

**ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING
REGULAR SESSION - JULY 18, 2005**

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on July 18, 2005 at 9:30 a.m., in the Island County Courthouse Annex, Hearing Room, 1 N. E. 6th Street, Coupeville, Wa. Mike Shelton, Chairman, Wm. L. McDowell, Member, and William J. Byrd, Member, were present. The meeting began with the Pledge of Allegiance. By unanimous motion, the Board approved the minutes as presented from the July 11, 2005 Regular Meeting.

VOUCHERS AND PAYMENT OF BILLS

The Board by unanimous motion approved the payroll dated July 15, 2005, along with the following

vouchers/warrants: Voucher (War.) #217446-217797\$1,198,321.14.

HEARING SCHEDULED: Resolution #C-78-05 Amending the 2005 Island County Budget

As prepared and presented by the Budget Director, Elaine Marlow, the Board by unanimous motion scheduled a Public Hearing on August 8, 2005 at 9:55 a.m. to consider Resolution #C-78-05 In the Matter of Amending the 2005 Island County Budget.

PERSONNEL ACTION AUTHORIZATIONS APPROVED

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
Health	060/05	Env. Health Spec. II 2407.03	Replacement	8/16/05
Health	061/05	Programmer/analyst 711.00	Personnel	7/18/05
Public Works	062/05	SW Att I .4 fte 2249.06	Replacement	7/18/05

Northwest Workforce Development Council Reappointments

By unanimous motion, the Board made the following reappointments to the Northwest workforce Development Council:

Rhea Nelson, New Leaf, representing Community Based Organizations in Island County for a three year term running until July 27, 2008

Sharon Hart, EDC, representing Economic Development Island County for a three year term running until July 27, 2008

Cynthia Shelton, Langley, representing K-12 Education in Island County for a two year term running until July 27, 2007.

Resolution #C-79-05 Authorizing an Interfund Loan to the Island County Fair Fund (for the purpose of establishing the annual revolving fund and pay expenses during the Fair)

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The Board, by unanimous motion, approved Resolution #C-79-05 Authorizing an Interfund Loan to the Island County Fair Fund, for the purpose of establishing the annual revolving fund and pay expenses during the Fair. [*Resolution #C-79-05 on file with the Clerk of the Board*]

**Agreement with WASHINGTON DEPARTMENT OF Information Services to purchase
Microsoft products AND software licenses**

Agreement (RM-CS-05-0076) with the Washington State Department of Information Services to purchase Microsoft products & software licenses at reduced prices as forwarded with a recommendation of approval from Cathy Caryl, Director, Central Services Department was approved by unanimous motion of the Board.

**Addendum No. 3 to Use and Occupancy Agreement for Family Resource Center Oak
Harbor between Island County and Whidbey Island General Hospital**

Addendum No. 3 to Use and Occupancy Agreement for Family Resource Center Oak Harbor between Island County and Whidbey Island General Hospital (RM-GSA-96-0041-C) as forwarded and recommended for approval by Betty Kemp, Director, GSA, was approved by unanimous motion of the Board.

Contract HS-04-03 Amendment #3 with Service Alternatives for Washington, Inc.

Contract #HS-04-03, Amendment 3 (RM-HLTH-99-0057), with Service Alternatives for Washington, Inc. reducing funding within developmental disabilities training, was approved by unanimous motion of the Board, representing a reduction in the amount of \$5,500, for a new total contract of \$184,067.

Contract Bond for Olson Plastering, Inc. - Administration BUILDING stucco project

Bid was awarded June 20, 2005, to Olson Plastering, Inc. for the Island County Administrative Building stucco project, the contract approved on June 27, 2005, with the proviso that the actual work under the contract not start until the County receives the performance bond. The signed contract bond was provided to the Board by Dan Sherk, Facilities Director, and on unanimous motion, the Board approved and signed the Contract Bond for Olson Plastering, Inc. for Administration Building stucco project

Approval of By-laws developed by the Council of Governments

By unanimous motion of the Board on behalf of Island County, the Board approved and signed the By-laws developed by the Council of Governments in accordance with Articles of Incorporation adopted by the this Board on 5/23/05. The Bylaws will now be forwarded to the remainder of the members of the Council of Governments for authorization and signature by their respective jurisdictions.

