

BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING MARCH 6, 2006

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on March 6, 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. By unanimous motion, the Board approved the minutes from regular meeting held on February 27, 2006.

VOUCHERS AND PAYMENT OF BILLS

By unanimous motion, the Board approved the payroll dated February 28, 2006, and the following vouchers/warrants: Voucher (War.) #233429-233719 \$795,977.51.

HIRING REQUESTS & PERSONNEL ACTIONS

As presented by Terry Chevront, Assistant Director, Human Resources, the Board by unanimous motion approved the following personnel action authorizations, all with an effective date of 3/6/06:

Dept.	PAA #	Description	Position #	Action
Health	025/06	PHN III .80 FTE	2406.12	Reduce Hours
Health	026/06	PHN II .80 FTE	2406.16	Increase Hours
Prosecutor	027/06	Dep. Pros. Atty II	1812.00	Personnel
Public Works	028/06	SW Att II .80 FTE	2249.10	Increase Hours
Public Works	029/06	SW Att II .60 FTE	2249.11	Increase Hours
Public Works	030/06	SW Att I .60 FTE	2249.13	Increase Hours
Public Works	031/06	Laborer I	2245.04	Replacement
Public Works	032/06	Seasonal Laborer 9 mos.	2254.01	Replacement

SPECIAL OCCASION LIQUOR LICENSE APPLICATIONS APPROVED

Two special occasion liquor license applications, reviewed and approved by the appropriate County departments, were approved by unanimous motion of the Board as follows:

Special Occasion Liquor License Application #092151 by Camano Senior Center, 606 arrowhead road, Camano Island, for march 12, 2006 from 1:00 to 3:00 p.m. and March 17, 2006 from 7:00 to 10:00 p.m.

Special Occasion Liquor License Application #092691 by Providence Hospital Guild, to be held at the Freeland Hall, March 10, 2006 from 7:00 to 10:00 p.m. [subject to additional insured endorsement per GSA/Risk Management]

RESOLUTION #C-19-06 CERTIFICATION OF THE ISLAND COUNTY PERSONAL PROPERTY INVENTORY FOR 2005

Pursuant to R.C.W. 36.32.210, the Board by unanimous motion adopted Resolution #C-19-06 in the matter of the Certification of the Island County Personal Property Inventory for 2005. [Resolution #C-19-06 and copy of County Inventory placed on file with the Clerk of the Board]

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ADDENDUM TO LETTER OF AGREEMENT WITH BANK & OFFICE INTERIORS FOR SERVICES AT CAMANO ANNEX

Having been discussed with the Facilities Director at a Staff Session, the Board by unanimous motion approved Addendum to Letter of Agreement with Bank & Office Interiors for services at Camano Annex, the Addendum in the amount of \$1,050.

INTERAGENCY AGREEMENT – WSP FOR DEPARTMENT OF HOMELAND SECURITY 2005-2007 LAW ENFORCEMENT TERRORISM PREVENTION PROGRAM FUNDS

By unanimous motion, the Board approved Interagency Agreement, Contract WSP #C060818FED (RM-DES-06-0005) with Washington State Patrol for Department of Homeland Security 2005-2007 Law Enforcement Terrorism Prevention Program funds in the amount of \$97,124.

RESOLUTION #C-20-06 ESTABLISHING IS. CO. VETERANS' ADVISORY BOARD

The Board considered Resolution #C-20-06 Establishing an Island County Veterans' Advisory Board to advise the Board of County Commissioners on the needs of local indigent veterans, the resources available to local indigent veterans, and programs that could benefit the needs of local indigent veterans and their families.

Don Mason, Program Coordinator VAF/GSA, recalled that a proposed resolution was discussed with the Board at the March 1 Staff Session, with a number of veterans in attendance. A wording question that came about as a result of discussion at that Staff Session has been reviewed by the Prosecuting Attorney's office, and the word "chosen" replaced by the words "appointed from veteran volunteers". Mr. Mason confirmed that it was clear from verbal communication with those veterans who attended the Staff Session their desire is to move forward with resolution adoption today. Written confirmation is being provided from the Veterans and should be received this week.

By unanimous motion, the Board approved Resolution #C-20-06 in the matter of establishing an Island County Veterans' Advisory Board. [*Resolution #C-20-06 on file with the Clerk of the Board*]

VACANT LAND PURCHASE AND SALE AGREEMENTS APPROVED

As presented and recommended for approval by Don Mason, GSA, the Board by unanimous motion approved two Vacant Land Purchase and Sale Agreements with Westgate Homes as follows:

Vacant Land Purchase and Sale Agreement for surplus property located at 4185 Hollydale Lane, Oak Harbor, WA Parcel #13311-253-0550

Vacant Land Purchase and Sale Agreement for surplus property located at 31 W. Henni Road, Oak Harbor, WA Parcel #13312-235-4800.

