

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING  
REGULAR SESSION - APRIL 14, 2003**

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on April 14, 2003 at 9:30 a.m. in the Law & Justice Facility, Department III (Courtroom 3), 101 N.E. 6<sup>th</sup> Street, Coupeville, Wa. Wm. L. McDowell, Chairman, William J. Byrd, Member, and Mike Shelton, Member, were present. The meeting began with the Pledge of Allegiance. By unanimous motion, the Board approved the minutes from the meeting of April 7, 2003.

**VOUCHERS AND PAYMENT OF BILLS**

The following vouchers/warrants were approved for payment by unanimous motion of the Board: Voucher (War.) #163005-163323 ..... \$594,602.44.

**EMPLOYEE AWARDS**

**Employee Service Awards**

Public Works/Road Department	John T. Lee	20 Years
District Court	Cyndy Smith	20 Years
Health Department	Melinda J. Kurtz	5 Years

**Employee of the Month – March, 2003**

Janet Hall, WSU Extension Office, was selected as **Employee of the Month for April**. She coordinates the Waste Wise Volunteer program and is a gifted speaker and superb teacher.

**Special Recognition**

Bob McCaughan was given a letter in special recognition of his election as President of the Northwest Washington Chapter of International Conference of Building Officials.

**HIRING REQUESTS & PERSONNEL ACTIONS**

As presented by Dick Toft, Human Resources Director, the Board by unanimous motion, approved the following personnel action authorization (s):

Dept.	PAA #	Description	Position #	Action	Eff. Date
Planning	041/03	Asst/Assoc Planner	1708.02	Replacement	4-14-03
Planning	042/03	Dev. Services Mgr.	1702.00	Replacement	4-14-03
Planning	043/03	Supt. Clerk – Temp	413.01	New Position	4-14-07

**AGREEMENT BY & BETWEEN ISLAND COUNTY AND ISLAND COUNTY SHERIFF'S GUILD COVERING DEPUTIES DIVISION JANUARY 1, 2002 THROUGH DECEMBER 31, 2003**

As presented by Dick Toft, the Board by unanimous motion, approved and signed Agreement by and between Island County, Washington and Island County Sheriff's Guild covering Deputies Division January 1, 2002 through December 31, 2003.

**APPOINTMENTS TO VARIOUS BOARDS AND COMMITTEES**

By unanimous motion, the Board made the following two appointments:

Joint Administration Board (Tourism)

Gayle Picken, Camano Island  
Representing the Camano Island Chamber of Commerce

Conservation Futures Technical Advisory Group (TAG)

Keith Welker, Camano Island  
Representing Unincorporated Island County.

**LETTER IN SUPPORT OF APPLICATION FOR CRIMINAL JUSTICE TREATMENT ACCOUNT FUNDS TO ESTABLISH AN ADULT DRUG COURT**

The Board by unanimous motion authorized the Chairman's signature on a letter of support for an Application for Criminal Justice Treatment Account Funds for the purpose of starting an Adult Drug Court in Island County.

**HEALTH CONTRACTS APPROVED**



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**WHEREAS**, Sno-Isle Regional Library System has five dedicated groups of citizens in Island County who work hard to promote, encourage and enhance local libraries; and

**WHEREAS**, the Friends of the Library groups of citizen volunteers donate countless hours of their time and talent providing essential work to enhance services of local libraries, hold fund-raisers to provide money for special library programs for all ages, purchase technology for public use, to purchase craft supplies for early readers, and artwork for everyone to enjoy.

**NOW THEREFORE**, in honor and recognition of these special volunteer Friends of the Library, the Board of Island County Commissioners do hereby proclaim the week of April 27 through May 3, 2003 as **FRIENDS OF THE LIBRARY WEEK** in Island County, Washington, and urge all citizens in the County to recognize and appreciate the efforts of the Friends of the Library groups.

**PROCLAIMED** this 14<sup>th</sup> day of April, 2003.

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

Wm. L. McDowell, Chairman  
Mike Shelton, Chairman

William J. Byrd, Member

ATTEST: Elaine Marlow, Clerk of the Board

**ADOPT-A-ROAD LITTER CONTROL PROGRAM AGREEMENT RENEWAL - GENUINE CEDAR FLEX**

By unanimous motion the Board approved the renewal of Adopt-a-Road Litter Control Program Agreement with Genuine Cedar Flex (William E. & Sandra K. Tucker) for Ewing Road from Sills Road to Maxwleton Road.

