

BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING-JULY 12, 2004

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on July 12, 2004 beginning at 9:30 a.m. in the Island County Courthouse Annex, Hearing Room, 1 N. E. 6th Street, Coupeville, Wa. William J. Byrd, Chairman, Mike Shelton, Member, and Wm. L. McDowell, Member, were present.

A video conferencing system installed at the Camano Island County Annex Office allowed for the first time an opportunity for Camano citizens to participate in Board of Island County Commissioners meetings without traveling to Coupeville. The video conferencing system will be available for regular Board meetings held on the first four Mondays of each month.

The meeting began with the Pledge of Allegiance. By unanimous motion, the Board approved the minutes from the regular meeting held on June 28, 2004, and Special Session held in Coupeville on July 6, 2004.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board, along with the payroll dated June 30, 2004:

Voucher (War.) #193160 – 1953536 \$ 402,416.30.

Veterans Assistance Fund: [emergency financial assistance to certain eligible veterans; the names and specific circumstances are maintained confidential]. As recommended by the Veterans Assistance Review Committee the Board by unanimous motion approved Claim V4-7 in the amount of \$996.23.

HIRING REQUESTS & PERSONNEL ACTIONS

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

Dept.	PAA #	Description	Position #	Action	Eff. Date
Public Works	062/04	Adm. Asst. ER&R	2211.00	Replacement	7/19/04
Prosecutor	063/04	Dep. Pros. Atty	1812.00	Replacement	9/20/04

BID AWARD FOR AUCTIONEER SERVICES - 2004 ISLAND COUNTY TAX FORECLOSURE SALE

Per Resolution #C-64-04 bids were received for Auctioneer services for the 2004 Island County tax foreclosure sale, and at this time Linda Riffe, Island County Treasurer, reported her recommendation to award bid for the lowest and best bid, A Western Auction Co., Mr. Larry Marty, Clinton. By unanimous motion, the Board awarded bid to A Western Auction Company as recommended.

EMPLOYEE AWARDS**Employee Service Awards**

Andy Griffin	Planning & Comm. Dev.	15	Years
Matt A. Nash	Public Works	15	Years
Richard Green	Public Works	25	Years

Employee of the Month – June, 2004

Anathalie Dawkins, Island County Health Department.

APPOINTMENTS AND/OR RE-APPOINTMENTS TO VARIOUS BOARDS AND COMMITTEES

By unanimous motion, the Board made the following appointment and reappointment:

Island County Parks Board, reappointed Lois Fisher, Oak Harbor, to a six-year term expiring June 30, 2010

Island County Affordable Housing Advisory Board, appointed Linda Moore, Langley, to a three-year term expiring June 16, 2007.

APPLICATION FOR SPECIAL OCCASION LIQUOR LICENSE #092886 BY NORTH SOUND WINERIES

Based on favorable recommendations with conditions from appropriate County departments, the Board by unanimous motion approved forwarding a recommendation of approval to the Washington State Liquor Control Board for Special Occasion Liquor

License #092886 by North Sound Wineries for a special occasion to be held on July 24 and 25, 2004 from 10:00 a.m. to 5:00 p.m. at the Greenbank Farm, 765 Wonn Road, Greenbank, Wa.

CONTRACT #HS-06-04 - UNITED GENERAL HOSPITAL - SYNAR TOBACCO RETAILER COMPLIANCE CHECKS

By unanimous motion, the Board approved Contract #HS-06-04 in the amount of \$1,165.00 (RM-HLTH-04-0059) with United General Hospital to conduct required SYNAR tobacco retailer compliance checks in Island County.

COUNTY DESIGNATED MENTAL HEALTH PROFESSIONAL - PAUL HARP MSW

The Board, on unanimous motion, approved County Designated Mental Health Professional Paul Harp MSW, having met the requirements of RCW 71.24 and WAC 275-57.

