

BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING JUNE 12, 2006

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on June 12, 2006 at 9:30 a.m. in the Island County Courthouse Annex, Hearing Room, 1 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.

MINUTES OF MEETINGS

By unanimous motion, the Board approved the minutes from regular session held on June 5, 2006.

By unanimous motion the Board corrected previously-approved meeting minutes of May 15, 2006 on page 163 under the heading "Ordinance #C-150-05 - Adoption of Final Composite Ordinance Updating Island County's GMA Comprehensive Plan and Critical Area Regulations relating to Existing and Ongoing Agriculture" correcting the word "complies" to "compiles", with the paragraph to correctly read:

As presented by Phil Bakke, Planning & Community Development Director, the Board by unanimous motion approved Ordinance #C-150-05, the Final Composite Ordinance marked "Composite copy with Findings", with Exhibit B attached and marked with initials DLJ 5/11/06, the last sentence on page 2 indicating "This ordinance compiles and replaces the earlier version of Ordinance #C-150-05, PLG-021-05, adopted on April 24, 2006 as well as Exhibit C Background Findings adopted on May 8, 2006". [*Composite Ordinance #C-150-05 on file with the Clerk of the Board, GMA #8768*]

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board:
Voucher (War.) #239992-240240.....\$275,974.62.

HIRING REQUESTS & PERSONNEL ACTIONS

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

Dept.	PAA #	Description/Position #	Action	Eff. Date
Health	075/06	EHS III Sanitarian 2403.04	Increase hours	5/22/06
Health	077/06	ESH III Sanitarian 2403.01	Replacement	7/10/06
Public Works	078/06	Engineer 2502.00	Replacement	7/26/06
Juvenile Ct.	076/06	Juv. Det. Off .50 FTE 1407.13	Replacement	6/26/06
Juvenile Ct.	079.06 - 085/06	Juv. Det. Off. On-Call 1407.18-1407.24	New Positions	6/12/06
Central Serv.	086/06	Comptr Tech Asst. 708.01	Personnel	7/24/06
Planning	087/06	Watershed Proj. Mgr. .75 fte 2266.07	Personnel	6/1/06
	[GMA #8794]		(From Public Works to Planning)	
Planning	088/06	Watershed Proj. Mgr. 2266.01	Personnel	6/1/06
	[GMA #8795]		(From Public Works to Planning)	
Prosecutor	89/60	Chief Criminal Deputy 1802.00	Replacement	6/9/06

LETTER OF AGREEMENT 06-2006 - BY AND BETWEEN ISLAND COUNTY (EMPLOYER) AND LOCAL 1845 (UNION) REGARDING WATER PROJECT MANAGER

The Board by unanimous motion, as presented by Mr. Larson, approved Letter of Agreement 06-2006

By and Between Island County and Local 1845 regarding Water Project Manager. [GMA #8796]

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<u>Department</u>	<u>Employee</u>	<u>No. Years</u>
Public Works	John T. Bertrand	5
Public Works	Mathew W. Huss	10
Public Works	Larry F. Yeoman	20
Health	Karin E. Watson	5

EMPLOYEE OF THE MONTH - MAY, 2006

Nancy Holbrook and Robin Herman, Public Works/Solid Waste, were selected as Employees of the Month. On Saturday May 20th the public came to Coupeville to get a reduced rate for tire disposal. The problem with this was the event was only happening on Sunday May 21st. However there was a misprint in the Whidbey News Times that said that the special rate for tire disposal was for both Saturday and Sunday. There were no volunteers to assist with handling the tires or the money. Nancy and Robin collected over \$400.00 and sent 200 tires to the recycle pile. This was in addition to their regular duties in the scale house.

RESOLUTION #C-66-06 - EXEMPTION OF COMPETITIVE BIDDING REQUIREMENTS - EMERGENCY REPAIR - AIR CONDITIONING CHILLER FOR THE ISLAND COUNTY JAIL FACILITY AIR CONDITIONING SYSTEM AND APPROVAL OF CONTRACT WITH SIEMENS BUILDING TECHNOLOGIES, INC.

The Board by unanimous motion approved Resolution #C-66-06 In the Matter of An Exemption of Competitive Bidding Requirements under RCW 39.04.280 (1) (c) and ICC 2.30A.040.E - Emergency Repair - air conditioning chiller for the Island County Jail Facility air conditioning system, as prepared and presented by Dan Sherk, Facilities Director. *[Resolution #C-66-06 on file with the Clerk of the Board]*

Following Resolution approval, the Board by unanimous motion approved contract #RM-MAINT-04-06-JAIL in the amount of \$14,688.00 between Island County and Siemens Building Technologies, Inc. to provide and install one new compressor on the Bohn Chiller located in the basement of the Jail.