AMENDMENT TO AGREEMENT WITH CONSOLIDATED FOOD MANAGEMENT, INC. TO PROVIDE FOOD SERVICES FOR JUVENILE DETENTION CENTER

The Board by unanimous motion approved an Addendum to the professional services operating

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agreement between Island County and CFM dated August 9, 2001, provide food services for Juvenile Detention Center [RM-SHER-01-0059).

RESOLUTION #C-21-06 WAIVER OF COMPETITIVE BIDDING FOR INSTALLATION AND PURCHASE OF A RADIO SYSTEM THROUGH DAY WIRELESS

The Board by unanimous motion approved Resolution #C-21-06, Waiver of Competitive Bidding for Installation and Purchase of a Radio System through Day Wireless, for the installation and maintenance of a radio system and related communication for the Island County Juvenile Detention Center. [Resolution #C-21-06 on file with the Clerk of the Board].

PUBLIC INPUT OR COMMENTS

Lou Malzone, Freeland, Wa. read the following “An Open Letter to Commissioner Mike Shelton” into the record:

Despite last year’s significant public opposition to giant buildings in Freeland and Clinton, the Director of the Island County Planning and Community Development Department (ICPCD) has now “reinterpreted” the zoning code to overcome building size limits in those communities. A significant administrative interpretation was made with no public notification, publication, or discussion. What the Planning Dept. couldn’t do in the light of public hearings last year, it did in secret instead.

Commissioner Shelton needs to convene public hearings to fully discuss the administrative interpretation, explain it to the public, and listen to the reasons why the interpretation should be invalidated. There should be no “done deals” when public process is circumvented.

The building size limits for Freeland and Clinton were adopted in 1999 after the Growth Management Hearings Board ruled the County had to limit new development so it was not out of scale with the existing community. To do that, the County adopted building size limits based on the size of the largest existing buildings -- 27,000 square feet in Freeland and 14,000 square feet in Clinton.

The new administrative interpretation, made in secret with no public notice, claims there was an “unstated legislative intent” to apply the size limits only to commercial buildings. Residential buildings in Freeland and Clinton will have no limit on building size, only a density limit of 14 units per acre. However, the wording in the zoning code is specific. It says, “no building may exceed” the size limits. What could be more clear?

The Planning Director believed the size limits applied to all buildings last year when he urged the Planning Commission to lift them. In the face of massive public opposition, the Planning Commission quickly rejected this controversial political hot potato. Now, the Planning Dept. has acted in secret with no public notice or chance for input. On December 14, 2005, the following Notice of Application, by Compass Investments, was posted on Scott Road:

R 22911-129-2230 Newman Rd. & Scott Rd. Revisions to 131/00 SPR which in part provided approval of a 78 unit assisted care facility located in Freeland. The proposal revisions consist of changes to the bldg footprint, location, an overall reduction in the bldg footprint size, parking lot circulation, landscape design & a reduction in the impervious surface area and reduction in the total # of units from 78 to 75.

What the Notice of Application does NOT say is that the proposed revisions included “reinterpreting” the zoning code from what the public was told it meant 6 months earlier -- effectively allowing a single

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building over twice the size of Payless.

ICPCD did NOT involve anyone from the Freeland community who might have objected to this proposal. Despite all the rhetoric from Planning Director Phil Bakke and Commissioner Shelton about wanting

public involvement, Freeland and Clinton are now open to residential development with no limit on building size. Residents of South Whidbey have been expressing for years their desire that the growth that will inevitably occur should do so in a way that will not destroy the “rural character” that we so cherish. Preservation of “rural character” is, in fact, a stated goal of the Island County Comprehensive Plan.

The posted and published legal notices should have contained specific information regarding the full extent of the proposed changes; and a public hearing should have been held.

The people who presented opposition to removing the building size limitations during the 2005 public hearings should have been contacted about the change in the design of the assisted care facility. They are on record opposing removal of the building size limits, and there is no excuse for excluding them from a decision that effectively removes all limits on the size of “residential” buildings in Freeland and Clinton.

We want to make it clear that we are all in favor of an assisted living facility being built in Freeland. We are deeply concerned, however, that the manner in which this project was approved is indicative of a willingness on the part of the Planning Department to accommodate the financial concerns of certain developers while disregarding existing zoning code and the expressed wishes of the people of South Whidbey.

