

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JUNE 16, 2008 – REGULAR SESSION**

The Board of Island County Commissioners met in Regular Session on June 16, 2008 beginning at 10:00 a.m. in the Board of County Commissioners Hearing Room (Room # 102B), Annex Building, 1 N.E. 6th Street, Coupeville, Washington. John Dean, Chairman, Phillip Bakke, Member, and William L. McDowell, Member were present. The meeting began with the Pledge of Allegiance.

PUBLIC INPUT OR COMMENTS

Emily Ramsey, 301 NE Ninth Street, Coupeville asked how the Board could allow such a huge error to be made concerning issuance of a building permit for a large home on Ebey's Landing National Historical Reserve when the Historic Advisory Committee voted against it. She understands the Historic Advisory Committee had 21 days to appeal the Planning Department decision but was not notified that the permit had issued. Secondly, she asked why there is a cement block fence being built at Saltwater on Wonn Road near Greenbank Farm. RCW 36.70.540 states: "vacation of road abutting bodies of water prohibited unless for public purposes or industrial uses." She has not heard in her 20 years on the Island that the end of Wonn Road was ever vacated.

Chairman Dean remarked, concerning the cement block at the end of Wonn Road, that both Planning and Public Works are currently reviewing the situation to determine who owns the tidelands upon which the cement block sits; originally it was believed the block was on right-of-way which was determined to be incorrect. The Chairman will contact Ms. Ramsey and update her once tidelands ownership is determined.

Concerning the Ebey's Landing mistake, Chairman Dean indicated that sometimes errors happen and at this point, from what he understands, Mr. Tate has met with the Ebey's Reserve people and is working with the owner in an attempt to soften the situation. Mr. Tate will provide an update later in the meeting.

MONTHLY FINANCIAL REPORTS

Auditor

Anne LaCour, Chief Deputy Auditor, submitted the Auditor's written financial report for the period ending May 31, 2008. Percentage of expenditures is at 41.67% as projected and slightly under on the revenue side.

Treasurer

Anamaria Nunez, Chief Deputy Treasurer, submitted the Treasurer's written financial report for the period ending May 31, 2008 adding the following comments:

- *Adult Drug Court.* Prior year revenue for 2007 received in 2008 and reversed in February 2008.
- *Comm. Development-Planning.* No grant monies have been received in 2008 to date from the Department of Ecology and Fish and Wildlife.
- *Building Permits.* In 2007, the average monthly revenue received was \$155,820.75. In 2008, the average monthly revenue to date is \$92,084.86.

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- *General Service Admin.* Average revenue from rentals (Camano Multipurpose Center) in 2007 was \$974 and in 2008 to date, \$490.
- *Park and Recreation.* There have been no interdepartmental fund charges for 2008, the bulk of which their budget is made up of.
- *Public Defender.* Court reimbursement costs were not received in 2007 until December. Therefore, the 2008 court reimbursement costs may not be received until December of this year.
- *Real Estate Excise Admin. Fees.* Property sales are down, therefore, REET fees are down.
- *Sales & Use Tax and Sales & Use Tax Interest.* Both sales and distribution are down.
- *Excise Tax – Leasehold.* Tax levied by the County for lease/rent of County-owned real or personal property. Tax is remitted quarterly to the Department of Revenue. The State Treasurer distributes a percentage back to the County bi-monthly. They only distribute a percentage back of what is received. What we have received to date is down; therefore our portion of the distribution is down.