APPOINTMENTS AND REAPPOINTMENTS TO BOARDS, COUNCILS AND COMMITTEES

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

- Reappointed Elaine Remington, Camano Island, to serve another three-year term on the Northwest Senior Services Board for a term until June 30, 2009
- Appointed William H. Rawls, Camano Island, to serve a three-year term on the Substance Abuse Services Advisory Board for a term to expire on April 1, 2009.

INTERAGENCY AGREEMENT CONTRACT #IAA06161 - WASHINGTON STATE ADMINISTRATIVE OFFICE OF THE COURTS

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By unanimous motion, the Board approved Interagency Agreement Contract #IAA06161 (RM-SC-06-0024) with Washington State Administrative Office of the Courts, reimbursement for 2006/2007 Expanded Jury Source List Project, in the amount \$1,900.00.

JUVENILE AND FAMILY COURT SERVICES CONTRACTS

Having previously reviewed and discussed proposed contracts during a recent staff session, the Board by unanimous motion approved the following contracts:

Agreement with Northwest Educational Service District 189 (RM-JUV-06-0036) - Educational Instruction Services for Island County Juvenile Detention Center [Contract Amt.: \$0]

Amendment #1 to Contract #0563-85116 (RM-JUV-05-0131-01) with Washington State DSHS Juvenile Rehabilitation Consolidated Contract 2005-2007, revising maximum consideration to new JRA-issued County Allocation Tables.

GENERAL SERVICES ADMINISTRATION CONTRACTS APPROVED

By unanimous motion as forwarded from Betty Kemp, General Services Administration Director, the Board approved the following contracts:

Amendment to Agreement with EarthCorps (RM-PARKS-06-0003) representing revised work start and end dates (no change in contract amount)

Amendment A Contract #E06-022 between Island County and Snohomish County for Department of Homeland Security Office of Domestic Preparedness FFY 2005 HSGP Grant (RM-DES-05-0121), changing name from Snohomish County Department of Emergency Management to its successor Snohomish County and revises detailed budget, for contract in the amount of \$174,369.00.

Contract #E06-344 (RM-DES-06-0048) with the Washington State Military Department for the Department of Homeland Security Emergency Management Performance FFY 2006 Grant to supplement local emergency management programs and equipment, for a contract in the amount of \$19,295.00.

CLAIM FOR DAMAGES R06-007 CD - GREG ARMSTRONG

As recommended by Betty Kemp in a memorandum to the Board dated June 8, 2006, the Board approved a portion of the total Claim for Damages R06-007 CD submitted by Greg Armstrong based on all available information, with amount approved \$8,883.49.

CLAIM FOR DAMAGES R05-024 CD/BV- CAROL-LEE HERSHMAN

As recommended by Ms. Kemp in a memorandum dated June 8, 2006, the Board denied Claim for Damages R05-024 CD/BV submitted by Carol-Lee Hershman, damages determined to have been caused by utility company who in turn accepted responsibility for damage.

HEALTH DEPARTMENT CONTRACTS APPROVED

By unanimous motion, the Board approved the following Health Department contracts:

Contract #HD-14-06 (RM-HLTH-06-0064) with Sheilagh Byler – Consulting Services, to assist with

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assigned tasks associated with the Watershed Planning report, not to exceed \$4,100.00
 [GMA #8797]

Contract #HD-15-06 (RM-HLTH-06-0063) with Michael Barenburg – Consultant Services, to provide training in the on-site program, not to exceed \$14,400.00.

CERTIFICATE RELATING TO AGREEMENT – CERTIFICATION OF FACTS IN CONNECTION WITH THE WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUND LOAN AGREEMENT

By unanimous motion the Board approved and authorized the Chairman's signature on Certificate Relating to Agreement-Certification of facts in connection with the Washington State Water Pollution Control Revolving fund Loan Agreement #L0600020 between the State of Washington Department of Ecology and Island County.

RESOLUTION #C-67-06 COMMITTING TO REPAY FUNDS BORROWED FROM THE WASHINGTON STATE WATER POLLUTION CONTROL REVOLVING FUNDS AND CREATING A WATER QUALITY ASSISTANCE FUND LOAN PROGRAM TO PROVIDE LOW INTEREST LOANS FOR THE REPAIR OF FAILING ON-SITE SEWAGE SYSTEMS

The Board by unanimous motion approved Resolution #C-67-06 committing to repay funds borrowed from the Washington State Water Pollution Control Revolving funds and creating a Water Quality Assistance Fund (W.Q.A.F.) Loan Program to provide low interest loans for the repair of failing on-site sewage systems. [Resolution #C-67-06 on file with the Clerk of the Board]

PUBLIC WORKS/ROAD - BID AWARDS

On recommendation of the Public Works Director, Bill Oakes, the Board by unanimous motion, awarded the following bids, in both cases, to the low bidder:

2006 Overlay Contract, Camano Island, CRP 06-01, Work Order 247, awarded to Rinker Materials, Everett, in the amount of \$631,438.00.

