

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JUNE 25, 2007 – REGULAR SESSION**

The Board of Island County Commissioners convened in Regular Session at 11:00 a.m. on June 25, 2007 for a Roundtable with Elected Officials and Appointed Department Heads, held in the Board of County Commissioners Hearing Room, Annex Building, 1 NE 6th Street, Coupeville, Wa. Other topics for the Regular Session followed at 1:30 p.m. as shown on the agenda. Mike Shelton, Chairman, Wm. L. McDowell, Member, and John Dean, Member, were present.

**ROUNDTABLE WITH ISLAND COUNTY
ELECTED OFFICIALS AND APPOINTED DEPARTMENT HEADS**

Elected Officials and Appointed Department Heads Attending:

Greg Banks	Mark Brown	Cathy Caryl	John Dean	Sharon Franzen
Betty Kemp	Larry Larson	Elaine Marlow	Dave Mattens	
Mac McDowell	Don Meehan	Tim McDonald	Suzanne Sinclair	
Mike Shelton	Bill Oakes	Linda Riffe	Phil Bakke	

Others:

Diane Kendy

Confidentiality of Information

Commissioner Dean asked if there is a County policy or statement in place for departmental staff concerning complaints from the public and the privacy of those people in such circumstances. He said he received a call from a member of the public who had inquired of the County about an ongoing project and whether there were permits in place for such activity. Apparently the person about whom the complaint was made learned of the call, presumably from a County employee.

Official complaints to the County are legally protected however much is of public record. Discussion ensued about the difficulty of maintaining confidentiality at public counters such as those in Planning and the Clerk's office, when those counters are often times very busy. It was also mentioned that there are times when contact must be made with the person being complained about in order to realize a solution to the problem. It is believed that County staff would not place such calls unless warranted.

Follow-up: Trace the inquiry and communicate with the appropriate department head about what took place.

Public Information Officer (PIO)

Further discussion concerning designation of a public information officer for Island County when the Emergency Operations Center (EOC) is activated. Provided was a hand-out from NIMS (National Incident Management System) which talks about having one (1) PIO during a declared emergency instead of someone from each department as discussed at the last meeting. Also provided were the Emergency Management Organization Chart, Emergency Management Operational Chart, and excerpts from the Island County Emergency Management Plan.

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The PIO, when an emergency is declared, is the general speaker for the media. The appointed PIO will direct inquiries to the appropriate County department. Since what was discussed last month is contradictory to what is actually done, a change is suggested to the plan or leave it as it is and the Board continue with the Sheriff's office as appointed PIO.

Sheriff Brown commented there needs to be a unified message. Emergency Management Plan states that the Sheriff is responsible for that unified message and he is willing to do that.

Consensus: The procedure is left the way it is with the understanding that Sheriff Brown is the PIO for the County. Concerning Health or Public Works issues, however, the PIO will instead come from one of those departments. Sheriff Brown confirmed that he can make that coordination work which will satisfy the manual.

General Roundtable Discussion

Commissioners: Chairman Shelton learned at the Washington Association of Counties conference that HB 6050 (Distressed Counties Bill) was reviewed by the Department of Revenue and after discovering a mistake, determined that Island County should not have received the funding. While a final determination has not yet been made, it is likely the money will need to be re-paid. Amount of \$470,000 over a 3-year period. Suggested since money was received over period of three years, maybe it could be paid back in that same amount of time. That possibility is being looked into with the Department of Revenue.

The Sheriff said on a related matter about money issues, the County belonged to the Marine Safety Unit program through State Parks until Sheriff Hawley got out of the program. Sums were received each year from boat registrations through that program. Negotiating to return to the program and is inquiring about the unused dedicated money to Island County from previous years.

Assessor: Presentations in the past week with South Whidbey Republican Women and Camano Island seniors. Busy with revaluations, explaining that physical revals are 100% complete and land revals are 60% complete and working new construction. Staffing update: two applications out, one for segregations clerk, full-time temporary position, and another for appraiser trainee. Will be fully staffed in next couple of weeks. Goal is to have "Change of Value Notices" mailed by no later than the end of August.