Liquor Licenses Approved

By unanimous motion, the following liquor license applications were approved by unanimous

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motion of the Board, on review and recommendation by the appropriate County departments:

Special Occasion Liquor License #091623 by FETCH, for a special occasion to be held September 25, 2005 from 1:00 p.m. to 4:00 p.m., Buchanan Vineyard, Langley, WA.

Assumption of Liquor License #080699-3F from Myers Family Limited Partnership dba Camano Plaza Market to Camano Plaza Market, L.L.C.

Assumption of Liquor License #084644-3F, from Myers Family Limited Partnership dba Camano Plaza Texaco to Camano Plaza Gas & Lube, L.L.C.

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Review Monthly Financial Reports from Auditor & Treasurer

Island County Auditor

Suzanne Sinclair, Island County Auditor, provided a written financial report for the period ending June 30, 2005. In a perfect world the budget figures for both revenue and expenditures would be at 50%. With regard to a previous question asked of the Auditor, whether lower Auditor revenues reflected a drop in recording of documents, her response was in the negative; the lower revenue actually due to the fact that \$150,000 for the voter registration system had not been received by the County as yet – it will end up being an almost direct reimbursement from the State. With regard to the Clerk's revenue being significantly behind, her comment was that reimbursement had not yet been received for the IV-D program for 2005. WSU revenues received from private donations were much more substantial than budgeted for. Overall, Current Expense revenues are at the 56% mark; expenditures at 49%. For other funds, revenues are at 50% with expenditures at 30%.

Island County Treasurer

Lois Rusher, Chief Deputy Treasurer, standing in for Linda Riffe, Treasurer, in her absence, provided the Treasurer's written financial statement for the same period. There were no questions or comments that had not already been reviewed or provided by the Auditor

[Both reports are on file with the Clerk of the Board]

**HEARING HELD: Franchise #159(R) – Arrowhead Beach Co-op Water Association
renewal of existing water distribution line**

A Public Hearing was held as advertised to consider Franchise #159(R), #PW-0520-277, by Arrowhead Beach Co-op Water Association for the renewal of an existing water distribution line in the Plat of Arrowhead Beach and Arrowhead Beach, 1st Addition, Sec. 18, Twp. 32N., R 3E., Camano Island. Bill Oakes, Public Works Director, reported staff recommendation of approval of said franchise renewal [memorandum dated June 22, 2005 from Richard K. Snyder, P.E., County Engineer].

When Chairman Shelton called for public comments for or against renewal of the franchise, no one in the audience expressed a desire to comment.

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By unanimous motion, the Board approved Franchise #159(R), #PW-0520-277, by Arrowhead Beach Co-op Water Association for the renewal of an existing water distribution line in the Plat of Arrowhead Beach and Arrowhead Beach, 1st Addition, Sec. 18, Twp. 32N., R 3E., Camano Island.

HEARING HELD: Sunrise Hills Community Association renewal of existing water distribution system FRANCHISE - Plat of Sunrise Hills, Divisions No. 1-3

As advertised, Chairman Shelton opened a public hearing for the purpose of considering Franchise #145(1)R, #PW-0520-274, by Sunrise Hills Community Association for renewal of existing water distribution system in the Plat of Sunrise Hills, Divisions No. 1-3; Sec. 5/8, Twp 33N., R 3E., North Whidbey Island. Commissioner Byrd excused himself from the hearing and left the room, and did

not participate in the hearing, deliberation process or vote, inasmuch as he is the President of the Sunrise Hills Community Association.

Bill Oakes reported recommendation of approval from staff for the renewal of the franchise [memorandum dated July 13, 2005 from Richard K. Snyder, P.E., County Engineer].

No one in the audience expressed a desire to speak either for or against renewal of the franchise.

Commissioner McDowell moved the approval of Franchise #145(1)R, #PW-0520-274, by Sunrise Hills Community Association for renewal of existing water distribution system in the Plat of Sunrise Hills, Divisions No. 1-3, Sec. 5/8, Twp 33N., R 3E., North Whidbey Island. Motion, seconded by Commissioner Shelton, carried unanimously.