Monroe Landing Road Improvements, CRP 02-03, Work Order 356, awarded to Kreig Construction, Inc., in the amount of \$1,508,661.25.

ADOPT-A-ROAD LITTER CONTROL PROGRAM – CAMANO SAIL BY LCC

By unanimous motion the Board approved Adopt-A-Road Litter Control Program between Island County and Camano Sail LLC, by Lawrence Baum, for Cross Island Road at intersection with East Camano Drive westerly to West Camano Drive.

CAMANO HILL ROAD - CRP 02-04, WORK ORDER 176

On presentation and recommendation of approval from Mr. Oakes, the Board by unanimous motion approved the following documents associated with Camano Hill Road CRP 02-04, Work Order 176:

Temporary Construction Easement PW-0520-74 between Island County and Joseph P. Biwer, Parcel R23112-528-5050.

Temporary Construction Easement PW-0520-73 between Island County and Joseph P. Biwer, Parcel R23101-010-5300

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Quit Claim Deed between Island County and Joseph P. Biwer; \$5,250.00 (\$3728.00/land, \$1,500.00/trees & shrubs, \$22.00/administrative settlement); Parcel R23101-010-5300.

REDUCTION TO DECLARATION OF TRUST - SWDC, INC. (THE SCHUSTER GROUP)

On recommendation of Mr. Oakes, the Board approved the following reduction to Declaration of Trust provided by SWDC, Inc. (the Schuster Group):

Reduction to Declaration of Trust to \$90,263.99, Plat of the Bungalows at Holmes Harbor; for Utility & Roadway Improvements

Reduction to Declaration of Trust to \$39,806.14, Plat at of Tee-Side at Holmes Harbor, for Utility & Roadway Improvements.

STORMWATER MITIGATION AGREEMENT AND COVENANTS

By unanimous motion the Board approved Stormwater Mitigation Agreement and Covenants PW-0620-47 between Island County and Victor Hanson for Lot 7, Block 5, Division 7, Plat of Holmes Harbor Golf & Yacht Club, Sec. 3, Twp 29N, R 2E.

HEARING HELD: ORDINANCE #C-60-06/PLG-009-06 APPROVING A FARM MANAGEMENT PLAN AND THE CREATION AND ALLOCATION OF EARNED DEVELOPMENT UNITS

On May 22, 2006, the Board scheduled a public hearing for this date at 10:30 a.m. to consider Ordinance #C-60-06/PLG-009-06 Approving a Farm Management Plan and the Creation and Allocation of Earned Development Units for Parcels R13209-057-4540, R13210-033-0990, R13216-496-5120, R13216-462-4620 and R13215-496-0650 (Ron Muzzall).

Jeff Tate, Planning & Community Development Assistant Director, provided the staff review and report. Applicant submitted a request to the Planning Department to develop a farm management plan for 100 acres of property located in North Whidbey zoned Commercial Agriculture and Rural Agriculture. The Farm Management Plan (FMP) proposes to place 90 of 100 acres into a conservation easement requiring the land be used for agricultural purposes in perpetuity. The remaining 10 acres of land is shown on the map, a portion currently zoned Rural Agriculture where Earned Development Units (EDUs) would be allocated. The FMP and EDU program establish a system for preserving agricultural land and reward provided to the property owner, through EDUs, for certain types of development potential. For every five acres of land placed in the FMP, one EDU can be earned. In this case the land owner would be placing 90 acres of land into permanent conservation easement for agricultural purposes and awarded 18 EDUs. The owner's desire is to use the EDUs to develop mini-storage and the Zoning Ordinance provides that for EDUs awarded the applicant can build up to 2500 sq. ft. of mini Storage, in this case, 18 EDUs with potentially 18 x 2500 sq. ft. realized on the 10 acres of land shown on the map as part of Exhibit A.

If the Board grants approval, Mr. Tate reviewed what would be required:

1. Property owner effectuate the easement on 90% of the land;
2. Property owner submit a land use proposal to the County for review of site specific issues associated with the development proposal;
3. SEPA environmental review process.