This is a formal request to Commissioner Shelton to open public hearings on this administrative decision. ICPCD should present their case for the administrative decision in full view of the public. If, at the end of those public hearings, it is obvious that the new interpretation is wrong, then the approval of Site Plan 396-05 should be set aside and the project should be redesigned. Anything less will be a clear indication of a lack of respect on the part of the County Commissioners for the people they are supposed to represent.

Submitted by:	Lou Malzone, Freeland, WA	Steve Shapiro, Freeland, WA
	Emyle Malzone, Freeland, WA	Jack Lynch, Clinton, WA
	Steve Erickson, Langley, WA	Marianne Edain, Langley, WA
	Mitchell Streicher, Freeland, WA	Karen Streicher, Freeland, WA
	David Goodwin, Freeland, WA	Christine Goodwin, Freeland, WA.

BAYVIEW ROAD IMPROVEMENTS

As presented and recommended by Randy Brackett, Assistant County Engineer, the Board by unanimous motion approved the following Construction Easement and Quit Claim Deed associated with the Bayview Road Improvements under CRP 98-17, Work Order 229:

Construction Easement # PW-0420-26 between Island County and South Whidbey Commons, Parcel 023-0420; Sec. 8, Twp 29N, R 3E.

Quit Claim Deed – South Whidbey Commons [for mutual benefits; no monetary consideration] Parcel 023-0420; Sec. 8, Twp 29N, R 3E.

BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING MARCH 6, 2006**CAMANO HILL ROAD IMPROVEMENTS**

The following Temporary Construction Easement, Quit Claim Deeds and Property Voucher were approved by unanimous motion of the Board as presented and recommended by Mr. Brackett, associated with Camano Hill Road Improvements under CRP 02-04, Work Order 176:

Temporary Construction Easement #PW-0520-91 between Island County and William B. & Camilla A. Haslund, Parcel 198-4950; Sec. 1, Twp 31N, R 2E.

Quit Claim Deed – William B. & Camilla A. Haslund; \$1,450.00/land; Parcel 198-4950; Sec. 1, Twp 31N, R 2E.

Quit Claim Deed – William B. & Camilla A. Haslund; \$5,250.00/land; Parcel 198-4950A; Sec. 1, Twp 31N, R 2E.

Quit Claim Deed – William B. & Camilla A. Haslund; \$10,000.00/land (remainder parcel); Parcel 198-4950A; Sec. 1, Twp 31N, R 2E.

Quit Claim Deed – Richard H. & Sarah E. Everett; \$24,300.00 (\$23,900.00/land, \$400.00/landscaping); Parcel 466-4610; Sec. 12, Twp 31N, R 2E.

Property Voucher – Authorization for Property Acquisition per Real Property Acquisition & Right-of-Way Procedures (C-46-03/R-16-03), Richard H. & Sarah E. Everett \$24,300.00.

MONROE LANDING ROAD PROJECT

As presented and recommended for approval by Mr. Brackett, the Board by unanimous motion approved the following Construction Easement, Quit Claim Deed and Property Voucher for the Monroe Landing Road project under CRP 02-03, Work Order 356:

Construction Easement #PW-5020-252 between Island County and Charles E. & Linda L. Oisten; Parcel 471-5100; Sec. 21, Twp 32N, R 1E.

Quit Claim Deed – Charles E. & Linda L. Oisten; \$30,860.00 (\$2,950.00/land, \$3,200.00/improvements; \$23,500.00/damages; \$1,210.00/administrative settlement); Parcel 471-5100; Sec. 21, Twp 32N, R 1E.

Property Voucher – Authorization for Property Acquisition per Real Property Acquisition & Right-of-Way Procedures (C-46-03/R-16-03), Charles E. and Linda L. Oisten, \$30,860.00.

CONTRACT/CONTRACT BOND – NORDIC CONSTRUCTION, INC.

Following bid award on February 27, 2006, as presented by Mr. Brackett, the Board by unanimous motion approved the Contract and Contract Bond #PW-0620-12 between the County and Nordic Construction, Inc., for the Utsalady Road Outfall (CDP 05-01) and Wall Improvements (CRP 05-05) in the amount of \$194,160.00.