Commissioner Byrd rejoined the meeting.

Hearing HELD: Franchise #331 - O-Zi-Ya Community Club - renewal of existing water distribution system, Plat of O-Zi-Ya, Divisions No. 1 & 2

As advertised a public hearing was held on Franchise #331, #PW-0520-273, by O-Zi-Ya Community Club for the renewal of an existing water distribution system in the Plat of O-Zi-Ya, Divisions No. 1 and 2 in Sec. 5, Twp 30N, R 3E., Camano Island. Mr. Oakes reported staff recommendation of approval of said franchise renewal [June 22, 2005 memo from Richard K. Snyder, P.E., County Engineer].

When Chairman Shelton called for public comments for or against renewal of the franchise, no one in the audience expressed a desire to comment.

By unanimous motion, the Board approved Franchise #331, #PW-0520-273, by O-Zi-Ya Community Club for the renewal of an existing water distribution system in the Plat of O-Zi-Ya, Divisions No. 1 and 2 in Sec. 5, Twp 30N, R 3E., Camano Island.

Hearing HELD: Franchise #332 – Sun Mountain Construction - water distribution system - East Camano Drive

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As advertised a public hearing was held on Franchise #332, #PW-0520-179, by Sun Mountain Construction for a water distribution system located in East Camano Drive, Camano Island, in Sec. 25, Twp 30N., R 3E. Mr. Oakes reported staff recommendation of approval of Franchise #332 [June 20, 2005 memo from Richard K. Snyder, P.E., County Engineer].

When Chairman Shelton called for public comments for or against renewal of the franchise, no one in the audience expressed a desire to comment.

By unanimous motion, the Board approved Franchise #332, #PW-0520-179, by Sun Mountain Construction for a water distribution system located in East Camano Drive, Camano Island, in Sec. 25, Twp 30N., R 3E.

**Request to Vacate Portion of County Road Right-of-Way known as Ridgecrest Avenue
located in the Plat of Ledgewood Beach, Div. No. 3**

Request by Petitioner Ms. Normal L. Clark, to vacate a portion of County Road right-of-way known as Ridgecrest Avenue, located in the Plat of Ledgewood Beach, Div. No. 3; Sec. 30, Twp. 30, R 2E, was by unanimous motion of the Board referred to the Island County Engineer for review and report.

TEMPORARY CONSTRUCTION EASEMENTS, QUIT CLAIM DEEDS APPROVED

Monroe Landing Road, CRP 02-03, Work Order 356

As presented by Mr. Oakes, the Board by unanimous motion approved the following Temporary Construction easements and Quit Claim Deeds associated with Monroe Landing Road CRP 02-03, work order #356:

Temporary Construction Easement #PW-0520-172 - Darrell C. & Lori L. Bratt,

Parcel 295-4700; Sec. 16, Twp 32N., R 1E.

Quit Claim Deed – Darrell C. & Lori L. Bratt with compensation in the amount of

\$400.00/land; Parcel 295-4700; Sec. 16, Twp. 32N, R 1E.

Temporary Construction Easement #PW-0520-228 - Mark K. & Lori D. McKole;

Parcel 195-5060; Sec. 16, Twp 32N. R 1E

Quit Claim Deed – Mark K. & Lori D. McKole with compensation in the amount of

\$2,330.00 (\$1,750.00/land, \$550.00/improvements); Parcel 195-5060; Sec. 16, Twp 32N., R 1E.

Temporary Construction Easement #PW-0520-231 - Mark K. & Lori D. McKole;

Parcel 227-4660; Sec. 16, Twp. 32N, R 1E.

Quit Claim Deed –Mark K. & Lori D. McKole with compensation in the amount of

\$1,600.00 (\$850.00/land, \$750.00/administrative); Parcel 227-4660; Sec. 16, Twp 32N, R 1E.

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Temporary Construction Easement #PW-0520-157 - Randy A. Jordan; Parcel 122-0100; Sec. 15, Twp 32N, R. 1E.

Quit Claim Deed – Randy A. Jordan with compensation in the amount of \$4,600.00 (\$3,600.00/land, \$1,000.00/improvements); Parcel 122-0100; Sec. 15, Twp 32N, R 1E.

