

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

The Board of Island County Commissioners convened in Regular Session at 11:00 a.m. on January 28, 2008 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, Washington. Other topics for the Regular Session followed at 1:30 p.m. as shown on the agenda. John Dean, Chairman, Phillip Bakke, Member, and William L. McDowell, Member, were present.

**ROUND TABLE WITH ISLAND COUNTY
ELECTED OFFICIALS AND APPOINTED DEPARTMENT HEADS**

Elected Officials and Appointed Department Heads Attending:

Phil Bakke	Sharon Franzen	Mac McDowell
Greg Banks	Jackie Henderson – <i>Absent</i>	Don Meehan
Robert Bishop – <i>Absent</i>	Betty Kemp – <i>Absent</i>	Mike Merringer – <i>Absent</i>
Mark Brown	Larry Larson	Bill Oakes
Cathy Caryl	Elaine Marlow	Linda Riffe
Sheilah Crider	Dave Mattens	Dan Sherk – <i>Absent</i>
John Dean	Tim McDonald	Jeff Tate – <i>Absent</i>

Others in Attendance:

Ellen Carlin, Auditor's Office

Presentations

Use of County Vehicles:

When driving a County vehicle is the time in the vehicle considered County time? Mr. Larson said time in the vehicle may be compensable if the employer is dictating what happens when the vehicle is being driven. If the employer allows the person driving the vehicle to make periodic stops for personal reasons, wherein the employer is not actually controlling the time the person is in the vehicle, then the time is not compensable. Warning to be careful about what people are directed to do.

Frequently Asked Questions:

Mr. Mattens, in Mr. Merringer's absence and at his request, asked if everyone was satisfied with the *Frequently Asked Questions* in its current form. Ms. Caryl said something similar is already available but in a different format and she will provide copies to those interested. Ms. Franzen would like to add something to the questionnaire. Otherwise, it appears acceptable.

Follow-up: Ms. Caryl will provide copies of the questionnaire already available.

Summer Picnic:

Commissioner Bakke and Ms. Caryl suggested reinstating the concept of a County picnic with employees, department heads, and elected officials. Ms. Caryl volunteered to gather a committee and begin working toward that end with a possible date the end of July.

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

General Roundtable Discussion

Assessor

Mr. Mattens said his Chief Deputy retired the end of December and her replacement is Gary Bur. Mr. Bur's selection creates an opening for Chief Appraiser which he hopes to fill by week's end. He certified the levy January 17 and by doing so put the Treasurer in a good position for getting out tax statements. The backlog of segregations continues to decline. The goal at the end of December was 400, hit that number a few days early, but then received more putting it at 409. Mr. Mattens took a quick survey of where his office is now in that regard and he is at 388 from an all time high of 620 a year ago. About a 41% decline in the backlog of segregations.

Auditor

Ms. Crider said the overseas military ballots were mailed in compliance with state regulations. The Canvassing Board is near completion of the remainder of those ballots being prepared for mailing later in the week. The RFP for the accounting system is the only matter pressing and timely at the moment. Ms. Marlow said a finalist has been chosen and a recommendation is being drafted for the Board suggesting the selection of Sungard Bitech. Hopefully will be ready for staff session in February.

Budget Director/Clerk of the Board

Ms. Marlow explained a change to the Board's regularly scheduled meeting times and also mentioned the new Consent Agenda, both taking effect with the February 4 meeting. The first three Monday meetings will begin at 10:00 a.m. and the fourth at 2 p.m. Round Table will continue as always on the fourth Monday at 11:00 a.m. Explaining the new Consent Agenda Ms. Marlow said its format now precludes the need of department heads to sit in the hearing room and wait for the mention of their agenda item. She said the Board does, however, request that department heads be available by phone if needed. Ms. Marlow will be watching that items have been to staff and for emergencies, there remains the Chairman's Agenda. Discussion ensued about "Public Input or Comments" at the beginning of the agenda and how that may be problematic.

Central Services

Ms. Caryl said the equipment replacement schedule is currently being worked on and she will advise soon of the installation schedule. She asked that she be informed of the current need saying if an item has been approved on the equipment budget she will schedule and update as soon as possible.