Health: Island County Board of Health adopted the On-Site Sewage System Maintenance and Monitoring Program Plan meeting the State deadline. The plan will guide the County as it regulates the maintenance and monitoring of on-site sewage systems. Regulation changes are now in the works for Board of Health consideration in July. Changes will warrant addition of personnel in Health Department and work for homeowners: expected 18-months transition period. In favor of immunizations being offered at the annual benefits fair.

Prosecutor: Reminder of public records training August 7. It was suggested that a minimum of two people attend from each department.

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Public Works: Ongoing state construction south of Oak Harbor and monitored by Public Works personnel. Beginning construction on Camano Hill/Cross-Island project which will most likely continue through this construction season into next. Paving projects also to start in August.

Extension: Hand-out for “Night & Day on the Prairie” scheduled for July 20-21, 2007.

Planning: Wrapped up critical area/wetland update public outreach, Phase I of three phases. Scheduled were six public workshops and 15 direct interactions with service groups and interested parties. The Board’s objective to shift from reliance on the regulations to more education and giving people a reason why things should change was well received. Conducted Peer Review meetings with two different Peer Review groups and State agency partners. There is word that Island County’s wetlands regulations may well become an “example” to other jurisdictions. Beginning now to look at how the new regulations will integrate with services delivered to the community and how those services can be done the most efficient way possible.

Central Services: Starting to receive requests for specialized software and hardware. When needed, it is requested that a written work plan and detailed schedule be developed that will address what the specialized software and/or hardware will be used for, when it will be installed, how it will be installed, and what specialized equipment needs to be in place so there is a clear picture of the intent. Having such a procedure in place will enable Central Services to efficiently handle the requests. It was suggested that if software or hardware consultants are working with individual departments that those consultants contact Central Services to discuss the proposed plan.

Human Resources: Departments received e-mail indicating change to Personnel Policies and Procedures Manual changing overtime/premium pay procedures. Memorandum must be printed and signed by employees and returned to the Human Resources Department. The Washington State Legislature made a change to the definition of “disability.” Currently working with the Prosecutor’s Office in drafting changes to the current policy. Also working with the Health Department and insurance providers in an effort to provide flu shots at the annual benefits fair.

Auditor: Getting ready for the primary, non-partisan offices. Upgrade training currently taking place on the Eagle Recorder System. Elections conference remainder of the week. Currently looking for a licensing replacement.

Treasurer: Presently looking for a front-counter replacement and shortly will begin the interviewing process. The State Auditors have arrived and will be here for the next several months. Busy again training new people.

Budget Director: Call for budget will begin July 9 or 10. The usual worksheets will be sent out and Elaine advised that she will take care of completing the salaries/wages/benefits portion of that worksheet. They are due back August 10. The new accounting system demonstrations are set for July 9-10 and July 12-13 with finalists Eden and Sungard Bitec. No determination has been made yet as to when the system will be in place. Projected installation will be sometime in 2008.

Chairman Shelton reminded everyone about the farewell party this Friday at 2:00 p.m. for Ellen, Jan, and Donna.

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Roundtable adjourned at 11:50 a.m. The next Roundtable is scheduled for July 23, 2007 at 11:00 a.m.

The Board of Island County Commissioners (including Diking Improvement District #4) met at 1:30 p.m. to consider items contained on the agenda. The meeting opened with the Pledge of Allegiance.

VOUCHERS AND PAYMENT OF BILLS

The following vouchers/warrants were approved for payment by unanimous motion of the Board:

Voucher (War.) #264953-265207: \$367,949.46
Electronic Fund Transfers \$ 22,370.88

HIRING REQUESTS & PERSONNEL ACTIONS

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

<u>Department</u>	<u>PAA #</u>	<u>Description</u>	<u>Position #</u>	<u>Action</u>	<u>Eff. Date</u>
Prosecuting Attorney	083/07	Paralegal/ Legal Assistant I	1813.02	Replacement	06/25/07
Public Works	082/07	Solid Waste Attend I, .2 fte	2249.06	Replacement	06/25/07

TEAMSTERS LOCAL 231 – LABOR AGREEMENT 2007 THROUGH 2009

For formal approval and signature of the Board, Larry Larson, Human Resources Director, presented the Island County and Teamsters Local 231 Deputy Prosecutors Labor Agreement 2007 through 2009. By unanimous motion, the Board approved and signed Island County and Teamsters Local 231 Deputy Prosecutors Labor Agreement 2007 through 2009.

