ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING
REGULAR SESSION - MARCH 24, 2003

The Regular Meeting of the Board of Island County Commissioners convened at 11:30 a.m. on March 24, 2003 in a roundtable session with County Elected Officials, meeting in Conference Room #116, Courthouse Administration Building Other agenda topics for the Regular Session followed at 1:30 p.m. as outlined on the agenda, including Diking Improvement District #4, that portion of the meeting held in the Law & Justice Facility, Department III (Courtroom 3), 101 NE 6th Street, Coupeville, Wa. Wm. L. McDowell, Chairman, William J. Byrd, Member, and Mike Shelton, Member, were present. By unanimous motion, the Board approved the minutes from Regular Session held on March 17, 2003.

Roundtable Meeting with Island County Elected Officials

In addition to all three members of the Board of County Commissioners, the following also attended:

Elected Officials:	Tom Baenen, Sharon Franzen, Linda Riffe, Suzanne Sinclair
Department Heads:	Elaine Marlow; Dick Toft
Press:	Nathan Whalen, Whidbey News Times
Others:	Three audience members

Linda Riffe provided investment information having read a synopsis by Piper Jaffray that compared market activity during the Gulf War in 1991 to now and the market reaction. It seems reasonable to expect initial positive market returns. However, Dow Jones is down 300 points this morning. It is thought there will probably be some swing in the market for awhile. Interest rates as of last week were: for 3 months 1.17% and for 2 years 1.78%.

Suzanne Sinclair confirmed notification by Oak Harbor School District that the District plans to run the levy issue on the May special election ballot.

Roundtable adjourned at 11:37 a.m; next regular roundtable scheduled for April 28, 2003 at 11:30 a.m.

VOUCHERS AND PAYMENT OF BILLS

The following pre-audited bills and vouchers were approved for payment by unanimous motion of the Board: Voucher (War.) # 162021-162346 …….…….. $552,407.18.

APPOINTMENT TO ISLAND COUNTY LAW & JUSTICE COUNCIL

By unanimous motion, the Board appointed James Valdez of Oak Harbor to serve as a member on the Law and Justice Council of Island County, representing Commissioner District #3, for a term until 2-28-03.

STAFF SESSION SCHEDULE - APRIL 2003

The Board by unanimous motion approved the Staff Session Schedule for April 2003 to be distributed. The first staff session is a regular session on April 2, 2003 beginning at 9:00 a.m. The regular session for
16 has been canceled and in its place, a special staff session scheduled to be held on April 30, 2003, beginning at 9:00 a.m. Staff Sessions are held in the Courthouse Administration Building, Conference Room #116, 1 N.E. 7th Street, Coupeville.

LIQUOR LICENSE APPLICATIONS APPROVED

Having received favorable review and recommendation from Island County departments, the Board by unanimous motion approved the following liquor licenses:

Assumption of Liquor License #354674-3C by Robert J. & Candy Lou Raskoskie,
d/b/a Bailey's Corner Store, 7695 S. Cultus Bay Road, Clinton

New application for Liquor License #363753-3C by Robert M. & Colette W. Riggs,
d/b/a Riggs LLC, for Trattoria Parma, 5438 S. Woodward Ave., Freeland.

CLAIM FOR DAMAGES (RD03-005CD) HOWE, DAVID

Per memo dated February 20, 2003 from Betty Kemp, Director, GSA/Risk Management, Claim for Damages (RD03-005CD) by David Howe was filed in the amount of $951.44 alleging vehicle damage from county sanding truck in the vicinity of Port Susan Terrace Road, Camano February 13, 2003. County log confirms there was a sanding operation in that area on that day, although county employees do not recall the incident. On investigation, the County Engineer pointed out it was possible that the sander could have caused the windshield damage, but not bumper damages, inasmuch as there was no damage to the hood and claimant's vehicle is a low rider. Recommendation of both the County Engineer and Risk Manager is to pay the claim in the amount $482.83 only, and deny $468.61 representing damage to bumper.

By unanimous motion the Board approved the Claim in the amount of $482.83 only, and denied $468.61 representing damage to bumper.

CHILDCARE CONSULTATION CONTRACT #HD-15-02(1) -OPPORTUNITY COUNCIL

By unanimous motion, the Board approved Childcare Consultation Contract #HD-15-02(1) in the amount of $4,150 with the Opportunity Council, which was approved by the Board of Health on March 17, 2003.

PERSONNEL ACTION AUTHORIZATIONS APPROVED

Approved by unanimous motion of the Board, as presented by Dick Toft, Human Resources Director, were the following Personnel Action Authorizations:

Department	PAA #	Description/Position No		Action	Effective
Sheriff	036/03	Chief Criminal Deputy	4002.00	Re-establish Position	3/24/03
Sheriff	037/03	Administrative Asst.	4006.00	Re-establish Position	3/24/03
Public Works	038/03	S.W. Attnd. Camano	2249.16	Replacement	3/24/03

ANNUAL CERTIFICATION FOR CALENDAR YEAR 2002 – ANNUAL REPORT TO COUNTY ROAD ADMINISTRATION BOARD (CRAB)

Annual Certification for Calendar Year 2002, the Annual Report to the County Road Administration Board was approved by unanimous motion of the Board, as presented and recommended for approval by the County Engineer.

CONTRACT/PERFORMANCE & PAYMENT BOND #PW-0320-33- WHIDBEY ISLAND PAVEMENT REPAIRS

By unanimous motion the Board approved the Contract/Performance and Payment Bond #PW-0320-33 for Whidbey Island Pavement Repairs under Work Order #100 in the amount of $59,629.00 with Krieg Construction, Inc.

PURCHASE ORDERS APPROVED

Presented for approval by Mr. Snyder, along with Jack Taylor, Maintenance Superintendent, were Purchase Order #5666 for four (4) 2003 Ford Super Duty F450XL Cab & Chassis Truck for purchase off State Contract #05702, 15,000 pounds GVWR (4x4) from Frontier Ford, in the amount of $23,696.00 each plus title and fees ($102,551.15), and Purchase Order #5667 for four (4) 2/3 yard Dump Body –11 foot Body (off State Contract #04797) for Ford F-450 chassis from Northend Truck Equipment, Inc., in the amount of $12,576.00 each plus tax ($54,579.84).

Questions had been raised earlier about calling for bids to give an opportunity for local bidders to bid, and a chance to retain sales tax locally instead of purchasing from State Contract. Mr. Taylor consulted with the owner of Frontier Ford, Anacortes, who also owns Whidbey Island Ford, who confirmed the State Contract is only with the Anacortes firm. Bidding would open up the possibility of not only bids from out of the area but out of state as well, and would come at additional costs of advertising and preparing specifications and mailing, etc. an additional cost of between $600 to $800, Advertising is estimated at $300 since advertising is done locally as well as the Seattle Daily Journal of Commerce. The proposed purchase from State Contract is for 2003 trucks. Local paper only would be about $150. The other factor is timing; March 31 is the cut off date to build according to the State procurement office to guarantee 2003 trucks built.

Commissioner McDowell saw the opportunity to bid locally and retain $8,000 to $9,000 local sales tax. If the firm can give a price for state contract surely that firm can meet it for a private bid. This is an opportunity to keep the purchase locally and the sales tax. There is no assurance that anyone else can under bid what the state contract price is; however, since the local dealer is already providing the trucks at state contract price surely that dealer could bid state contract price. If someone else can underbid state contract price then the County would be saving money.

Although there are some local needs, Commissioner Shelton's opinion was that there is a reason for the state contract and he supported the purchase from that contract. Commissioner McDowell's scenario assumes purchase of 2003 models after going through the advertisement and bid process; there is that chance if the County cannot purchase the 2003 models that new models could end up costing more. And Commissioner Byrd acknowledged that a bid process with advertising would take the date out to well after the March 31 build date; late in the game and something that should have been determined before.