**AGENDA ITEMS PULLED**

At the request of Bill Oakes, Public Works Director, the following items were pulled from today's agenda:

- Freeland Development Agreement & Covenants [one partner of three firms not available for signature]
- Supplemental Agreement No. 9 – Bryan Young Architect [still negotiating with Bryan Young and changes in agreement need to go through contract review to be reviewed. The Chairman asked that this Agreement be brought to the next staff session for discussion.

**RESOLUTION #C-38-03/R-12-03 INITIATING COUNTY ROAD PROJECT CRP 03-01, W. O. #357-2003 CAMANO ISLAND MISCELLANEOUS ACP OVERLAYS**

Resolution #C-38-03/R-12-03 in the matter of initiating County Road Project CRP 03-01, Work Order #357 for 2003 Camano Island Miscellaneous ACP Overlays was presented by Mr. Oakes with a recommendation of approval, moving forward as soon as possible this year. The paving jobs for Whidbey and Camano are being staggered to simplify construction administration of the two contracts.

Chairman McDowell had mentioned at a recent staff session and in an email to the County Engineer his disagreement with the break down of the work as far as the total split between the county road shops. He understood in terms of the total dollar difference per road shop, but the overlays were not even among the road shops.

Mr. Oakes confirmed his intent was to bring the Whidbey plan to the Board for review and discussion on April 30.

By unanimous motion, the Board approved initiating CRP 03-01 under Resolution #C-38-03/R-12-03 to place asphalt concrete pavement overlays on Camano Island roads.

[Copy placed on file with the Clerk of the Board]

**RESOLUTION #C-39 -03/R-14-03 APPROVING PLANS & SPECIFICATIONS AND AUTHORIZING CALL FOR BIDS FOR 2003 CAMANO ISLAND MISCELLANEOUS OVER-LAYS, CRP 03-01, W.O. #357**

As a follow-on item to the above CRP initiation, the Board by unanimous motion approved Resolution #C-39-03/R-14-03 in the matter of Approving Plans and Specifications and Authorizing Call for Bids for 2003 Camano Island Miscellaneous Overlays, CRP 03-01, Work Order #357.

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

IN THE MATTER OF APPROVING PLANS & )  
SPECIFICATIONS AND AUTHORIZING CALL FOR )

BIDS FOR 2003 ASPHALT CONCRETE PAVEMENT )  
 OVERLAYS CAMANO ISLAND, CRP 03-01, WORK )  
 ORDER NO. 357 )  
 )

RESOLUTION NO. C-39-03  
R-14-03

**WHEREAS**, sufficient funds are available in the Island County Road Fund for **2003 Misc. Asphalt Concrete Pavement Overlays, Camano Island; NOW THEREFORE**,

**BE IT HEREBY RESOLVED** that the Plans and Specifications are approved and that the County Engineer is authorized and directed to call for bids for furnishing said construction. Bid Opening is to be the 6<sup>th</sup> day of May 2003, at 11:30 A.M. in Meeting Room 116 Administration Building, 1 NE 7<sup>th</sup> Street, Coupeville, Washington 98239

ADOPTED this 14 day of April, 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

**VOTE OF INDIVIDUAL COMMISSIONERS AND BRIEF STATEMENT AS TO BASIS FOR THE DECISION REGARDING APPEAL 046/03 JANE SEYMOUR APPEAL OF HEARING EXAMINER DECISION ON PLA025/98 BONACI TYPE III DECISION**

On March 24, 2003 the Board held a closed record appeal on Appeal #046/03 by Jane Seymour, appealing the Hearing Examiner's decision on PLA 025/98 by Paul, Gordon, Alan and Robert Bonaci. In accordance with the Board of County Commissioners Procedures to Hear Closed Record Appeals, and as announced at the end of the March 24, 2003 appeal, the date and time of vote of individual Commissioners with a brief statement from each as to the basis for the decision was scheduled for this date at 10:30 a.m.

**In attendance were:**

Jane Seymour, Appellant  
 Phil Bakke, Director, Planning & Community Development  
 Jeff Tate, Assistant Director, Planning & Community Development

**Vote of Individual Commissioners And Brief Statement as to the Basis for the Decision**

**Mike Shelton Statement as to the Basis for Decision - APP #046/03, Jane Seymour Appeal of Hearing Examiner Decision on PLA 025/98, Bonaci**

A closed record appeal was held by the Board on March 24, 2003 to consider APP#046/03 by Jane Seymour, representing Greg Seymour, Christi Seymour, Brenda Seymour and Haley Seymour; Greg Seymour and Jane Seymour, Co-Trustees of the Seymour Family Trust, appealing the Hearing Examiner's decision on PLA 025/98 by Paul, Gordon, Alan and Robert Bonaci.