PUBLIC INPUT

Lori Hilleary, Langley, and Kim McMaster, Freeland, addressed the Board with respect to a question concerning ownership of McMaster Road. Deeds indicate that the property is McMaster property and not the County's property. Their concern was "what makes it a County road when it is owned by the McMasters?". They indicated that the road crew clear-coated the road, which was the only time the County maintained the road. The McMasters always had maintained that road, and Ms. Hilleary and Ms. McMaster pointed out they had deeds dating back to their great grandfather showing McMaster ownership since the late 1800's. Some number of years ago Ms. McMaster recalled there had been a public hearing on a proposed road vacation proposal [1990] but the question was left then "how could the County vacate something it did not own?".

The Commissioners made note of the information and inquiry and agreed to have research done by staff, with a written response provided to Ms. Hilleary and Ms. McMaster.

CONTRACT/CONTRACT BOND/ESCROW AGREEMENT – KRIEG CONSTRUCTION, INC. - WHIDBEY ISLAND HMA OVERLAYS

By unanimous motion the Board approved the Contract, Contract Bond and Escrow Agreement (PW-0420-102) as recommended by Bill Oakes, Public Works Director, between Island County and Krieg Construction, Inc., related to the 2004 Whidbey Island hot mix asphalt overlay project under CRP 04-02, in the amount of \$691,213.85.

CONTRACT/CONTRACT BOND- SRV CONSTRUCTION, INC. – FREELAND PARK OUTFALL-MYRTLE AVENUE TRAIL

As recommended and presented by Mr. Oakes, the Board by unanimous motion approved the Contract and Contract Bond (PWP 04-0) between Island County and SRV Construction, Inc., for the Freeland Park Outfall-Myrtle Avenue Trail under Work Order #130 & 123 in the amount of \$777,110.00.

PURCHASE ORDER #6179 – GEOLINE POSITIONING SYSTEMS, INC.

Purchase Order #6179 (RM-PW0420-106) with Geoline Positioning Systems, Inc. was approved by unanimous motion of the Board, as recommended by Mr. Oakes, for Trimble GPS and Robotic Survey System in the amount of \$52,517.54 (including tax and training) .

HEARING HELD: RESOLUTION #C-67-04 AMENDING ISLAND COUNTY CODE CHAPTER 2.20A- ISLAND COUNTY FAIR

As scheduled and advertised at 10:45 a.m. a Public Hearing was held to consider Resolution #C- 67-04 Amending Island County Code Chapter 2.20A- Island County Fair. Approximately twelve citizens in attendance at the time of hearing interested in this particular subject.

Commissioner Shelton opened by noting the genesis of the public hearing came as a result of a request by the Board of Directors of the Island County Fair in May to modify the Island County Code to correspond with the Island County Fair Association Bylaws. As is customary when proposing changes to the County Code, the Board sent the matter to the Chief Civil Deputy Prosecuting Attorney who made the alterations to the Code and for the benefit of audience members, the Commissioner reviewed the proposed changes: [material stricken through is deleted and material underlined is added]:

2.20A.020.F A quorum for meetings of the board of directors shall consist of at least ~~six (6) directors~~ a majority of the filled positions.

2.20A.030.A The Island County Fair Association ~~through its officers and~~ board of directors, ~~and~~ in conjunction..."

1. The Fair Association, ~~through its board of directors, Board of Directors~~ shall be responsible for the selection and hiring/firing of the Island County Fair ~~Manager paid staff, subject to review and approval by the Board of county Commissioners. Hiring a Fair Manager is optional with the Fair Association Board of Directors, provided,~~

however, that the selection and hiring/firing of a Fair Manger by the Board of Directors is subject to the renew and approval by the Board of County Commissioners.

2. ~~Should a Fair Manager be hired, The the~~ Fair Association Board of Directors shall ensure that the fair manager has sufficient management authority and assistance to properly carry out the duties of the position.
3. The Fair Association Board of Directors shall designate a single person from among its members to act as the principal supervisor or contact person for the fair ~~manager paid staff~~. Communications, directives, or guidance between the fair ~~manager paid staff~~ and the association shall proceed through the channel thus established.

