

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
NOVEMBER 6, 2006**

The Board of Island County Commissioners (including Diking Improvement District #4) met in Regular Session on November 6, 2006, beginning 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 previous meetings as follows: October 16, 2006 Regular Session; October 23, 2006 Special Session; October 23, 2006 Regular Session; and October 27, 2006 Special Session.

VOUCHERS AND PAYMENT OF BILLS

The Board by unanimous motion approved payrolls dated October 20, 2006 and October 31, 2006, along with the following vouchers/warrants:

Voucher (War.) #249491-249776..... \$551,196.11.

HIRING REQUESTS & PERSONNEL ACTIONS

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

Dep.	PAA #	Description/Position #	Action	Eff. Date
Health	140/06	EHS II (food program) 2407.09	Replacement	11/06/06
Planning	141/06	Planning Tech I 1601.07	Replacement	11/13/06
Planning	144/06	Watershed Pro.Mgr .75 fte 2266.07	Replacement	11/20/06
Assessor	142/06	Acting Cartog., temp 116.01	Personnel	11/01/06
Assessor	143/06	Cartog. Asst., temp 117.03	Personnel	11/01/06
Juvenile Ct.	145/06	Juv. Detention Officer 1407.02	Replacement	11/06/06
Pub. Works	146/06	Road Shop Supervisor 2204.02	Replacement	11/06/06
Commrs.	147/06	Executive Secretary Pool	Replacement	11/06/06

**RESOLUTION #C-112-06 ADOPTING THE REVISED ISLAND COUNTY
PERSONNEL POLICIES AND PROCEDURES MANUAL – EDUCATION
REIMBURSEMENT POLICY**

As presented by Mr. Larson, the Board by unanimous motion approved Resolution #C-112-06 adopting the revised Island County Personnel Policies and Procedures Manual, ICC 2.01.043 – Education Reimbursement, adding a provision that upon written approval the Board of County Commissioners may authorize reimbursement of more than one (1) class per quarter or semester when the employee is seeking a Masters Degree and if it is in an expedited program that requires more than one class per quarter. *[Resolution #C-112-06 on file with the Clerk of the Board]*

**LETTER TO JOSEPH DUCKEN AND BONNIE NEWKIRK IN RESPONSE TO
LETTER JOINTLY ADDRESSED TO THE BOARD OF COUNTY COMMISSIONERS**

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AND THE ATTORNEY GENERAL REQUESTING INDEPENDENT
INVESTIGATION INTO MATTERS REGARDING THE COMMISSIONERS OF
ISLAND COUNTY DIKING DISTRICT NO. 3.**

By unanimous motion, the Board approved sending a letter to Joseph Ducken and Bonnie Newkirk in response to a letter jointly addressed to the Board of County Commissioners and the Attorney General

requesting independent investigation into matters regarding the commissioners of Island County Diking District No. 3.

**CONTRACT FOR PROVISION OF LEGAL PUBLIC DEFENSE SERVICES -
THOMAS C. PACHER, ATTORNEY AT LAW, INC.**

As presented by the General Services Administration, the Board by unanimous motion approved Contract for Provision of Legal Public Defense Services between Island County and Thomas C. Pacher, Attorney at Law, Inc. (#RM-GSA-06-121).

**RESOLUTION #C-113-06 DECLARING LEGAL HOLIDAYS FOR THE YEAR
2007**

The Board by unanimous motion, approved Resolution #C-113-06 Declaring Legal Holidays for the Year 2007. [*Resolution #C-113-06 on file with the Clerk of the Board*]

**APPROVAL OF 2% HOTEL-MOTEL TAX TOURISM PROMOTION PROJECT
AWARDS FOR 2007**

By unanimous motion, the Board approved awarding the Island County Basic 2% Hotel-Motel Tax – Tourism Promotion - Public Facilities Fund for 2007 Program Year in the total amount of \$90,001.00 as follows:

<u>ORGANIZATION</u>	<u>AMOUNT</u>
1. CAMANO ISLAND CHAMBER OF COMMERCE <i>Visitor Information Center/Tourism Marketing & Fulfillment Program</i>	13,756
2. CENTRAL WHIDBEY CHAMBER OF COMMERCE <i>Tourism Fulfillment Program & Visitor Information Center</i>	17,703
3. COUPEVILLE ARTS CENTER <i>"Shoulder Season" Marketing of Coupeville Arts Center Classes</i>	2,493
4. FREELAND CHAMBER OF COMMERCE <i>Visitor Information Center activities/Freeland Information Brochure</i>	10,220
5. GREATER OAK HARBOR CHAMBER OF COMMERCE <i>Tourism Marketing & Development for Island County</i>	15,695
6. ISLAND COUNTY HISTORICAL SOCIETY MUSEUM	1,006

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Museum Brochure Reproduction

7.	LANGLEY CHAMBER OF COMMERCE <i>Tourism Marketing Fulfillment Program, VIC and referral services</i>	19,111
8.	LANGLEY & FREELAND CHAMBER OF COMMERCE <i>South Whidbey Visitor Information Kiosk (joint project)</i>	5,539
9.	MEERKERK RHODODENDRON GARDENS, INC. <i>Discover Spring Beauty on Whidbey Island Tourism Promotion</i>	2,539
10.	PENN COVE WATER FESTIVAL ASSOCIATION <i>Penn Cove Water Festival Marketing Project - 2007</i>	1,939

HEARING SCHEDULED FOR BUDGET ADOPTION – RESOLUTION #C-114-06

Prior to scheduling the budget resolution and three ordinances, Commissioner Shelton moved a change to the ordinance that would become Ordinance #C-115-06, to reflect that for the Current Expense levy the County would not take the 1% property tax increase for the year and that the advertisement for the budget be corrected accordingly. Motion was seconded by Commissioner Byrd.

Under discussion, Commissioner Shelton reflected that there was a significant amount of new construction in the County that benefited all of the taxing districts; in addition, sales tax has performed admirably and anticipated that carrying forward into next year. Commissioners Byrd and McDowell supported the motion echoing Commissioner Shelton's comments.

Motion carried unanimously.

By unanimous motion, the Board scheduled a public hearing for December 4, 2006 at 9:45 a.m. on Resolution #C-114-06 Adopting the Island County Budget and Diking District No. 4 Budget for Fiscal Year 2007.

**ORDINANCE #C-115-06 INCREASING THE TAXING DISTRICT'S PRIOR YEAR'S
LEVY AMOUNT FOR COLLECTION IN FISCAL YEAR 2007 FOR THE COUNTY
CURRENT EXPENSE LEVY**

The Board by unanimous motion scheduled Ordinance #C-115-06 Increasing the Taxing District's Prior Year's Levy Amount for Collection in Fiscal Year 2007 for the County Current Expense Levy, as revised, for Public Hearing December 4, 2006 at 9:45 a.m.

**ORDINANCE #C-116-06 INCREASING THE TAXING DISTRICT'S PRIOR YEAR'S
LEVY AMOUNT FOR COLLECTION IN FISCAL YEAR 2007 FOR THE COUNTY
ROAD LEVY**

By unanimous motion the Board scheduled Ordinance #C-116-06 Increasing the Taxing District's Prior Year's Levy Amount for Collection in Fiscal Year 2007 for the County Road Levy for public hearing on December 4, 2006 at 9:45 a.m.

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**ORDINANCE #C-117-06 INCREASING THE TAXING DISTRICT'S PRIOR
YEAR'S LEVY AMOUNT FOR COLLECTION IN FISCAL YEAR 2007 FOR THE
COUNTY CONSERVATION FUTURES LEVY**

By unanimous motion, the Board scheduled Ordinance #C-117-06 Increasing the Taxing District's Prior Year's Levy Amount for Collection in Fiscal Year 2007 for the County Conservation Futures Levy for public hearing to be held on December 4, 2006 at 9:45 a.m.

**CONTRACT WITH CXT INCORPORATED FOR DEER LAKE VAULT TOILET
PURCHASE AND INSTALLATION**

As presented and recommended by GSA, the Board by unanimous motion approved Contract with CXT Incorporated for Deer Lake vault toilet purchase and installation in the amount of \$13,652.06 (RM-PARKS-06-116).