TEMPORARY CONSTRUCTION EASEMENT AND QUIT CLAIM DEED APPROVED

Camano Hill Road Improvements CRP 02-04 Work Order 176

As presented by Mr. Oakes, the Board by unanimous motion approved a Temporary Construction Easement and Quit Claim Deed associated with the Camano Hill Road Improvement Project CRP 02-04, Work Order 176 as follows:

Temporary Construction Easement #PW-0520-75 - Leslie Broady; Parcel 235-5000; Sec. 1, Twp 31N, R 2E.

Quit Claim Deed – Leslie Broady, with compensation of \$6,100.00/land; Parcel 235-5000; Sec. 1, Twp 31N, R 2E.

CONSTRUCTION EASEMENT AND QUIT CLAIM DEED APPROVED

Bayview Road Improvements CRP 98-17 Work Order 229

As presented by Mr. Oakes, the Board by unanimous motion approved a Construction Easement and Quit Claim Deed associated with the Bayview Road Improvement project CRP 98-17, Work Order 229, as follows:

Construction Easement #PW-0420-31 - Irving D. Smith, Jr., Parcel 247-0620; Sec. 8, Twp 29N, R 3E.

Quit Claim Deed – Irving D. Smith, Jr. with compensation in the amount of \$17,525.20 (\$6,114.60/land, \$2,200.00/landscaping & fencing, \$7,950.60/administrative settlement, \$750.00/evaluation allowance, \$510.00/survey reimbursement); Parcel 247-0620; Sec. 8, Twp. 29N, R 3E.

Resolution #C-80-05/R-24-05 Initiating County Drainage Project CDP 05- 02, Work Order 153 - Bradshaw Road Outfall

Resolution #C-80-05/R-24-05 In the Matter of Initiating a County Drainage Project designated as CDP 05-02, Work Order #153, Bradshaw Road Outfall project, located in Sec. 3, Twp. 29N, R 2 E., was approved by unanimous motion as presented and recommended by the Public Works Director.

[Resolution #C-80-05/R-24-05 on file with the Clerk of the Board]

Abutter's Agreement & Covenants - Bryan T. Beaver AND Heather W. Neely, Plat of Saratoga Beach, Division No. 1, Lots 15 & 16.

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Abutter's Agreement & Covenants #PW-0520-274 between Island County and Bryan T. Beaver and Heather W. Neely, Plat of Saratoga Beach, Division No. 1, Lots 15 & 16 was approved by unanimous motion of the Board.

**HEARING HELD: Ordinance #C-42-05 (PLG-008-05) Amending Chapter 17.02 ICC
relating to Type 5 Stream Buffers**

As scheduled and advertised, a public hearing was held at 10:30 a.m. on Ordinance #C-42-05 (PLG-008-05) Amending Chapter 17.02 ICC relating to Type 5 Stream Buffers, modified on May 16, 2005 and rescheduled to June 13, 2005, and further rescheduled to this date and time.

ATTENDANCE [Attendance Sheet GMA record # 8149]

Staff: Phil Bakke, Planning & Community Development Director

Consultant: Keith Dearborn, Dearborn & Moss, PLLC

Audience: Approximately 8 in the audience in addition to

Whidbey News Times reporter

Mr. Bakke recapped, noting this was an amendment to 17.02.050, Fish & Wildlife Habitat Conservation areas code provisions, specifically section C. 3. a), protection standards applied to streams. The proposed ordinance comes as a result of the Court of Appeals decision as explained at the

prior hearing on May 16, 2005. Current code allows for Type 5 streams that are tributary to salmon bearing streams or located in the rural zone to have 50' buffers. Currently, property zoned rural has a

50' buffer from Type 5 streams. For property zoned Rural Forest, Light Manufacturing, Rural Center, etc., not tributary to a salmon bearing stream the current buffer is 25'. The proposed ordinance would require all Type 5 streams regardless of zoning or whether they are tributary to salmon bearing streams to have a 50' buffer. At the last hearing the Board added a paragraph to the cover ordinance and is the subject of today's public hearing:

"Be It Further Ordained that these amendments do not apply to any existing uses as of the date of the Hearings Board decision, and shall apply to all future uses."