2.20A.040.B The Board of County Commissioners or one (1) of its members designated for the task shall act as arbiter of ~~significant disputes~~ disputes deemed sufficiently significant by the Board of County Commissioners that may arise over the operations and managements of the fair, and shall have the final say in the resolution of said disputes as may arise in the future.

2.20A.050.A

The board of directors of the Island County Fair Association in conjunction with the Board of County Commissioners shall be responsible for the hiring and firing of a full-time Island County Fair Manager should the Board of Directors determine that one is necessary.

If a Fair Manager is not determined to be necessary by the Board of Directors, the Board of Directors shall be responsible for the duties and responsibilities that follow in subsection B. below.

2.20A.080 Island County Fair Association Bylaw Review

Revisions to the bylaws of the Island County Fair Association shall require the review and comment by the Board of /County Commissioners before said revisions may become effective.

As Commissioner Shelton recalled, the fair manager became an issue because under the old code even though it was not mentioned specifically that the Fair Association would hire a fair manager, the Chief Civil Deputy Prosecutor believed it was mentioned enough times such that it could lead one to believe that a fair manager was anticipated being hired. As to previous discussion about whether revisions to the Fair Association Bylaws should require the Board of County Commissioners approval, the Chief Civil Deputy determined that since the Fair Association is a 501C3 corporation, a separate entity, the Board of County Commissioners does not have the right of approval for changes to those Bylaws. Although the Chief Civil Deputy Prosecutor confirmed that the proposed changes to the Code did not necessarily require a public hearing, given the fact that the Commissioners were aware there may be a number of people who desired to comment, the Board elected to hold a public hearing on the matter.

Rufus Rose, South Whidbey, referring to page 2 item F asked about the requirement for filling the fair board of director positions, wondering if some fair board had a vacancy and left the position vacant; is there a minimum number of directors that must be available?

Commissioner Shelton was aware of one vacancy representing the Coupeville School District, one of three board of director positions appointed by the Board of County Commissioners; the remaining positions are elected from the Island County Fair Association; therefore, it would seem that the maximum positions that could be vacant would be the three positions the Board of Commissioners appoint.

Mr. Rose thought the language could be interpreted such that the Board of County Commissioners may have to review and approve any paid staff and wondered if the Board needed to be involved with reviewing and approving temporary hires, and if the language satisfied the Board's understanding it is or is not in that loop.

Commissioner Shelton clarified that the Board of County Commissioners did not approve part-time staff for the Fair, but would be involved in reviewing the fair manager selection.

As far as the language "disputes deemed sufficiently significant by the Board of County Commissioners" and what test would be applied or threshold to make that determination, Commissioner McDowell pointed out that even though the Association is a 501C3 it is still the "Island County Fair". Should the Board of County Commissioners become aware of problems that could arise to a dispute of sorts, the County has a certain amount of liability, and the Board of County Commissioners want to make sure on behalf of the County it can step in if that situation arises. Determining sufficiently significant would be a judgment call by the County Commissioners at that time. For him, the test would be whether or not there is some public [County] liability issue involved.

Commissioner Shelton added to note that the law is such that even though the 501C3 is a separate organization, the County cannot divorce itself from the Fair because under the law the County has the option to run the fair itself.

Answering a question from Mr. Rose about control of the money and money flow from the Fair, Commissioner Shelton stated that ultimately the County acts as a banker for the Fair. The Board of County Commissioners review and approve all of the Fair vouchers, submitted through the County Auditor's Office, on a weekly basis during regular Board meetings. And as Commissioner McDowell pointed out, the Fair is subject to the State audit.

Sandy Brandon, Island County Fair Association, thanked the Board for the work done on the code changes, confirming that those changes basically were the same as the Bylaws approved by the Island County Fair Association in 1999.