FINAL APPROVAL PLP 416/04- AUTUMN VILLAGE INVESTORS LLC

Planning & Community Development Director Phil Bakke, along with Carole Croft, Development

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Services Manager, presented for final approval PLP 416/04 by Autumn Village Investors LLC, Parcel R32902-329-3850 located on Wilkinson Road, South Whidbey, explained by cover memo to the Board dated March 3, 2006 from Ryan Morrison, Assistant Planner. The application was originally submitted on December 1, 2004 for a proposal to create 7 new lots on an 8.17 acre parcel in the Rural Residential zone. Preliminary approval was received on June 29, 2005, subject to several conditions. The Island County Health Department and Public Works Department, along with all applicable agencies, reviewed the application for conformance with Code and have no objection to approval. Planning & Community Development has no objection and recommends the Board grant final approval of PLP 416/04.

By unanimous motion, the Board granted approval of PLP 416/04 by Autumn Village Investors LLC Final Long Plat, Parcel R32902-329-3850, located on Wilkinson Road, South Whidbey Island.

HEARING HELD: RESOLUTION #C-149-05/R-58-05 – CONSIDER ADOPTION OF RESOLUTION #C-149-05/R-58-05 APPROVING THE FREELAND COMPREHENSIVE SEWER PLAN AND ENGINEERING REPORT/FACILITY PLAN

Chairman McDowell opened a public hearing at 2:30 p.m. as scheduled, to consider adoption of Resolution #C-149-05/R-58-05 Approving the Freeland Comprehensive Sewer Plan and Engineering Report/Facility Plan, the hearing continued from February 6, 2006. Minutes from the February 6th hearing were available to anyone desiring a copy, having also been available on the County's web site, so those who attended today's hearing would have an opportunity to know what had gone on before.

Randy Brackett and Gary Hess represented the Public Works Department. Other County staff members and approximately 9 members of the public and press were present. Mr. Brackett entered the following correspondence for the record received since the prior hearing:

- Letter dated March 6, 2006 signed by David Voigt, P. E., Project Manager, CHS Engineers, LLC, Bellevue, Wa., responding to a question posed by Commissioner Shelton regarding the ability of Main Street Sewer District to provide long-term sewer service.
- Letter dated March 6, 2006 from Brian R. Paige, Inslee, Best, Doezie & Ryder, P.S., Bellevue, Wa., submitted as a supplement to their letter dated February 5, 2006 in opposition to Freeland Water District's request for approval of its comprehensive plan pursuant to chapter 57.16 RCW and RCW 57.08.065.
- Letter dated March 6, 2006 from Steve Shapiro, Langley, long-time resident of South Whidbey and a business owner in Freeland, submitting written testimony to firmly establish his legal standing with regard to present and future issues regarding sewers and other development matters within the proposed Freeland NMUGA.

[letters placed on file with the Clerk of the Board]

David Voigt, P. E., Project Manager, CHS Engineers, LLC, Bellevue, Wa., read his letter into the record:

This letter is offered in response to a question posed by Commissioner Shelton regarding the ability of Main Street Sewer District to provide long term sewer service. Commissioner Shelton referred to the Maple Ridge WWTP capacity threshold in approximately 2015 – 9 years from now. He emphasized that GMA requires a planning horizon of at least 20 years.

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We wish to provide the following response and clarification:

The August 5, 2005 meeting referred to by Commissioner Shelton occurred prior to preparation of the General Comprehensive Sewer Plan written by CHS for Main Street Sewer District. The information presented at the August 5, 2005 meeting was refined and additional information was provided in the General Comprehensive Sewer Plan (MSSD Sewer Plan) distributed on August 31, 2005. The information presented at the August 5, 2005 meeting is generally consistent with information published in the MSSD Sewer Plan however the MSSD Sewer Plan presents additional information related to long-term sewer service and addresses key issues raised at the meeting.

The General Comprehensive Sewer Plan for Main Street Sewer District does contain a long-term planning strategy that meets population and service area growth forecasts for the Freeland NMUGA. Chapters 3 and 4 of the MSSD Sewer Plan provide information on the population growth trends including a growth trend chart to the year 2032 that is consistent with the forecasted trend of population growth presented in the Draft Freeland Subarea Plan dated August 2004. The MSSD Sewer Plan acknowledges a minimum 20-year planning horizon for facilities and financial planning. The only significance of the year 2015 is that is the approximate point in time when the Maple Ridge WWTP would theoretically reach 85% of its rated capacity. It should be noted that the Island County Sewer Plan does not present a forecast trend for growth in the Freeland community and does not offer a specific timeline for phased implementation of its facilities.