CONSENT AGENDA

By unanimous motion the Board approved the Consent Agenda as follows with the exception of item 7, *Contract and Contract Bond with Advanced Construction and Maintenance, Inc.*, moved to the Regular Agenda:

ELECTRONIC FUND TRANSFERS, PAYROLL, VOUCHERS, PAYMENT OF BILLS

Vouchers (War) #s 289430-289716.....	\$493,418.91
Electronic Fund Transfers.....	\$245,987.82
Payroll dated	June 13, 2008

EXTENSION

Subcontract with Washington State University for Recreational Crabber Outreach Project (Crab Pot Escape Cord Education) methods training, education, and outreach. WSU Subcontract No: G002327; OGRD No: 110772 (Grant); Amount: \$5,050 (RM-WSU-08-098)

GSA EMERGENCY MANAGEMENT

Amendment A to Contract between City of Oak Harbor Fire Department and Island County for FFY 2006 extension of the Homeland Security (HLS) grant for purchase of HLS equipment and related programs. Contract No: E07-190; No change to contract amount. (RM-DEM-07-0107)

Contract between Snohomish County and Island County for FFY 2007 Law Enforcement Terrorism Prevention Program (LETPP) grant for reimbursements of funds spent on approved LETPP equipment and related programs. Amount: \$79,876.00 (RM-DEM-08-087)

GSA PROPERTY MANAGEMENT

Deed Release between Extended Services/Freeland Thrift Shop and Island County. Extended Services fulfilled their obligation under the agreement and the security deeds of trust can be

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removed; Substitution of Trustee and Request for Full Reconveyance, Auditor's File No. 92016845.

Deed Release between Extended Services/Freeland Thrift Shop and Island County. Extended Services fulfilled their obligation under the agreement and the security deeds of trust can be removed; Substitution of Trustee and Request for Full Reconveyance, Auditor's File No. 92016927.

HOMELESS HOUSING

Amendment No. 3 to Contract with Housing Authority of Island County for administration of Island County's Homeless Housing Plan; Amount: \$118,388 (RM-BUDG-06-0006(3))

HUMAN RESOURCES

Personnel Action Authorizations

<u>Department</u>	<u>PAA #</u>	<u>Description</u>	<u>Position #</u>	<u>Action</u>	<u>Eff. Date</u>
Parks/Planning & Community Development	102/08	Parks Tech, .8fte	1755.04	Replacement Position	06/23/08

HUMAN SERVICES

Amendment No. 1 to Contract with Division of Alcohol and Substance Abuse (DASA) reducing contract amount and changing scope of work. Contract No. 0763-20291-01; Amendment Amount: -\$34,099 (RM-HLTH-07-0163)

PLANNING AND COMMUNITY DEVELOPMENT

Public Hearing Scheduled - July 14, 2008 - 10:20 a.m.

468/07 OPS - Applicant David & Melinda Gladstone request to incorporate 3 forested acres from Parcel No. S7125-00-00038-1 into their existing Open Timber tax use program, located on contiguous Parcel No. S7125-00-00039-0 located on Camano Island, WA.

Memorandum requesting Waiver of Competitive Solicitation as allowed under ICC 2.29.030(B)(12) for services agreement with Puchika Productions, LLC.

Service Agreement with Puchika Productions, LLC to develop curriculum materials for the Home Owner Septic Training (HOST) program; Contract Amount: \$28,754.00 (RM-PLAN-08-102)

PUBLIC HEALTH

Contract with Evergreen AIDS Foundation for HIV Case Management. Title II funding for development and implementation of comprehensive health and support services for individuals and families with HIV disease in Island County. Contract No. HD-03-08; Contract Amount: \$23,000 (RM-HLTH-06-0140)

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Amendment No. 1 to Contract with Balanced Action Inc. for Database Development. Funding for the development and enhancements to the On-Site Data Management System. Contract No. HD-24-06; Contract Amount: \$86,100; Amendment Amount: \$48,600 (*RM-HLTH-06-139*)

PUBLIC WORKS

Public Roads

Supplemental Agreement No. 1 to Otak, Inc.; Completion Date revised to June 30, 2008. (*PW-0729-79(A)*)

Adopt-A-Road Litter Agreement Renewal with Friends of Freeland; Main Street/Scott Road from SR 525

Bid Award to Rinker Materials West, LLC dba Cemex for 2008 HMA Overlays, Camano Island; CRP 08-02, Work Order No. 433; Amount: \$313,684.85

Bid Award to Krieg Construction, Inc. for 2008 HMA Overlays, Whidbey Island; CRP 08-03, Work Order No. 432; Amount: \$1,154,584.00.