**TRUST LAND TRANSFER LEASE AGREEMENT WITH WASHINGTON STATE
DEPARTMENT OF NATURAL RESOURCES – STRAWBERRY POINT**

The Board by unanimous motion approved a 30-year Trust Land Transfer Lease Agreement for Strawberry Point, at no cost, with the Washington State Department of Natural Resources.

**TRUST LAND TRANSFER LEASE AGREEMENT WITH WASHINGTON STATE
DEPARTMENT OF NATURAL RESOURCES – SMUGGLERS COVE**

The Board by unanimous motion approved a 30-year Trust Land Transfer Lease Agreement for Smugglers Cove, at no cost, with the Washington State Department of Natural Resources.

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BOYER PROPERTY PURCHASE

Moving forward with the purchase, Commissioner McDowell said that the following paperwork is currently before the Board for approval:

- Disclosure Notice
- Estimated Escrow Settlement Statement
- Real Estate Excise Tax Affidavit (for the Easement Deed)
- Supplement to Closing Agreement/Escrow Instructions

As presented (considering third parties), the Disclosure Notice indicates that the Seller is Island County since Island County is buying the property from Boyer under the original Purchase and Sale Agreement. Island County is then transferring the Purchase and Sale Agreement to the City of Oak Harbor at which time the City then becomes the Seller and Island County becomes the Buyer. It is uncertain what the title company may need in the way of a Disclosure Notice, if anything, reflecting that the City is ultimately the “Seller.”

Commissioner McDowell moved to authorize signature of the Disclosure Notice, Estimated Escrow Settlement Statement, Real Estate Excise Tax Affidavit (for the Easement Deed), and Supplement to Closing Agreement/Escrow Instructions. Commissioner McDowell also moved to authorize the Chairman’s signature later in the week, if necessary, of an additional Disclosure Notice on which the County will instead be noted as the Buyer and the City of Oak Harbor as the Seller. Commissioner Dean seconded the motion. Motion unanimously carried.

As an update, Commissioner McDowell mentioned we are now waiting for the electronic check to arrive from the Navy.

APPROVAL OF JULY STAFF SESSION AGENDA

By unanimous motion the Board approved the Staff Session Agenda for July, 2007 outlining a Special Staff Session on July 11, 2007 and a Regular Staff Session on July 18, 2007.

**CONTRACT WITH GROUP HEALTH COOPERATIVE – AMENDMENT NO. 1 –
MEDICAL SERVICE AGREEMENT**

The Board by unanimous motion approved Amendment No. 1 to the Medical Service Agreement with Group Health Cooperative for reimbursement of flu vaccinations provided to Group Health clients. Contract No. HD-15-03; Amount: Fee for Service [RM-HLTH-03-0065]

SPECIAL OCCASION LIQUOR LICENSE APPLICATIONS APPROVED

Having received recommendations of approval by the appropriate departments, the Board by unanimous motion approved forwarding a recommendation of approval to the Washington State Liquor Control Board for the following special occasion liquor license applications:

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Special Occasion Liquor License #090125 by Whidbey Island Pony Club for a special occasion to be held July 13-14, 2007 from 6:00 p.m. to 12 midnight at the enclosed area on Farmland, Zylstra and Sweetbriar Lane, Oak Harbor, WA

Special Occasion Liquor License #091224 by Camano Island Yacht Club for a special occasion to be held July 21, 2007 from 5:30 p.m. to 9:00 p.m. at the Camano Island Yacht Club, 129 N. Sunset Drive, Camano Island, WA

NEW APPLICATIONS FOR LIQUOR LICENSE APPROVED

Having received recommendations of approval by the appropriate departments, the Board by unanimous motion approved forwarding a recommendation of approval to the Washington State Liquor Control Board for the following new liquor license applications:

New Application for Liquor License #353466-3F by Applicant 844 LLC, Tradename: The Captain Whidbey Inn, 2072 W. Captain Whidbey Inn Road, Coupeville, WA

New Application for Liquor License #077967-3F by Applicant Columbia Hospitality, Inc., Tradename: Holmes Harbor, 5023 Harbor Hills Drive, Freeland, WA

SPECIAL OCCASION LIQUOR LICENSE APPLICATION – REQUEST FOR EXTENSION

Special Occasion Liquor License #091937 by Dave Valenti's Olympic & Extreme Sports Foundation for a special occasion to be held July 20-22, 2007 from noon to 9:00 p.m. at the South Whidbey Community Park, 5495 Maxwellton Road, Langley, WA.

