

BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING APRIL 21, 2003

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on April 21, 2003 beginning at 9:30 a.m. in the Law & Justice Facility, Department III (Courtroom 3), 101 N.E. 6th 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 April 14, 2003 meeting.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board, along with approval of the April 15, 2003 payroll for the pay period covering March 16 through 31, 2003: Voucher (War.) #163790-163916\$159,554.21.

HIRING REQUESTS & PERSONNEL ACTIONS

As presented by Dick Toft, Human Resources Director, Director, the Board by unanimous motion, approved the following personnel action authorizations:

Dept.	PAA #	Description/Position #	Action	Eff. Date
Treasurer	039/03	Chief Dpt Treas./Acct Mgr. #2110	Replacement	5/1/03
Treasurer	045/03	Deputy Treasurer .4 fte #2103	Personnel	4/21/03
Sheriff	044/03	Deputized Officer #2014.20	Replacement	6/16/03

SPECIAL OCCASION LIQUOR LICENSE-SOUTH WHIDBEY SHRINE CLUB

Having received recommendations of approval from the Sheriff and Health Department, the Board by unanimous motion approved Special Occasion Liquor License #071076 by South Whidbey Shrine Club for July 19, 2003, 8:00 p.m. to 10:00 p.m. at the South Whidbey Masonic Center, 2812 E. Grimm Road, Langley.

CONTRACT #E03-079 BETWEEN WASHINGTON STATE MILITARY DEPARTMENT AND ISLAND COUNTY

As presented and explained by Betty Kemp, Director, GSA, previously discussed at staff session, the Board by unanimous motion approved Contract #E03-079 between Washington State Military Department and Island County in the amount of \$3,000 [RM-GSA-03-0019] regarding Hazardous Material Emergency Plan.

RESOLUTION #C-40-03 TEMPORARY CLOSURE-MAPLE GROVE BOAT RAMP

GSA Director Kemp presented a proposed resolution which if adopted would authorize temporary closure of Maple Grove Boat Ramp, Camano Island. She explained the request and answered questions from the Board. Public Works Department contract construction work begins soon on Maple Grove Road and the road will be closed to public travel beginning May 19 when the contractor begins construction. The County Engineer has indicated that the contractor will use the parking lot for the boat ramp for a construction phasing and material stockpiling which will severely restrict access to the boat ramp. It is a safety issue and more a matter related to the boat trailers and parking than the actual boat ramp itself.

By unanimous motion, the Board adopted Resolution #C-40-03 authorizing temporary closure of Maple Grove Boat Ramp.

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

IN THE MATTER OF TEMPORARY)
 CLOSURE OF THE MAPLE GROVE) RESOLUTION NO. C-40-03
 BOAT RAMP ON CAMANO)
 ISLAND LOCATED IN SEC. 23)
 TWP. 32N., RGE. 2E., W.M.)

WHEREAS, RCW 47.48.010 authorizes local governments to restrict vehicular traffic whenever the condition of such road is dangerous to the traveling public; and

WHEREAS, CRP 00-02(A) has been approved and an advertisement is being published for a contract to construct improvements including segments of road reconstruction along Maple Grove Road and Boat Ramp Road; and

WHEREAS, the road reconstruction requires the closure of Maple Grove Road reconstruction project area from May 19, 2003, through July 3, 2003, and weekdays from July 7, 2003, through August 1, 2003; and

WHEREAS, a like notice of such closure shall be posted in a conspicuous place at each end of the portion of Maple Grove Road to be temporarily closed; and

WHEREAS, the closure of County roads for safety reasons is a function of police power properly exercisable by the Board of County Commissioners; and

WHEREAS, Resolution C-34-03 signed on April 7, 2003 authorized closure of subject road; and

WHEREAS, safety reasons and proximity to the construction area also dictate the necessity to close the Maple Grove Boat Ramp for the same period;

NOW, THEREFORE,

BE IT HEREBY RESOLVED by the Board of Island County Commissioners that the Maple Grove Boat Ramp shall be closed for the period stated above.