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Mr. Tate confirmed that an environmental threshold determination was issued in April for Phase I, the conceptual idea of establishing EDUs and allocating those EDUs to a certain location; no public comments were received, and no appeal filed. Phase II of the SEPA review would be to look at on-the-ground site specific impacts. There are prime agricultural soils on the property, and there are non-agricultural soils as well. Of the 100 acres, 55 acres are zoned Commercial Agriculture. The applicant provided a soils map with the application and identified some of the agricultural soils on site. As part of the proposal to complete the process there will need to be soil work done to make sure that the development occurring in that location is not on prime agricultural soils. The Soil Survey done by the USDA indicates that the area where EDUs would be used is not prime agricultural soil, but that needs to be field-verified which will come during the second phase of the review. Staff recommends approval of the conceptual plan as presented.

Rob Harbour, Reserve Manager, Ebey's Landing National Historical Reserve, confirmed that the property in question for the most part was located within boundaries of the Reserve. He thought this was an exciting step, and encouraged the Board proceed and approve the initial step, an equitable way to protect farmland.

No others in the audience expressed comments either for or against said proposal.

By unanimous motion the Board approved Ordinance #C-60-06/PLG-009-06 in the matter of approving a Farm Management Plan and the Creation and Allocation of Earned Development Units for Parcels R13209-057-4540, R13210-033-0990, R13216-496-5120, R13216-462-4620 and R13215-496-0650 as presented. [*Ordinance #C-60-06 on file with the Clerk of the Board*] (GMA #8798)

ORDINANCE #C-68-06/PLG-007-06 RECLASSIFYING PARCEL R33222-020-1970 FROM RURAL TO RURAL SERVICE

Phil Bakke, Planning & Community Development Director, presented Ordinance #C-68-06/PLG-007-06 which if approved would reclassify Parcel R33222-020-1970 from Rural to Rural Service requested by the Camano Senior Services Association (CSSA) as recommended for approval by the Island County Planning Commission.

The property is one of three parcels historically under ownership of CSSA. In 1998 during the county-wide rezoning effort, two parcels adjacent to this parcel were zoned Rural Service. Based on designation criteria and not realizing that CSSA owned all three parcels, the third parcel was not included in the Rural Service zone. Subsequently, the property was discovered to be in the ownership of CSSA which changed the perspective of the Planning Commission and staff about how this should have been zoned.

The three options before the Board are:

1. Remand the matter back to the Planning Commission should the Board determine further work is needed;
2. Schedule a public hearing before the Board to accept public testimony and consider amendments;
3. Approve the Ordinance as recommended by the Planning Commission.

Mr. Bakke confirmed staff recommendation for approval as recommended by the Planning Commission.

By unanimous motion, the Board adopted Ordinance #C-68-06/PLG-007-06 in the matter of reclassifying Parcel R33222-020-1970 from Rural to Rural Service. [*Ordinance #C-68-06 placed on file with the Clerk of the Board*]

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HEARING HELD: ORDINANCE #C-54-06 AMENDING ICC 3.22A.080, CONSERVATION FUTURES FUNDS—ANNUAL ALLOCATION DISTRIBUTION FORMULA

As scheduled and advertised, a Public Hearing was held beginning at 10:45 a.m. for consideration of proposed Ordinance #C-54-06 Amending ICC 3.22A.080, Conservation Futures Funds—Annual Allocation Distribution Formula.

Proposed by Commissioner McDowell, he briefly gave an explanation of the numbers on which the proposal is based:

- In 1991 Island County adopted a Conservation Futures program allowing six and one-quarter cents per thousand dollars of assessed valuation to be set aside for the purchase of development easements or property
- 1991 through 1997 Conservation Futures funds expended: South-Central Whidbey \$3 million; North Whidbey \$405,000; Camano Island \$90,000
- In 1997 when there appeared to be a huge inequity the Board adopted an ordinance freezing the ability for South or Central Whidbey to propose projects. From 1998 through this year the South-Central area's ability to submit projects has been frozen. At this time, balances are: \$3.3 million South-Central; \$1.26 million for North Whidbey; and \$1.9 million for Camano Island.

The ordinance proposes creation of three "districts" that would follow school district boundaries and the split of Conservation Future dollars spent within those districts:

South Whidbey School District:	46% of the assessed value
Stanwood-Camano School District;	26% of the assessed value
North Whidbey School District:	28% of the total assessed value.

Public Comments

Steve Erickson, Whidbey Environmental Action Network (WEAN), Langley, reviewed the problems he observed with the proposal:

- 1) Needs and opportunities do not necessarily follow population distribution, especially true in a geographically small area such as Whidbey Island, where a person can be anywhere on the Island within an hour. Often the best opportunities are in undeveloped areas where the population density is lower;
- 2) Needs to be one large pot of money to have the leverage to move it where it needs to be - when a property comes on the market the money needs to be available to move. Dividing that pot of money into three smaller pots pretty much guarantees none of the areas would have needed funds to act.