The Board of Island County Commissioners received notice of a special occasion liquor license application dated June 12, 2007, #091937, by applicant Dave Valenti's Olympic & Extreme Sports Foundation. The application was reviewed by the appropriate County departments with approvals received from the Health Department and the Island County Sheriff. The Department of Planning and Community Development, however, has been unable to contact the applicant for additional information and therefore cannot approve the application at this time.

The Board by unanimous motion will request by faxed letter to the Washington State Liquor Control Board an additional 20 days within which to respond in order to allow an opportunity for Planning Department staff to reach the applicant.

**HEARING HELD – PUBLIC HEARING ORDINANCE C-66-07, AMENDMENT TO ICC
3.02C.020 and 3.02C.040 RURAL COUNTY SALES OR USE TAX**

At 1:50 p.m. as scheduled and advertised, a public hearing was held for the purpose of considering an amendment to the Rural County Sales or Use Tax, Island County Code Sections 3.02C.020 and 3.02C.040.

Chairman Shelton explained that this amendment recognizes the change presented in Engrossed Second Substitute Senate Bill 5557 wherein the Rural County Sales or Use Tax is raised from 0.08 to 0.09 percent. The amending ordinance and public hearing will acknowledge the change and allow Island

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County to begin collecting the new rate. It was confirmed that there is no increase in the sales tax, but only an increase in the amount of money that Island County receives.

No one in the audience spoke either for or against adoption of the Ordinance.

By unanimous motion the Board approved Ordinance C-66-07 amending Island County Code Sections 3.02C.020 and 3.02C.040, Rural County Sales or Use Tax to be consistent with the 2007 State Legislative changes.

**BOARD DECISION ANNOUNCED: AITONEAN SHORT PLAT SHP 206/06 OPEN RECORD
APPEAL OF ADMINISTRATIVE DETERMINATION BY IOAN AND MARIA AITONEAN**

In the matter of appeal of the Administrative Determination of the Assistant Director of the Planning & Community Development Department, who issued a determination that a fifth lot could not be created under ICC 16.06.030(D) and (E) because the lot would not meet the base density requirements of the Rural zone, the Board held an Open Record Appeal Hearing on June 11, 2007. In accordance with “Procedures to Hear Appeals” the Board decision was to be announced at public meeting within 14 days based on the record presented and applicable laws. The Board decision would include a vote of the individual Commissioners and a brief written statement as to the basis for the decision.

The Commissioners’ written statements were read into the record as follows:

Mike Shelton, Commissioner District #1

OPEN RECORD APPEAL HEARING; APPEAL SHP 206/06 BY IOAN AND MARIA AITONEAN—APPEAL
OF ADMINISTRATIVE DETERMINATION OF THE ASSISTANT DIRECTOR OF PLANNING AND
COMMUNITY DEVELOPMENT

June 25, 2007

Decision of Commissioner Mike Shelton

The background information on the appeal has been well stated by county staff and the appellant’s attorney and there appears to be no disagreement on the facts of the case. The Aitoneans have submitted a four lot short plat which has preliminary approval from the County comprised of four lots. In connection with the reconstruction of Camano Hill Road the Public Works department would like to construct a new road through one of the new lots created by the short plat. Staff in Public Works has sent the Aitoneans a letter threatening that the land would be condemned for road purposes if that was the only way to acquire the property. Island County Code 16.06.030 D. and E. are involved in this case. Island County in an attempt to amend 16.06.030 E. passed Ordinance C-61-06 in an attempt to bring this portion of the ordinance in agreement with State law, however, this ordinance was ultimately overturned by the Growth Management Hearings Board. The ordinance did not deal with 16.06.030 D., which is the appropriate code dealing with condemnation or threat of condemnation. 16.06.030 D. reads as follows: “Condemnation. Division of Land due to condemnation, or sale under threat thereof, by an agency or division of government vested with the power of condemnation;”. As a result 16.06.030 D is still a valid ordinance and in full effect as of this date. The subdivision of the lot in question by the construction of a county road, resulting in the creation of two lots is not in conflict with the Code. It should be stated that by creating two separate lots this decision will not in any way guarantee the issuance of separate building permits for both lots,

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which may well violate the density requirements of the County Comprehensive Plan mandated under the Growth Management Act.