ADOPTED this 21 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

RESOLUTION #C-41-03/R-15-03 APPROVING PLANS & SPECIFICATIONS AND AUTHORIZING CALL FOR BIDS FOR NORTH CAMANO DRIVE & ARROWHEAD ROAD INTERSECTION IMPROVEMENTS, CRP 02-02

Resolution #C-41-03/R-15-03 In the matter of Approving Plans & Specifications and Authorizing Call for Bids for North Camano Drive and Arrowhead Road Intersection Improvements, CRP 02-02, Work Order 172 was approved by unanimous motion of the Board as presented by Bill Oakes, Public Works Director.

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

IN THE MATTER OF APPROVING PLANS &
SPECIFICATIONS AND AUTHORIZING) RESOLUTION NO. **C-41-03**
CALL FOR BIDS FOR NORTH CAMANO DR) **R-15-03**
AND ARROWHEAD RD. INTERSECTION)
IMPROVEMENTS, CRP 02-02, WO NO. 172)

WHEREAS, sufficient funds are available in the Island County Road Fund for construction of North Camano Drive and Arrowhead Road intersection improvements, **NOW THEREFORE,**

BE IT HEREBY RESOLVED that the Plans and Specifications are approved and the County Engineer is authorized and directed to call for bids for furnishing said construction. **Bid Opening is to be the 15th day of May, 2003 at 12:00 P.M. in Room 101, County Administration Building, 1 NE 7th Street, Coupeville, Washington.**

APPROVED this 21st 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

**CONTRACT/CONTRACT BOND/RETAINAGE BOND – 2003 CAMANO ISLAND
PAVEMENT REPAIRS - RINKER MATERIALS WEST LLC**

By unanimous motion, in accordance with award of bid at a previous meeting, the Board approved and signed the Contract, Contract

Bond and Retainage Bond for the 2003 Camano Island pavement repairs, under Work Order 171, with Rinker Materials West LLC dba Rinker Materials, in the amount of \$70,104.

RESOLUTION #C-42-03/SW-01-03 – AUTHORIZING PROCUREMENT OF GENERAL SERVICES FOR RECYCLE SERVICES FOR WHIDBEY ISLAND

By unanimous motion the Board approved Resolution #C-42-03/SW-01-03 In the Matter of Authorizing Procurement of General Services for recycle services including transportation and processing of recyclables collected at county-owned recycle stations and recycle parks on Whidbey Island; public schools on Whidbey Island and Island County offices on Whidbey Island.

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

IN THE MATTER OF AUTHORIZING

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PROCUREMENT OF GENERAL SERVICES	}	RESOLUTION NO. C - 42 - 03
Recycle Services: Transportation and	}	RESOLUTION NO. SW - 01 - 03
processing of recyclables collected at	}	
county-owned recycle stations and recycle	}	
parks on Whidbey Island, public Schools	}	
on Whidbey Island, and Island County	}	
offices on Whidbey Island.	}	

WHEREAS, recycling is a priority above waste disposal in the approved Island County Comprehensive Solid Waste Management Plan, and

WHEREAS, recycle opportunities are required at conveniently locations per RCW 70.95.090(7)(b)(i), and

WHEREAS, funds are available in the Solid Waste FUND for the transportation and processing of recyclables collected at Island County Solid Waste facilities, and

WHEREAS, the current contract for said services expires June 30th, 2003,

NOW THEREFORE, BE IT HEREBY RESOLVED that the attached Terms & Conditions and Scope of Work is approved as written and that Director of Public Works and/or the Solid Waste Manager is authorized and directed to solicit competitive proposals to provide Island County with said services.

ADOPTED this 21 day of April, 2003

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

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

ATTEST:
Elaine Marlow, Clerk of the Board

PUBLIC HEARING HELD – FRANCHISE RENEWALS

A Public Hearing was held at 10:20 a.m. for the purpose of considering two franchise renewals:

Franchise #102(R) renewal of existing water distribution system by Driftwood Heights Association, Plat of Driftwood Heights Divisions 1, 2, 3 and 4, Sections 7/18, Twp 31N., R 3E., Camano Island;

Franchise #110(R) renewal of existing water distribution system by Sunny Hill Water Co., Inc., Plat of Sunny Hill, Division #1, Sec. 35, Twp 32N., R 2E, Camano Island.