Commissioner Shelton moved that the Board Sign Purchase Order #5666 for four 2003 Super Duty F450XL Cab & Chassis Trucks off State Contract #05702 from Frontier Ford, in the total amount of $102,551.15, including sales tax. Motion was seconded by Commissioner Byrd.

Under discussion Commissioner McDowell urged going out to bid in order for an opportunity to bid locally.

Motion carried by majority vote. Commissioner McDowell opposed for the reasons so stated.

By unanimous motion, the Board approved Purchase Order #5667 for four dump bodies from Northern Truck Equipment, Inc. in the total amount of $54,579.84 including tax.

RESOLUTION #C-29 -03/PLG-004-03 INCORPORATING SERVICE AREA FOR ELGER BAY WATER ASSOCIATION INTO IS. CO. WATER SYSTEM PLAN

Resolution #C-29-03/PLG-004-03 Incorporating the Service Area for the Elger Bay Water Association into the Island County Water System Plan was approved by unanimous motion of the Board, as presented and recommended for approval by Jeff Tate, Assistant Director, Planning & Community Development Department.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF INCORPORATING	)	
THE SERVICE AREA FOR THE ELGER	)	
BAY WATER ASSOCIATION INTO	)	RESOLUTION C-29-03
THE ISLAND COUNTY COORDINATED	)	PLG-004-03
WATER SYSTEM PLAN.	)	

WHEREAS, the Elger Bay Water Association was established in the 1950's; and

WHEREAS, the Elger Bay Water Association has an approved water right for 22 connections of which 20 are currently in use; and

WHEREAS, the Elger Bay Water Association is not proposing to expand their water system service area rather it is proposing to incorporate the existing service area into the Island County Coordinated Water System Plan; and

WHEREAS, pursuant to WAC 197-11-800(4)(b) appropriations of 2,250 gallons per minute or less of ground water are exempt from SEPA review, **NOW, THEREFORE,**

BE IT RESOLVED by the Board of Island County Commissioners that the Elger Bay Water Association service area is hereby incorporated into the Island County Coordinated Water System Plan.

APPROVED AND ADOPTED this 25 day of March, 2003.

BOARD OF COMMISSIONERS OF
ISLAND COUNTY, WASHINGTON

Wm. L. McDowell, Chairman
William J. Byrd, Member
Mike Shelton, Member

ATTEST:
Elaine Marlow
Clerk of the Board
[Exhibit A placed on file with the Clerk of the Board]

RESOLUTION #C-30-03/PLG-005-03 INCORPORATING SERVICE AREA-PORT SUSAN TERRACE ASSN. INTO IS. CO. COORDINATED WATER SYSTEM PLAN

Resolution #C-30-03/PLG-005-03 Incorporating the Service Area for the Port Susan Terrace Association into the Island County Coordinated Water System Plan was approved by unanimous motion of the Board, as presented and recommended for approval by Mr. Tate.

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF INCORPORATING THE SERVICE AREA FOR THE PORT SUSAN TERRACE ASSOCIATION INTO THE ISLAND COUNTY COORDINATED WATER SYSTE PLAN.	))))	RESOLUTION C-30-03 PLG-005-03

WHEREAS, the Port Susan Terrace Association was established in the 1960's; and

WHEREAS, the Port Susan Terrace Association has an approved water right for 44 connections; and

WHEREAS, the Port Susan Terrace Association is not proposing to expand their water system service area rather it is proposing to incorporate the existing service area into the Island County Coordinated Water System Plan; and

WHEREAS, pursuant to WAC 197-11-800(4)(b) appropriations of 2,250 gallons per minute or less of ground water are exempt from SEPA review, **NOW, THEREFORE,**

BE IT RESOLVED by the Board of Island County Commissioners that the Port Susan Terrace Association service area is hereby incorporated into the Island County Coordinated Water System Plan.

APPROVED AND ADOPTED this 24 day of March, 2003.

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 *[Exhibit A on file with the Clerk of the Board]*

CLOSED RECORD APPEAL - APP #046/03, JANE SEYMOUR APPEAL OF HEARING EXAMINER DECISION ON PLA 025/98, BONACI, TYPE III DECISION

At 3:15 p.m. as scheduled a closed record appeal was held on Appeal #046/03 by Jane Seymour, appealing the Hearing Examiner's decision on PLA 025/98 by Paul, Gordon, Alan and Robert Bonaci. Notice dated February 20, 2003 provided the date, time and place of the closed record appeal hearing to applicant, the appellant and to all other parties of record [**Exhibit #1**]

The Board previously received a complete copy of the Hearing Examiner's Exhibit Log [**Exhibit 2].** In addition, the Board's packet for the closed record appeal today contained: Appeal filed by Jane Seymour received dated and received

February 7, 2003; V. Anne Smidt rebuttal dated February 18, 2003; and Paul Bonaci letter to Jane Seymour dated March 11, 2003; and the Hearing Examiner's decision January 24, 2003. [**Board Packet Exhibit #3**] .

Appellant: Greg Seymour, Christi Seymour, Brenda Seymour and Haley Seymour; Greg Seymour and Jane Seymour, Co-Trustees of the Seymour Family Trust, represented by Jane Seymour, Attorney at Law, Freeland, Wa.

Applicant: Paul, Gordon, Alan and Robert Bonaci

County Staff: Phil Bakke, Planning & Community Development Director
Jeff Tate, Assistant Director, Planning & Community Development

As explained by Chairman McDowell, the hearing was a closed record appeal pursuant to ICC 16.19.170 and the Board's Procedure to Hear Closed Record Appeals from which he read [**Exhibit #4**]. With regard to Item #8 "unless otherwise indicated during the hearing, a decision will be announced at public meeting within 14 days based on the record of the Hearing Examiner's hearing and applicable laws" Chairman McDowell indicated that the Board's decision would be announced on April 14, 2003 at 10:30 a.m.

Staff Statement

Mr. Tate posted maps on the wall during the closed record appeal to provide a visual of what was happening.

Map: Current Lot Configuration [**Exhibit 5**]

Existing number of lots
Existing lot lines
Current number of houses
Potential number of houses
Current road network and access points

Green circles represent lots that are part of the plat of Saratoga Beach Division #1; lots 10, 11 12 13 and 14. Lots 12, 13 and 14 are served by Kevin Court in the plat of Saratoga Beach Division #1; lots 10 and 11 are served by Harbor View Drive also in the plat of Saratoga Beach Division #1. There is an 1.84 acre piece of property not in the plat of Saratoga Beach Division #1, but is an adjacent unplatted lot. He pointed on the map the location of the plat of Baby Island Heights

Map: Proposed Lot Configuration [Exhibit 6]

Proposed Lot Lines
Proposed Number of Parcels
Potential Number of Houses

Map: Plat Alteration Map 025/98 [Exhibit 7]

Map is a part of the application. If the proposal were to be approved this is the map that would be recorded.

This is a plat alteration that would amend some boundary lines and some easements within a subdivision; 5 lots within the subdivision and an adjacent unplatted lot not in the subdivision. Applicant proposes a plat alteration to adjust the boundary lines of those 6 lots to create 5 lots, all of which now would be in the plat

of Saratoga Beach Division #1. The unplatted 1.84 acre piece would be absorbed into the 5 lots within Saratoga Beach Division #1. This would expand the outer boundary of the plat of Saratoga Beach Division #1 to include this piece of property. Existing Tract A has a main house and a cabin and the property is served by Baby Island Way. The proposal would take the cabin and put it on one piece of property and the main residence on another piece of property, both of which

would be served by Baby Island Way.

Current situation [refer to map exhibit 5]: 6 parcels, 2 residences with potential for 5 more, or potential for 7 homes as it stands.

