

BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING - JULY 26, 2004

The Board of Island County Commissioners convened in regular session at 11:00 a.m. on July 26, 2004, for a roundtable discussion with Elected Officials and Appointed Department Heads, held in the Board of County Commissioners Hearing Room (Room #102B), Island County Courthouse Annex, 1 NE 6th Street, Coupeville, Wa. Other topics for the regular session followed at 1:30 p.m. as outlined on the agenda, including Diking Improvement District #4. William J. Byrd, Chairman, Mike Shelton, Member, and Wm. L. McDowell, Member, were present.

ROUNDTABLE MEETING WITH ISLAND COUNTY ELECTED OFFICIALS AND APPOINTED DEPARTMENT HEADS

Elected Officials: Tom Baenen Bill Byrd Sharon Franzen Mike Hawley
Mac McDowell Linda Riffe Mike Shelton Suzanne Sinclair
Maggie Paczkowski for Judge Strow

Appointed Department Heads: Phil Bakke Elaine Marlow Bill Oakes
Cathy Caryl Tim McDonald Dan Sherk
Betty Kemp Dick Toft

Public: Rufus Rose, South Whidbey

Assessor. Appraisers in the midst of fieldwork to pick up new construction, with about 2400 permits completed. Finished with area 5 for new construction (Camano). Anticipate getting revaluation notices out by November which will enable completion of new construction fieldwork.

Auditor. Primary election ballot changes will be substantial. It is only for the primary that a voter can vote only for one party; the general election will be the same as always. For the primary, four ballots will be provided since the rules passed by the Legislature call for "open primary/private choice" and in order for a ballot to be counted voters must return only one ballot in the envelope. If a voter casts a vote for one candidate but returns all four ballots, that voter's ballot will not be counted [based on the idea that returning the ballot is a choice of party]. This system for the primary almost doubles the cost of the primary, but the County was able to obtain dollars from the State to help pay for the difference in cost.

Budget Director. Budget worksheets have gone out to departments. The Budget Director is available should there be any questions, and if departments are considering making proposals for additional staff, the Budget Director would be happy to cost that portion out. Hopeful this year that departments will provide a narrative with submittal of budgets, reviewing high points and accomplishments of the year; where the department would like to be next year, any concerns, etc.

Central Services. E-mail with zip file attached indicating that "your computer has been monitored and has problems please open attached zip file", a note of caution; it is spam and employees need to delete the e-mail or forward it to Central Services. Never open anything with a zip or exe extension. Central Services is updating the virus protection automatically on a weekly basis.

Commissioners. Elected Officials and Appointed Department heads reminded to submit, preferably prior to budget submittal, a list of what services are mandated by law and those services currently provided but are not mandated by law.

Human Resources. New employee orientations conducted the 2nd and 4th Tuesdays of each month. The employee on his/her first day needs to first report to H.R. And as the Auditor pointed out related to medical coverage it is important a new employee attends orientation early on - need to get them added onto medical coverage in the first month of eligibility. Federal Labor Standards Act - Exempt and Non-Exempt employees. Rules have changed effective 8/23/04 in determining if an employee meets one of the FLSA tests. H.R. received a CD which after filling out the required information, a determination is made as to whether or not an employee meets the test. H.R. will go through that process with each department throughout August, and re-visit the FLSA category of employees.

Public Works. Next Roundtable will brief participants on the Juvenile Detention Center construction schedule inasmuch as

there will be some impacts on departments, primarily parking.

Roundtable adjourned 11:20 a.m. Next Roundtable scheduled August 23, 2004 at 11:00 a.m.

The meeting at 1:30 p.m. began with the Pledge of Allegiance. By unanimous motion, the Board approved the minutes from the July 19, 2004 Board meeting as presented.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board: Voucher (War.) #194505 - 194842\$1,025,508.11.