Resolution C-68-08/R-27-08 In the Matter of Initiating a County Road Project Designated as Langley Road/Maxwelton Road Channelization; CRP 08-04, Work Order No. 341. (*Resolution on file with the Clerk of the Board*)

Resolution C-69-08/R-28-08 In the Matter of Approving Specifications & Authorizing Call for Bids for One (1) New 2008 Sweeper. (*Resolution on file with the Clerk of the Board*)

Resolution C-70-08/R-29-08 In the Matter of Approving Specifications & Authorizing Call for Bids for Two (2) New 2008 Brush Chippers. (*Resolution on file with the Clerk of the Board*)

Bid Award to Measurement Research Corporation (MRC) for Pavement Rating & Rehabilitation Plan; Amount: \$33,571.00

Solid Waste

Amendment No. 2 to Contract with HWA Geosciences, Inc.; Completion Date revised to December 31, 2009. (*RM-SW-08-096*)

REGULAR AGENDA

GSA - ISLAND COUNTY FAIRGROUNDS

**CONTRACT WITH ADVANCED CONSTRUCTION AND MAINTENANCE, INC. FOR
REPLACEMENT OF THE ROOF AND REPAIR OF THE POULTRY AND RABBIT
BARN**

Ms. Marlow explained a change to the project description; instead of correcting the pitch on the building will instead repair the roof. The Fair Board is the one who caught the discrepancy in the contract.

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By unanimous motion the Board approved a Contract and Contract Bond with Advanced Construction and Maintenance Inc. for replacement of the roof and repair of the Poultry and Rabbit Barn at 819 Camano Drive, Langley, WA. Amount: \$26,313.59 (RM-GSA-08-071)

Commissioner Bakke thanked Elaine Marlow, Betty Kemp, and Dave Jamieson for their effort in getting the contract together.

PLANNING AND COMMUNITY DEVELOPMENT

**PRD 158/05 – FINAL PLANNED RESIDENTIAL DEVELOPMENT APPLICATION –
APPLICANT REEDER BAY LLC**

Bobak Talebi, Planner, indicated staff's recommendation for approval of PRD 158/05, Parcel No. R13236-264-0360, a six-lot PRD of 26.42 acres in the Rural zone with 65.2% open space. Preliminary was granted on March 8, 2006 by the Hearing Examiner and amended October 25, 2006. It went through with some complications which exceeded the 45-day review process period for changes in the wording and description on the plat map. Planning staff requests signature of the Board on the final Mylar.

By unanimous motion the Board approved signature of PRD 158/05 Final Planned Residential Development Application submitted by Reeder Bay LLC.

**ORDINANCE C-71-08 (PLG-010-08) IN THE MATTER OF ADOPTING AN INTERIM
OFFICIAL CONTROL THAT REGULATES COMMERCIAL DEVELOPMENT
WITHIN NON-RESIDENTIAL RURAL AREAS OF INTENSIVE DEVELOPMENT
THAT ARE ADJACENT TO STATE ROUTE 532**

Jeff Tate, Director of Planning and Community Development, introduced the ordinance to the Board by saying in February 2008 the Planning Department held its annual joint meeting with the Board of County Commissioners, Planning Commission, and Hearing Examiner. Discussion at the joint meeting included what was accomplished in the year before, what was intended to be placed on the work plan, and discussion of the work plan with the Board and the Planning Commission. One of the work plan items for 2008 included an effort on Camano Island, the SR 532 area with respect to commercial development; staff reviewed County regulations for design, building size, landscaping, and anything that regulates or addresses commercial development along SR 532. SR 532 runs from entry to Camano Island to the first stop light at Terry's Corner with three commercial areas within that stretch of highway: the Camano Gateway RAID, a Rural Area of Intensive Development; Terry's Corner RAID; and Camano Marine RAID. Terry's Corner and Camano Gateway are both zoned Rural Village; Camano Marine is zoned Rural Service. It is these three areas adjacent to SR 532 where commercial zoning and commercial development exist.