Proposed lot configuration [refer to map exhibit 6]: put cabin on one piece, main on another; then have three remaining that could have single family homes, i.e. 5 parcels, 2 residences that already exist with potential for 3 more so there is actually a net reduction in the number of homes that can be built as a result of this plat alteration.

Mr. Tate briefly summarized the eight points from Appellants appeal dated Feb. 7, 2003 [see Exhibit 3].

Next, he referred to the Bonaci Plat Alteration (PLA) 025/98 Timeline of Events beginning January 16, 1998 through March 24, 2003 [**Exhibit 8]** which was faxed last week to Appellant and copy provided to the Board. He highlighted a few of the more significant dates:

1/16/98	Application submitted [returned]
2/24/98	Application resubmitted
5/1/02	Island County Health Department preliminary approval PLA 025/98
8/27/02	Island County Public Works preliminary approval PLA 025/98
8/27/02	Staff Report recommending approval with conditions
9/19/02	1st Hearing Examiner Public Hearing
11/21/02	2nd Hearing Examiner Public Hearing
1/16/03	3rd Hearing Examiner Public Hearing
1/24/03	Hearing Examiner approved Plat Alteration
2/7/03	Appeal filed in a timely manner

Mr. Tate provided the applicable sections of code that have been referenced:

RCW 58.17	Plat subdivisions and dedications
ICC 16.06	Land Division and dedication
RCW 36.70B	Local Project Review
ICC 16.19	Land Use Review Process
ICC 17.03	Zoning
WAC 197-11	SEPA environmental review

Responding to a question from Commissioner Shelton, Mr. Tate confirmed that lots 10, 11 and 12 are the three southern lots. What access would look like, it would come up to lot 12; stop on lot 12. Lots 13 and 14 would continue to be served by Baby Island Way.

Appellant Presentation

Jane Seymour, Attorney at Law, 1638 E. Main Street, Freeland, Wa., represented the Seymour Family as well as being a property owner next door to the proposed project, presented the appeal. Appellants are not opposed to the applicants doing what they want to do; but are opposed to the procedure and means by which the applicant is s going about this, the damage applicant has done along the way and damage that will occur in the future if applicant is not required to mitigate the damages that have already been done and damages potentially there.

To give the Board an idea of the location, she showed quarter section maps reminding them where Holmes Harbor and Baby Island are located, the plat, and the relationships between the properties, and the unplatted acreage and then lots 10, 11, 12 and 13 of the plat of Saratoga Beach Division #1. Baby Island Heights consists of 110 lots served by Baby Island Road, an extension of Saratoga Road until it gets to Baby Island Lane, very narrow, very densely packed. East Harbor Road accesses this whole area; in order to get to their lot, Bonaci's go all the way through and past 110 properties to the very end where there is no emergency turnaround, very narrow, very crowded, where Bonaci's want to and currently are using it for two residences. At the very end that is a 30-foot right of way with about 17 feet asphalt surface. It is a very old development, developed in the 1930's. She pointed out Kevin Court access, 60 foot wide, very large, very modern, paved, built out, emergency turn-around. The Plat of Saratoga Beach affected directly and legally; the Plat of Baby Island Heights directly

incidentally. Would the applicant be allowed to subdivide the 1.88 acres into two and have two residences off Baby Island Road she thought the answer would be no because they do not have septic to do that and do not think they can get it, nor do they have the land to do it.

Appellants object to the means by which Bonaci's have gone about the process. They started pre-1998 taking a small-unpainted one-room cabin and tried to remodel it. Applicants received an enforcement order to get septic, etc. which they did but in doing that they procured their building permit by fraud and defrauded the Island County Health Department, discovered by some of the residents near this project. Ms.

Seymour researched it herself and obtained all of the documents that show how it was done and her dated 11/26/02 to the Hearing Examiner detailed this fraud.

Contrary to what Mr. Tate stated in his summary of timeline of events, there were not three hearings. There were 3 scheduled times for hearing but there was a single hearing. It was in January when they finally had a hearing and asked Jeff Tate his position on her 11/26/02 letter and his answer was basically that it was irrelevant and not his job. He did indicate at that time he would turn over that letter to the Health Department, yet as of this Friday according to Tim McDonald and Keith Higman he has not done that. She asked that the Board not perpetuate that and make sure this is looked into and adequately addressed.

The issue of the septic permit is that it is within 20 feet of the shore and basically discharging raw sewage into Saratoga Passage, and is a serious health problem. Appellants ask that the County look at this more closely and do more supervision of this development so as to not have continued violations. There is adequate evidence that Mr. Bonaci violated the Bald Eagle Management plan. Mr. Bonaci logged and graded without a permit which he admitted, and still does not have a permit, and the eagle and heron habitat has been destroyed with no mitigation indicated in the Hearing Examiner decision.

The whole matter because of the way it has been handled, piece-mealed instead of in a consolidated manner as the legislature intended, one hand does not know what the other is doing. There is no SEPA checklist that should have been done because it is not a mere plat alteration; it does not fit the definition RCW 58.17 and it is an error of law on the part of the Hearing Examiner. It is a new plat and substantial development on the shoreline. There are slide issues, destruction of habitat and sewage problems going on now that are being ignored. She strongly stated that the weight of the evidence in the Hearing Examiner's hearing was that all of these violations had gone on and continue to be a problem and are not being dealt with appropriately by the County. Appellants do not ask that the whole thing be stopped, rather suspended until it is all straightened out as required by law. The appropriate response to illegal activity such as presented at the hearing and in this appeal is for permits to be revoked or suspended. As far as timeline of significant events that Mr. Tate presented, she pointed out did not list her letter of 11/26/02.

It is an error of law in not addressing the shoreline substantial development permit required by RCW 58.17.060 and WAC 197-11-800. It is an error of law on the part of the Hearing Examiner incorrectly interpreting ICC 16.06.040 as a plat alteration relying on 58.17.215 when that RCW talks about a change within a recorded plat which would be the Plat of Saratoga Beach; it does not do that, it takes property unplatted outside the plat and pulls it in and a shoreline substantial development permit is required.

With regard to the lack of responding appropriately to the fraud issue, ICC 17.03.260 places on the Planning Director the enforcement provisions: "The Planning Director is charged with enforcement provisions of this Chapter, Chapter 17.02, Chapter 16.06, Chapter 16.15, Chapter 16.17 and Chapter 16.21. It shall be unlawful for any person to construct, enlarge, alter, repair, move, demolish, use, occupy or maintain any use or cause the same to be done in violation of any of the provisions of this Chapter, Chapter 17.02, Chapter 16.06, Chapter 16.15, Chapter 16.17 and Chapter 16.21. Any such violation is declared to be a public nuisance and shall be corrected by any reasonable and lawful means as provided in this section.".

Applicants are continuing to occupy the cabin and continuing to flush raw sewage down within 20 feet of the shoreline with no adequate drainfield. They never had any kind of a septic approval, rather the allusion of having septic approval by fraud, a slight of hand, showing two permits; one in a plat on a lot that looked like it had the same section township and range, but it does not exist nor did it ever exist. The one they put forth was for the one they already had for the house, not the cabin; the one for the cabin never existed. The septic as built they produced was actually attached to another lot owned by someone else.

Project Applicant

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Paul Bonaci, 5025 – 25th Ave. NE, Seattle, the project applicant one of four family members, was present to respond to the argument of the appellant and argue the basis for upholding the Hearing Examiner's decision. They inherited the property from their parents. The project from the very start used experts and engineers: Datum Pacific and Fakkema & Kingma. Not only have they done surveying but were paid to be Bonaci's liaison to deal with technical issues and communicate with and answer questions from the County. He said there were no secrets, the application and decisions were well documented, and they look to the Board for an objective third party resolution. Appellant argument is a claim wasting everyone's time. The application was based on facts not manipulation of past and fabricated events or false statements. Interruption of family separation of inherited property has reduced trust and cooperation among neighbors. Ms. Seymour has caused three hearings; one Mr. Bonaci did not attend; two he did attend. The hearings intent was adequately done yet for benefit of doubt the Hearing Examiner asked for other hearings to be held. The Appellant may believe they performed without authorization, but there was some confusion by Island County several years back and also during a time of employee turnover.