Clerk

Ms. Franzen advised that she will be losing a valued employee in the not-to-distant future.

Commissioners

Commissioner McDowell reminded everyone of Ms. Crider's swearing in today at 1:15 p.m. in Judge Hancock's courtroom. Ms. Crider was appointed by the Board of County Commissioners to the position of Auditor, replacing Suzanne Sinclair.

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

Extension

Mr. Meehan suggested that emergency information be available on the County’s website. His request is prompted by the recent snowfall and the problem for some to get to work. Commissioner McDowell reminded everyone there are no designated “snow days” which means that a vacation day must be taken by those who cannot make it in.

Prosecuting Attorney

Mr. Banks said his office remains busy. His Chief Criminal Deputy returned to Grays Harbor County and he will announce later today her replacement.

Public Works

Mr. Oakes remarked how busy his department is with the snowfall. He reminded folks not to abandon vehicles.

Treasurer

Ms. Riffe said her office is getting ready to send tax statements hopefully by the end of the week. Her Chief Deputy will be retiring the end of May so she and her staff are experiencing ongoing change.

Round Table adjourned at 11:40 a.m.. The next Round Table is scheduled for February 25, 2008 at 11:00 a.m.

Chairman Dean announced that the Board will recess from Round Table and immediately reconvene in Executive Session in the Commissioners’ Hearing Room as allowed under RCW 42.30.110 (1)(i) to discuss with legal counsel potential/pending litigation. He expected the Executive Session to last approximately 20 minutes and did not anticipate an announcement in open public session.

Following conclusion of Executive Session at 12:00 p.m. and lunch, 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. By unanimous motion the Board approved the minutes from the January 7, 2008 Regular Session.

ELECTRONIC FUND TRANSFERS, PAYROLL, VOUCHERS AND PAYMENT OF BILLS

By unanimous motion the Board approved the monthly electronic fund transfers, the payroll dated January 15, 2008, and the following vouchers/warrants:

Vouchers (War) #s 280025-280223 (2007)	\$755,777.15
Vouchers (War) #s 279511-279835 (2008)	\$606,079.04
Electronic Fund Transfers	\$ 48,034.50

HIRING REQUESTS & PERSONNEL ACTIONS

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

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

<u>Department</u>	<u>PAA #</u>	<u>Description</u>	<u>Position #</u>	<u>Action</u>	<u>Eff. Date</u>
Health	018/08	Public Health Nurse/PHC II	2406.05	Replacement Position	02/07/08
	019/08	Environ. Health. Spec. II	2407.03	Replacement Position	02/07/08
Human Services	020/08	Human Services Spec .5fte	2408.11	New Position	02/01/08
Public Works	021/08	Laborer (Coupeville)	2245.04	Replacement Position	02/19/08
	022/08	Laborer (Coupeville)	2245.03	Replacement Position	01/28/08
	023/08	Seasonal Laborer (Oak Harbor)	2254.04	Replacement Position	01/28/08
	024/08	Seasonal Laborer (Coupeville)	2254.01	Replacement Position	01/28/08
	027/08	Accounting Supervisor	2209.00	Replacement Position	02/20/08
WSU Extension	025/08	Volunteer Prg. Coord .5 fte	1207.04	Replacement Position	01/28/08
Sheriff	026/08	Corrections Officer (Temp)	4015.23	Temp (4 months)	01/28/08

MONTHLY FINANCIAL REPORTS

Auditor

Anne LaCour submitted the Auditor's written revenue and expenditure reports for the period ending December 31, 2007 indicating the numbers are at 100%.

Treasurer

Linda Riffe submitted the Treasurer's written financial report for the period ending December 31, 2007 adding the following comments:

- County Assistance. County received money in error and does not qualify for receipt of additional monies.
- Service Fees. Revenue increase due to photocopy fees, NSF fees, stop payments, and LID fees.

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

- Property Tax Prior. Property tax collection for prior years increased, thus reducing the number of delinquent property tax accounts. This also had the effect of reducing Line 35 and Line 36, Interest and Penalties.
- Payment in Lieu of Taxes. This is a pro-rata payment for federally owned entitlement land. We receive payment from the Department of Interior/Bureau of Land Management. The amount we receive is dependent on federally shared revenues.
- Sales and Use Tax. An increase of \$469,116.79 in 2007 over 2006 in sales and use tax revenue.