Mr. Oakes reported in favor of the Board’s approval of both franchise renewals. All departments requested to comment responded with no objection to either proposal, and the Prosecuting Attorney’s office reviewed and approved the documents as to form, and documents were also reviewed and approved by Risk Management. Staff review was provided in letters dated March 24 and March 25 to the Board from the County Engineer.

At the time of hearing, no one in the audience spoke either for or against either franchise renewal.

The Board by unanimous motion approved Franchise #102(R) renewal of existing water distribution system by Driftwood Heights Association in the Plat of Driftwood Heights Divisions 1, 2, 3 and 4, Secs 7/18, Twp 31N., R 3E., Camano Island and Franchise #110(R) renewal of existing water distribution system by Sunny Hill Water Co., Inc., in the Plat of Sunny Hill, Division #1, Sec. 35, Twp 32N., R 2E, Camano Island.

PUBLIC HEARING HELD: APPLICATION TO OPEN UNOPENED COUNTY RIGHT-OF-WAY - ACCESS ROAD PARALLEL AND ADJACENT TO CORNET BAY ROAD, PLAT OF CHARLESWORTH VIEW TRACTS.

A Public Hearing was held at 10:25 a.m. to consider Application to open unopened County right-of-way, an access road running parallel and adjacent to Cornet Bay Road in the Plat of Charlesworth View Tracts, Sec. 36, Twp 34N., R 1E, North Whidbey Island. Applicant desires to build an access road for a driveway on County right-of-way. Mr. Oakes confirmed staff recommendation of approval, noting permit conditions for working in the County R/W that would be attached to permit approval.

At the time of hearing Bert Yosting, property owner along the road, indicated he did not object to the proposed application, but had some questions about process, who would build the road and would the applicant or county pay for same.

Mr. Oakes confirmed it is at the applicant's expense; standards are identified that the applicant must adhere to in order to open the road, and includes that the roadway be constructed to a width of 14 feet; roadway to be graded, sloped and crowned assure proper drainage and has to be inspected and approved by the County.

By unanimous motion, the Board approved Application to open unopened County right-of-way, an access road running parallel and adjacent to Cornet Bay Road in the Plat of Charlesworth View Tracts, Sec. 36, Twp 34N., R 1E, North Whidbey Island.

APPEAL 046/03 JANE SEYMOUR - WRITTEN DECISION - APPEAL OF HEARING EXAMINER DECISION ON PLA 025/98 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; the vote of individual Commissioners with a brief statement from each as to the basis for the decision was given on April 14, 2003.

Phil Bakke, Director, Planning and Community Development, and Jeff Tate, Assistant Director, Planning and community Development, were present, and following the Board's direction last week, Mr. Tate prepared and presented for the Board's signature today File No. APP 046/03, Appeal Decision, in the matter of an Appeal of the Island County Hearing Examiner's Decision in PLA 025/98, Bonaci.

Commissioner Shelton moved that the Board approve and sign the Appeal Decision in the matter of an Appeal of the Island County Hearing Examiner's Decision in PLA 025/98, Bonaci, as presented. Motion, seconded by Commissioner Byrd, carried unanimously.

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

IN THE MATTER OF AN)
APPEAL OF THE ISLAND) FILE NO. APP 046/03
COUNTY HEARING) APPEAL DECISION
EXAMINER'S DECISION IN)
PLA 025/98, BONACI)

On February 24, 1998 Island County Planning and Community Development accepted Plat Alteration (PLA) 025/98 which proposes alteration of the property lines of five platted parcels in the subdivision of Saratoga Beach Division #1 and one contiguous unplatted parcel. As a result of the plat alteration, portions of the unplatted parcel would be combined with Lots 10 - 14 of Saratoga Beach Division #1 thereby eliminating the unplatted parcel altogether. This action would cause the outer plat boundary of Saratoga Beach Division #1 to expand, thereby adding land area to the plat, however, the overall number of residential lots would remain the same.

When Saratoga Beach Division #1 was approved a number of easements were established for the purposes of accommodating roads, access and utilities that would serve all of the parcels in the plat. In conjunction with the movement of the parcel boundaries a number of those easements would also have to be modified in order to ensure that each of the resulting parcels would continue to have adequate vehicular access and dedicated areas for the placement of utility lines.

