

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
REGULAR SESSION – DECEMBER 18, 2006**

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session December 18, 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.

VOUCHERS AND PAYMENT OF BILLS

By unanimous motion, the Board approved the payroll dated December 15, 2006, the Combined Excise Tax return for November 2006, and the following vouchers/warrants for payment:

Voucher (War.) #252021 – 252249..... \$740,110.66.

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
Sheriff	158/06	Chief Civil Deputy	4004.00	Replacement	1/1/07
Sheriff	159/06	Dep. Officer Lieut.	4010.01	Replacement	1/1/07
Sheriff	160/06	Dep. Officer Sgt.	4012.05	Replacement	1/1/07
Sheriff	161/06	Dep. Officer	4014.19	Replacement	1/1/07
Central Serv.	162/06	Micro Cptr Support	708.01	Extend to 12/31/07	1/1/07
GSA	163/06	Risk Mgt. Asst.	1508.0	Increase to Full Time	1/1/07
GSA	164/06	Pub Def Adm. Asst.	1902.00	Increase Hours	1/1/07
Assessor	165/06	Dept. Support Asst.	113.00	Extend 6 months	1/1/07
Assessor	166/06	Chief Deputy Assessor	101.00	Replacement	1/1/07
Pub. Works	167/06	Seasonal Laborer/mowing	2254.00	Extend through 1/31/07	12/13/06

MONTHLY FINANCIAL REPORTS FROM AUDITOR & TREASURER

Auditor’s Report

The Board reviewed the written financial report prepared by Suzanne Sinclair, Island County Auditor, dated 12/18/06 for the period ending November, 2006, as presented by Anne LaCour, Chief Deputy Auditor. Percent to budget at this point should be 92%. Current Expense revenue is slightly over, and expenditures slightly under in total. For other funds, revenues and expenditures are under.

Treasurer’s Report

Lois Rusher, Chief Deputy Treasurer, on behalf of Linda Riffe, Treasurer, provided the Treasurer’s written financial report dated 12/18/06 for the same period and containing basically the same information. *[financial reports on file with the Clerk of the Board]*

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

By unanimous motion, the Board made the following reappointment and new appointments to the Camano Island Mosquito Abatement District for two year terms to January 1, 2009:

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Reappointment: Grant Lawrence, Camano Island
 Appointment: Theresa Fletcher, Camano Island
 Appointment: N. Jean Telford, Camano Island

STAFF SESSION AGENDA FOR JANUARY 2007

The Board by unanimous motion approved the Staff Session schedule for January, 2007, outlining the regular staff sessions to be held on January 3 and 17, beginning at 9:00 a.m.

AMENDMENT #1 - PROFESSIONAL SERVICES CONTRACT WITH SETRACON, INC.

The Board by unanimous motion approved Island County Department of Emergency Services professional services contract with Setracon, Inc., extending completion date to February 28, 2007 (RM-DEM-05-0152).

SPECIAL OCCASION LIQUOR LICENSE #091224 BY CAMANO ISLAND YACHT CLUB

On receipt of recommendations of approval by the appropriate County reviewing departments, the Board by unanimous motion provided approval to the Washington State Liquor Control Board for Special Occasion Liquor License #091224 by Camano Island Yacht Club, to be held January 20, 2007 from 5:30 p.m. to 9:00 p.m. at the Yacht Club located at 129 N. Sunset Drive, Camano Island.

CONTRACT - HELLAND CONSTRUCTION, INC

By unanimous motion, as presented and recommended for approval by Gwenn Maxfield, Assistant Public Works Director, the Board approved Contract #SW-06-137 with Helland Construction, Inc. for construction of office and restroom at Bayview Transfer Station, in the amount of \$41,847.12 (incl. SST).

PURCHASE ORDER - PAPE MACHINERY

By unanimous motion, the Board approved Purchase Order #7450 (SW-06-0143) with Pape Machinery for purchase from State Contract #16904 for a front end Loader, John Deere 544J, in the amount of \$100,043.64 (incl. SST).