RESOLUTION #C-74-04 AUTHORIZING AN INTERFUND LOAN TO THE ND COUNTY FAIR FUND

By unanimous motion, the Board approved Resolution #C-74-04 Authorizing an Interfund Loan to the Island County Fair and to pay the expenses of the Fair during the year, to be repaid as soon as funds are available, before December 31, 2004. [Resolution #C-74-04 on file with the Clerk of the Board]

NORTHWEST ESD 189 EARLY CHILDHOOD EDUCATION SYSTEMS COMMITTEE DESIGNATED AS ELIGIBLE LOCAL COUNCIL FOR ISLAND COUNTY – EARLY LEARNING OPPORTUNITIES ACT DISCRETIONARY GRANT PROGRAM

Because of a grant deadline of July 27, 2004, Carol McNeil, Nursing Supervisor, Island County Health Department, brought an urgent matter to the Board for consideration and action. Early childhood educators from a five-county region [Skagit, San Juan, Island, Snohomish and Whatcom] served by the NW Educational Services District 189 have worked since March to develop a system of early childhood education for the region. A grant request of \$987,717 through the Early Learning Opportunities Act is for Phase I of the implementation of a developing strategic plan that will create a system to strengthen the work force so that teachers prepare children with strong emergent literacy and social skills; support parents in providing environments to prepare children to be ready for school; and increase the availability of and access to early childhood programs. The group learned just a few days' ago that county commissioners from Snohomish, Skagit, Island, Whatcom, and San Juan must designate the NW ESD 189 Early Childhood Systems Committee as a local council to apply for the grant and to designate the NW ESD 189 as the fiscal agent.

Questions posed by Commissioner McDowell were referred to the Prosecuting Attorney's Office, and to Ms. McNeil to contact grant contact with regard to what assurances are in place should the grant recipient not perform insulating the County from any pay-back requirement of the almost one million dollars.

Josh Choate, Deputy Prosecutor, contacted Skagit and Snohomish County, and although he was not able to speak with county attorneys, learned that Snohomish County entered into several agreements in the past of a similar nature with NW ESD. He was able to read through the grant announcement and reported that nowhere in it does it say that if the grantee is unable to carry out the terms and conditions of grant that the legislative body would be on the hook for the funds; on the other hand, there is no statement that says the legislative body is not on the hook for the funds. However, reading the agreement as a whole does not lead one to believe there would be any liability for Island County.

Ms. McNeil spoke with the grant consultant and was assured that intent of having county commissioners designate NW ESD 189 is that of "gate keeper". Other information from the grant consultant was: (1) no one else in the region or community is applying for this grant; (2) NW ESD 189 is a functioning appropriate agency to be receiving this money; and (3) should the grant be approved, they are an appropriate fiscal agent to handle that amount of money.

With those assurances, the Board by unanimous motion approved and signed the letter authorizing the NW ESD 189 as the eligible Local Council for Island County for the purposes of the Early Learning Opportunities Act (ELOA)

STAFF SESSION SCHEDULE – AUGUST, 2004

The August Staff Session Schedule was approved by unanimous motion of the Board. The schedule outlines the regular staff

sessions for August which will be held on August 4 and August 18, beginning at 9:00 a.m. in the Courthouse Annex Hearing Room, 1 N. E. 6th Street, Coupeville, Wa.

APPOINTMENTS AND REAPPOINTMENTS

By unanimous motion, the Board made the following appointments and reappointments to the Noxious Weed Control Board and the Workforce Development Council:

Noxious Weed Control Board

Reappointment:

Sheila Case-Smith, Oak Harbor
Representing District I
Term: July 6, 2008

Reappointment:

Tom Eisenberg, Camano Island
Representing District V
Term: July 6, 2008

New Appointment:

Fred VanBenschoten, Clinton
Representing District IV, filling an existing
vacancy for a term expiring July 6, 2006

Workforce Development Council

Mike Gallus, Freeland
Representing Private Business sector
Term: July 27, 2006

JUVENILE AND FAMILY COURT SERVICES – CONTRACTS APPROVED

Having reviewed contracts at a recent Staff Session with Michael Merringer, Administrator, Juvenile and Family Court Services, the Board at this time approved the following two contracts:

- Contract #0463-53521 (RM-JUV-04-0066) with DSHS for Juvenile Rehabilitation Administration to provide ESSB5903 Disposition Alternatives
- Contract (RM-JUV-04-0067) with DSHS, JRA Region 3, to provide family therapy services, contract in the amount of \$4,650.