The Appeal cited eight errors on the part of the Hearing Examiner, to which I respond as follows:

- Hearing Examiner Failed to require that the lots being added to the Plat of Saratoga, Div. 1, use the short, 60 foot wide, loop county road in the Plat that was established for that Plat.***

Response. The road in question has historically served two residences; this plat alteration will not change that and the road will continue to serve only two residences.

- Hearing Examiner incorrectly concluded that appropriate provisions have been made for on-site septic systems, including reserve drain fields. He entirely disregarded substantial evidence of fraud perpetrated on the County by the Applicants.***

Response. If there are issues around the septic systems and reserve drainfields, and the Appellant's suggested there is some evidence of fraud, these issues should be handled as issues through the Health Department and not as a result of this action.

- Hearing Examiner disregarded substantial evidence in the form of sworn affidavits, declarations, spoken testimony and photographs that the Applicants removed timber and graded without permits required by the Island County Code.***

Response. The action had County approval. The logging was done according to the Eagle Management Plan and the State Department of Fish & Wildlife had no problems with that.

- Hearing Examiner erred in glossing over the Shoreline Substantial Development issues.***

Response. This plat alteration did not do anything to trigger a Shoreline Substantial Development permit. There may be issues later in relation to development of these lots that may require a Shoreline Substantial Development permit.

**5. Hearing Examiner incorrectly agrees with the characterization of this Application as a Plat Alteration.**

Response. The Hearing Examiner correctly determined this application as a Plat Alteration. Neither State Law nor Island County Code have language to indicate it should not be a Plat Alteration.

**6. Hearing Examiner erred in relying on RCW 58.17.215 to support the conclusions that the Application is a plat alteration.**

Response. RCW 58.17.215 states that you can alter boundary lines between platted lots, unplatted lots or both.

**7. Based on incorrect conclusion that the application is a plat alteration the Hearing Examiner erred in allowing the County to treat the application as exempt from environmental review.**

Response. Based RCW 58.17.215 being legal, environmental review is not necessary

**8. The Hearing Examiner erred in not finding that the Application requires project permits from more than one category and in not concluding that there must be a consolidated permit process as required by RCW 36.70B.120.**

Response. The County has to establish a consolidated review process and the Applicant has to request, and this Applicant did not in this case request consolidated permit review process.  
RCW 36.70B.120 is consistent with ICC 16.19.130.

The appeal is denied.

Mike Shelton, Commissioner  
April 14, 2003

**William J. Byrd Statement - Basis for Decision**  
**APP #046/03, Jane Seymour Appeal of Hearing Examiner Decision on PLA 025/98, Bonaci**

The closed record appeal to consider Appeal APP#046/03 by Jane Seymour, representing Greg Seymour, Christi Seymour, Brenda Seymour and Haley Seymour; Greg Seymour and Jane Seymour, Co-Trustees of the Seymour Family Trust, to appeal the Hearing Examiner's decision on PLA 025/98 by Paul, Gordon, Alan and Robert Bonaci, was held on March 24, 2003.

The Appeal dated February 7, 2003, provided the Basis of Appeal and outlined eight errors on the part of the Hearing Examiner, and the relief requested.

**1. The Hearing Examiner failed to require that the lots being added to the Plat of Saratoga, Div. 1, use the short, 60 foot wide, loop county road in the Plat that was established for that Plat, and incorrectly concluded that the proposed plat alteration serves the public interest and protects the public health and welfare, and violates RCW 58.17.215.**

Response: There is no net increase of traffic expected on Baby Island Lane. Appellant has stated that there are two existing structures that are currently being served by Baby Island Lane. The proposed PLA provides for the continued service for two structures. The two structures were legally established and have always had access from Baby Island Lane. RCW 58.17.215, 58.17.040(6) and ICC Chapter 11.04 do not support their requirement for the Applicant to alter his access route.