Public Testimony

Steve Erickson, WEAN, Langley, provided for today's record a letter dated July 17, 2005 [GMA record #8150]. His reading of the situation is that once the mandate comes down from the Court exiting Type 5 stream buffers will be automatically invalidated again. The proposed language to be added appears to continue a trend he believed that at least two members of the Board began about 1995 chipping away at protections for streams in Island County. From 1984 to 1998 all streams in the County practically speaking received 100' buffers, though the paper minimum was 50'. The existing ordinance contains about 2-1/2 pages of 17 exemptions and it was unclear to

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him what uses that are not currently exempt would be added. The proposed new exemption would reduce existing protection of Type 4

streams because the actual ordinance language amends that entire section, including Type 4 and Type 5, and also would add that language to all Type 5 streams. He was curious to hear what uses the Board has in mind, but believed it both violated GMA and the Court of Appeals decision.

Diane Kendy, Langley, observed a sad lack of leadership. After a heartening period in 1998 working together and formulating the Comprehensive Plan, her belief was that the County reverted to an ugly stalemate of distrust and even hatred between the environmental and agricultural communities created by deliberate incitement by this Board. Instead of spending millions of tax dollars to avoid compliance with GMA, inventorying and assessing the critical areas should have been done so that a rational plan of protection could be worked out among all interested parties. She asked for a return to a civil sense of community.

Jeanne Hunsinger, Langley, mentioned that on June 16th a meeting had been held at the Bayview Senior Center, where Senator Haugen so much as said that she felt that local activists had gone too far. Senator Haugen, in her Viewpoint article in the June 1, 2005 edition of the Whidbey Record, stated: "WEAN's strict interpretation of state law threatens the progress we have made to protect the rural landscape and curb irrational development." And " The real issue should be fairness to all landowners with an eye to maintaining the rural character of our community. When measured against that yardstick it seems to me that the status quo has been working just fine.". The Senator indicated that her intent was to propose changes to the GMA during the upcoming session. Those developments strengthened Ms. Hunsinger's belief that the date of implementation of any more restrictive critical area protections for Island County should be postponed at least until after the forthcoming legislative session.

Fred Frei, Langley, also made reference to Senator Haugen's remarks in the June 1st Whidbey Record, and quoted: "In no way did the Legislature intend to turn back the clock on agriculture. And if we fail to provide flexibility within the GMA we risk throwing out the baby with the bath water.". Mr. Frei was encouraged by the language the Board included within the ordinance. The problem with regard to agriculture is not just a local problem, as noted from an article in Capital Press, February 10, 2005, commenting about Snoqualmie River farmers – land that was to be planted in corn the next year but now told it will go into trees as part of the Federal wetland restoration program; the same scenario is being repeated on farms all over the state. Another article, written by Preston Drew, a member of the

Snoqualmie Valley Land Advisory Committee, pointed out that a decade ago there were 100 farms in the Enamclaw plateau in the Snoqualmie Valley; last year there was only 46, and knew of 5 more that since quit. Mr. Frei understood that the 50' buffer largely was for wildlife consideration. In 1984 the rural people contributed to wildlife by way of down-zoning; contributed again in 1998 to wildlife through extensive zoning changes for many, and it is wrong now to ask agriculture folk to turn the clock back. The Commissioners, he thought, were on the right track as far as trying to protect the rural

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people and avoid treating them as second class citizens; they want no favors, just treated equal with the rest of the community. If there are environmental problems in Island County, it is the shoreline and the urban growth areas.

Marianne Edain, WEAN, Langley, observed the path was very simple: either abide by what the Hearings Board and the Court ordered or go back in front of the Hearing Board and the Court.

Steve Erickson believed the earlier record in this case was clear that 25' buffers are not adequate to protect quality, functions and values of streams. The Court of Appeals ruled all of the functions and values must be protected. Even the consultant's published work said 50' was the minimum necessary. He suggested that not all the environmental problems were in urban areas and on the shoreline, and referred folks to go drink a glass of water out of the pond at Hendersons, a rather over-stocked farm along the highway on South Whidbey.

Public Input closed.