Chapter 7 of the MSSD Sewer Plan provides a detailed cost comparison for capital construction, operations and maintenance through the year 2044 (38 years from now) when near-total buildout is expected to occur. This expanded financial analysis predicts approximately \$4 million savings by starting the sewer system in Freeland by expanding the Maple Ridge WWTP and subsequently building new additional decentralized treatment plant capacity when needed. This cost evaluation demonstrates that the combined capital and O&M costs to operate and maintain two or more treatment plants (using Maple Ridge WWTP) is significantly less expensive than the corresponding costs to implement the Island County CSP (without using Maple Ridge WWTP).

For a 20-year planning horizon at approximately year 2026 to 2029, the cost difference is similar with the Island County Sewer Plan costing about \$23.4 million and the MSSD Plan costing about \$19.9 million.

The MSSD Sewer Plan recognizes that the Maple Ridge WWTP will reach its maximum capacity within 8 to 10 years (approximately year 2015) and that additional new wastewater treatment capacity would need to be constructed thereafter. The MSSD Sewer Plan also suggests two options are available for adding more wastewater treatment capacity beyond that provided by the Maple Ridge WWTP:

A large new Freeland WWTP, southwest of the community as described in the Island County CSP, can be constructed at its Phase 3 capacity and subsequently upgraded as needed.

Alternatively, two or more new small package MBR wastewater treatment plants can be constructed at relatively small sites within the community similar to the option recommended for the community of Clinton WA. Considering the natural drainage and topography, it would be logical to build a WWTP near the intersection of Main Street at SR525 and a third WWTP near Nichols Brothers although other sites may ultimately be selected. The MSSD Sewer Plan does not outline a detailed plan for that alternative but recommends that an Engineering Report should be done to provide further evaluation.

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In summary, the MSSD Sewer Plan offers the Freeland community an opportunity to implement sewer service expeditiously, at a lower cost and with more consideration given to the growth and development characteristics of Freeland than does the Island County Sewer Plan. The Island County Sewer Plan forces the community to make a major commitment to a single large WWTP facility that is expensive, cannot be in service until approximately 2013 and lacks flexibility or creativity in meeting specific needs of the community.

We trust that the above response satisfactorily addresses Commissioner Shelton's question.

Mr. Voigt clarified that MBR referred to Membrane biological reactor, a relatively new type of treatment process.

Commissioner Shelton noted that the Freeland Water District plan envisions a Phase I sewer treatment facility which would handle the commercial core of Freeland, and subsequent to that if need arises, additional phases to add capacity to handle additional commercial or residential areas that chose to annex to the district. If with the Main Street plan in 2015 reaches capacity and all of the commercial core is hooked to up to Main Street as is proposed, assuming the first option under Mr. Voigt's two proposed options, Commissioner Shelton asked if we would not have to start at the same place with this new facility as if we started there originally, and would that not be duplicating Phase I? If go with Main Street and spend the 6.2 million required and that reaches capacity, does that mean then having to spend 7+ million to get started on the second one?

Mr. Voigt could not speak with specificity about the dollar numbers. He did indicate that the 6.+ million for Main Street's sewer district plan included some collection system which may also be in the other dollar amount. He suspected there may be double-counting of some facility costs. In a more general sense he stated that the waste water treatment plant that might be built [referred to as the large new Freeland waste water treatment plant], the plant itself would be identical or very much like what is shown in the Island County Sewer Plan. What would be anticipated is if the Maple Ridge WWTP is kept on line permanently then the facilities could be scaled back in size and would not have to be expanded to the full ultimate sizing currently outlined in that plan. There would have to be some significant design and engineering costs to put that facility in the ground and hook it up. Alternatively, there is the opportunity for a smaller decentralized WWTP positioned elsewhere in the community.

Considering that only one sewer agency is overseeing the jurisdiction [either MS or FWD as the sewer agency] Mr. Voigt said that for the 3-1/2 million dollar figure difference there are a number of factors that make up that number; extrapolated out even further it compounds to become about 4 million. A key item for the largest amount is in a scenario where Main Street Sewer District Maple Ridge plant performs the initial sewer service and in 10 years it is necessary to build another treatment plant. It is possible to build the treatment plant such as Phase III is defined in the Island County plan rather than Phase I. There is an opportunity to benefit from economy of scale; building a bigger treatment plant when it is time to build the second treatment plant; not having to go through a Phase I and Phase II staged-sequence.

Gary Hess indicated that Phase I construction costs of the Freeland Water District Plan was 6.4 million dollars; add in the capital costs comes to 8.4 million. Phase II for the treatment plant, including 20 years operation and maintenance 14.5 million. Phase I twenty years operation would be 11.2 million. Phase I is included in Phase II; all the property for all the phases are purchased up front required for the treatment plant and most of the larger diameter pipelines in place; therefore subsequent phases are

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smaller increments. Included in Phase II was the capital costs, present worth totals to 14.5 including O&M.

