

BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING - SEPTEMBER 20, 2004

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on September 20, 2004 at 930 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. The meeting began with the Pledge of Allegiance. By unanimous motion, the Board approved the minutes from the September 13, 2004.

VOUCHERS AND PAYMENT OF BILLS

By unanimous motion, the Board approved the payroll dated September 15, 2004, and the following vouchers/warrants: Voucher (War.) #197666 - 197979. \$1,601,739.46.

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 two claims as follows: V4-8 \$5,233.54 and V4-9 \$4,265.67.

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
Treasurer	086/04	Accountant	#2106.00	Replacement	9/20/04
District Ct.	087/04	Ct. Commissioner	#1006.00	Replacement	9/20/04
Maintenance	088/04	Night Cust.	Camano #901.06	Replacement	9/20/04

REVIEW MONTHLY FINANCIAL REPORTS FROM AUDITOR & TREASURER***Treasurer***

Under cover memorandum dated September 20, 2004, Linda Riffe, Island County Treasurer, provided the Cash Revenue/Current Expense report for the month ending August 31, 2004, line item by line item. Differences from percent to budget for this period (67%) had accompanying explanatory comments. There were no significant changes between last month and this month.

Auditor

Suzanne Sinclair, Island County Auditor, provided the Auditor's written revenue and expenditure report for the same period. Both for revenues and expenditures, Ms. Sinclair provided notes of explanation for any unusual percent differences from the 67% figure. *[Copies of the financial reports are on file with the Clerk of the Board]*

EBEY'S LANDING NATIONAL HISTORIC RESERVE TRUST BOARD RE-APPOINTMENT

By unanimous motion, the Board reappointed Al Sherman to serve as a member of the Ebey's Landing National Historic Reserve Trust Board in position #6 for a four year term expiring October 1, 2008.

BID AWARD FOR ISLAND COUNTY JAIL COOLING TOWER REPLACEMENT PROJECT

Dan Sherk, Facilities Director, recommended bid award for the Island County Jail Cooling Tower Replacement Project, as outlined in memorandum of September 14th, to Siemens Building Technology

in the amount of \$52,440.00, plus sales tax. The bid is good for 30 days [expires October 7] and Mr. Sherk proposes that if the Board awards bid today, the follow-on contract will be brought to the Board for approval/signature September 27th. Funding for the project is available from existing REET funding.

By unanimous motion, the Board awarded bid as recommended to Siemens Building Technologies in the amount of \$52,440.00 plus sales tax.

CONTRACT AND CONTRACT BOND APPROVED - ASPLUNDH TREE EXPERT COMPANY - BABY ISLAND ESTATES TREE REMOVAL PROJECT

Per recommendation of Betty Kemp, Director, GSA, and Terri Arnold, GSA Assistant Director/Parks, the Board by unanimous motion

approved the contract and contract bond between Island County and Asplundh Tree Expert Company for a total of \$10,800.00 plus sales tax, related to Baby Island Estates tree removal project.

FISCAL YEAR 2005 INTERLOCAL AGREEMENTS WITH ISLAND COUNTY EMERGENCY SERVICES COMMUNICATION CENTER

By unanimous motion the Board approved FY2005 interlocal agreements with I-COM, companion follow-on agreements to agreements approved between the County and the Washington State Department of the Military for E-911 funds, as follows:

- Interlocal Agreement #RM-BOCC-04-0062 between Island County and I-COM per State Agreement #E05-021 in the amount of \$27,432 – FY2005 State enhanced Wireless 911 Funds
- Interlocal Agreement #RM-BOCC-04-0063 between Island County and I-COM per State Agreement #E05-041 in the amount of \$110,880 – FY2005 State enhanced Wireline 911 Funds

RESOLUTION #C- 80 -04 - CALLING FOR A SPECIAL ELECTION RELATING TO ESTABLISHMENT OF A LIBRARY CAPITAL FACILITY AREA TO BE KNOWN AS THE “STANWOOD/CAMANO LIBRARY CAPITAL FACILITY AREA”, TO ISSUE GENERAL OBLIGATION BONDS IN THE AMOUNT OF \$9,000,000, AND TO IMPOSE AN EXCESS LEVY TO RETIRE SAID BONDS

As forwarded by Sno-Isle Regional Library Board and coordinated with the Island County Auditor, the Board adopted Resolution #C-80-04 In the Matter of Calling for a Special Election Relating [on the ballot at the general election to be held on November 2, 2004] to Establishment of a Library Capital Facility Area to be known as the “Stanwood/Camano Library Capital Facility Area”, to issue General Obligation Bonds in the amount of \$9,000,000, and to impose an excess levy to retire said bonds. [Resolution on file with the Clerk of the Board]

PUBLIC INPUT

Lori Hilleary, Langley, expressed concern having been alerted by relatives that the County road crew had been dispatched to sweep McMaster road. Her concern stems from the fact that she believes McMaster Road to be a private dead-end road and thought the money could be better spent, for example, on Crawford Road.