Mr. Tate said that Ordinance C-71-08 (PLG-010-08) is a request from staff to adopt an interim official control as staff begins the process of conducting the study which includes the public process, staff process of developing and evaluating the regulations that address commercial development, running that through the Planning Commission, conducting public meetings, accepting public testimony, conducting the State Environmental Policy Review, and the 60-day state agency review. There is much to do as staff thoughtfully considers future commercial development regulations for that stretch of highway. The interim official control has the intent of placing different restrictions in those commercial areas of Camano Island. Mr. Tate said staff is

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requesting the Board adopt the interim official control and thereafter schedule an after-the-fact public hearing so Planning and the County can move forward without any pressures that come about as a result of rushes to the counter that sometimes occur when the word is out that regulations may change. RCW 36.70A.390 grants counties and cities the authority to impose interim official controls, development moratorium, interim zoning maps, and interim zoning ordinances. Exhibit A to the ordinance shows a further restriction of land use during the period of review. A period of six months is indicated to conduct the work and at that point staff will make a judgment as to whether they are near completion. If staff is near completion the new regulations would go into effect or alternatively, if staff is looking at something beyond six months, it will be discussed at that point. It is hopeful that six months will be sufficient time to conduct the study.

Mr. Tate indicated that the ordinance does not impose moratorium; it does, however, further restrict and define some of the allowed commercial development on Camano in the meantime in the mentioned areas.

Chairman Dean thanked Mr. Tate for his work in drafting the ordinance saying SR 532 is on the edge of perhaps heading in a direction that Camano Islanders would not be proud of; he believes the ordinance to be a good management tool.

Mr. Tate responded saying he appreciates the Board's support in moving forward with such a project and he looks forward to having an active community-involved process where property owners and community members alike can have a say and input in what the future of Camano will look like. The Board's obligation at this point under statute, if the interim official control is approved, would be to hold a public hearing after-the-fact within 60 days of the date of action.

Commissioner Bakke wholeheartedly supports the interim official control and also appreciates Mr. Tate's work in drafting the ordinance. He would like to hold a public hearing on Camano at the earliest date. He requested that Mr. Tate have available on Planning's web page the ordinance as well as copies available at the Camano offices for anyone who may be contemplating development so they are aware of the changes.

Commissioner McDowell also agrees with the concept and is pleased Mr. Tate did not bring to the Board a request for moratorium. The interim official control will continue to allow people to use their property, it is something that can be looked at, and there will be an opportunity to suggest change during the public process.

By unanimous motion the Board approved Ordinance C-71-08 (PLG-010-08) In the Matter of Adopting an Interim Official Control that Regulates Commercial Development within Non-Residential Rural Areas of Intensive Development that are Adjacent to State Route 532 (*GMA No. 9859*) and scheduled a public hearing for August 4, 2008 at 6:00 p.m. at the Camano Multi-Purpose Center on Camano Island or possibly another location on Camano if necessary. Planning staff will make the necessary arrangements.

Mr. Tate indicated that at the public hearing staff will present the ordinance to the Board and to the community and offer an opportunity at that time for public comment either in support of or in opposition to the ordinance along with suggested recommendations for change. The Board's actions will be limited to either the interim official control or an ordinance that includes technical modifications; if there are substantive changes to the ordinance the public hearing will need to be

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continued to notice those changes. The Board could also close public comment and indicate its approval of the interim control as written, reaffirming its action. The ordinance could also be cancelled.