Mr. Voigt clarified that figures for Main Street include O&M; the plan put forward in that manner in order to have a side by side comparison [see Chapter 7]. Phase I cost is: 6.1 million plus \$600,000 capital costs = 6.7 million at the year 2015. As far as additional land for the effluent, they have included the same land and same cost that has been put into Island County's plan up front in Phase I. Chapter 7 in the MSSD report is a graphic illustrating each plan side by side, broken down into capital, O&M and totals the two. Looking at the lines representing the two plans, Main Street plan consistently has lower costs at any given time in the future planning horizon. The Main Street report was submitted and received by the County 9-1-05.

Mitchell Streicher, Freeland, thought the big picture was being overlooked along with the fact there would not be a Phase II for a very long time. He has been involved with Freeland Subarea Planning committee for about five years. The report listed 20 or 30 names of people who were thanked for their input and thus he assumed those were the people who helped make decisions, but found that the greatest majority of those were not interested in sewers. If the core business area wants sewers and are willing to pay for it, then they should have it. He suggested the reason phasing was included in the first place was because of knowing that if it was not done in that manner, sewers would never pass muster. He saw several items all tied together: the sewer plan, surface water plan, NMUGA and Freeland Subarea Plan, and has been trying to find out why nothing has been done about the Freeland Subarea Plan. The surface water plan was provided to the County in May, 2005, and the Freeland Subarea Plan provided May, 2004; neither has been presented for any kind of hearing.

Commissioner Shelton explained that the NMUGA designation as opposed to the existing Rural Area of More Intensive Development designation means nothing until the urban services are in place to implement the land use plan proposed as a NMUGA. It is a matter of pulling the three plans together and when all in place, at that point the designation for the NMUGA can go into effect. Then, assuming people are willing to pay for the cost of the sewer, at that point once urban services are provided, the land use plan under the Freeland Subsarea plan can be implemented.

Mr. Streicher submitted that it should be a one-phase plan. Commissioner Shelton assumed that the phases would happen when capacity of the existing system is reached and there is a demand for more capacity. He mentioned a major effort under way in the State of Washington around the cleanliness of Puget Sound. In relation to Holmes Harbor, a somewhat similar kind of a situation with regard to Hood Canal. The State of Washington funded lines for a sewer and the plant to service Belfair because of what is believed to be the environmental impact of that community on Hood Canal. There are other forces in play and it may not be an option of whether people want to go on a sewer or not around the marine shoreline.

Based on a number of issues heard today and the fact there is need for more clarity around the costs of the competing sewer plans, Commissioner Shelton moved that the Public Hearing be continued until March 20, 2006 at 10:15 a.m. for the Board's decision; public testimony is closed with the exception that the Board requests receipt of written comments from David Voigt, CHS Engineers, LLC by close of business next Monday in clarification to questions asked in this hearing. Motion, seconded by Commissioner Byrd, carried unanimously. *[Notice of Continuance on file with the Clerk of the Board]*

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WATER QUALITY WORKSHOP ON ADAPTIVE MANAGEMENT

Attendance

Staff:

Planning: Phil Bakke; Jeff Tate; Joe Burcar; Kirsten Harma; Anthony Boscolo
Health: Keith Higman

Consultants: Dr. Paul Adamus; Keith Dearborn

Audience: 3 public/press

Power Point Presentations:

Water Quality Monitoring and Adaptive Management GMA Workshop
Dearborn & Moss PLLC March 6, 2006 [GMA Record #8645]

Water Monitoring and Management: What other counties are doing
Kirsten Harma, Wetlands/Critical Areas, Island County Planning & Community Development
[GMA Record #8646]

Display: Posted on the wall for display during the Workshop was a table entitled “Water Quality Programs in Counties Throughout Western Washington” that compares all the counties that have been surveyed.
[GMA #8647]

I AG BMPS

Two preliminary matters were brought up by Keith Dearborn.

(a) Due to an appeal brought by WEAN, staff discovered that Ordinance #C-150-05 (PLG-021-05), the AG BMP Ordinance, advertised and for which the Board has held hearings, contained a clerical error; some existing language in the penalties and enforcement section somehow got deleted. For some reason the Board received the 12/20/05 version when the correct version was the 12/23/05 version, the version recommended by the Planning Commission. That version is the correct version staff will present to the Board Monday as a substitution which will then need to be advertised before the next hearing scheduled April 3, 2006. The only person that has identified the discrepancy is WEAN and staff will make sure WEAN knows that discrepancy was not intended.