The appeal is upheld.

/s/ Mike Shelton

Mike Shelton

County Commissioner, District 1

Wm. L. McDowell, Commissioner District #2

STATEMENT REGARDING APPEAL SHP 206/06 BY IOAN AND MARIA AITONEAN OF THE MARCH
21, 2007 DECISION OF THE ASSISTANT DIRECTOR OF THE ISLAND COUNTY DEPARTMENT OF
PLANNING & COMMUNITY DEVELOPMENT

Ioan and Maria Aitonean (Appellants) filed an appeal of the administrative determination of the Assistant Director of the Island County Department of Planning & Community Development, SHP 206/06, on the basis that:

1. The decision is premature because the proposed right-of-way that would bisect the Aitonean property has not been acquired by the County and does not currently exist; and
2. The Department erred in determining that granting of a fifth buildable lot under ICC 16.06.030(D) or (E) is outside the Department's authority and prohibited by the County's Comprehensive Plan and Zoning Ordinance

The Island County Board of Commissioners held an open record appeal hearing on June 11, 2007.

On May 18, 2006, Ioan and Maria Aitonean submitted a four-lot short plat on Parcel No. R23112-520-3750, a 20.04 acre parcel. Lot size averaging was utilized due to a category A wetland. This short plat application number SHP 206/06 was determined complete on May 26, 2006 with preliminary short plat approval granted on April 2, 2007.

The Aitoneans have requested that the four-lot short plat be approved. The Aitoneans received a letter dated September 8, 2006 from Skillings Connolly, a company that provides real estate services for Island County. The letter included an offer of purchase of a portion of the subject parcel stating the land was needed by the County to construct an improvement to Camano Hill Road. The portion proposed for purchase by the County effectively divides Lot 1 of the approved preliminary short plat into two parts. On May 15, 2006, the Island County Commissioners passed Resolution C-53-06 directing the Island County Prosecuting Attorney to commence condemnation proceedings on the subject parcel as well as others for the purpose of obtaining the necessary property for the Camano Hill Road improvements.

Considering the offer for the property purchase was made after the Island County Commissioners directed the County Prosecutor to commence condemnation proceedings, the offer of purchase was made under the threat of condemnation.

ICC 16.06.030 among other things states that:

... The Subdivision and Short Subdivision provisions of this Chapter shall not apply to:
...

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- D. Condemnation. Division of land due to condemnation, or sale under threat thereof, by an agency or division of government vested with the power of condemnation.

...

On March 21, 2007, the Island County Department of Planning & Community Development made a final Type I decision stating, among other things, that ICC 16.06.030(D) does not apply therefore Lot 1 of SHP 206/06 could not subsequently be divided using the provisions allowed under said section.

The final Island County Department of Planning & Community Development determination was in error. The appeal is approved. The Planning Department is directed to approve the four-lot short plat, SHP 206/06. At the time the portion of Aitoneans' property that is required for road purposes is condemned or is sold under the threat of condemnation, anticipated by C-53-06, the County shall divide Lot 1 of SHP 206/06 pursuant to Island County Code 16.06.030(D). A parcel number shall be assigned to the new parcel and the requirements of subdivision and short subdivision provisions found in chapter 16 shall not apply to the division of Lot 1.

/s/ Wm. L. McDowell

Wm. L. McDowell

Island County Commissioner

June 25, 2007

John Dean, Commissioner District #3

STATEMENT REGARDING APPEAL SHP 206/06 BY IOAN AND MARIA AITONEAN OF THE MARCH 21, 2007 DECISION OF THE ASSISTANT DIRECTOR OF THE ISLAND COUNTY DEPARTMENT OF PLANNING & COMMUNITY DEVELOPMENT

Ioan and Maria Aitonean are appealing an Island County Department of Planning & Community Development administrative determination, which denied the creation of a fifth lot in a 20-acre subdivision (SHP 206/06). The appeal is based on two arguments:

1. The decision is premature because a proposed right-of-way that would bisect the Aitonean's approved fourth lot has not been acquired by the county and does not currently exist; and
2. The Department erred in determining that granting of a fifth buildable lot under ICC 16.06.030(D) or (E) is outside the Department's authority and prohibited by the County's Comprehensive Plan and Zoning Ordinance

The Island County Board of Commissioners held an open record appeal hearing on June 11, 2007.