TURNBACK AGREEMENT – MONKEY HILL VICINITY TO TROXELL ROAD VICINITY

As presented by Bill Oakes, Public Works Director, with a recommendation of approval, the Board by unanimous motion approved Turnback Agreement #PW0420-125 between Island County and the Washington State Department of Transportation #TB 1-0181, for the area Monkey Hill Road vicinity to Troxell Road Vicinity.

EASEMENT #PW-0320-129 - ROBERT W. HOLDER, ET.AL., MADRONA WAY

Easement #PW-0320-129 between Island County and Robert W. Holder, et.al., necessary for the Madrona Way project under CRP 02-11, Work Order #35, was approved by unanimous motion of the Board, along with \$1,000.00 compensation, Parcel #142-3630, Sec 32, Twp., 1E.

SUPPLEMENTAL AGREEMENT #1- PW 0320-121(A) - AZIZ ENGINEERING COMPANY

Pulled by Public Works Director

STORMWATER MITIGATION AGREEMENTS AND COVENANTS – HOLMES HARBOR GOLF & YACHT CLUB

Stormwater Mitigation Agreements and Covenants as presented and recommended for approval by Bill Oakes, were approved by unanimous motion of the Board as follows:

- #PW-0420-138 between Island County and Gerald Wood, Lot 5, Block 3, Division 7, Plat of Holmes Harbor Golf & Yacht Club
- #PW-0420-141 between Island County and Jill Cramer, Lot 6, Block 3, Division 7, Plat of Holmes Harbor Golf & Yacht Club
- #PW-0420-146 between Island County and Steve Chism, Lot 7, Block 2, Division 6, Plat of Holmes Harbor Golf & Yacht Club.

SUPPLEMENTAL AGREEMENT 2 – #PW-0220-84 (B) - WASHINGTON TROUT, A WASHINGTON NON-PROFIT CORPORATION

Supplemental Agreement #2 to PW-0220-84 (B) between Island County and Washington Trout, a Washington Non-profit Corporation, changing completion date to December 31, 2004, Bayview Surveying, Inc. added to the list of firms to receive subcontracts for Task 10, was approved by unanimous motion of the Board as presented.

HEARING HELD: APPLICATION TO OPEN UNOPENED PORTION OF COUNTY RIGHT-OF-WAY KNOWN AS VIEW RIDGE DRIVE

A Public Hearing was held at 10:20 a.m. as advertised for the purpose of considering Application to open an unopened portion of County right-of-way known as View Ridge Drive, Section 22, Twp 32N., R1E. by Roger Christensen to extend the road 290 feet. A number of residents from the area were in attendance at the time of hearing.

At the time public comments were taken, Bill Cheaqui, 974 View Ridge Road, expressed no objections if the plan was just to extend the length of the road, and no intention to do anything to the portion of the road between Scenic Heights Road and the end of the paving.

Bill Oakes provided confirmation that the road would be extended a total length of 290 feet, constructed to short plat standard of 14 feet in width for that stretch of road. Permit conditions are specified in Attachment "A".

There were no other comments. By unanimous motion the Board approved Application to open an unopened portion of County right-of-way known as View Ridge Drive, Section 22, Twp 32N., R1E., subject to the conditions as provided from Public Works.

APPEAL OF SHERIFF'S DENIAL OF DISPLAY PERMIT FOR FIREWORKS SHOW ON HOLMES HARBOR OCTOBER 9, 2004 - LEROY E. OLSEN

The Appeal of the Sheriff's denial of application for fireworks permit by LeRoy E. Olsen came before the Board for consideration at 10:45 a.m. as scheduled. Present were:

APPLICATION:

Application for special fireworks permit dated 8/30/04 by LeRoy E. (Mick) Olsen per ICC 14.03.120 for a fireworks display on 10/9/04 beginning at 7:45 p.m. near 5225 South Bercot Road, Freeland.

SHERIFF'S DENIAL

Island County Sheriff denied the permit by letter dated 9/10/04 because out-of-season fireworks displays have become a public issue and a financial burden on the Sheriff's Office. Rapid urbanization of the County and world events change citizens reaction to unexpected displays, resulting in hundreds of 911 calls to emergency dispatch, overloading the system, displacing real emergencies, costing thousands of dollars in additional dispatch fees as well as wasted deputy time.

APPEAL OF DENIAL

Appeal letter by Mr. Olsen, dated 9/12/04, was received by the Board on 9/13/04, requesting that the Board overrule the Sheriff and instruct the Sheriff to issue the permit. M.O.C. Fireworks in general, and this permit, meet all state and county requirements Show will only be 10 minutes, largest shells used 3". Problems Sheriff is having need to be addressed, but arbitrarily outlawing commercial fireworks cannot be the only possible answer

