)
2003 Annual Review Docket (GMA Record #7389)
Freeland Area Comprehensive Sewer Plan –Collection System,
February 8, 2003, Tetra Tech/KCM (GMA Record #7380)
Questionnaire February 8, 2003 Workshop (GMA Record #7378)

SUBSTANTIVE ANNUAL REVIEW AMENDMENTS 1998-2002

Mr. Bakke and Mr. Tate reviewed all substantive annual review amendments, Resolutions and Ordinances 1998 – 2002 [hand-out]

2003 ANNUAL REVIEW DOCKET

The 2003 Annual Review docket consists of the following applications:

- Inoperable Vehicle Ordinance
- Building Code Enforcement Standards
- Composting/Grinding
- Concurrence Standard Update
- Road Standard Update – private access roads
- Open Space Requirements (whether or not the requirement for open space is legal given the density bonuses that have been received by the landowner)
- Historical Advisory Committee standards
- Five Year Review Procedures
 - PRDs
 - NR Zone - Design Standards, Sign Code, Zero Lot Line Setback
 - Best Management Practices (BMPs)
 - Earned Development Units
 - Guest Cottage Program
 - Special Review District Program

In response to an inquiry from Mr. Osterberg as to what standards that would be used for the Five Year Review, Mr. Tate noted that with all the programs they would be looking at the frequency and performance of the use. There are goals and policies set up for why these programs are in place and what they are trying to achieve. They will be

looking at projects that were done to see if the finished product achieved the goals and policies that were intended. For example, with programs that have not been used, such as Earned Development Units, they are contacting farmers around the community who had an interest during the development stage to inquire why no one is using the program. Staff wants to make sure that they are not establishing barriers that can easily be fixed so people will use the program. Also they will be talking to developers who offered input during the development of the PRD ordinance to find out why they used the PRD route but not since. They are not necessarily bringing this forward to recommend a code change but to have a discussion and then take some steps to see if there are any changes that need to occur.

Commissioner Shelton's assumption was that the items listed under the Five Year Review, PRDs through Special Review Districts, were just the beginning of the list and not the exhaustive list.

Mr. Bakke indicated this was the beginning of the process for what is now the Seven-year update. The basic approach will be to try to review the Comprehensive Plan and implementing regulations in anticipation of the seven year review a little more incrementally. One of the items worked on last year was the Public Benefit Rating System. The review is supposed to be completed by December 31, 2005.

Mr. Tate noted the review had been broken out into three general categories: (1) this year review of the programmatic elements of the Comprehensive Plan and Development Regulations; (2) population projections and UGA boundaries; and (3) incorporating Best Available Science into the Critical Area Regulations.

FREELAND SUB-AREA PLAN

Mr. Bakke recalled that the Board had previously executed a professional services contract with Tetra Tech/KCM to do a Comprehensive Sewer Study and Facilities Plan for the Freeland sub-area. The plan is broken down into several components: type of collection system; treatment system; and discharge system. Once those decisions have been made they can move into the design stage. Tetra Tech/KCM's contract also includes a fair amount of work on funding alternatives. This venture is being done cooperatively between the County and the Freeland Water District. The County is providing up-front funding, with the Freeland Water District obligated to refund the dollars spent on the study in the event that in the next 20 years the plan is used and the system is developed. The first stage was completed three weeks' ago with a public workshop on the three collection system alternatives, gravity system, septic tank effluent pumping or STEP system or a combination of the two. Following the public workshop the subarea committee met and voted to recommend the STEP system. The implementation costs shown on the graph assume that every single house will have to replace their septic tank and do not take into account the modern facilities that private homeowners have been putting in over the last ten years. Last summer Planning staff presented the subarea committee with a draft Freeland Comprehensive Plan. That plan has been updated significantly and will be re-presented to the committee on March 13 for consideration. The purpose is to try to move the process along so the plan can be adopted and move on to the Planning Commission and Board of County Commissioners and some firm decisions can be made as to whether or not the classification for Freeland will change from a RAID to a NMUGA.

Joe Burcar reviewed results of the questionnaire from a February 8, 2003 public workshop. They received 51 questionnaires. One of the questions asked was: "How do you feel about sewers in Freeland?" and the majority response was strongly in favor of sewers; close behind that people said it depended on the cost. He gave a GIS presentation that included single family residential, new construction, new manufactured homes and new mobile home permit activity and graphics showing where development is occurring in the County year by year since 1998. This presentation included information that was gleaned from the Assessor's database and uplinking the Building Permit database and the Land Use Permit database.

Mr. Osterberg asked whether the information could be tied in with information provided by the County hydrologist. Mr. Burcar noted that the hydrology information could be overlaid.

Mr. Bakke noted that the information for the graphics presented was originally prepared leading up to the 1998 code. Doug Kelly, the County Hydrologist, spent a fair amount of time with the Board and Planning Commission reviewing areas, particularly on Camano, that had some impact from salt water intrusion. Based on that information the Health

Department came forward with recommendations to the Board to eliminate development potential in those areas.

Mr. Osterberg has some concern that existing property owners' water was being jeopardized by decisions they are not fully informed about.

Commissioner Shelton pointed out that Island County had made more strides in the last five year than in previous history in understanding the County's water resources, and commented that Doug Kelly was largely responsible for that. He thought the County would move forward fairly dramatically, maybe not Island wide, but at least within those watersheds where development is more intense.

Commissioner McDowell commented that the County has new policies and codes for the areas that have saltwater intrusion. Those areas have to meet a higher level of requirements before they can drill a well.