ORDINANCE #C-75-04 (PLG-012-04) AMENDMENTS TO COUNTY BUILDING CODE, FIRE CODE, FIRE INSPECTIONS - ICC 16.13.100; ICC 16.19.040; ICC 17.03.260

Ordinance #C-75-04 (PLG-012-04) Amendments to County Building Code, Fire Code, Fire Inspections - ICC 16.13.100, ICC 16.19.040 and ICC 17.03.260 was presented for the Board's consideration by Phil Bakke, Planning & Community Development Director, and Bob McCaughan, Building Official.

Documents provided were: Proposed Ordinance PLG-012-04 with Exhibits A and B; and Island County Planning Commission Findings and Recommendations dated July 13, 2004. The recommendation of the Island County Planning Commission was reviewed by Washington State agencies pursuant to the Growth Management Act, and no objections were received from any State agencies.

Mr. Bakke outlined available options to the Board: accept and adopt the amendments as recommended by the Planning Commission without substantive changes; remand the matter back to the Planning Commission; or schedule a public hearing before the Board to consider changes to the Planning Commission recommendation.

Mr. Bakke noted that at the beginning of the year the Planning Commission appointed a subcommittee to work with Planning & Community Development, and others, in order to come up with a new building code in response to the Washington State Legislature having adopted the International Building Code, International Residential Code, International Mechanical Code and International Fire Code to replace the Uniform Building Codes effective July 1, 2004. The

subcommittee recommendation was presented to the Planning Commission with a recommendation of approval, and the Planning Commission held three hearings to gather public input. The Planning Commission made no changes to the work product of the subcommittee and recommended unanimously that the Board of County Commissioners adopt Ordinance PLG-012-04. He then outlined key points of the proposal:

1. Adopting formally in local code the International Building Code as Island County's code.
2. The County's "Owner-Builder Code" has been taken out of the Code. The Washington State Building Code Council advised that amendments adopted prior to establishment of the State Building Code Council would go by the wayside upon adoption of the International Building Code [IBC]. Affordable housing and accessibility to building homes was subsequently addressed through the County's Affordable Housing Program and allows for a building permit to be issued for \$204.50, and is still available for an owner-builder to build a home.
3. The UBC and IBC provide for a building code board of appeals. The county has had such a board for years but Mr. Bakke could not recall not a single issue brought to that board in his tenure. The subcommittee recommended that given the litigious nature and complexity of these issues that the Hearing Examiner take over the responsibility for hearing those cases and that section of the code be repealed.
4. Enforcement process be handled through enforcement standards of ICC 17.03.

Mr. Bakke and Mr. McCaughan provided clarification with regard to owner built homes in response to questions from Commissioner Shelton. Even if the County retained the provision, the same number of inspections would be required as for a regular building permit, along with plan review thus no basis on which to say that an owner-builder permit would provide a permit for less money based on less time and review by the County. There was a fairly diverse group of folks who attended the Planning Commission hearings and builders certainly were aware of the provision. Most folks understood that the owner builder provisions were really eliminated by action taken by the Washington State Legislature. The owner-builder would not have the advantages in the code that some people believe it would since all inspections and plan review would be required; the only benefit is a \$500 permit but the affordable housing standard can now bring that down to \$204.50. Utility of the owner-builder code has been slim, probably about three permits in the first six months of this year.