Somehow from the 1998 application there may have been some confusion on the boundary line adjustment and questions over whether it was a Type III or an administrative decision. That issue has been documented by the Planning Department and during earlier hearings and through their consultants and Island County, and had been trying to let the public know the process and history of the application.

Island County was in direct contact with Datum Pacific during all the process of cutting down alder; there were not more than ten evergreen trees. The property had been cleared in the past and a majority had been horse pasture. About eighty percent is alder, shrubs, and blackberries. The County gave letters and directions authorizing work to be performed a few years ago on their property. There was less than one load of haul out trees; the rest were alder and are stacked on the property.

Referring to the map posted showing the proposed lot configuration Mr. Bonaci pointed out the lots owned by the Seymours and Amana Fisher, an in-law of the Seymour family. The two structures have been existing for 40 years or more and have always been accessed from that road. Over the last 3 or 4 years other houses have been built on this road that are even larger than the two presently there. The three lots are accessed from Kevin Court.

As far as tree cutting, the logger used was a local logger who was directed to follow the Eagle Management Plan which he did. With respect to roads and access, there had been communication with the Seymours about them wanting Bonaci's common access to their property – wanting Bonaci lots to form one road; however, Bonaci's have a legal county application. Through the years over the process, Island County has given legal lot designations and addresses for each of the lots: 3218; 3220; 3222. The Health Department and Bill Poss from Public Works have been out visiting and communicating with Bonaci's and Datum Pacific, and during the time of cutting down alder and the ten or less evergreen trees and clearing the shrubs. The Bonaci's have a neighbor next to lot 10 who has two lots on the shoreline and over the last year those two lots were fully cleared with the exception of some major trees, all the way to the bank.

With regard to having been accused of fraud about the septic permit he has written a response and a copy provided to the County [included in exhibit 3]. He provided confirmation that the cabin was preexisting; when purchased by his family it had plumbing and a septic system. At the time the house and septic were upgraded his father also upgraded the cabin's septic system. On April 27, 1993, Mr. Bonaci spoke by telephone with someone in the Health Department named Barbara, indicating he had two structures, done within the last 20 years, and described by legal description the property and parcel numbers and asked for proper paperwork he needed. That was sent and he has a receipt for $4.00. While there have been accusations about multiple bird nests on their property, there is not one.

Other Members of the Public

Tom Cleverdon, Fakkema & Kingma, Oak Harbor, stated that Datum Pacific did just about all of the application development and surveying work associated with the project. When Datum Pacific closed their office, Mr. Bonaci asked Fakkema & Kingma to complete the PLA. In his research dealing with Public Works, Bill Poss said he wanted to see a drainage plan for the project and so Fakkema & Kingma developed a preliminary drainage plan showing a simple curtain drain, tight line for roof runoff to pipe it down in front. To construct that will require a shoreline development permit, and he has a meeting tomorrow with Bill Poss and Joe Burcar to discuss any elements of the shoreline development permit. The only thing that applies to the shoreline development permit is any construction that will take place, and that will be taken care of in the next few weeks. [**preliminary drainage plan Exhibit 9**]

No other members of the public indicated a desire to address the Board.

Staff comment on Arguments

Jeff Tate responded to issues brought up in Appellant's written and verbal testimony. There are three different ways to deal with property lines: Boundary Line Adjustment, Subdivision, and Plat Alteration. A Plat alteration is a high level process, type III and requires a Hearing Examiner decision. A Subdivision of more than 4 lots is the same process, a type III process; both have a preliminary and a final. A Boundary Line Adjustment is a ministerial type I process; if it meets standards staff The Boundary Line Adjustment is the easiest process. Definition of Boundary Line Adjustment is:

> "The adjustment of boundary lines between platted or unplatted lots or both, which creates no additional lot or which creates no additional lot that contains insufficient area and dimension to meet minimum requirements for width and area for a building site. "

Looking at just property lines, it meets the definition of a Boundary Line Adjustment; clearly, County Code provides that a Boundary Line Adjustment can be done between platted or unplatted lots or both. The only reason this project triggered a Plat Alteration was because of movement of easements and changing of conditions in the plat; movement of boundary lines did not affect how this project would be reviewed either as a Plat Alteration or Boundary Line Adjustment. There is a condition in the plat that says that along every property line there will be a 5-foot drainage easement. Boundary lines were moving that changed the easement conditions which is why the Plat Alteration process was triggered. If that condition had not been there this would be Boundary Line Adjustment.

With regard to the claim that the Hearing Examiner erred relying on RCW 58.17.215 and to support that conclusion said that RCW 58.17.215 contains no language that suggests the outside of a boundary of a plat may be modified through a plat alteration, Mr. Tate pointed out that the referenced RCW does not contain that information that says if you move an outer boundary it is no longer a plat alteration; it does not say one way or the other. RCW 58.17.215 starts off by stating: "When any person is interested in the alteration of any subdivision or the altering of any portion thereof, except as provided in RCW

58.17.040(6), that person shall submit an application to request the alteration to the legislative authority of the city, town or county where the subdivision is located.". It goes on to define different requirements of notice and who must be party to the application, etc. In terms of defining it as a plat alteration or not, there is no such language in state law that would preclude this as being a plat alteration. Island County Code further defines it.

RCW 58.17.040 "Chapter inapplicable, when": (6) "A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both, which does not create any additional lot, tract, parcel, site, or division nor create any lot, tract, parcel, site, or division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site".

Appellant cites RCW 36.70B.120 which sets up language regarding consolidated review, Mr. Tate noted the second sentence which states: "If an applicant elects the consolidated permit review process". ICC 16.19.130 says that when the applicant requests it the department shall, and then describes how a consolidated review is done.

As far as traffic the proposal started with two houses off Baby Island Way and ends with two houses off Baby Island Way; the Planning Department sees no net increase in traffic.

Mr. Tate stated that the septic system issue had been mis-characterized by the Appellant when she quoted staff saying it was an irrelevant issue and not my job. That needs to be put in context: it was not relevant to the Plat Alteration process just like it would not be relevant to a Boundary Line Adjustment when moving boundary lines around to question the validity of a septic system. The Health Department approved in 1993 the site plan review and preliminary plat alteration; Mr. Tate did not go back and question the Health Department's call.

With respect to timber removal, Mr. Tate stated that when the application came in it received quite a bit of review in the years 1998 and 1999 and for whatever reason, in 1999 dropped off and no one in the department was reviewing it until 2001. When review resumed and Mr. Bonaci picked up an application to continue review, for whatever reason, there was an assumption that preliminary approval had already been provided, and Mr. Tate could not explain why that was, but did note it was apparent from reading the correspondence between the county and applicant. For whatever reason both Engineering

and the Planning Department felt it had already received preliminary review and told the applicant to go ahead with things; and inspected the site; indicated what type best management practices needed to be installed, etc. That, if anything, is an error on the part of Island County staff. It has been Mr. Tate's impression when it comes to on-site improvements there was no malicious intent on the part of the applicant to do anything without permits.

Appellant Reply to Arguments:

In reading RCW 36.70B.120, Ms. Seymour stated that Mr. Tate had not gone far enough in that sub-paragraph two states:

> (2) Consolidated permit review may provide different procedures for different categories of project permits, but if a project action requires project permits from more than one category, the local government shall provide for consolidated permit review with a single open record hearing and no more than one closed record appeal as provided in RCW 36.70B.060."