HEARING EXAMINER REPORT

Mr. Bobbink noted that his workload remains moderate. Most hearings are appeals of administrative decisions that deal with neighborhood issues. The political aspect of the job, which went on for about ten years with the completion of growth management, has pretty much disappeared. He is not getting people who are using the process for political reasons, rather people using it because they are concerned about what is going on next door. Sometimes these are very complicated issues and raise some significant legal issues as well as factual issues. Basically the way the code tiers out the kinds of decisions it eliminates from the Hearing Examiner and public review process a lot of things that had no controversy attached to them and did not need to go through that process. Presumably the decision to place the regulatory process mostly at the administrative level has made those decisions come out more quickly and less expensively. Mr. Bobbink has been the Island County Hearing Examiner for approximately 15 years, and observed that things had really changed in Island County during that time; the process is much different; partly related to requirements of growth management, part related to decisions made by the Board in simplifying the process and made it easier for people to get permits for activities that should be permitted and to do that more quickly.

A couple of the things that staff recommended in the 2003 Annual Review are things Mr. Bobbink has had some experience with. Some of the most complicated hearings have been where people have collected junk on single family lots with adverse effect on neighbors; not operating a commercial junkyard but could not seem to let go of anything. The way the code is currently written makes it very cumbersome to

deal with that kind of situation and agreed a new ordinance is needed. He was aware that composting had been a real problem in Whatcom County, and there are a lot of different kinds of composting, some of them have very significant impact on neighboring property owners and some do not. People tend to view them all as being very intrusive and are concerned about impacts. Composting of lawn waste, etc. can be done in such a way, with modern technology, that it so as not to have those kinds of impact. Composting of chicken manure and other things to make a mushroom growing substrate is an issue in Whatcom County. A lot of Canadian mushroom farms are trying to get composting done in Whatcom County because the regulations in British Columbia are so strict and those kinds of operations have great odor problems and create a lot of public animosity. He felt it was worth looking at these kinds of operations ahead of time because the mushroom farmers were regulated out of British Columbia and are now being regulated out of Whatcom County and will be looking for someplace where the regulations are not in place yet.

Commissioner Shelton noted that it is becoming more and more difficult to get rid of yard waste. The Health Department now says if you burn yard waste/brush you need to be permitted as a solid waste facility. Clearly there is a push towards stopping burning altogether and the next step is some kind of chipping process, etc. While the County would not want to encourage people to make mushroom soil with chicken manure, the composting business is needed and regulations need to be in place.

Mr. Bobbink had seen very little Type III development in the County, partly due to infilling and partly because more and more of these subdivisions have been put inside the city limits. Some growth may take place outside RAIDs and perhaps in the Freeland area after the planning has been completed and the services are made available.

Commissioner Shelton pointed out that the PRD ordinance in place now is worthless because it does not provide enough incentives and there simply is no place in the County to do a long plat.

Mr. Bobbink said there may be areas where there are a significant number of pre-existing buildable lots that under growth management could be developed, but it also may be an area where the water resource is not any good and therefore makes them almost unbuildable. Some kind of program that would transfer those densities into an area that could be better served might be something that would be successful. He asked if staff was able to provide an inventory of existing lots that were not buildable.

Mr. Tate answered that they had tried to quantify that by looking at septic denials but lots many people do not want to put a septic denial on their lot so they may know it is unbuildable but the County would not.

Mr. Osberberg noted that TDR's work best when a city is willing to take on the density. Commissioner Shelton noted that the only way development rights ever seem to work is if government creates an artificial market for them.

Commissioner McDowell encouraged the Planning Commission to approach the Five-Year Review process, not as an opportunity to build a whole new code, but from the direction of whether it is meeting the goals that were established.

PUBLIC COMMENT

Rufus Rose, South Whidbey, asked if the Board was monitoring proposed legislation concerning land use and the GMA, and if so, if they had any comments about those pieces of proposed legislation.

Commissioner Shelton, who is a member of the Washington State Association of Counties, and serves on the WSAC Legislative Steering Committee, commented that there were vast numbers of bills that have been proposed and people tend to devote their time more to those issues that really have a chance of becoming law. There does not seem to be a lot of support from both large and small counties for hearings boards, their decisions, and acquiescence to local elected officials.

Commissioner McDowell said that if a bill makes it out of committee and it is a law that affects the County obviously the Commissioners need to be aware of it.

Commissioner Shelton felt that the big target this year in the State Legislature was not so much growth management, as it is Fish & Wildlife. One of the Washington State Department of Fish & Wildlife's proposals is to pull all of the tidegates out in Skagit County. For years the farmers have used elaborate drainage systems where the water drains down when the tide is out, the gate opens and the water drains out of their agricultural fields. Removal of those tidegates would in essence cause the saltwater to come back up all those drainage systems and revert all of the Skagit flats to a saltwater marsh condition.

Mr. Rose asked about what was left to be accomplished to complete the Forest Practices changes. In response, Mr. Bakke noted that the Department of Natural Resources (DNR) current standards require meeting or exceeding existing standards. DNR does not have Forest Practice Standards to deal with converting land to residential uses; DNR's standards are for maintenance and ongoing forestry for the most part. That standard that was set by the Legislature is now being looked at and targeted for

amendment. The second issue is that in order for Island County to take over the program the County must adopt the method DNR uses to classify streams. However DNR has not completed their work, and have not produced a map that says what the streams are they have just produced the standards that need to be applied.

Commissioner Shelton noted that the obvious answer for Island County and what they have tried to convince DNR to do is when forest land is converted it becomes subject to Island County's critical area regulations.

Meeting adjourned at 11:31 a.m.

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

Wm. L. McDowell, Chairman

William J. Byrd, Member

Mike Shelton, Member

ATTEST: _____
Elaine Marlow, Clerk of the Board