BUILDING PERMIT FOR HOME ON EBEBY'S LANDING

To update the assembly on this issue, Mr. Tate indicated that staff from the Reserve Trust Board, the committee volunteers from the Historic Review Committee, and Planning staff have gone through a process of modifying forms and providing additional administrative support to the group in response to the situation. Staff is unable to consider revocation of the permit because the Prosecuting Attorney's office advised that revocation is not possible once 21 days has elapsed. Option instead is to look for ways to improve the system. Mr. Tate pointed out that this problem is not an epidemic; he has been with the County for 12 years and there are not numerous situations where such errors have occurred. There is, however, always room for improvement.

Commissioner Bakke wanted to confirm his understanding that the reason the 21 days went by was because there was an approval form from the Historic Review Committee attached to the building permit file for the applicant and it is not customary to provide notice to anyone when following a recommendation of the HRC.

Mr. Tate said the committee makes recommendations to the Department and when the County staffs those meetings and has those conversations the committee has a roundtable discussion and ultimately takes a vote what it wants to advance to the Department. The chair of the HRC signed the wrong form. The form that was signed properly was placed in the file associated with the project so administrative staff took the form with the correct routing number, put it with the correct file, and staff moved forward thinking that the committee had taken its final action. Mr. Tate believes with a few adjustments to the process the system can always be perfected and that is the objective.

PUBLIC HEARINGS

HEARING HELD: FRANCHISE RENEWAL #16(2)R - PUGET SOUND ENERGY

[Continued from June 2, 2008]

Chairman Dean opened a public hearing on Franchise Renewal #16(2)R for Puget Sound Energy for lines located in the County road right-of-way on Whidbey Island, continued from June 2, 2008.

Bill Oakes, Public Works Director, refreshed the Board on what a franchise is and is not:

- Franchises in Island County and Washington State are an agreement between a utility and a public entity that owns right-of-way for how the utility will operate in the public right-of-way.
- Franchises in Island County are non-exclusive so it is not an exclusive right to operate as a utility for a section of the County; as an example, there are competing water systems and telecommunications systems operating in the same right-of-way and offering services to citizens of Whidbey.
- Franchises are transferable so once the franchise is granted it can be transferred to another corporate entity.

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- Major fiscal impact on the utility is cost when the County has a road project and is in need of the road right-of-way; the utility is required to relocate lines at its expense. The expense can range from, for instance, moving a few telephone poles for a guardrail project to relocating major transmission lines to accommodate road widening (example would be Camano Hill Road, a significant impact to the utility of nearly \$2 million).
- Also unique to the franchise is it also transfers the risk of utility delay to the utility. If there is a delay claim on a road construction job because the utility has not relocated its facilities, the County can transfer the responsibility for the delay claim to the utility.
- Legal protections also included; that is, indemnification and hold harmless language for operation in County right-of-way.
- Franchises by law can be granted for a maximum of 50 years, no lower limit, but it becomes a practical determination of how often do the parties want to go through the negotiation process of the contract. For the utility, it is how much certainty does it want for operations and costs over term of the franchise.

Chairman Dean opened the floor to additional public comment.

Marianne Edain, after meeting with the WEAN Board, now spoke on behalf of WEAN (she spoke at the June 2 meeting on behalf of herself only). It was pointed out at the last hearing that the only conditions the County would be able to place on such a franchise would be those for public health and safety purposes. WEAN was informed there are large quantities of creosote in each power pole; if that is the case, she believes it reasonable to ask PSE to address its creosoted post problem and initiate a program to remove them. It should be a condition of granting the franchise.

The Chairman closed the public comment portion of the hearing.

Chairman Dean feels the Board's role is to make it work either way, whether there is or is not a successful PUD effort, to have an agreement in place that benefits the residents of Whidbey. He learned since the first hearing there are pros and cons along with advantages to the County and he does not believe those advantages can be passed up in the event a PUD effort fails; it does not make sense to throw away years of negotiations between the County and PSE. While Chairman Dean supports the right for Whidbey to consider forming a public utility district, it is important for him to honor the negotiations that took place and to be prepared for the event that in case a PUD is not formed, that an agreement be in place that benefits the public.