She said that is why the Hearing Examiner's decision on that point was wrong.

On the point of RCW 58.17.040, the Bonaci application is not exempt from consolidated review because these sites are being created on the waterfront. Because the Bonaci's do not have and still do not have an approved septic system, there is 1.88 acres, one as-built, one drainfield, one septic tank, and no pumping system up the hill and it is within 20 feet of the shoreline which is not allowed under Island County Code.

RCW 58,.17.040 provides for exemption of Boundary Line Adjustments but not exemption when there are new building sites being developed, which was established in R/L Associates v. Klockars, 52 Wn.App. 726, 763 P.2d 1244 1988. Klockars clearly establishes that you cannot create new building sites via a boundary line adjustment, or in this case the County wants to call it a plat alteration, and thereby avoid consolidated review. This is the end run Appellants object to. The means by which Bonaci's are trying to achieve the end run goes back to the application pointed out in her November 26, 2002 letter, and submitted one of the attachments to that letter at this time apparently signed by Paul Bonaci, hand-written dated May 6, 1993 to the Island County Planning & Community Development Department regarding building permits, and clearly presents two as builts, two different numbers and only one of those relates to this property. [**Exhibit #10**].

Board Questions and Comments

Commissioner Shelton noticed on the map submitted by Fakkema & Kingma on what is now lot 13 there is an off-site drainfield easement for lot 14, and asked if that merely was for a reserve area or did Mr. Bonaci have intentions of installing a new drainfield on that site.

Mr. Bonaci confirmed that was a reserve dranfield area.

Commissioner Byrd noted that Ms. Seymour indicated that the right of way for Baby Island Lane was 30 feet, but recalled having read somewhere it was 36 feet. Mr. Tate believed it was 30 feet.

Commissioner McDowell in addressing the transportation issue, asked if Ms. Seymour agreed there are two houses that currently access Baby Island Lane. Ms. Seymour stated that there was only one legal residence, two structures.

Mr. Tate clarified to note that there is one parcel currently served by Baby Island Way, with two houses. If approved, the proposal would be two parcels with two houses: one more parcel, same number of houses.

Commissioner McDowell referred to Ms. Seymour's appeal regarding the point that the Hearing Examiner erred in relying on RCW 58.17.215. He notes RCW 58.17.040 (6): "A division made for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both…" seems to clearly describe an alteration which is exactly what is being done.

Ms. Seymour stated the problem was there was more than one statute that affects this procedure. Under the other statute she quoted it could not be possible to have this project without consolidated review. It requires both shoreline and consolidated review.

Commissioner McDowell asked Ms. Seymour to clarify whether or not she was objecting to a plat alteration, or just that it should be consolidated review.

Ms. Seymour responded that 58.17.040 is the chapter that says "the provisions of this chapter shall not apply to".

Commissioner McDowell recalled also hearing testimony saying the code neither spoke to or against and it seems that the RCW clearly contemplates it being beyond the plat in that section.

Ms. Seymour's interpretation was that to qualify for an exemption, the application must be one that does not create any additional lots, parcel sites or division. And further that that has been clarified by R//L Associates v. Klockers as requiring consolidated review. The record contains her explanation very clearly within her statement before the Hearing Examiner.

Commissioner McDowell asked Mr. Tate to state why he felt the Hearing Examiner and the Planning Department were correct in not requiring consolidated review.

Mr. Tate advised that when a project comes in staff first look at the Island County Code. ICC 16.19.130 Consolidated Review" and sub-section A starts off by saying: "When the Applicant requests it, the Department shall integrate and consolidate the review and decision on two (2) or more project permits that relate to the proposed project action …". As a matter of practice it would be virtually impossible in a situation like this to require all permits all up front because it is not known what will be required until review. As an example, at the time this was submitted, staff did not know it needed the drainage plan; and that is what is triggering the shoreline permit. Often times in preliminary review staff provides the requirements and once it receives preliminary approval, it is a known that there may be other permits required before applicant comes back and requests final approval. Specifically, as a matter of law staff looks at the Island County Code. As a matter of practice, Mr. Tate did not think it would be possible.

Hearing concluded A decision will be announced at public meeting April 14, 2003 at 10:30. The Board's decision will include the vote of individual Commissioners and a brief statement as to the basis for the decision. Following that the Planning Director will prepare a written decision for signature by the Board and a copy of the decision will be provided to the Appellant and Project Applicant by the Planning Dept.

HEARING HELD: INTENTION TO ESTABLISH WHIDBEY-CAMANO MOSQUITO CONTROL DISTRICT PURSUANT TO CHAPTER 17.28 RCW

A Public Hearing was held at 3:15 p.m. Intention to Establish Whidbey-Camano Mosquito Control District Pursuant to Chapter 17.28 RCW. At the meeting of February 24, 2003, the Board adopted Resolution #C-15-03 on the intention to establish Whidbey-Camano Mosquito Control District Pursuant to Chapter 17.28 RCW, scheduling this date and time for a public hearing on the matter. The purpose of the hearing was to take public input on proposed resolution which if adopted would put the issue on the ballot for the voters to decide whether or not to establish a mosquito control district; and a separate ballot proposition to approve or reject a one year property tax levy of ten cents per thousand dollars of assessed valuation. At the time of hearing, approximately 50 some audience members were present. Staff was represented by: Dr. Roger Case, Island County Health Officer and Tim McDonald, Health Services Director.

Tim McDonald read from a prepared statement dated today as his testimony regarding the establishment of Whidbey-Camano Mosquito Control District. [original placed on file with the Clerk of the Board] discussing the risk associated with West Nile Virus Fever; use of chemicals, powers of a mosquito control district , authority to enter property and conclusion. In summary:

Risk

West Nile Virus is a new and emerging communicable disease in the U.S.

In 1999 there were 62 serious human cases and 7 deaths. In 2000 there were 21 serious human cases and 2 deaths; in 2001 there were 66 serious human cases and 9 deaths; and in 2002 there were 4161 serious human cases and 277 deaths.

Different populations carry different risk based on issues beyond exposure. People in Island county have a higher percentage of people in the 50 year and older category than does the population of the U.S. and that older population will have greater risk.

Use of Chemicals

Adult mosquito insecticides may pose risk for the general environment and if misused a risk for human health. Adult insecticides are the least effective away to control mosquitoes. A non-focused general response will do little to decrease the risk of WNV and may lead to environmental degradation because of the misuse of pesticides.

Hope that a mosquito control district will focus on prevention and early intervention. Any actions taken by a MCD must be consistent with an approved integrated pest management plan. We are already receiving telephone calls from community members who are ready to spray with "whatever it takes".

Powers of a mosquito Control district.

MCD are empowered to propose to the voters property tax levies up to fifty cents per one thousand dollars evaluation; such levy would require support of 60% support of the voters of the district.

The board of trustees of a MCD can also impose assessments on property. Those assessments must be apportioned based upon benefit of the specific property and in compliance with state law.

Authority to Enter Property

MCDs have the authority to enter property and abate mosquitoes. Nothing in the statute suggests that any individual would not have their normal right to due process through the court system.

Mosquito abatement effort is only successful if there is near 100% compliance with the abatement plan

The Board and the three cities in the County will appoint the trustees of the MCD for two year terms.

Conclusion

The Best Management Practices guideline from the Department of Ecology and now adopted by the Department of Health, recommends the formation of a MCD as the most effective process by which a community can address the issue of mosquito control.

Under state law, MCDs are the only specifically-designated local government organization empowered to perform general mosquito abatement. Island County without a MCD could take steps to abate mosquitoes on its own property but not on the rest of the county. Island County owns only approximately 3% of the land in the county.

Recommendation

The Health Department recommends placing a MCD proposition on the ballot so that the voters may decide whether they will have a Mosquito Control District.