SHERIFF

Sheriff Hawley brought the issue of fireworks to the Board's attention over the last few months noting problems experienced with fireworks displays taking place off-season [other than July 4th and New Years']. One of the big problems is when the community at large is not aware of a fireworks display, especially because of 9-11, there is a flood of 911 calls to I-COM dispatch center, taking time away from real emergencies and costing taxpayer dollars. Over the years, more and more community groups hold triathlons, bike rides, etc. and want police protection, which does impact the Department. The Sheriff's budget remains the same or reduced and does not have the resources to support private parties. There is also a significant portion of the community that do not like fireworks and the Sheriff has to balance all those interests. The Sheriff has asked that the Board come up with a compromise ordinance, but to date has not, maintaining that the Sheriff has the authority to set standards, which he has done and made those public. In response to questions of the Commissioners, even though the proposal is for a relative short display time of 10 minutes and the largest shells being used 3 inches, the Sheriff is still faced with the problem that any show out of season will generate calls to the ICOM dispatch center and taxpayer dollars have to support the Sheriff's Department to go out and answer those calls. Only a \$10 for permit fee is received to cover the cost of processing. In the past he has required notices in the paper yet only a fraction (20% +/-) of the people living in the area were aware of the event. Many people in the area are week-enders and do not read the local paper. The Sheriff has in the past done door to door leaflets, but it is a difficult situation.

APPELLANT

Mick Olsen did not disagree with anything the Sheriff stated and appreciated his position, but viewed fireworks as a part of the American heritage and urged that something be figured out so as not to lose the right to have fireworks. Shows all have a certain amount of noise but can be controlled to a point. He obligated himself to this particular show for a wedding a long time ago for a location in the Holmes

Harbor area at a private residence. Most private displays last only between 8 to 10 minutes. Answering questions posed by Commissioner McDowell, Mr. Olsen confirmed that he was willing to pay for the cost of a legal ad to be placed in the South Whidbey Record, comply with the conditions of a ten minute display with no larger than 3" shells used, and agreed to post a \$500 cash or check in lieu of a bond, forfeited should the show go twelve minutes or more.

Board Review and Comments

Commissioner McDowell made the point that on appeal the Board listens to both sides and looks at the rules. In this case ICC 14.03.120.c.2.a states that "The Island County Sheriff shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public display of fireworks . . . ". The rule the Sheriff adopted provides two times during a year when fireworks will be allowed: around the Fourth of July and around January 1st which basically prohibits fireworks the rest of the year. The power to adopt reasonable rules and regulations by the Sheriff would include things such as maximum size of shell, time of day, length of time, to control fireworks. The Sheriff has asked the Board to change the County Code to prohibit fireworks or some compromised code, but thus far the Board chose not to do so. Commissioner McDowell's opinion was that to not allow fireworks throughout the year under any condition was not a reasonable rule. Any prohibition of fireworks year-around would have to be made by a code change the Board would have to adopt after a public review process. He suggested the show be allowed as a trial to see what it might generate as far as complaints, subject to the conditions that it be a ten minute show using maximum 3" shells, that Mr. Olsen pay for an ad for the Sheriff to place in the South Whidbey Record specifying the date, time, place, etc., and submit a \$500 bond or cash/check in lieu of bond, that would be forfeited should the show exceed 12 minutes, the bond go towards payment for 911 calls that are generated due to the longer show. With that he would support overturning the Sheriff's denial.

Commissioner Shelton agreed that the Sheriff brought up valid issues about funding for the Sheriff's Department not being adequate to accommodate not only fireworks shows but some of the other public events such as marathons and bike rides, etc. and need to be cognizant of the fact that Sheriff has limited resources and that all of these special events require additional resources. He referenced a letter from

Tom Shaughnessy, Director, I-COM, commenting that the fireworks display puts an undue burden on I-COM, and adds cost. On the other hand, he recognized that Mr. Olsen made some commitments in terms of time and size of shells to accommodate for that, and like Commissioner McDowell, was willing to allow one more display as a trial basis to see what kind of response comes about as a result of a limited amount of time for the show and using the 3" size shells.

Chairman Byrd echoed some of the comments of Commissioners Shelton and McDowell. He looked at several issues including the personal rights issue and the fact that the Sheriff has a limited amount of staff and resources. Given that he felt it worthwhile on a trial basis to allow the limited show with conditions suggested.

By unanimous motion, the Board approved the appeal allowing fireworks display permit as outlined in M.O.C. application, to be held on October 9, 2004 beginning at 7:45 p.m. for a private reception near

5225 South Bercot Road, Freeland, lasting not longer than ten (10) minutes, with the largest shells being used to be three inches (3"), and subject to the following conditions:

1. M.O.C. will pay for the cost of a legal ad to be placed in the South Whidbey Record by the Island County Sheriff stating the date, time, place and particulars of fireworks display;
2. M.O.C. will provide a \$500 bond, or check or cash in lieu of bond, payable to Island County and deposited with the Office of the County Commissioners, said bond, check or cash forfeited if the fireworks display lasts more than twelve (12) minutes [measured 12 minutes from the first shot to the last shot].

There being no further business to come before the Board at this time, the meeting adjourned at 11:15 a.m. The next regular meeting is scheduled for September 27, 2004 beginning at 11:00 a.m. for an Elected Officials and Appointed Department Head Roundtable, followed by regular agenda items at 1:30 p.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

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