**HEARING HELD: RESOLUTION #C-105-06/PLG-029-06 ACCEPTING PLANNING
COMMISSION'S RECOMMENDATION THAT EXISTING RESOURCE LANDS POLICIES
AND REGULATIONS IN THE COMPREHENSIVE PLAN ARE PROVIDING ADEQUATE
RESOURCE PROTECTION AND THAT AMENDMENTS TO THE PLAN AND
REGULATIONS ARE NOT NEEDED**

At 10:30 a.m. as scheduled, the Chairman opened a public hearing on Resolution #C-105-06/PLG-029-06 In the matter of accepting the Planning Commission's recommendation that Existing Resource Lands Policies and Regulations in the Comprehensive Plan are providing adequate Resource Protection and that amendments to the Plan and Regulations are not needed, continued from 10/9/06, 11/6/06 and 11/20/06.

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Attendance:

Staff: Phil Bakke, Planning & Community Development Director
Jeff Tate, Planning & Community Development Assistant Director

Audience: John Dean, Commissioner-elect
Steve Erickson, WEAN

Staff Presentation

Mr. Tate stated that the resolution reflects the recommendation of the Planning Commission. The Commission conducted a public process evaluating resource lands designations for commercial agriculture, rural agriculture, rural forest and mineral lands, and held public hearings on May 25, June 8, June 22 and July 13, 2004. Today's hearing was scheduled before the Board, required because due to an error on the part of staff, the recommendation was not forwarded to the Board in 2004. Once the time extends beyond a certain window the Board is required to conduct its own public hearing.

The designation criteria is outlined in the Comprehensive Plan and the Zoning Ordinance, and provides that lands protected by diking or drainage districts are not eligible to be commercial Ag, instead are zoned rural Ag. The County's adoption in 1998 of the initial designation criteria for commercial Ag was appealed and the Board established the Ag Remand Committee. The Committee reviewed the Ag issues and addressed issues raised in the appeal and through that process recommended, with respect to designation criteria, that lands protected by diking and drainage districts be excluded from the commercial Ag designation. Those lands rely upon maintenance of the dikes and drainage systems and if not maintained then are not lands suitable for agriculture. When that recommendation came to the Board from the Committee, the Board made a modification which was to change "diking and drainage districts" to "diking or drainage districts". The decision of the Board with regard to the designation criteria was not appealed, and has been in place since 1999.

Mr. Tate explained that in the last few weeks the Department went through and looked at what lands would have been designated commercial agriculture and instead are rural Ag because of the diking and drainage district issue. There are four areas, three that are obvious areas and for which three maps were assembled and distributed [GMA #9118]. The hatched area shows land that would have been zoned commercial AG but instead is zoned rural Ag as a result of the criteria:

Livingston Bay Area, Camano Island : 87 1/2 acres

Dugualla Bay Area, North Whidbey: 167.9 acres

Useless Bay Area, South Whidbey: found no land that as a result of that designation criteria changed; already zoned rural agriculture

The fourth area is Maxwellton on South Whidbey and the Department has had a challenge trying to find the exact boundary. Mr. Tate noted that in the area there were not any lands that went from CA to RA as a result of the criteria but there are some lands for whatever reason that ended up being zoned CA in the Maxwellton area.

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Mr. Tate referred to a relevant Lewis County court case with regard to this issue. Lewis County designated agricultural lands using a series of criteria adopted locally, challenged to the Growth Board. Lewis County based the designation at least in part and was a driving criteria, on an assessment of the needs of the local agriculture industry. The Growth Board determined that the legislature intended agricultural designations be based on physical characteristics of the land rather than shifting economic conditions, the legislature's concern more about conservation of the land capable of supporting agriculture. Lewis County has about 283,000 acres of prime soil and the 1997 agricultural census shows 117,000 acres of that to be in Ag use, and Lewis County designated 53,000 acres of the equivalent of commercial Ag. Lewis County appealed the Growth Board's decision to Superior Court and the Superior Court upheld the Growth Board's decision. The Supreme Court accepted the Lewis County petition and held that the Growth Board incorrectly defined Ag land and reversed the conclusion rendered by the Growth Board that the County had violated GMA by focusing on farm industry projected need rather than soil and land characteristics. A citation from that Supreme Court case decision *[Futurewise, et. al Petitioners, v. Lewis County, Respondent, and Sovran, et. al, Intervenor, Case no. 06-2-0003, GMA record #9119]*: is that "Counties must do more than simply catalog lands that are physically suited to farming" *[Citation entered as GMA #9120]* and the case goes on to state that the GMA does not prohibit a county from giving greater weight to the needs of the agricultural industry than to other considerations.