WSU EXTENSION SERVICE CONTRACTS APPROVED

By unanimous motion the Board approved the following WSU Extension Service contracts:

Contract Modification #2 University of Washington Subcontract No. 874311 Sea Grant Partnership providing funds for 2006-2007 Island County Beach Watchers program in the amount of \$32,000 (RM-EXT-06-0129)

Amendment #1 to Services Agreement with Dan Pedersen d/b/a Dan Martin Pedersen for additional work on "Getting to Waters Edge" book and agriculture program, in the amount of \$2,500 (RM-EXT-06-0128)

HEALTH CONTRACTS APPROVED

As recommended by Tim L. McDonald in memo dated November 1, 2006, the Board by unanimous motion approved the following contracts:

Contract #C13034, Amendment 13 (RM-HLTH-02-0094) with Department of Health – Consolidated Contract, continues/adds funding for Assessment in Action, Public Health Emergency Response, and Immunizations. Contract Amount: \$1,133,889, Amendment Amount: \$39,417

Contract #HD-23-06 with Northwest Certified Surveys, Inc., dba Gilmore Research Group – Behavior Risk Factor Surveillance Survey (BRFSS) to conduct 2006 behavioral risk factor survey in the amount of \$35,006 (RM-HLTH-00-0057).

**ASSUMPTION OF LIQUOR LICENSE #085937-3F-WHALE OF A TALE &
BRINDLES**

Having received favorable recommendations from the appropriate county departments the Board by unanimous motion approved forwarding a recommendation of approval to the Washington State Liquor Control Board for approval of the Assumption of Liquor License #085937-3F from Frosty Bay Seafoods, Inc., d/b/a Brindle's Bistro to Carrie Elaine Hutton, d/b/a Whale of a Tale & Brindles, located at 848 North Sunrise Blvd., Camano Island, Wa.

PUBLIC INPUT

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Richard Ryan, Coupeville, inquired about the tourism program, and the Commissioners offered the following information:

First 2%. Hotel-Motel Tax Tourism Promotion [Lodging Tax Advisory Committee] for review and recommendation to the Board of County Commissioners on distribution of monies generated by the lodging tax. The Board of County Commissioners Office staffs [Donna Benson] the committee and the Chairman is a member of the Committee.

Second 2%. Joint Administration Board - Interlocal Agreement between Island County, Oak Harbor, Langley, and Coupeville, Tourism Promotion Agreement; the group has hired a tourism marketing coordinator [Rose Ann Alspektor]; the Chairman of the Board is a member of the Board.

With regard to a question about the availability of the State Audit Report and the County's response, the Board advised Mr. Ryan that a copy could be obtained from the Office of the Commissioners, Auditor's Office or directly from the website of the Washington State Auditor.

HEARING HELD: FRANCHISE APPLICATIONS #344 AND #335

As advertised, at 10:15 a.m. the Board opened a public hearing for the purpose of considering two franchise applications.

FRANCHISE #344 - CAMANO BEACH CABIN, LLC - SEWER DISTRIBUTION SYSTEM; WEST CAMANO DRIVE AND SANDY BEACH DRIVE; SECTIONS 14/15, TOWNSHIP 31N., R 2E.

Franchise #344 (PW-0620-104) between Island County and Camano Beach Cabin, LLC, for a franchise to construct, operate and maintain a sewer collection system in portions of county roads West Camano Drive and Sandy Beach Drive, Sections 14/15, Township 31N., R 2E., Camano Island, was presented by Bill Oakes, Public Works Director, who reported in favor of the Board granting the franchise. The franchise is for a low pressure system for a single family home.

At the time when public input was requested by the Chairman, no one in the audience spoke either for or against Franchise #344.

By unanimous motion the Board approved Franchise #344 between Island County and Camano Beach Cabin, LLC, for a franchise to construct, operate and maintain a sewer collection system in portions of county roads West Camano Drive and Sandy Beach Drive, Sections 14/15, Township 31N., R 2E., Camano Island.

FRANCHISE #335 - CAMANO HILLS WATER CO., INC. – CONSOLIDATES AND SUPERCEDES FRANCHISE #31, #110, #253, #263, AND #311, WATER DISTRIBUTION SYSTEMS; SECS. 20, 29-31, TWP 32, R. 3E; SEC. 6, TWP 31N, R 3E; SECS. 1, 2, 12, TWP 31N, R 2E., SECS. 23, 26, 34-36, TWP 32N, R 2E.