He recommended very strongly that the Board reject the proposed ordinance.

Marianne Edain, WEAN, Langley, commented that purchases that have been made from Conservation Futures would not have been possible had the fund been divided as is being proposed now. There needs to be a fairly large sum of money available; sellers are not ready to wait three or four years for a sub-fund to accumulate that kind of money. It is best for all of the people of Island County to maintain a single fund and to do away with regional separations.

Diane Kendy, Langley, seconded statements of Mr. Erickson and Ms. Edain, and spoke against the proposal, strongly urging that the Board follow the unanimous recommendation of the Citizens Advisory Board (CAB) allocating of conservation futures funds based on the value of each proposed

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property rather than its location. Until this morning she had not heard an explanation from Commissioner McDowell and assumed he basically opposed the concept of preserving open space for the enjoyment of future generations. She believed that had it not been for the purchase of the Greenbank Farm, allocations would have been fairly evenly spread throughout the County, but pointed out that the Greenbank Farm did not just benefit South Whidbey, rather a County-wide benefit. According to the CAB, funds overall have been spread out 50% - South, 49% - North. Adopting the formula recommended unanimously by CAB ensures regional distribution while at the same time allowing all regions of the community to participate in the program and help ensure that the projects with highest conservation value may be considered. This is a popular program with the citizens of Island County and deserves the Board's wholehearted support.

Phil Pearl, Langley, involved in land conservation efforts throughout Washington, representing 20 jurisdictions, 12 with the Conservation Futures tax available as a resource, knew of no other county government that segregates the tax in the same way as proposed here. Some jurisdictions recognize the need for parity but do so informally through a committee structure. Although distribution of funds may not be even, he questioned whether or not the number of proposals from North Whidbey or Camano had been on par with South Whidbey, the south end tending to be more actively engaged in land issues, therefore may have more proposals and receive more funding as a result. If the dollars were divided into three separate funds, with the lack of federal and state funds to supplement, he questioned what kinds of projects could actually be accomplished for that amount of money. Mr. Pearl encouraged the Board not segregate the funds in a formal sense, rather give direction to the committees so that when there is a project proposed from the North Whidbey or Camano areas parity be a consideration in the overall process but not necessarily mandated.

Susan Bennett, Freeland, on the Board of Whidbey Audubon and League of Women Voters of South Whidbey Island, but speaking as a private citizen, reminded that county commissioners are elected by the county as a whole and mandated to consider the benefit of the county as a whole. Dividing the county into smaller districts negates that mandate and makes it more difficult to consider the benefit of the whole county.

Marilyn Strayer, Freeland, spoke on behalf of the Audubon board, not recommending approval of the districting proposal, believing the parity issue should be considered, but not mandated. Having the money available as properties come up in areas is most important thing and benefits all the people.

Bill Applegate, Oak Harbor, served on the Technical Advisory Group (TAG) at the time the system was established and helped write the original rules. The effort now being proposed was discussed in TAG rule-writing meetings briefly, deciding against such an effort. Looking briefly at where the funds might be spent, even at that time it was apparent there was more potential property to purchase on South Whidbey than either of the other commissioner districts. He agreed with previous speakers' ideas that it is a matter of Island unity: all citizens of the same Island and should all enjoy the benefits of the Island. North Whidbey and to some extent Camano Island, do not have the potential properties to purchase. He was opposed to the proposed ordinance and recommended continuing to function as a county and not divide up these resources in to smaller and smaller bits.

Sara Schmidt, Coupeville, seconded everything said by previous speakers. The proposal assumes that parity and distribution of funds by geographic region is somehow in the best interest of taxpayers, but she stated her belief that parity by school district had nothing to do with what resource protection will best benefit future generations. Adopting the ordinance would be political suicide because this is an issue on which citizens are united wanting to protect the highest quality most important land for future generations. Land purchase opportunities will not wait for several years to pass in order for a district to accrue sufficient funds to buy property. Camano Island is very restricted in the amount of public space along the waterfront compared to Whidbey Island. She would love to see Camano Island have an opportunity to purchase additional waterfront lands and it would not be possible if the fund were divided

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up. She urged the ordinance not be adopted. She drew attention to RCW 84.34 which sets up conservation futures funding.

Christie Jensen, Oak Harbor, supported the proposed ordinance as a taxpayer on North Whidbey, and wanted to see monies distributed per the proposal, supporting the fact that taxpayers in each area should be able to spend the dollars collected in those areas.