**2. Hearing Examiner incorrectly concluded that appropriate provisions have been made for on-site septic systems, including reserve drain fields, and disregarded substantial evidence of fraud perpetrated on the County by the Applicants to obtain a 1993 Island County decision confirming the legality of two non-conforming residential structures on their waterfront property.**

Response: There was no evidence of fraud discovered for on-site septic systems. Applicant has produced evidence of record to show his communication with the County Health Department and receipts of \$4.00 for his application. Additionally, the Applicant has established an area designated for a reserve drainfield.

**3. Hearing Examiner disregarded substantial evidence in the form of sworn affidavits, declarations, spoken testimony and photographs that the Applicants removed timber and graded without permits required by the Island County Code and violated their own Bald Eagle Protection Plan**

Response: The Appellants have declared there was substantial evidence including photographs that the Applicant removed timber and graded without permits and violated the Bald Eagle Protection Plan. The Applicant has proceeded with work in accordance with Island County concurrence. Appropriate permits including the Bald Eagle Management Plan approval were obtained. No evidence was submitted to substantiate these allegations.

**4. The Hearing Examiner erred in glossing over the Shoreline Substantial Development issues, despite the fact that the proposed development is within 200 feet of the shoreline, involves a steep and unstable slope, and contains critical habitat areas, both upland**

**and marine.**

**Response:** The Appellant's claim appears to be based on whether the Applicant was required to adhere to the Shoreline Substantial Development requirements. WAC 197-11-800 addresses "lands covered by water" which do not necessarily mandate shoreline requirements. The Appellant has cited requirements from SEPA exemptions instead of shoreline exemptions. The Shoreline Management Act has its own set of exemptions. Additionally, the environmental impact appears to be reduced by reducing from six to five lots, and/or potential dwellings. Further, this WAC addresses development and does not address Plat Line Adjustment. If and when development occurs, the Applicant may then be required to adhere to SEPA regulations. This objection at this time regarding a plat line adjustment does not appear to be relevant.

**5. The Hearing Examiner incorrectly agrees with the characterization of this Application as a Plat Alteration, which it is not. The project extends beyond the limits of an existing plat and therefore cannot by definition be a plat alteration.**

**Response:** RCW's 58.17.215 and 58.17.040(6) specifically address when Plat Line Adjustments can be made and address platted and unplatted lots or both, which does not create any additional lot, tract, parcel, etc., or a division which contains insufficient area and dimension to meet minimum requirements for width and area for a building site. Accordingly, the Appellant's charge is not supported by the above RCW's.

**6. The Hearing Examiner erred in relying on RCW 58.17.215 to support the conclusions that the Application is a plat alteration, a form of sub-division, despite the addition of land from outside the plat.**

**Response:** The Appellant claims the Applicant has formed a new type of subdivision and therefore this is not a mere Plat Line Adjustment. This claim appears to come from the fact that other unplatted lands were absorbed into the plat line adjustment. However, RCW's 58.17.215 and 58.17.040(6) specifically allow for such action. The Appellant's claim is therefore not supported by the above RCW's.

**7. Based on incorrect conclusion that the application is a plat alteration the Hearing Examiner erred in allowing the County to treat the application as exempt from environmental review under WAC 197-11-800(6)(a).**

**Response:** This claim of the Appellant is based on the fact that the Hearing Examiner erred by allowing this change as a plat line adjustment. As stated previously, RCW's 58.17.215 and 58.17.040(6) specifically allow for this change. Accordingly, the change need not fall under the purview of WAC 197-11-800(6)(a). Even if the change did not fall under the above WAC, that refers to "lands covered by water," which again is not relevant to this case.

**8. The Hearing Examiner erred in not finding that the Application requires project permits from more than one category and in not concluding that there must be a consolidated permit process as required by RCW 36.70B.120.**

**Response:** ICC 16.06.130A and RCW 36.70B.120 language provides alternatives for the Applicant. The Applicant may elect a consolidated permit review process. This is not a mandatory requirement, and often, cannot be, because of unforeseen requirements. In this particular application, it would not have been possible to have a consolidated permit due to the difficulties and identification of the numerous procedures required. Accordingly, the Appellant's claim is not supported by the above RCW and ICC.

**Decision:** The appeal is **Denied**. Review of the RCW, WAC's and Island County Codes do not support the Appellant's claims. Deliberate review was undertaken to examine each claim separately. In that examination, all eight claims could not be supported by the governing codes. Accordingly, my decision is uphold the Hearing Examiner.