Public Input

Theresa Marie Gandhi, Langley, brought some mounted mosquitoes as an example of different types of mosquitoes. Last April the Board passed a policy of no spray, yet now there is a proposal to spend money to buy spray, to which she objected, and also objected to the RCW in the way it is written which does not

allow for notification for sensitive people. She noted that mosquitoes respond to heat and if people would wear a radiant barrier they would be bitten. There are many things that can be done which are non-toxic that can avoid mosquitoes.

Bob Efforts, Clinton, was all for prevention but it did not seem that was what the money would be spent for. The risk is low and he would rather have that money go toward other issues such as health and education. It is a minimal risk and worth preventing through education.

Jeanne Lanigan, Clinton, agreed with Mr. Efforts, and noted this as a cyclic problem, and by the time resources are put together, the money could be better spent on other things. For the record she entered a letter from Donna Lee von Falkenberg, Clinton, dated 3/22/03 [original on file with the Clerk of the Board]. Ms. von Falkenberg was opposed to the

formation of any mosquito control district or increased property tax. Key points from the letter regard to Deer Lagoon and mosquitoes included:

> Deer Lagoon has a lot of mosquitoes, Birds come because of the mosquitoes. Birds do not live on Deer Lagoon, they come and go, arriving in droves as the seasons change. Mosquitoes are not a problem; the birds do a better job of removing insects than any spray could do and nothing is harmed. Spraying would just kill the birds or remove their food source.
>
> If mosquitoes are used as an excuse to spray, condemn, buy or take wetlands throughout the County, it will become a developers dream come true of wetlands covered with buildings and cement.
>
> Scare tactics invented by chemical companies should be taken lightly. Mosquito scare is just a ruse.

Steve Scoles, Clinton, spoke in opposition to the proposed measure. He lived 20 years in California and the threat was overplayed and did not want to see that happen here. He now lives on 48 acres on Maxwelton Creek and has a mix of wetlands, forest and fields and does not like the implication of possible government intrusion. He objects to the ease with which a mosquito control district could be created as well as paying additional taxes each year.

Gordon Erickson, South Whidbey, objected to the authority a mosquito control district would have on private property. He and his wife have owned 80 acres for 55 years, with a nice pond and gentle stream, and about 70 head of cattle. He did not want to see the pond destroyed and a big pile of mud and a whole bunch of mosquito poison on it.

Rolland Gray, North Whidbey, was in favor of formation of a mosquito control district, and impressed with the figures given by the Health Department. By quick calculation he sees where 60 cases and 9 deaths would roughly equal 15% fatality rate which was something to be concerned about. Mosquitoes can be controlled and he urged the Board go ahead with the proposal.

Rob Lewis, President, Island County Smart Growth Coalition, read from a prepared Statement [original filed with the Clerk of the Board] which in summary stated:

> MCD would represent unwarranted government intrusion to address an alleged threat
>
> Government decisions should be based on cool and rational assessment of the scientific evidence, not alarmist newspaper headlines. Appropriate response of government is to carefully monitor the situation.
>
> Aware of no evidence indicating that WNV represents a serious threat to public hearing in Island County and far too soon to rush ahead with new taxes

William Morton, Freeland, having come from Alaska has seen how mosquitoes can get out of hand. The West Nile virus is a communicable virus that affects people, birds, horses and cattle. Although there may only be a 15% fatality rate anybody with the disease has a potential to die and he believed the County should not underestimate the power of that virus. His recommendation was that the Commissioners establish the mosquito control district with power needed to control the matter before it gets out of hand.

John Hurd, Clinton, was concerned with the concept of a bureaucracy that would be self-sustaining with no provisions for sunset review, running on its own without public input and no means for removal or modification. He was against the concept of a district to control a perceived threat when there is no evidence to date there really is an issue.

Celine Servatius, Oak Harbor, understood the hearing was an opportunity for the Commissioners to make a decision on whether or not to put the issue up to the vote of the people and thought the best way to determine the will of the people was to put the matter to the vote of the people.

Nels Konnerrup, Camano Island, epidemiologist by profession, retired, fully supported putting the proposition on the ballot so voters of the County could determine whether or not to form the mosquito

control district. He did not think people realized the significance of the virus, and pointed out that last year nearly 300 people died from the virus. He suggested everything possible be done to curtail the mosquito population, larvae on the

wetlands, reduction in some unnecessary wetlands that exist, and a rational spray system. He refuted any statement that spray that would be used to control mosquitoes is harmful to people or animals.

Laurie Keith, Langley, President, Whidbey/Camano Islands No Spray Coalition (WINS), read a prepared statement for the record against the formation of a mosquito control district. Beyond the issue of potential pesticide toxicity to the ecosystems, wildlife and humans, she said this was a question of perspective, weighing out the risks, fiscal responsibility and listening to the needs of the public. [original placed on file with the Clerk of the Board].Key points of her statement were:

> Cannot control and protect 100% for all calamities. West Nile Virus has a natural cycle and within a few years people and animals will be immune. Very few people die from it. Average age of the approximately 270 people who died in 4 years from the virus was 78.
>
> Horses and birds appear to be the main animals more at risk. So far in Washington State 2 bids have died and 2 horses have had mild cases and recovered completely.
>
> Concerned by the Health Department's written statement that "this spring…adult mosquito control measures be strongly considered". Once a MCD is formed there is no group, agency or person with control over what the district may decide is necessary. Risk from using organophosphate and endocrine disrupting chemicals include cancer, deterioration of memory and learning, genetic damage, reproductive problems, impaired immune function. The larvicide Methoprene is an endocrine disruptor and interferes with hormones and reproduction. Cannot have such an unelected body with the potential to use chemicals without any legal means to stop them.
>
> Budgets are tight. Submitted a 7 cent flyer that can be distributed listing what every source says are the most effective means of mosquito abatement. Attached was a Washington State Department of Ecology best management practices list of ways to minimize breeding sites.
>
> Unless there is an overwhelming outcry by the citizens of the County to spend $75,000 for a vote on the issue, Commissioners have no obligation to hold one any more than they would if a few requested $75,000 to vote on whether to create a "Stress Control District".

Reece Rose, South Whidbey, commented that fear sells and was the only reason she saw for the proposal. Looking at the statistics and noting that 274 people died last year from West Nile virus she compared that to the 30,000 who died from flu, noting it is less than 1% of the people that could be affected which does not begin to justify putting this issue on the ballot at a cost of over $70,000 to the taxpayers.

Don Jewett, South Whidbey, thought the issue boiled down to how to get the County not to spend $70,000 and it is the three Commissioners who should make that decision, not kick it back to the public.

Danielle Larson, Freeland, spoke for a mosquito control board being put in place because for prevention before the situation gets out of control and suggested that 270 lives is more than needs to be taken.

Dr. Hope Faith, ND LM, Clinton, made the point that less than 1% of mosquitoes are carriers and most people affected show no symptoms; those who do show a mild case of the flu. The fatality of rate of people showing symptoms is less than 1 in 5260. Dr. Leonard Horowitz, along with CDC state that spraying pesticides is the least effective means of control. She referred to research on pesticides and inner city children, exposure, risk and prevention, noting that children are at high risk of exposure to pesticides, vulnerable to pesticides because they play close to the ground, hand to mouth behavior, and unique dietary patterns. Children absorb more pesticides from the environment than adults; have decreased ability to detoxify and excrete pesticides and the rapid growth, development and differentiation of their vital organ systems.

Grant Lawrence, Camano Island, representing the Camano Island Mosquito Control District, thought people had some good ideas and mentioned that he too at first was against spraying but Camano had such a problem in 1995 that the district was formed and now glad it was. He came to the hearing to offer to answer any questions folks may have about what was done on Camano. The district continues to work with educating people. It takes about $8,000 a summer to do larvae sites. The saltwater mosquito treated originally has pretty well been taken care of but they have to keep treating for it.