Mr. Tate recalled that the County went back and looked at several issues; one that the diking and drainage district issue is more of a practical matter than soil characteristics of the land; two, whether or not it is suited to farming. From a U. S. Department of Agriculture census in 1997 the net value for the average farm in Island County was a positive \$4,665 per farm; the net value in 2002 was a negative \$4,263 per farm.

Mr. Tate confirmed that the Department believes that the Planning Commission recommendation is still relevant. The Lewis County decision could cause there to be question about the criteria used for commercial Ag given the fact that Island County relied upon the presence of Ag soils to be a real driving force for how those lands were designated, and took less into account economics and industry need.

Public Comment

Steve Erickson, WEAN, in looking at the three maps Mr. Tate referenced, suggested the basic affect was to end up with land in Rural Ag instead of Commercial Ag which increases potential development density, which he thought was not a good idea in these areas and did not protect commercial Ag land. His recollection was that the Ag Remand Committee made the recommendation at the behest of a few individuals, yet the fact is that this land meets the criteria in all regards. He understood that under state law if a diking or drainage district is abandoned the county has to take it over. Should that happen and sea level rises and it has to be abandoned, he felt that would be a policy decision made at the time as to what happens with it. In general what he sees happening is an increase in density and loss of commercial Ag land.

Commissioner Deliberation and Action

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In response to a question from Commissioner Byrd, Mr. Tate explained the point of the maps was to show that had that designation criteria not existed those lands would be zoned Commercial Ag. The recommendation of the Planning Commission is not to change the designation criteria which means none of the zoning on any of the properties would change.

Chairman McDowell saw two choices: accept the recommendation of the Planning Commission or review commercial Ag lands. If the County goes to the effort of reviewing commercial Ag again, he would want to do so in light of the recent state supreme court case cited by Mr. Tate, looking at the issue “can the farmer make money at it?”. He pointed out that the number of dairies have gone from seven in 1997-98 to now just two.

Commissioner Shelton commented on the issue mentioned by Mr. Erickson, where the County has taken over the diking district that the land behind the dike that used to be in years’ gone by an area of farming, now under water. It did not appear to him that the fact the County takes it over is necessarily a guarantee to be able to continue to farm there.

Commissioner Shelton moved approval of #C-105-06 (PLG-029-06) In the matter of accepting the Planning Commission’s recommendation that Existing Resource Lands Policies and Regulations in the Comprehensive Plan are providing adequate Resource Protection and that amendments to the Plan and Regulations are not needed. Motion was seconded by Commissioner Byrd.

Under discussion, Chairman McDowell questioned if the motion passed and there is an appeal, would the appeal be limited to just the diking and drainage district issue. Mr. Bakke indicated that if the Growth Board makes a decision overturning the matter and remands it back to the County, during that remand the County can look at the overall commercial Ag zone in light of the recent court cases.

Motion, as made and seconded, carried unanimously. [*Resolution on file with the Clerk of the Board*] [GMA record as #9121]

RESOLUTION #C-125-06 (PLG-032-06) STANWOOD CAMANO ISLAND SCHOOL DISTRICT REQUEST TO ADOPT CAPITAL FACILITIES PLAN AND ORDINANCE ESTABLISHING SCHOOL IMPACT FEES

Next presented was Resolution #C-125-06 (PLG-032-06) In the matter of accepting the Planning Commission’s recommendation to deny the Stanwood Camano Island School District’s request to adopt their Capital Facilities Plan and an Ordinance establishing school impact fees.