Franchise #335 (PW-0620-102) was next before the Board, a franchise between Island County and Camano Hills Water Co., Inc. to consolidate Water Distribution Systems located in Secs. 20, 29-

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31, Twp 32, R. 3E; Sec. 6, Twp 31N, R 3E; Secs. 1, 2, 12, Twp 31N, R 2E., Secs. 23, 26, 34-36, Twp 32N, R 2E. The system runs all the way from Terry's Corner down past the Camano Annex to the northern future service area. The Planning Department has approved expansion of the service area. Mr. Oakes recommended the Board's approval.

No one in the audience commented for or against Franchise #335.

By unanimous motion, the Board approved Franchise #335 between Island County and Camano Hills Water Co., Inc. to consolidate Water Distribution Systems located in Secs. 20, 29-31, Twp 32, R. 3E; Sec. 6, Twp 31N, R 3E; Secs. 1, 2, 12, Twp 31N, R 2E., Secs. 23, 26, 34-36, Twp 32N, R 2E.

**CONSULTANT AGREEMENT – OTAK, INC. - CRAWFORD ROAD PRELIMINARY
DESIGN STUDY**

The Board by unanimous motion approved Consultant Agreement PW-0620-106 between Island County and Otak, Inc. for Crawford Road Preliminary Design Study in the amount of \$75,865.00, agreement expiring July 1, 2007.

**ADOPT-A-ROAD LITTER CONTROL AGREEMENT RENEWAL - GREENBANK
GARDEN CLUB**

Adopt-A-Road Litter Control Agreement Renewal between Island County and Greenbank Garden Club for Smugglers Cove Road from 3376 Smugglers Cove Road to the North End of South Whidbey State Park was approved by unanimous motion of the Board.

**STORMWATER MITIGATION AGREEMENT AND COVENANTS – RICKEY T. &
JENYE R. YOUNG, PLAT OF HOLMES HARBOR GOLF & YACHT CLUB**

Stormwater Mitigation Agreement and Covenants (PW-062098) between Island County and Rickey T. & Jenye R. Young, Plat of Holmes Harbor Golf & Yacht Club, Parcel S7165-06-01002-0, was approved by unanimous motion of the Board.

PURCHASE ORDER APPROVED FOR DUTTON HOUSE REMODEL

Purchase Order #7213 (PW-0620108) between Island County and The Roth Company for the Dutton House Remodel, Work Order 323 in the amount of \$5,618.00, including State Tax, was approved by unanimous motion of the Board.

**CONTRACT WITH C & S CONSTRUCTION - GRINDING AND REMOVAL OF BRUSH
& WOOD WASTE FROM THE ISLAND COUNTY SOLID WASTE COMPLEX**

Solid Waste Contract #SW-06-125 between Island County and C & S Construction for grinding and removal of brush & wood waste from the Island County Solid Waste Complex at \$6.99 per

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cubic yard, for a two year contract in the amount of \$210,000.00 was approved by unanimous motion of the Board.

**HEARING HELD: – RESOLUTION #C-105-06 ACCEPTING THE PLANNING
COMMISSION 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**

A Public Hearing was held at 10:30 a.m., having been continued from October 9, 2006, on Resolution #C-105-06 (PLG-029-06), Planning Commission 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. [Resolution introduced 9/18/06 GMA #8921].

An attendance sheet was circulated to audience members [copy on file and placed in the GMA record as # 9027].

Phil Bakke, Planning & Community Development Director, commented that since October 9, the Board of Commissioners, at the request of Planning & Community Development, modified the contract for legal and consulting services with Dearborn & Moss PLLC to provide the County with representation on this item, a cost neutral contract amendment [GMA #8976]. Mr. Bakke requested that the Board continue the hearing until November 20th, at which time Mr. Dearborn would be present and address issues raised regarding this proposal from the Planning Commission.

Richard Bryan asked if his assumption was correct, that the proposal is to not change the Comprehensive Plan because the current code provides adequate resource protection, and inquired what resources were covered.

Mr. Bakke responded that the proposal was for no change because the current code provides adequate resource protection and resource lands have been correctly identified. The primary resources covered are agricultural land, mineral resource land.