BACKGROUND

On May 18, 2006, Ioan and Maria Aitonean submitted a four-lot short plat on 20.04-acres (Parcel No. R23112-520-3750). The short plat application (SHP 206/06) was completed May 26, 2006 with preliminary short plat approval granted April 2, 2007.

On May 15, 2006, the Island County Commissioners passed Resolution C-53-06, directing the Island County Prosecuting Attorney to start condemnation proceedings on the Aitonean parcel and others, to obtain property for nearby road improvements.

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Island County Public Works wants to purchase a portion of the Aitonean parcel for construction of a new road, related to nearby Camano Hill Road improvements. The portion proposed for purchase by the county would divide Lot 1 of the approved preliminary short plat into two parts. The county planning department required the Aitoneans to include the location of the proposed road on a preliminary plat as a condition of preliminary plat approval. The county planning department's administrative determination was rendered in response to the Aitoneans' subsequent offer to accept \$10,500 for a county right-of-way purchase on the condition that the county recognize division of Lot 1 as a fifth lot, which the Aitonean's attorney argues is authorized by ICC 16.06.030.

On January 24, 2007, the Western Washington Growth Management Hearings Board invalidated public road right-of-way segregation amendments adopted in 2006 (ICC 16.06.030 (E) and specified that development of parcels previously created, using public road right-of-way segregation provisions must still adhere to base density within the underlying zoning designation.

However, ICC 16.06.030 (D) remained in place, continuing to provide an exemption for division of land due to condemnation, or sale under threat thereof, by an agency or division of government vested with the power of condemnation.

On March 21, 2007, the Island County Department of Planning & Community Development made a final Type 1 decision, stating that it cannot endorse the creation of five parcels from the existing 20-acre parcel, nor will the Department grant approval for more than four residential dwelling units, irrespective of whether one of the newly-created lots is bisected by a public road right-of-way.

DECISION

Island County Department of Planning & Community Development erred when it determined that granting a fifth lot is outside its authority and is prohibited by the County's Comprehensive Plan and Zoning Ordinance because ICC 16.06.030 (D) clearly provides for an exemption for division of land due to condemnation or the threat thereof. The Department's Assistant Director's determination is reversed. This decision neither suggests nor guarantees a building permit will be issued on the fifth lot.

/s/ John Dean

John Dean

Island County Commissioner

June 25, 2007

The Planning Director will now prepare a formal written decision for signature by the Board at its public meeting on July 2, 2007, with a copy of the decision to be provided to the Appellants.

**PUBLIC HEARING SCHEDULED TO CONSIDER OPEN SPACE TIMBER LAND CURRENT
USE PROGRAM APPLICATIONS**

The Board by unanimous motion scheduled public hearings on July 16, 2007 at 10:30 a.m. to consider the following Open Space Timber Land Current Use Program Applications:

OPS 488/06 – Alvin and Phyllis Sherman – 34.64 acres be reclassified from Designated Forest to Open Timber on Central Whidbey Island, Parcel Nos. R13232-044-2810, R13102-165-0400, and R13102-165-1050.

OPS 523/06 – Richard and Krista Rogers – 12.14 acres be classified as Open Timber on South Whidbey Island, Parcel Nos. R32814-050-3650, R32814-050-3850, and R32823-517-1490.

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[Correction to Agenda No. 8(c) pursuant to the Board's request for clarification – Mr. Tate confirmed that the reference to "OT 523/06" should instead be "OPS 523/06"]

There being no further business to come before the Board at this time, the meeting adjourned at 2:40 p.m. The next regularly scheduled meeting will be held on July 2, 2007 beginning at 9:30 a.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

John Dean, Member

ATTEST:

Elaine Marlow, Clerk of the Board