Greg Seymour, Christi Seymour, Brenda Seymour, Haley Seymour and the Seymour Family Trust, through their attorney Jane Seymour objected to the approval of the Bonaci plat alteration before the Island County Hearing Examiner. On January 24, 2003, after considering the record before him, evidence presented at the public hearing of September 19, 2002, November 21, 2002 and January 16, 2003, the Hearing Examiner granted approval of the Bonaci plat alteration with conditions. On February 7, 2003 Jane Seymour, on behalf of the above mentioned objectors, appealed

the Hearing Examiner's decision to the Board of Island County Commissioners.

The parties to the appeal are: (1) the landowners and applicants for the plat alteration, Gordon Bonaci, Paul Bonaci, Alan Bonaci and Robert Bonaci, 5025 25th Ave. N.E. #106, Seattle, WA 98105, and (2) Jane Seymour et al, P.O. Box 1240, Freeland, WA 98249.

As the appellant, Jane Seymour et al, has the burden of establishing that the Hearing Examiner's decision was not supported by substantial evidence or that he made an error of law.

On March 24, 2003 the Board of Island County Commissioners conducted a closed record review of the Hearing Examiner's record, including a review of the eight items raised in Jane Seymour's basis of appeal. Arguments were presented from both parties as well as Planning and Community Development staff. The record of this appeal includes the entire record that was before the Hearing Examiner including the materials and information in the application file, the Island County staff report, the Hearing Examiner's decision, applicable state and local law, the appellant's notice, and the parties' statements of the appeal.

Having reviewed the record and independently reviewed applicable laws and ordinances and having heard arguments from all parties, the Board of Island County Commissioners finds that Jane Seymour, et al did not establish grounds for reversing the Hearing Examiner's decision. The following findings and conclusions address each of the items raised in the appellants basis of appeal:

1. Kevin Court, the short, 60 foot wide, loop county road in the plat of Saratoga Beach Division #1 currently serves Lots 10 through 14, the 5 platted parcels that are part of this plat alteration. Baby Island Way currently serves the unplatted parcel that is adjacent to the plat of Saratoga Beach Division #1. The unplatted parcel has two existing single family residences located upon it which are served by Baby Island Way. As a result of this plat alteration, Baby Island Way will continue to serve the two existing single family residences, however, they will now be located on separate parcels. There is no change in the number of single family residences that are served by Baby Island Way due to approval of this plat alteration. There is a net reduction in the number of houses that will be served off of Kevin Court as well as the overall level of traffic. The Hearing Examiner correctly concluded that the plat alteration serves the overall public interest and protects the public health and welfare.
2. The appellant alleges that the applicant submitted fraudulent documentation demonstrating that appropriate provisions have been made for on-site septic. There is no evidence of fraud. The applicant was approved for on-site septic to serve the two existing residences when the previous site plan review (SPR 036/96) was approved in 1993. The applicant provided copies of the septic information during the plat alteration process. The applicant requested those septic materials from the Health Department who provided him with a receipt for the copying charge along with the information. This information was then provided with the application. Whether a septic permit was incorrectly issued or not for a previously approved and constructed house does not impact the validity of a plat alteration. If there are issues around the septic systems and reserve drainfields, and the appellant suggests that there is evidence of fraud, these issues are not appropriate in this venue, rather they should be handled through the Health Department and not as a result of this action.
3. The appellants testified that the applicants had removed timber and conducted grading without permits required by the Island County Code. All clearing and grading was conducted with full knowledge and approval by Island County. Statements were provided indicating that the applicant had violated the eagle management plan, however, no evidence was provided that substantiates this allegation. There was no willful violation by the applicant regarding the timber removal or dirt movement.
4. The appellant states that the Hearing Examiner erred in glossing over the fact that a shoreline development permit should have been required for this action by declaring that only short subdivisions are exempt from SEPA. The determination of whether or not a development is exempt from a shoreline development permit is not contained in the SEPA exemptions of WAC 197-11-800 as cited by the appellant, rather they are listed in the Shoreline Management Act, Chapter 173-27 WAC. Furthermore, a plat alteration that proposes adjustment of property lines does not in and of itself trigger the requirement for a shoreline development permit. The appellant incorrectly refers to this proposal as a land division. If this project had been a long or short plat it is likely that a shoreline development would have been required. Other actions in relation to the development may trigger a shoreline development permit such as drainage improvements that are required as a condition of plat alteration approval.
5. The appellant asserts that the Hearing Examiner incorrectly agrees with the characterization of this application as a plat alteration due to the fact that the project extends beyond the limits of the existing plat. Island County Code and State law both allow for the adjustment of property lines between platted lots, unplatted lots or both. ICC 16.06.040 defines a Boundary Line Adjustment as the adjustment of boundary lines between platted or unplatted lots or both. RCW 58.17.040(6) states that the provisions of this chapter shall not apply to a division for the purpose of alteration by adjusting boundary lines, between platted or unplatted lots or both. State and county law clearly indicate that adjustments between a platted and unplatted lots may be done without the necessity of considering this type of action as a new subdivision. However, ICC 16.06.040 defines an alteration as any change in easements or changes to the conditions of approval of the original plat. PLA 025/98 proposes changes to existing easements that were recorded with the original plat which is why this proposal must be considered as a plat alteration. However, if no changes to the easements were needed this project would have been a simple boundary line adjustment between platted and unplatted lots. There is no state or county requirement which limits an alteration to only parcels that are contained within the plat.