Gary Piazzon, Coupeville, representing Whidbey Audubon Society, stated that the creation of a mosquito control district at this time was unwarranted for the following reasons:

> We do not have huge swarms of mosquitoes and the saltwater mosquito has not been shown to carry West Nile virus and the threat to humans is quite small.
>
> The male mosquito does not bite people; vectors for mosquitoes carrying the virus are birds, including Jays and Crows [most susceptible] In light of epidemiological impact, rather not see
>
> all the mosquitoes and other animals, aquatic life and fish that would be affected by a mosquito control district's actions affect the bird populations.

Mr. Piazzon stated that the Commissioners should vote on this issue and not leave the public to decide this matter. He mentioned that if people wanted to do something about the West Nile Virus and other tropical viruses, they needed to do something about global warming because it makes ideal breeding for mosquitoes.

Fred Geisler, Langley, clarified that it was 277 people who died in the last 4 years, not 1 year. He saw no need for a mosquito control district when guidelines are in place and best management practices through which actions can be taken by county government. A mosquito control district would be next to impossible to eliminate, and a vote to do so would come from a vote of its trustees who are appointed by the Commissioners but cannot be eliminated by the Commissioners. He read the powers a mosquito control district would have under the RCW. [copy of RCW 17.28.160 placed on file] and pointed out that the mosquito control district an take action extending beyond those actions necessary for public health.

Bill Stipe, Greenbank, residing south of Lake Hancock, had not seen a swarm of mosquitoes in about a month although Lake Hancock is a breeding site for fresh water mosquitoes. He did not see the question for forming a district being about spraying organophosphates but methods that would be effective against mosquito larvae and nothing else. He looked forward to the County taking all steps necessary to control the mosquitoes.

Ann O'Farrell, Langley, realized budgets everywhere are tight; understood the importance of taking some action since abatement can reduce the risk of exposure in some cases. She displayed and submitted for the record a flyer which can be produced at 7 cents a copy for distribution listing every source found of mosquito abatement [copy submitted for the record and is on file with the Clerk of the Board] and also referred to the DOE best management practices. She asked that the Commissioners be fiscally responsible

and use the money for public education and more pressing needs unless today there is an overwhelming outcry to spend the money to take the issue to a vote.

Carl Robinson, Langley, owns 27 acres with two ponds. His well is located adjacent to one of the ponds. At this point he does not have all the facts and did not want to make a statement for or against pesticides. To ignore the fact that the mosquitoes here are not armed yet he thought there was a good chance they would be shortly and if that happened it would be time to make a judgment about how severe of a problem it is. It is too early in the game to form a district now, but might be a whole different story years from now. He suggested this be looked into seriously and have experts provide more about what pesticides can and cannot do and not rule use out entirely. He suggested perhaps a committee could be formed to assist property owners.

Linda Lindsay, Freeland, read an e-mail from Chuck Pettis into the record [full text on file with the Clerk of the Board] asking "no" to forming a mosquito abatement control district on Whidbey Island, in summary indicating:

> Taxpayers and private property owners cannot justify spending $75,000 on an election only to be followed by new taxes and new bureaucracy. Does not want anyone spraying or introducing insecticides on my private property without my knowledge or consent – consider it an infringement on most basic property rights. .
>
> As the owner of Earth Sanctuary Nature Reserve, working hard to create and maintain an ecosystem that has an amazing diversity of birds and wildlife. Application of insecticide will reduce this biodiversity by devastating the insect community. Insecticides wipe out food webs, which form the basis of life.
>
> Research shows that a relatively benign pesticide may become quite toxic when used in combination with other pesticides. Very little is known about the long term health effects of toxic chemicals. The County has a duty to preserve and maintain safe and reliable standards of drinking water for both current and future residents.

> The effort involving mosquito abatement is a waste of money; success is poor and there may be large negative unintended consequences.

Melinda Gladstone, South Camano Island, was concerned regarding the Health Department's recommendation to form a mosquito control district, another governmental agency to control mosquitoes deemed a threat to public health. She controls her health, who is welcome on her land and will not pay for biocides or money needed to put the issue to public vote. She will not be a passive citizen. She found it reprehensible to even consider the idea what she considers domestic bio-terrorism and recommended reading a well-documented book by Dr. Leonard Horowitz a graduate of Harvard School of Public Health.

Gwethalyn Jones, DVM, veteran scientist and experienced veterinarian have many concerns regarding the proposed MCD, submitted her written statement into the record [full text on file with the Clerk of the Board] against the formation of a mosquito control district as it is written and summarizing her concerns:

> Local mosquitoes are the least aggressive mosquito species found just about anywhere; not interested in biting, unless in the dark woods
>
> Mosquitoes in Western Washington so far are unable to carry canine heartworm disease which is prevalent in the rest of the country and lots in Alaska; local mosquitoes are not able to carry the standard diseases we worry about and this needs research.
>
> Concern if we wipe out local mosquitoes we could open up a niche in the ecosystem for nastier mosquitoes to come in and this needs very careful research.

She asked for more thinking and more research before dropping chemicals.

Rufus Rose, South Whidbey, stated that the first "whereas" Mr. McDonald spoke of had not been adequately established. He did think we needed public health and safety. Mosquitoes live and breed in the forest up in tree crotches that are filled with water and cannot get to them with larvicides. Public health people recognize they would not be getting all the mosquitoes that many would remain. Education is justified. Private property would be violated without any recourse. The business of going to court would be futile if a mosquito control district decided it was a necessity. A mosquito control district would have the authority to require draining of wetlands if they comply with the RCW. Mr. Rose asked that the Commissioners not put the issue on the ballot. He read for the record Richard Steinhoff's comments:

> Some departments within the Island County government have a penchant for attempting to increase bureaucratic infrastructure in an attempt to solve potential problems; potential as opposed to problems that presently exist, and may never exist. The effort to create a mosquito abatement district being a case in point and I urge the Commissioners take no action at this time. I recommend that they instruct the Health Department to monitor the efforts at abatement in surrounding counties and the rate of increase and impact of West Nile disease in those counties, and when the season is over, report findings to the commissioners. This should be done yearly. With this information in hand the commissioners could take sensible action when and if the need occurs. Such a survey would not require the creation of a bureaucratic substructure; it could be done with a few phone calls..

Laura Dobson, Oak Harbor, talked about the types of mosquitoes. Having lived in Houston she was familiar with "little browns" that had to find you first and then if they bumped into you would bite you. Through a port district tires came in from Asia which had water and breeding Asian tiger mosquitoes. What was done to control was breed the little browns with the Asian tiger mosquitoes. It is possible to use ecological and biological systems. She encouraged using what is at hand from state grant universities with expertise such as WSU and look at alternatives to rid the possible endangerment.

Clay Lorense, having lived in Freeland the last four years, said the mosquito problem had been nothing. He realized there were places on the Island where there might be a lot of mosquito infestations but passing the mosquito control district would not help. What would help is if each person took care of his/her own property and problems.

Barbara Hohler, Greenbank, agreed there were mosquitoes, but with the cost both monetary and the loss of some basic rights, she would rather take care of her mosquitoes and maybe take a few bites. She then read for the record a letter from South Whidbey Tilth Association, with over 100 members signed by Charlis Dunham, President: [original on file with the Clerk of

the Board]

> South Whidbey Tilth opposes the creation of a mosquito abatement control district in Island county. We understand the concern about the spread of West Nile virus but we believe that the money for a control district would be better spent for a comprehensive public education program that would include lest toxic methods of pest control. The Tilth organization promotes research and education of biologically sound and socially equitable agriculture. Our work and studies show the use of nerve toxins and endocrine disrupting pesticides does more overall damage to the environment than it benefits us. The use of such toxic substances in the name of the public good is not an acceptable policy from our public health officials. We urge our county health department to work with organization like ours to educate the community on ways to maintain a healthy environmental balance which will also control mosquitoes.