Debbie Merritt, Oak Harbor, spoke in support of the proposed ordinance, agreeing with comments made by Ms. Jensen.

Sheilah Crider, City of Oak Harbor Council Member, read two letters into the record from Council Members Karaholios and Brewer who were unable to attend today's hearing, summarized below:

Sue Karaholios

The population center for the County can be found in and around the City of Oak Harbor and largest amount of the funds for the County in almost every area come from the City of Oak Harbor and properties surrounding Oak Harbor. In recent years, North Whidbey and Oak Harbor have received little to none of these funds while funding for many other projects has been provided excluding the City of Oak Harbor and the area surrounding it. When analyzing spending, equity and parity, based on where the monies come from have not been a priority. In most funding categories the funding has been spent throughout the county based on other factors not always discernible.

It was expected, based on the debate in the Legislature, that the funds would be distributed in an equitable manner throughout the individual counties and not specifically toward one area over another as those fears were expressed on the floor at the time of debate and in committee and assurances were given at every step the intention was for equity.

This proposal would reestablish some equity. Over the last fourteen years there has not been an effort to show good faith in supporting projects in and around the Oak Harbor area. Therefore, she urged that the Board adopt the proposed changes as recommended by Commissioner McDowell.

Paul Brewer

Supported the ordinance as proposed to allocate Conservation Futures funds equitably among all jurisdictions of the County. Time for fair and equitable distribution of Conservation Futures fund. For the past 8 - 10 years there has been inequity, no parity based on contribution versus distribution, and inequity between projects receiving large sums of funding on South Whidbey and those in the rest of the County which have received substantially less. Largest contributor to the funds is Oak Harbor, and as such, should receive its fair share.

Urged the Board's adoption of the proposed change to bring an equitable solution to future efforts to conserve and preserve areas of significant in all areas of the County, especially Oak Harbor and North Whidbey.

Ms. Crider, speaking as a Council Member, City of Oak Harbor, supported the proposed ordinance, allowing for a more fair and equitable distribution of Conservation Futures funds countywide. Oak Harbor contributes the largest sum to the fund yet received very little over the past 8 - 10 years. Oak Harbor and North Whidbey citizens are concerned and care about conservation, preservation and quality of life as much as any other residents of the county and should be able to enjoy the same efforts as those in the rest of the County. She commended the Board for consideration of changing the current system of funding for a balanced approach for all of Island County.

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Judy Chapman, Camano Island, participating via video conferencing from the Camano Annex, spoke on her behalf and the CAB, requested that the Board not adopt the proposed ordinance. At the May meeting CAB passed a motion in opposition to the concept outlined in this proposal for the same reasons expressed from a number of people this morning. No applications have come from South Whidbey since the 50/50 rule was passed. Should the Board fund the Hoypus Hill project, the North Whidbey and Oak Harbor area would receive their fair share from the fund.

Marianne Edain, WEAN, expressed disappointment with the City of Oak Harbor representatives, commenting that the application process for the Conservation Futures fund is an open process and anyone can submit a proposal to the CAB. After the requirement for parity one of the things that happened was that there were periods when applications were not turned in. If there was a great outcry for purchase of public lands in and around Oak Harbor she asked where those applications were. Land to be preserved whether located on North or South Whidbey, or Camano Island, when applications come in, should be evaluated on their merits rather than location.

Commissioner Discussion and Action

Commissioner Shelton recalled when the ordinance was discussed at a staff session he made clear at that time his opposition, and remained opposed. He recognized that the purchase of the Greenbank Farm was one of the things that had thrown things off kilter, and taking that purchase out of the calculations, parity would not be as big an issue. He corrected a misunderstanding on the part of the Oak Harbor City Council about the belief that that area contributes a lot more money and receives less benefit, which is not a true statement. The assessed value of the Oak Harbor School District is \$2,606,000,000; and South Whidbey School District \$2,829,000,000.

Over the last 13-14 years he did not recall a lot of applications that were not funded. Applications received meeting criteria have been funded. It is not like there have been competing projects and those from South Whidbey were funded while those from Oak Harbor were not. If there has been a submittal to the CAB from the greater North Whidbey area not funded, the only reason is because the deal fell apart. Funds were provided for not only Ala Spit but also Freund Marsh, and money allocated for a wetland area off Heller Road that has yet to come to fruition. He had no reason to believe that good conservation projects from around the county would come in and keeping parity would not be an issue.

As a recommendation to the ordinance he requested, and the other two Commissioners agreed, to combine the Coupeville and South Whidbey School Districts into one making it a little larger pot of money. Still, in the overall scheme of things, he believed the ordinance clearly tries to correct a problem he does not think needs to be corrected and did not support the ordinance.