By unanimous motion, the Board continued the hearing on Resolution #C-105-06 (PLG-029-06), Planning Commission 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 to November 20, 2006 at 10:30 a.m. [Notice of Continuance GMA # 9028]

**PLP 383/05 VIOLET SECORD (ORIGINAL) RAY & PATTY MUELLER (CURRENT)
FINAL LONG PLAT**

PLP 383/05 Violet Secord (Original) Ray & Patty Mueller (Current) Final Long Plat, Parcel R23114-366-2290 located at 744 Rowe Road, Camano Island, Wa., was presented for the Board's approval and signature by Ryan Morrison, Associate Planner/Code Enforcement. Complete details were provided to the Board by cover memorandum dated November 2, 2006.

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The Long Plat received preliminary approval on February 9, 2006, subject to several conditions, and after review of applicant's final application for compliance with conditions, Mr. Morrison reported that the Department recommends final approval.

The applicants were present in the audience at the time of consideration.

By unanimous motion, the Board approved PLP 383/05 Violet Secord (Original) Ray & Patty Mueller (Current) Final Long Plat, Parcel R23114-366-2290 located at 744 Rowe Road, Camano Island, Wa.

EXECUTIVE SESSION

At 11:15 a.m. the Board met in Executive Session as allowed under RCW 42.30.110(1)(i) to discuss with legal counsel potential and/or pending litigation. The Chairman announced that the meeting would be held in Conference Room #218, County Administration Building, 1 N. E. 7th Street, Coupeville, Wa. No announcement afterwards was expected, and the Chair believed the meeting would last less than one-half hour.

Executive adjourned at 11:25 a.m. with the Board reconvening in regular session at 1:30 p.m.

**DISCUSSION REGARDING ISLAND COUNTY INPUT INTO FEDERAL ENERGY
REGULATORY COMMISSION TIDAL-HYDRO PROJECTS**

The Board reconvened in open public session at 1:30 p.m. in Conference Room #116, Administration Building, 1 N.E. 7th Street, Coupeville, Wa. for a discussion regarding Island County input into Federal Energy Regulatory Commission (FERC) tidal-hydro projects. All Board members were present. Others attending included:

Bill Oakes, Public Works Director
Elaine Marlow, Budget Director/Clerk of Board
Gwenn Maxfield, Assistant Public Works Director
David L. Jamieson, Jr., Chief Civil Deputy Prosecuting Attorney
Paul Boring, Whidbey News Times reporter
Stephen DiJulio, Foster-Pepper, PLLC, via conference call

Mr. DiJulio discussed Island County input into tidal-hydro projects and the possibility of the County losing the opportunity for mitigation by not participating in the Federal Energy Regulatory Commission (FERC) process. Some months' ago there were a series of preliminary applications filed with FERC for potential development of energy producing turbines within the waters of Puget Sound to be located on sea beds driven by tides and currents and turning of blades through turbines creating energy. The applications are throughout the Northwest from Alaska to the Columbia River. Of most interest to Island County are the potential facility developments in Deception Pass and Admiralty Inlet. Mr. DiJulio commented on what neighboring counties are doing to monitor the FERC proceedings involving proposed tidal turbines. A number of communities and counties have determined it would be in their interest to intervene in FERC proceedings in order to assure local interests are addressed, and because FERC pre-empts almost all local permitting authority.

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In terms of timely filing to intervene, Island County would be late and need to seek leave from FERC for late intervention, which based on prior history, likely would be granted. In order to have a seat at the “negotiating table” Island County needs to be an intervenor. The County would have the ability to comment on the adequacy of environmental review under NEPA, and would be a party to the proceedings and involved in all stages and processes.

The Board met in Executive Session at 1:50 p.m. under provisions of RCW 42.30.110 (1) (i) to discuss potential litigation with legal counsel and returned to open public session at 2:00 p.m.

Commissioner Shelton moved that Island County submit a motion to intervene with the United States of America before FERC for the tidal energy projects, specifically those located in Deception Pass and Admiralty Inlet, and with the approval of the Prosecuting Attorney, hire Foster Pepper, PLLC to represent the County as a contract Deputy Prosecutor. Motion, seconded by Commissioner Byrd, carried unanimously.

There being no further business to come before the Board, the meeting adjourned at 2:05 p.m. The next regular meeting of the Board will be on November 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