Karen Newman discussed some issues she had with the Fair and a dispute over a booth. She viewed the proposed code changes as fostering her concerns. She reviewed the proposed changes to County code with the bylaws, and cited several examples where those two documents conflict:

-Eliminating the phrase "through its officers" in terms of running the fair, compared to the bylaws on Page 3, Article 7 Board of Directors, Section 1A, states "subject to the direction of the Association members, the control of the Island County Fair shall rest in the Board of Directors".

-Page 5 under Article 7, Section 9-Finances-A: "all business relating to policy and funding shall first be considered by the above board; recommendations shall be presented to the general membership at the next association meeting".

Debbie Holbert, Langley, former Fair Association member and employee of the Fair, spoke in opposition to the proposed code revisions for the following reasons:

1. This is not the forum for bylaw changes.
2. Current Fair Board has not demonstrated effective management of the fair and fairgrounds. At the end of fiscal year 2002 the fair account had a balance of approximately \$55,000; at the end of fiscal year 2003 that number was cut by nearly one-half. Since the group took over in early 2003 revenues dropped significantly.
3. Volunteerism has dropped significantly. Work that used to be performed by volunteers is now being hired out and the fair is suffering.
4. The past seven employees of the fair have been forced out of their positions and in only one case did the Board of County Commissioners intervene. One of the former employees was allowed by the State to collect unemployment because of having resigned due to a hostile work environment.
5. Four Fair Board members currently have food booths at the fair, and at least two members are on the vendors committee.
6. According to the State Auditor's Office the Board of County Commissioners have the ultimate responsibility to make sure the fair is run properly.

Ms. Holbert felt that adopting the proposed code revisions would give all the power to the Fair Board, which she saw as side-stepping the Fair Association. She requested the Board reject the changes, examine the fiscal track record of the current Fair Board, and immediately replace the entire Fair Board and staff with a newly appointed board made up of citizens who have no personal or financial interest in the fair.

Commissioner McDowell explained that the County could take the option of disbanding the Fair Board and hire staff to run the fair; however, the Board of County Commissioners does not have the ability to select and replace people within the 501C3. He was not interested in making the Fair a County department and hire staff, and hoped that the volunteers would come together as they had the past many years and run a good fair.

In relation to the financial wherewithal of the fair in terms of a drop in the fund balance from \$55,000 to what it is today, Commissioner Shelton reminded that people needed to take into consideration things that can happen beyond anyone's control, such as the terrible accident that certainly put a damper on last year's fair. He remembered when the Board reviewed the existing bylaws and proposed changes to County Code, there was no attempt by the Board of Commissioners to drive changes in the bylaws; rather, the attempt was to bring the County code into compliance with the bylaws.

Gina Smith, President, Island County Fair Association, provided a copy of the June 1999 Island County Fair Association bylaws [*copy placed on file with the Clerk of the Board*]. She explained that it was the Fair Association itself who brought this to the County Commissioners; the bylaws have been in effect since 1999. When going through possible bylaw changes this year it was constantly brought up that those 1999 bylaws had not been approved by the County Commissioners and were not in compliance with County code.

Commissioner Shelton pointed out that one of the important things to remember is that the Fair Board of Directors is made up of the President of the Association and the President of the Island County 4-H Leaders Council, and the Board of County Commissioners appoint three members, with the remainder elected from the membership of the Fair Association.

After listening to all comments, the Commissioners were willing to continue the hearing for a few weeks in order to make sure the proposed code changes did not go beyond what the bylaws committee of the Fair Association intended. The Board agreed to send the proposed code changes and the adopted 1999 Fair bylaws back through the Chief Civil Deputy Prosecuting Attorney to determine whether or not the proposed code changes contradict the bylaws.

By unanimous motion, the Board continued the public hearing on Resolution #C-67-04 until July 26, 2004 at 2:45 p.m. [including public input portion of the hearing continued to that date and time].

There being no further business to come before the Board at this time, the meeting adjourned at 11:25 a.m. The next regular meeting of the Board will be held on July 19, 2004, at 9:30 a.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

William J. Byrd, Chairman

Mike Shelton, Member

Wm. L. McDowell, Member

ATTEST: _____
Elaine Marlow
Clerk of the Board