Commissioner Byrd reviewed the reasons why the ordinance was proposed, as noted previously. To have the system back the way it was initially was not the right answer, and saw a need to make sure funds are distributed across all of Island County. To say that the funds be spent where the need is the greatest and tell everyone else to travel to that one area he also thought was wrong. He did agree that conservation was something everyone wanted, but must take into account that "most desired" includes not just conservation but recreation as well.

He did not necessarily favor the proposed ordinance but was not ready to go back to what had been done before and recommended the Board table the ordinance, re-look at it and come up with a better solution.

Chairman McDowell confirmed that he favors conservation futures and has always supported it. As a point of clarification, he explained that Conservation Futures funds did not purchase the Greenbank

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Farm; that was the Port of Coupeville. What Conservation Futures funds purchased was a significant number of acres surrounding it - a trail system.

History shows that these funds are collected evenly across the county but spent lop-sided. The split of those dollars collected proposed in this ordinance based on school districts would be: South and Central Whidbey area 46%; North Whidbey 28%; and Camano Island 26%. History does show a lot more active people on the South end because a lot more projects initially were brought from the South end than from the other areas, a lot more activism on South Whidbey than North Whidbey, observing two reasons for that: (1) huge percentage associated with the military in one way or another are here for a relatively short period of time, and basic training is not to get involved with local politics; and (2) a large percentage of people in the population center of Oak Harbor are more involved with what goes on in the City of Oak Harbor than the County.

If there should be even distribution, there should be some equity in distribution because looking at pure conservation, there is hardly a project within the limits of Oak Harbor even though they contribute a fair amount. An urban conservation concept probably is nowhere near what a rural conservation concept is; however, those people still like to enjoy green space, trails, waterfront access and recreation.

Clearly the majority speaking today in opposition to the ordinance have South Whidbey addresses, and those in favor for the most part have North Whidbey addresses. E-mails and letters received prior to this morning's hearing resulted in approximately 30, out of which 27 were opposed to the proposed ordinance.

Commissioner Byrd moved to table the ordinance. Commissioner Shelton seconded the motion, as opposed to passing the ordinance.

Commissioner Byrd's suggestion was to look at the proposal within the next six months and come up with an alternative. In that case, Commissioner Shelton observed that tabling the ordinance would not be the correct motion. Motion and second withdrawn. Ordinance #C-54-06 died for lack of a motion.

**WASHINGTON STATE DEPARTMENT OF HEALTH BRIEFING ON THE
HOLMES HARBOR SHELLFISH GROWING AREA**

At 1:30 p.m. the Board received a briefing with regard to the Holmes Harbor Shellfish Growing Area presented by Bob Woolrich and Debby Sargeant, from the Washington State Department of Health (DOH). Some 20 people attended, including public, members of the press and staff.

Hand-outs: 2006 Shoreline Survey of the Holmes Harbor Shellfish Growing Area
Chapter 90.72 RCW Shellfish Protection Districts

Outline of Power Point Presentation

A map of Holmes Harbor was displayed [included in hand-out], the southern half identified as the portion of most interest. In 2004 the Tulalip Tribe asked DOH to classify the entirety of Holmes Harbor for commercial shellfish harvesting. The western part of Holmes Harbor has been classified approved for at least 15 years for commercial shellfish harvesting.

Two basic parts of the classification are: (1) marine water sampling and determining whether or not those meet national standards; and (2) door to door, property to property looking for actual and potential pollution sources to see if on-site sewage systems might cause an impact to the shellfish or whether or not there are problems with agricultural waste or stormwater runoff. DOH takes samples from all the drainages and if any problems are found, take more samples and a closer look.

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The survey was completed in the Fall of 2005, finding a few problems in the southern most portion of the bay in the Freeland area. Four drainages were sampled and found high levels of fecal coliform bacteria. The County Public Works Department used Herrera Environmental Consultants in 2004 who documented some high numbers, and the Health Department worked with the Beaches Program at DOH and documented some problems as well. In consultation with the local Health Department, the Department of Health decided on the need to close the park at Freeland which had been classified as open for public recreational use. The survey report, not yet finalized, suggests that north of the line everything be approved for harvest; south of the line prohibited to commercial harvest and closed to recreational harvest; and in-between unclassified. The DOH Office of Environmental Health Assessment, is nearing completion of a literature review that would then determine whether or not further study is needed.