(b) The Legislature has now adopted an exemption to the Public Disclosure Act for farm plans. Mr. Dearborn has asked that the Conservation District advise the County whether there needs to be any change in Ordinance #C-150-05 as proposed because of that new legislation. The District is looking at that now and will provide the Board with correspondence and a proposed amendment in time for advertisement for the April 3, 2006 hearing.

II WORKSHOP - WQMP - Adaptive Management

Mr. Dearborn went through his presentation “Water Quality Monitoring and Adaptive Management”, his approach as proposed in the Water quality Monitoring ordinance.

Adaptive Management. Adaptive Management is used scientifically; an “umbrella” term that includes monitoring and actions that come from monitoring; this is the action portion. It is common sense, do it every day; if something is not working, change it; a structured process of

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learning by doing. AG BMPs are measures believed to be best available science, the best methods for protecting the environment from existing agricultural practices. In the course of implementation there will be tracking of water quality to see if it is working or not, then making adjustments through adaptive management if not. The adaptive management proposal involves six-steps. Any adaptive management action is triggered by an exceedence in adopted standards, guided by adopted principles. The ordinance defines exceedence.

For a water quality monitoring program where there is no human impact, Dr. Adamus would expect some samples to show exceedences, would not be violations because Washington State Code contains an allowance for natural conditions with demonstration what natural conditions are. Demonstrating natural conditions in a built environment would be done by using a reference watershed approach.

And Mr. Dearborn pointed out that the baseline is proposed to look at both relatively undeveloped watersheds and developed watersheds to do exactly that. The adopted standards proposed are the State adopted standards, but if in the course of five years of baseline monitoring the County finds natural conditions are exceeding State standards, that will provide information to be able to judge whether that can be treated as a violation or an exceedence that requires enforcement.

Keith Higman made note that the “million dollar” answer was the ability to differentiate the natural condition from the human influence, which in many cases hard to do. Finding a reference watershed also is not an easy task in terms of comparison and in many cases source identification differentiating source is a very complex endeavor.

Mr. Dearborn referred to the recent memo from the Public Works Department, a comparison of fecal coliform data between Island County and neighboring counties [2/28/06 memo GMA #8648] showing that every county they looked at has fecal exceedences, and in the case of Skagit County, 100%, every sampling site. The fact that there may be fecal exceedences has not caused Island County’s Health Department or Public Works Department to come to the Board and request something be done. This proposal addresses the need for five years of baseline before treating any exceedence as a source-determining issue.

Adaptive management potential actions. Identified in the ordinance three possible kinds of actions.

- Under some limited circumstances the Planning Director is authorized to direct that AG BMPs be modified for a specific site or subarea [when find an exceedence and identify a source]
- Making AG BMP standards more stringent county-wide
- Making AG BMP standards less stringent county-wide if find water quality is fine.

Want to make sure the County’s program looks at this question from both points of view

Guiding Principles.

1. Predicated on establishing baseline conditions. Every county has begun this process by establishing baseline conditions; several counties are ahead of Island County [King and Pierce].
2. Once there are baseline conditions and if there is an exceedence the next step is to identify the source.
3. Proposal requires source identification as well as baseline monitoring always follow peer-reviewed protocols; as protocols change staff will make sure about staying up to date.
4. Use peer-reviewed references for all procedures used. [i.e. DOE protocols for taking water samples, etc. – following a cookbook approach].

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5. Access to private property shall require written consent. Staff does not know of any county that is entering private property without consent. Most counties are sampling only from public property.
6. Actions taken be based on identified adverse effects. Do not see legally how the County could compel someone to change existing AG practices without being able to determine there is an adverse effect. Restoration or enhancement must follow principles already established as a part of the Salmon Recovery Plan.

Implementation steps. Implementation goes through a five-step process. The first thing after an exceedence determination would be a compliance assessment with BMPs. If BMPs are not in compliance or a custom plan not completed, there will be an education program to encourage people to understand why they should be doing this. The third step would be enforcement, and this proposal includes deadlines for compliance. Island County's enforcement program gives the Planning Director authority to do enforcement. If all of those things have been done, two kinds of actions can be taken. The first is site-specific action the Planning Director would be authorized to take, either for a specific property or for a subarea. If it is not a site-specific issue but a general problem county wide, county-wide standards would be changed – changing the NRCS standards for Island County for a specific measure if found necessary (code amendment through the public hearing process), appealable to the Hearing Examiner only by the property owner, a type I decision. The County would have the burden to demonstrate need for the change.