Commissioner Deliberation and Action

Commissioner McDowell advised that he would vote for the Ordinance because there is an Appeals Court decision. He mentioned an interesting editorial in the Sunday PI talking about various actions by the State as a whole through the initiative process. Part of the article addressed a potential roll back of the transportation tax; another part talked about the possibility of a roll back similar to the Oregon initiative on the land. As things get out of balance, he assumed it would be some future battle fought throughout the State. Certainly he thought by far the majority of people intend that farming is grandfathered, and most people appreciate the rural character in the State, and knew the folks in Island County appreciate the rural character. It bothers him no end to grandfather all other uses and somehow AG be left out of the grandfathering part.

Commissioner Shelton commented that one of the major goals of GMA was to preserve existing farm land. Agriculture in Island County perhaps is a different kind of agriculture than exists in some of the large agriculture counties; nonetheless, AG in Island County is every bit as important to the culture of this County as it is in those larger AG counties. Even though there has not been any major emphasis on the degradation on water quality when it comes to streams and wetlands, when that did not "fly" the next area that came about was the need to consider stream buffers as wildlife corridors. He was born and raised in Eastern Washington. When there is a stream in a vast non-forested area, usually along the streams are a myriad of growth including trees, etc., standing out in an otherwise large open area. He can understand in that kind of a setting where stream corridors could become wildlife corridors, but as he has had the opportunity over the last few years to take numerous plane rides over Island County, the thing he is always amazed at is the amount of forested area that still exists in Island County. So, he submitted, that the value of stream corridors as wildlife corridors was not very important in the area in which we live. He did not think that GMA fully addressed how some of the competing goals of the Act are supposed to be rectified. Obviously there is a responsibility to protect critical areas and Chairman Shelton believed the ordinance does that. When critical areas come in conflict with

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other

goals of the Act then how do we balance those goals - a significant issue that the County is trying to address with this ordinance.

Commissioner Byrd, having grown up on a farm, was struck by the fact that an awful lot is said about the rural character and the fact that most folks would like to have rural character within the County. In his way of looking, if you take the farm out of that equation you don't have a rural character. The farm

is what makes that rural character and thought the County needed to do everything it could to support that farming.

Mr. Dearborn recommended an ordinance effective date today.

In the matter of Amending Chapter 17.02 ICC relating to Type 5 Stream Buffers, Commissioner Byrd moved adoption of Ordinance #C-42-05/PLG-008-05 with an effective date of July 18, 2005. Motion was seconded by Commissioner McDowell.

As far as clarification whether or not the motion incorporated the proposed amended language on existing uses discussed at today's hearing, Mr. Dearborn did not think the language had any affect of consequence, yet left people with the impression it did. The rural zone requires everyone to comply with a 50' buffer. Commercial AG and Rural AG zones use BMPs in lieu of a buffer so the modification to go to 50' has no affect on Commercial AG or Rural AG zones. Anyone concerned about agricultural activity in the Rural zone are already required to have 50' buffers and the ordinance does not change that. All other existing uses for practical purposes are grandfathered in. It would have

some affect potentially in the Rural Forest zone and RAIDs, but existing uses are grandfathered in and the ordinance would not change that. If that language is included, the record needs to be clear that it is for the purpose of making a statement of policy. In terms of agriculture, unfortunately a lot of the people testifying at the prior hearing were confusing AG BMP's in the Rural Zone with the buffer. Most of those people who spoke were Rural zoned residents and already subject to a 50' buffer and the ordinance would not affect them; the BMP issue does. Mr. Dearborn's recommendation was that the amendment be deleted from the ordinance before the Board takes action, for two reasons: (1) does not believe it has an affect; and (2) leaves the impression that it does.

Commissioner McDowell requested he be allowed some time to review the code closer and make a determination on what has been recommended.

By unanimous motion, the Board continued their deliberation on Ordinance #C-42-05/PLG-008-05 until next Monday at 2:30 p.m.

There being no further business to come before the Board at this time, the meeting
adjourned at

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11:07 a.m. The next regular meeting of the Board will be July 25, 2005 at 11:00 a.m. for a roundtable with Elected Officials and Appointed Department Heads, followed by other topics at 1:30 p.m.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

William J. Byrd, Member

ATTEST:

Elaine Marlow, Clerk of the Board