6. The appellant states that the Hearing Examiner erred in relying on RCW 58.17.215 to support the conclusions that the application is a plat alteration despite the addition of land outside the plat and asserts that the proposal constitutes a form of subdivision. As stated in the above finding, there is no state or county law that states that adjusting boundary lines between a platted and unplatted lot such that additional land is brought into the plat. To the contrary, state and county law clearly indicate that boundary line adjustments may be done between platted and unplatted lots. RCW 58.17.215 does not limit alteration of a subdivision exclusively to property within a subdivision. No state or county law has been cited which states that the mere addition of new land to the plat constitutes a new subdivision.
7. The appellant argues that a subdivision of land is subject to the environmental provisions of chapter 58.17 RCW unless it meets one of the exceptions to that chapter which include boundary line adjustments or plat alterations. Given that the Hearing Examiner was correct in determining that the application was appropriately reviewed and considered as a plat alteration rather than as a new subdivision the appellants issues related to SEPA are not valid.
8. Pursuant to RCW 36.70B.120 requires that there must be a consolidated review process in place in order to evaluate project permits from more than one category. The County has adopted a consolidated permit review process. Consistent with RCW 36.70B.120 the County has adopted a consolidated review process which is found under ICC 16.19.130. Both RCW 36.70B.120 and ICC 16.19.130 state that the applicant may elect the consolidated permit review process. Furthermore, it is not always possible to know at the outset of a proposal what permits will be required. During review of this project it was determined that drainage improvements were needed in order to approve the alteration. The drainage improvements will require a shoreline development permit. When the application was turned in it was not known that drainage improvements would be necessary. As a result, prior to submitting final plat alteration approval the applicant will be required to complete the drainage improvements, including the shoreline development permit that will be required.

The decision of the Island County Hearing Examiner to grant conditional approval of the Bonaci plat alteration, PLA 025/98, is affirmed.

ADOPTED this 21 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

REVIEW MONTHLY FINANCIAL REPORTS FROM AUDITOR & TREASURER

Suzanne Sinclair, Island County Auditor, submitted to the Board her written financial report for the period ending March 31, 2003. Narrative provided with respect to notes on revenues, included: \$5,000 had been received as a donation to WSU; delinquent taxes the County received distribution 1996-2002 in the amount of \$125,280.42.

With respect to Expenditures questions for review and follow-up back to the Board were:

- Telecommunications. Reason for 38% at the end of March
- Treasurer. Looking at the 4-year average why so high: 30% now compared to a 4-year average 25%.

Treasurer's report not available.

There being no further business to come before the Board at this time, the meeting adjourned at 10:40 a.m. The next regular meeting will be held on April 28, 2003 beginning at 11:30 a.m. with an Elected Officials roundtable, and other agenda items beginning at 1:30 p.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