William J. Byrd, Commissioner  
April 14, 2003

**STATEMENT BY WM. L. MCDOWELL REGARDING CLOSED RECORD APPEAL  
APP 046/03 BY JANE SEYMOUR – AN APPEAL OF THE HEARING EXAMINER'S DECISION ON PLA 025/98, BONACI TYPE III  
DECISION**

Appellants Greg Seymour, Christi Seymour, Brenda Seymour, Haley Seymour and the Seymour Family Trust, through their attorney Jane Seymour, filed an appeal seeking to overturn the Island County Hearing Examiner's decision to approve PLA 025/98. The appeal dated February 7, 2003 was received by the Board of Island County Commissioners on February 7, 2003 and was heard on March 24, 2003

In her written statement of appeal, Ms. Seymour offered eight (8) issues why this appeal should be approved:

1) The first issue involves a concern regarding the traffic impact to the area. This concern is not valid in that after approval the same two existing houses will have access to Baby Island Lane as they did before approval. Prior to approval of PLA 025/98, five lots had access to Kevin Court and/or Harbor View Drive and after approval only three lots exist and they will access Kevin Court and/or Harbor View Drive, for a net loss of potential traffic impact on these roads. Public interest is served by the net reduction of lot density.

2) Fraud was alleged by Ms. Seymour regarding septic permits. The applicant denied any fraud. Whether a septic permit was incorrectly issued or not for a house does not impact the validity of the plat alteration. Other appropriate venues are available to address septic issues, if they exist.

3) The appellants allege that timber removal and grading were allowed without permits and violated the bald eagle protection plan. No

substantive information was provided with any specifics as to any violation of the eagle protection plan. The timber removal and dirt movement was with full knowledge of the county. There was no willful violation by the applicant of PLA 025/98 regarding timber removal or dirt movement and no impact that would cause reversal of the approval of PLA 025/98.

4) Ms. Seymour claims that PLA 025/98 should have gone through a shoreline substantial development permit process. In this section she refers to this project as a land division. PLA 025/98 is not a division of land, it is a plat alteration. There is nothing in county code requiring a plat alteration to have a shoreline substantial development permit. If this project had been a long or short plat then most likely a shoreline substantial development permit would be required.

5) The appellant claims this project was not a plat alteration because the project extends beyond the limits of the original plat. Clearly state law recognizes an alteration of plat boundary lines may exist between platted or unplatted lots or both as mentioned within RCW 58.17.040(6). For all intents and purposes, this project would have been a simple boundary line adjustment as it meets all criteria of the movement of boundary lines between platted or unplatted lots or both. (RCW 58.17.040(6)). However, the reason this project had to follow the more complex and involved process of a plat alteration is per code definition, an alteration is required if there is a change in easements or conditions of approval of a plat. There is no requirement that limits an alteration for the purpose of change of easements or conditions of plat approval to only parcels within a plat.

6) The arguments surrounding issue number six appear to be the same as those stated for issue number five. The same response is therefore appropriate. Also, RCW 58.17.215 does not limit alteration of a subdivision exclusively to property within a subdivision. Its mention of RCW 58.17.040(6) clearly shows it (RCW 58.17.215) contemplates platted land, unplatted land or both. Therefore, issue number six is without merit.

7) Ms. Seymour states this project is a subdivision because it is not a plat alteration and is therefore subject to SEPA. Ms. Seymour is incorrect in her statement that this is not a plat alteration. Her issue number seven is denied.

8) The appellant's attorney makes the statement that state law (RCW 36.70B.120) requires all permits to be consolidated into one process rather than being processed if or when the necessity for more permits arises. The RCW referenced only requires that such a consolidated process be made available by local government. The second sentence of RCW 36.70B.120 clearly states that the applicant can "elect" the consolidated process, but in no way requires it of the applicant. Issue number eight is therefore denied.

My decision is to deny this appeal.

Wm. L. McDowell  
Island County Commissioner  
April 14, 2003

Commissioner Shelton moved that Appeal APP#046/03 brought by Jane Seymour, an appeal of the Hearing Examiner's decision on PLA 025/98, Bonaci plat Alteration, be denied. Motion, seconded by Commissioner Byrd, carried unanimously .

After the Board's decision, Chairman McDowell requested that the Planning Director prepare a written decision for signature by the Board during the Planning Department's agenda at the next Board meeting, April 21<sup>st</sup>.

There being no further business to come before the Board at this time, the meeting adjourned at 10:45 a.m. The next regular meeting of the Board will be April 21, 2003, at 9:30 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