Attendance:

Staff: Phil Bakke, Planning & Community Development Director
Jeff Tate, Planning & Community Development Assistant Director

Audience: John Dean, Commissioner-elect

As staff indicated, the Planning Commission conducted a series of public hearings on this particular matter, two hearings, at least one of which was held on Camano Island. The proposal put forward by the Stanwood-Camano Island School District was a capital facilities plan and along with that, a request that the County adopt an ordinance to put into affect a method for collecting and a formula for

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establishing school impact fees for new houses built on newly created parcels. There would be no impact on previously built homes or new homes built on lots created prior to this resolution. The Department prepared a set of amendments to the County's development regulations and Comp Plan for consideration by the Planning Commission, with options: (1) collect at the time of building permit; (2) collect at the time of subdivision. The District attended the public hearings and deliberations and explained the rationale for how to determine the appropriate impact fee and provided numbers on what the impact fee should be. The District overlaps Snohomish County, the City of Stanwood and Island County; each jurisdiction has a different mechanism and appropriate number to be assessed on new development in the form of an impact fee. In Island County the District calculated into the proposed fee the fact there is a smaller household size and generates on Camano Island less of an impact on the school system.

Mr. Tate acknowledged the awareness of the Planning Commission that residents of Camano and Island County in general pay property taxes directed towards schools. The Planning Commission asked thoughtful questions about how much a land owner pays on Camano versus Snohomish County and how to assess fees differently on Camano from those in Snohomish County and Stanwood. The County Assessor attended one of the meetings and reported that assessed values on Camano are higher than those of Stanwood and Snohomish County and therefore the amount of money being paid by Camano residents in property tax is higher than that which exists in Snohomish County and Stanwood. Per State law, impact fees can only be used for new impacts, not already-existing impacts. During deliberations the District presented an updated capital facilities plan showing no expectation of experiencing growth over the next two years or even out through six years; therefore, no additional capital facility needs. Thus, the impact formula turns to zero and the Planning Commission ultimately did not want to adopt an ordinance establishing impact fees. This could be re-evaluated with future capital facility plans but at this point are not ready to adopt an impact fee ordinance, particularly where it would only create an administrative burden. State law provides that when impact fees are collected the School District has two years to use that money; if not used, must be returned to the property owner.

Mr. Tate commented that for the figure the school district comes up with for the impact fee amount, the district goes through a thorough analysis, but the district can present and a city or county can establish a reduction factor or an amount that, i.e. a 50% mark down because that is what other jurisdictions have done.

One of the biggest issues for Commissioner Shelton was that given that the Assessor assesses at the highest and best use, a property owner who owns 10 acres really pays taxes on two 5-acre parcels in the rural zone. For someone with a house on 10 acres and pays that additional tax, illustrates the unfairness of impact fees insofar as the person paying the additional tax with no use on the additional five acres is not in any way credited when subdivided and a new house built with an impact fee collected. In most other arenas fees are based on when services are used, but in terms of land use under the impact fee model, collect a prepaid tax even though the owner of the property has been paying taxes for years with no use.

Commissioner Shelton moved approval of #C-125-06 (PLG-032-06) in the matter of accepting the Planning Commission recommendation to deny the Stanwood/Camano Island School District request to adopt their capital facilities plan and an ordinance establishing school impact fees. Motion was seconded by Commissioner Byrd.

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Under discussion, Commissioner Shelton indicated that assuming at some point in the future the

Stanwood-Camano Island School District presents a capital facilities plan showing the need for new facilities, he would be willing to reconsider.

Commissioner Byrd agreed, but preferred to see the next school built on Camano Island rather than in the Stanwood area.

Chairman McDowell agreed with the motion. He pointed out that most other counties do not have impact fees, probably 4 counties out of 39 counties that do; whereas a lot of cities have impact fees. Island County is a good example: since 1999 an average of 47 lots have been created in the entire county. If one assumes one-third of those are on Camano, or roughly 15 to 16 lots that are created and collecting \$448 per lot, even if there were an impact, that figure would not afford much to be built, whereas mitigation fees have no strings tied and are more flexible.

Mr. Tate stated that the County does collect mitigation fees and has done so for schools.

Motion, as made and seconded, carried unanimously. *[Resolution #C-125-06 on file with Clerk of the Board] (GMA #9122)*

There being no further business to come before the Board at this time, the meeting adjourned at 11:12 a.m. The next regularly scheduled Board meeting is January 8, 2007 at 9:30 a.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

Wm. L. McDowell, Chairman

William J. Byrd, Member

Mike Shelton, Member

ATTEST:

Elaine Marlow, Clerk of the Board