Commissioner McDowell said good faith negotiations took place between the County and PSE about the responsibility of the utility to move equipment in the right-of-way when necessary and also be responsible for any time delays. A shorter franchise may not provide such assurance. He believes the franchise is not the appropriate instrument to be either supporting or not supporting a PUD. The franchise is not exclusive, if a PUD is formed there is every right to return to the County and negotiate its own franchise. The County uses a 20-year horizon for its capital facilities planning so he understands PSE's request and need for something similar when investing money in the area as PSE has done over the years. The Commissioner also does not see the need to spend taxpayer dollars for time spent by Public Works to renegotiate a contract after just one year. He will move to approve the franchise as negotiated.

Commissioner Bakke has attempted to make sense of the benefits and cons of approving a franchise that has a short term as opposed to a longer term. He does not see how that is tied to the

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PUD effort. As his colleagues pointed out, Commissioner Bakke believes this to be a non-exclusive easement permit to work in the County's right-of-way and is an agreement that is not only necessary for PSE but also for Island County. It is also necessary for the County in how it moves forward in its 20-year capital facilities program and having the certainty of knowing what portions of the project will be paid for by PSE and what portions will be paid for by the County. Absent the franchise, it is working forward on a good faith, good will basis, as both have been doing in the last few years during negotiations; PSE should be acknowledged for working with the County on projects for the last few years when there has not been a franchise in place. Several years ago Commissioner Bakke wrote a lighting ordinance for Island County that required that lights be shrouded, shielded, and pointed downward. Neither PSE nor Snohomish PUD liked the idea but PSE complied (PSE has leased lighting throughout Whidbey and it replaced thousands of lights and did so with very minimal complaints; it helped launch the County in having a night sky compliant lighting ordinance effective on the ground). The same cannot be said for Snohomish PUD; the lighting has not yet been changed on Camano. He thanked PSE for its cooperation. The Commissioner does not want to impede in any way the PUD effort; he firmly believes people should have educated opportunities to influence their own future. He believes the proper place to address voiced concerns is to the WUTC as it is the regulator for Washington utilities, not only for rates but service and techniques. Commissioner Bakke encourages those with concerns to bring those forward to the WUTC.

By unanimous motion the Board approved Franchise Renewal #16(2)R for Puget Sound Energy for lines located in County right-of-way on Whidbey Island as submitted.

COMMISSIONERS COMMENTS AND ANNOUNCEMENTS

LETTER OF APPRECIATION TO CAROL BARNES, ISLAND COUNTY ANIMAL CONTROL

After personally thanking Ms. Barnes for a job well done the Board, by unanimous motion, approved a letter of appreciation to her extending its thanks for her continued good service to Whidbey Island.

ANNOUNCEMENT: APPLICATION PROCESS ISLAND COUNTY RURAL COUNTY ECONOMIC DEVELOPMENT FUNDS

The Board issued a Press Release announcing the Application Process for Island County Rural County Economic Development Funds. The Board issues a notice of "open period" to accept applications for use of the rural economic development funds. Applications will only be accepted from Island County, the Town of Coupeville, City of Oak Harbor, City of Langley, or a port district within Island County, on the approved form. For the current application cycle, applications will be accepted through 4:30 p.m., August 11, 2008 at the Commissioners Office, P.O. Box 5000 mailing or Room 214, Second Floor, County Administration Building, 1 NE 7th Street, Coupeville, WA.

CANCELLED: Presentation by Jeffrey Bowan, Economic Officer at the American Embassy Hanoi, U.S. Department of State, Hometown Diplomats Program.

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There being no further business to come before the Board the meeting adjourned at 11:04 a.m. The Board will meet next in Regular Session at 11:00 a.m. on April 23, 2008 for Roundtable followed by agenda items at 2:00 p.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

Excused when signed

John Dean, Chairman

Phillip Bakke, Member

Wm. L. McDowell, Member

ATTEST:

Elaine Marlow, Clerk of the Board