Western Growth Hearings Board guidance (from Compliance Order Swinomish v. Skagit County 1/3/05):

...the adaptive management program should provide meaningful data concerning the effectiveness of the less-than-precautionary protection measures adopted by the County to protect salmon habitat in ongoing agricultural lands; and it should provide swift and certain correction action.

Conclusion:

- Baseline will take five years to develop – adaptive actions not likely until baseline established
- Actions require the identification of damage and source.

This is a program that will take five years to develop. Unfortunately no outside funding for the baseline has been identified. Other counties have been paying for it through surface water utilities. This is a necessary activity to ensure monitoring and tracking on the protectiveness of AG BMPs.

The program by Code is a county wide program for all departments. Other departments have been assisting in the development of the WQMP. For surface water this is the only WQMP on-going in the County. Everything else should feed off of this, build on it, reinforce it – the County's organizing structure for water quality planing and management. The County Public Works Department has been included in every step of development of the program, included as members of the water quality working groups, and as recently as last week, sent e-mails with comments on the WQMP. There will be a peer review group meeting of the State agencies to review final comments mid-month on the water quality program; also asking for review of the AG program for final comments. Comment letters were received on water quality from WEAN [GMA # 8637] and the Department of Fish & Wildlife [GMA #8644]. The Fish & Wildlife letter had some technical comments and raised no policy issues.

Kirsten Harma, Wetlands/Critical Areas, Island County Planning & Community Development, went through a power point presentation: ***Water Monitoring and Management: What Other Counties Are Doing.***

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There is no “exact” model for adaptive management. All other counties design program based on needs and circumstances; few counties have ordinance or dedicated funding for monitoring and source identification. All counties are doing some sort of baseline or long-term trend monitoring [reference], and even though all counties are not going down the same path they are all have the same goal: find and correct the problems

Other counties with water quality monitoring programs on surface waters: Snohomish, Whatcom, Clallam, King and Pierce. Methods include:

Frequency of sampling: monthly or bi-monthly

Number of sites: from 10 to 70

Parameters sampled: mostly all the same ones [nutrients, pH, etc.]; some do microinvertebrates and habitat

Protocols: based on Department of Ecology

Only Kitsap looks at near-shore marine waters

Skagit County

Experience

-Initial goal was to establish baseline conditions and detect trends

-Pushed towards more adaptive management through lawsuit

-Monitoring plan may change based on Growth Board decision

Methods

-Sample in every “major stream” in agriculture-zoned areas

-Sites chosen above and below different AG activities and as reference sites

-Start downstream and “chase” problems upstream

-Bi-weekly sampling

Cautions

-DNA-source tracing technology too rough-not tested enough & expensive

-Program not designed to check effectiveness of any specific BMP

-Not certain that water quality data will provide the “proof of source”

-Two more years to get data on baseline conditions

Results

-Published on Skagit County website

-Used to alert Health Department of septic leaks; alert Planning about livestock in streams, give data to DOE for TMDL program [Total Maximum Daily Load – term used by DOE to start a process of intensive monitoring to identify the amount of contaminants that a stream can handle and still meet the Clean Water Act standards]

Island County – Kitsap County Parallels

Island

211 sq. miles

73,000 population

Relies on groundwater for drinking water

Short streams so contaminants move quickly to marine waters

Differences: shell, health risks, Hood Canal

Kitsap

396 sq. miles

240,719 population

Kitsap’s pollution identification and correction program is a well developed Program, adopted through ordinance. Goals are to locate and correct problems. The organizational structure is coordinated between departments.

Kitsap’s water quality problems are addressed:

- based on known exceedences
- about 10 years’ baseline

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- create prioritized list based on severity of risk
- risks: shellfish bed closures, TMDL, Finding fecal coliform in lakes & streams
- Aggressively intensive monitoring to locate problems. Many problems found have been septic-related; also address animal waste, etc.
- “Adaptive” in term of how efforts are reprioritized every year
- Outreach
- Technical Assistance
- Successes
 - Identified problems
 - Corrective actions
 - Continued baseline monitoring
 - Improving water quality trends
- A great comprehensive program, seeing results.
- Dollars spent on annual basis just in terms of baseline monitoring - \$300,000

Staff will come back to the Board with discussion of potential revisions in the program once the 60-day review has been completed. The ordinance will be presented Monday to schedule for public hearing on April 3, 2006 at 10:30 a.m.

Meeting adjourned at 4:42 p.m. The next regular meeting of the Board will be on March 13, 2006 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