Lori Oneal, Clinton, spoke in opposition to a mosquito control district and advised that she is registered under RCW 17.21 the Washington State pesticide sensitive registry and she believed it would be a violation of her civil rights to come on her property to spray. She is at much greater risk from dying from spray exposures than being bitten by 1% mosquitoes that carry the disease. She provided copies of her hand-out which included a written letter for the record [full copy on file with the Clerk of the Board]. Summarizing her points:

> Expressed opposition to recent us spray programs where highly toxic insecticides are being administered in the name of public heath for disease prevention
>
> Noted that repeatedly throughout history, the public has been mislead to believe chemicals like DDT, Malathion, etc. were safe and effective only to learn after years of exposures that these poisonous toxins bio-accumulate in our children and environment, cause genetic damage and suppress the immune system making us all more susceptible to secondary diseases and opportunistic infections.
>
> Alarmed to find out what is happening on the East Coast and California citizens are in litigation with local governments because citizens have been sprayed with organophosphates which are the deadliest of nerve poisons used in gas chambers and close cousins with sarin nerver gas that terrorists have recently used in the subways in Japan. These chemicals do not belong in our communities or near our kids.
>
> Such a discrepancy in information between science available and lack of information on the part of public health is because there are data gaps that trace back even to the Forties. There has been extensive research on Malathion.

Roger Case, M.D. Island County Health Officer, here today to determine whether or not it should be advanced to a ballot not whether to form mosquito control district. He supported the resolution for the following reasons: (1) County government has no capacity to address mosquito control; and (2) the State made it possible for people to address this by forming a mosquito control district that has to use an integrated pest management that incorporates best management practices including education, eradication of mosquito habitat and then larvacidal control. No where in there is anything about spraying. Those here today have advanced no comprehensive plan to address mosquito control. By experience is it has been found that people who show up at hearings do not necessarily represent the 40,000 voters of this Island and he thought it behooved the Board to at least allow people to vote on the issue, and in fact the Board would be remiss in not allowing the people to express their wishes by a vote.

Duke LeBaron, Langley, stated that the County was hurting for money, cutting down on staff hours, etc. and to now talk about spending $75,000 for an election to do with mosquito abatement, he thought the money could be better spent. The risk is just tiny.

Karen Anderson, Clinton, pretty much agreed with a lot of people said today; the money should not be spent at this time to form district because the risk is low and you cannot kill all of the mosquitoes anyway. The situation does not warrants extreme powers of such a district.

David Gladstone, South Camano Island, was opposed to the proposal. He took exception with the statements made by Dr. Case. The hearing was publicized in the newspapers and people who want to take the time for something this important should have attended. Those who did not attend and feel strongly could have sent letters or someone to represent them. He is opposed to this particular proposal and encouraged the Commissioners to look at fiscal responsibility and recognize this

potential problem is

premature for establishing a mosquito district at a cost of $75,000 when funds are very limited.

Nicole Brown, Coupeville, agreed with many of those who spoke in opposition to the mosquito control district. Controlling mosquitoes she thought would be like trying to herd cats. It comes down to using common sense, personal responsibility and education.

Mark Sheehan, Greenbank, spoke in opposition to creation of a mosquito control district as an unnecessary bureaucracy based on very low risk. A quick check of web sites shows that surrounding counties have health departments that are not advocating formation of mosquito control districts despite the fact that most of those counties have greater populations potentially at risk. The most common species is the house mosquito which thrives on standing water in and around dwellings and most of those would be unaffected by a mosquito control district. Education is more important and there are things that can be done to help clean up the nuisances. For example, standing water in tires has been shown to be a major source of breeding mosquitoes yet Island County Code allows the collection of up to 100 tires without a permit and exempts agriculture, recreational, industrial and commercial uses altogether. This part of the code could be amended to reduce the number of tires allowed and provide rules to prohibit water from collecting in tires. Agriculture, recreational, industrial and commercial users should also be required to prevent accumulation of water in tires. The same is true with bulky waste such as old appliances and cars, the code could be amended to take care of that. Waste dumps can be declared a public nuisance if they provide for standing water. He believed the Health Department should work with various groups to set up educational forums throughout the county to reduce the fear and give people facts and techniques to reduce the mosquito population and exposure to them. The Health Department should be given funds to do this.

Karen Epifano, Clinton, wrote a letter to the Commissioners when this issue first began and included a news article from the Science News February 2003 talking about contaminants being found in blood streams in humans that build up. It is not just about spray but also use of larvacide and different techniques. From the financial point of view from her my own personal rights to protect herself from mosquitoes is what she thought most important and she did not want a lot of these other things introduced into her air, soil or a threat to the future.

Tim McDonald clarified for the record that he did not have a degree in epidemiology but did have a degree in public health.

Commissioner Comments and Action

Commissioner Shelton heard a lot of talk about the powers and what a mosquito control district could and could not do; unfortunately the mosquito control district is embedded in state law and if there were some way the County could design its own, it would probably make it far more palatable than designed in RCW. In relation to the West Nile virus, the Commissioners do expect County Health Department officials to bring forth issues that are of concern and present those to the Board. One of the reasons he voted to hold this public hearing was to hear what the public had to say about the formation of a mosquito control district. Had that not occurred the Commissioners would not know other than those who commented previously whether this was something the public by and large supported or not. In addition to all the comments heard today, the Board received a number of e-mails from people opposed to the formation of such a district. Those who testified today in favor of a mosquito control district were the first he had heard. To his knowledge almost 100% of the e-mail messages have been opposed to a mosquito control district. West Nile virus is an emerging pubic health problem; whether it emerges to be a significant problem or of greater significance than now time will tell. In his opinion at this particular time he did not support a mosquito control district, but he pointed out that did not mean if the public health problem emerges as a significant problem in Island County that he would not be willing to revisit the issue. Once appointed the mosquito control district could run the district but he had to believe that people appointed would be sensitive to the fact that the spaying of pesticide was not an effective way to control mosquitoes. That goes against the public health model because it is all about prevention. Statistically at this point it does not appear too likely there will be someone in the county die from West Nile virus.

Commissioner Byrd stated that mosquitoes are a fact of life. There are some pockets in Island County that have a severe problem, but it is not known what those are at this point and probably need to do more surveillance to find out what that problem might be. He thought West Nile virus was here to stay and that we probably needed to get a better handle on what kind of problem is here. The machine being used on Camano Island attracts mosquitoes and then those are sent to the state for analysis, with a read out as far as what kind mosquito and if it is a carrier of West Nile virus. Something like that would be of great benefit to the County to at least know what we are dealing with. It is a shame to wait to find out if more people

die before doing something but at this point he did not feel the risk was that great and there needs to be more information about forming a district.

Commissioner McDowell thought it way too early even if the Commissioners agreed to put it on the ballot right now. With statistics, he could not believe the public would vote for it at this point. This is something that should be watched; see what happens on the East Coast or where the virus is increasing the fastest and if it becomes a real public health threat then put the issue on the ballot. The issue on the ballot would have to get a yes vote and he could not believe at this point in time it would ever get yes vote.

Public Hearing concluded; Resolution not adopted.

There being no further business to come before the Board at this time, the meeting adjourned at 5:35 p.m. The next regular meeting of the Board will be on April 7, 2003
at 9:30 a.m. [March 31st is a 5th Monday and there is no regularly scheduled meeting].

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

_____
Wm. L. McDowell, Chairman

_____
William J. Byrd, Member

_____
Mike Shelton, Member

ATTEST:

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Elaine Marlow, Clerk of the Board