There are some unknown impacts that may or may not be impacts from Nichols Brothers Boat Builders, Inc. (NBBBI). There were several things that raised questions about the industrial facility; one that they have an infiltration pond and some of the discharges to the pond were sampled by DOE who found high in some metals. There were some questions whether or not the pond at times during very high tides could discharge and get out into the Bay.

Excerpts noted from the DOH Shoreline Survey Report:

Based on water quality data the southern most part of Holmes Harbor, including Freeland County park, should be closed to commercial land recreational shellfish harvest until the impacts are identified and remediated.

The prohibited and unclassified zones may be impacted by NBBBI. This area should not be classified until the impacts are known. DOH will conduct a literature review that could lead to a risk assessment study.

The most pertinent parts of RCW 90.72 referenced for attention were :

- County must form SPD within 180 days of downgrade [DOH has not taken official action yet]
- County has full jurisdiction to manage the program
- Program must include elements to deal with the nonpoint pollution
- The district may include any area, whether incorporated or not
- Counties with SPDs receive high priority for state water quality financial assistance.

When a downgrade does occur, the Puget Sound Plan [a recommendation, not a law, a strong requirement] asks that a closure response plan be developed. Requirements include:

- State Health convenes a response strategy group within 30 days of the final order
- Within 60 days the group develops a closure response strategy to control pollution sources to upgrade the shellfish area.

Those who should be included on the Closure Response Committee (CRC) and elements a closure response plan should address were reviewed as shown in the hand-out. A lead agency will need to be identified, usually a local county government or tribe, etc. Next steps would include:

DOH finalize sanitary sewer report
 DOH issue reclassification order [estimated July 1]
 Clock starts when Order's appeal period ends [35-day appeal process],
 after which classification order becomes final
 DOH has 30 days to convene CRC after the order is finalized
 CRC has 60 days to develop closure response strategy
 County 180 days to create a shellfish protection district and shellfish protection program.

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Fecal coliform was the only thing tested for. It is not known for sure if there is a problem with NBBBI as far as any contamination of the shellfish; that has not been investigated. As far as testing to identify the source or type of the fecal coliform, there has been some monitoring done, segmentation of those little tributaries coming into the Freeland Park area. Dave Garland from Washington State Department of Ecology (DOE) was doing some bacteria sampling in the Freeland area and found some high levels of bacteria in certain areas in the uplands, possibly from on-site systems. At the extreme southern end of the area there are a few little tributaries coming out in that recreational area and at times has extremely high bacteria counts. The southern most portion gets the least amount of flushing and provides very little dilution.

Tim McDonald, Island County Health Services Director, wanted to make sure everyone understood that there are two separate issues, separate and not associated with each other; both representatives from DOH agreed:

- (1) Fecal coliform contamination of fresh water emptying into the south end of this very low flushing salt water bay
- (2) An industrial site that DOH needs to look at and understand what the potential is and carry out to understand what the actual contamination due to that industrial use is.

DOH representatives confirmed that under the Statute requiring the Shellfish Protection District, the county legislative authority has 180 days to establish that district. The non-statutory recommended closure response committee and closure response strategy are ways that other areas found to work under to get to the 180 days in a meaningful fashion.

Mr. Wollrich and Ms. Sargeant responded to questions from Board members as well as audience members.

Mr. Wollrich indicated that the shoreline survey report [hand-out provided] summarized activities, talked about all the samples taken, previous information incorporated into the report, work the local Health Department did with the DOH on the Beach Program, as well as the findings for the sites that had any potential impact to the growing area - a pretty clean bill of health for 80% of the Bay [northern portion]. When doing a door to door property by property evaluation, DOH looks for impacts to the Bay. When DOH issues an order the order is sent to the stakeholders, in this case, Island County and the Tulalip Tribe; beyond that he was not sure there would be anyone else who would have an opportunity to appeal. An appeal has to be based on why DOH's decision is inappropriate as far as commercial shellfish classification or recreational shellfish classification. Once a shellfish protection district is formed and problems are corrected and the area upgraded, whether the district continues to exist depends on what the local jurisdiction wants to do: sometimes goes quiet; sometimes continues to meet on a periodic basis to make sure water quality is maintained. Once a shellfish protection district is formed it is up to the county as far as funding. A shellfish protection district in Mason County charged \$50 as a flat fee per property. Henderson Inlet in Thurston County assessed a fee to those people with on site sewage systems for operation and maintenance of on-site sewage systems.

There being no further business to come before the Board at this time, the meeting adjourned at 2:02 p.m. The next regular meeting of the Board will be on June 19, 2006 at 9:30 a.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING JUNE 12, 2006

Wm. L. McDowell, Chairman

William J. Byrd, Member

Mike Shelton, Member

ATTEST:

Elaine Marlow, Clerk of the Board