As to a question from Commissioner McDowell on Exhibit A, Page 2 of 17, item 2.6 at the top of the page, Barrier-Free Design Standards, Mr. Bakke indicated that this language replaces WAC 51.20 and does not bring about a new set of rules into the County's code. Mr. McCaughan commented that IBC standardizes the general building codes, but there is a separate handicap code. What has happened this year is that the State of Washington went to a more simplified version, and this does not cause Island County to have the same requirements as for example Seattle would. With regard to County provisions with respect to noise disclosure, this proposal does not usurp that; the key distinction there as Mr. Bakke noted is that those items were taken before the State Building Code Council whereas the owner-builder code was prior to the State Building Code Council.

Mr. Bakke stated that on Exhibit A, Page 14 of 17 – revocation of approvals or permits, that is currently in code and none of it is new. Exhibit A, Page 15 of 17 Fish & Wildlife Conservation Areas, all of ICC 17.03 enforcement provisions of restorations; the language is current code. These are areas adopted by the Board of Commissioners as areas that could get more attention from the critical area perspective – this adds building code enforcement to ICC 17.03 enforcement code section. With regard to adopting the International Fire Code, it is not significantly different that current fire code.

Lori Hilleary, Langley, expressed concerns about eliminating the owner builder provisions to build a home. Commissioner Shelton explained that nothing in the code says that an individual cannot build on their own; it is just that it cannot be built under an owner-builder permit.

With regard to concern by Ms. Hilleary about potential affect including provisions of fish and wildlife restoration here would have on the 2005 Comprehensive Plan update, Mr. Bakke stated that would be none at all; the County has in place a comprehensive enforcement program and instead of trying to create a new standard for dealing with buildings, this proposes to simply add building enforcement to that chapter.

Commissioner McDowell moved the adoption of Ordinance #C-75-04/PLG-012-04, Amendments to County Building Code, Fire Code, Fire Inspections - ICC 16.13.100, ICC 16.19.040 and ICC 17.03.260 Motion, seconded by Commissioner Shelton, carried unanimously. Further, by unanimous motion, the Board added verbiage to page three of Ordinance #C-75-04/PLG-012-04 to state that "Ordinance #C-75-04/PLG-012-04 is adopted pursuant to the Island County Planning Commission July 13, 2004 recommendation". *[Ordinance, Exhibits and July 13, 2004 Island County Planning Commission Findings and Recommendations placed on file with the Clerk of the Board]*

PUBLIC INPUT OR COMMENTS

Lori Hilleary, Langley, brought three issues to the Board:

(1) Jane Hilton [Ms. Hilleary's aunt] resided for approximately 35 years on the corner of Bush Point Road and Shore Meadows Road and has shared in a well with the neighbor to the south. Before the owner of the house to the south sold some 9 or 10 years' ago, an agreement was made between that owner and Jane Hilton to secure her water rights. There is an agreement, but was not sure that it was an approved two-party well. For some years' now the current owner of the house to the south has been turning down Ms. Hilton's water to a trickle, making it unsanitary and inhumane. Discussed with the Health Services Director who instructed her to write a letter and outline all details.

Commissioners noted that she had taken the correct step, and encouraged her to write the letter outlining the issues involved and pursue through the Health Director.

(2) County decision on Saratoga Beach property mentioned at previous meetings, located on the northern side of the bulkhead and in front of the bulkhead, with regard to deeding property including second class tidelands and non-exclusive easement for ingress or egress or any other use to the County. Ft. Ward Estate has right to the property.

Commissioner Shelton recalled some e-mail from Terri Arnold, GSA/Parks with some comments and questions. The budget under which Parks currently operates is stressed at this point to take care of the existing properties the County owns, and to take on the responsibility of another property with major capital expenditures [recreate the bulkhead] required at some point, needs to be assessed. The County has not come to any decision at this point.

(3) Inquired about the status of the County's determination on the ownership of McMaster Road.

The Public Works Director confirmed that written response was in today's mail, and handed a copy to Ms. Hilleary at this time. The letter indicated that the Department was able to trace back to the Seventies where the County maintained that stretch of road, and had been included on the County Road Log sometime during the Seventies.

Ms. Hilleary disagreed with the determination outlined in the letter from the Public Works Department that McMaster Road is a county road. Asking about provisions to appeal the decision, she was advised that the appeal probably would be to Superior Court.

Donna Sedey, Coupeville, who has been working on a project on Snakelem Point started in 1997-98, stated that they had cleaned up property that had been used as a neighborhood garbage can for about fifty years, so that the property would be returned to its natural state of a wetland. She has yet to receive a call back from either Mr. Bakke or Mr. Tate in the Planning Department to explain why they never got the plat map brought up to date and the designated wetland on the plat map.

Ms. Sedey was assured by Commissioner Shelton that she would receive a call today.

Dick Moa, Camano Island was appreciative for the opportunity given to Camano Island residents to participate via the video conferencing system.

RESOLUTION #C-76 -04/R-24-04 – INITIATING COUNTY ROAD PROJECT CRP 04-04 - WOODLAND BEACH ROAD REPAIR

As presented by Bill Oakes, Public Works Director, the Board adopted Resolution #C-7604/R-24-04 In the Matter of Initiating County Road Project designated as CRP 04-04, Work Order, Woodland Beach Road Repair in the amount of \$226,000.00.

[Resolution #C-76-04/R-24-04 placed on file with the Clerk of the Board]

SUPPLEMENTAL AGREEMENT 2 – PW-0020-28(B) - ROSA M. ABEYTA LLC – AGREEMENT FOR RIGHT OF WAY NEGOTIATIONS

Supplemental Agreement #2 to PW-0020-28(B) between Island County and Rosa M. Abeyta LLC, changing scope of work to

an Agreement for Right of Way Negotiations and Compensation for Services, Notices & Authorized Representatives, was approved by unanimous motion of the Board as presented by Mr. Oakes..

BID AWARD FOR HARBOR HILLS OUTFALL PROJECT

The Board by unanimous motion awarded bid for the Harbor Hills Outfall Project, PWP 00-02, Work Order 28, to the low bidder, SRV Construction, Inc., in the amount of \$96,578.50.

**STORMWATER MITIGATION AGREEMENT & COVENANTS – HOLMES HARBOR HOME BUILDING, LLC;
LOT 9, BLK 5, DIV. NO. 8, PLAT OF HOLMES HARBOR GOLF & YACHT CLUB**

The Board by unanimous motion approved Stormwater Mitigation Agreement and Covenants #PW-0420-88 between Island County and Holmes Harbor Home Building, LLC, related to Lot 9, Block 5, Div. No. 8, Plat of Holmes Harbor Golf & Yacht Club.

**CHANGE ORDER TO CONTRACT PW-0420-102 - KRIEG CONSTRUCTION, INC. – 2004 WHIDBEY ISLAND
HMA OVERLAYS**

By unanimous motion, the Board approved Change Order to Contract PW-0420-102 with Krieg Construction, Inc. – 2004 Whidbey Island hot mix asphalt overlay project under CRP 04-02, in the amount of \$94,776.00. As explained by Mr. Oakes, the change order adds paving of basketball court at the site of the old modular in Coupeville [per lease agreement]; deletes a portion of Bayview Road and transfers in-house chip seal roads for items 60 through 69 located in the plat of Scatchet Head, and adds 4 days to the contract time. The change order brings the total contract to \$785,989.85.

NOTE: The 2:45 p.m. Public Hearing on Resolution #C-67-04 Amending Island County Code 2.20A Island County Fair has been continued to August 23, 2004 at 2:45 p.m.

There being no further business to come before the Board at this time, the meeting adjourned at 2:55 p.m.
The next regular meeting of the Board is scheduled for August 2, 2004, beginning 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