Discussion then ensued about the earnings credit payoff for the fraudulent warrant. The Board agreed Ms. Riffe should pay Key Bank now \$14,322, one-half the total amount of the fraudulent warrant, rather than having her maintain the amount needed to receive the earnings credits that would ultimately satisfy the amount owed.

APPOINTMENTS AND REAPPOINTMENTS TO VARIOUS BOARDS/COMMITTEES

The Board, by unanimous motion, made the following appointments and reappointments:

North Sound Regional Support Network Advisory Board

Candace Trautman, at the recommendation of Jackie Henderson, Island County Human Services Administrator, is appointed to serve as a member of the North Sound Regional Support Network Advisory Board representing Island County. Her term will run for two years, expiring June 30, 2010.

Resignation – Camano Island Mosquito Abatement District Board of Trustees

Joan Haidle resigned her position as member of the Camano Island Mosquito Abatement District Board of Trustees.

APPROVAL OF FEBRUARY STAFF SESSION AGENDA

By unanimous motion the Board approved the Staff Session Agenda for February 2008 with Regular Session scheduled February 6 and Special Session scheduled February 13.

ORDINANCE C-03-08 IN THE MATTER OF ALTERING BOARD OF COUNTY COMMISSIONERS' REGULAR MEETING TIMES, ICC 2.08A.010

By unanimous motion the Board approved Ordinance C-03-08 in the Matter of Altering Board of County Commissioners Regular Meeting Times, ICC 2.08A.010. (*Ordinance on file with the Clerk of the Board*)

RENEWAL OF INTERIM PURCHASING POLICY

Ms. Marlow said that when the Board adopted the policy in October 2007 she was directed to work with the Auditor's Office to arrive at a formal policy which is currently being formulated. Because the Interim Purchasing Policy expired at the end of 2007 it is necessary that the Board continue the Interim Policy until such time a formal policy is adopted.

By unanimous motion the Board approved renewal of the Interim Purchasing Policy for a period of six months.

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

GENERAL SERVICES ADMINISTRATION

The Board by unanimous motion approved the following as presented by Vickie Chambers, Office Manager:

GSA Emergency Management

Agreement for Goods & Services with Feeney Wireless LLC for purchase of Panasonic Toughbook laptops. Contract Amount: \$33,811.50 (RM-DEM-07-0141)

Contract with National Association of Counties and City Health Officials (NACCHO) for Medical Reserves Coordinator. Contract #MRC080441; Contract Amount \$5,000 (RM-DEM-07-0138)

GSA Motor Pool

Purchase Order #8587 Jerry Chambers Chevrolet for purchase of (1) 4-wheel drive Chevy Colorado Truck, Amount \$18,123.17, including freight and tax. (RM-GSA-08-0001)

Purchase Order #8588 Dwayne Lane's Fleet HQ for purchase of (11) Dodge Charger Sheriff Vehicles, Amount \$279,589.86, including freight and tax. (RM-GSA-08-0002)

Purchase Order #8592 Jerry Chambers Chevrolet for purchase of (4) 4-wheel drive Chevy Colorado Trucks, Amount \$72,492.67, including freight and tax. (RM-GSA-08-006)

CLAIM FOR DAMAGES R07-039 CD – LISA MARTIN AND STEPHEN KEIM

As recommended by Ms. Kemp in a memorandum dated January 28, 2008, the Board unanimously denied Claim for Damages R07-039 CD submitted by Lisa Martin and Stephen Keim in the amount of \$4,113.54. They claim they lost control of and wrecked their motorcycle while driving on Cultus Bay Road, prompted by wet paint. According to statements, there was ample time for the paint that Island County used on Cultus Bay Road to dry prior to Mr. Keim crossing the fog line.

CLAIM FOR DAMAGES R07-040 CD – DONALD ENGELBACH

As recommended by Ms. Kemp in a memorandum dated January 28, 2008, the Board unanimously denied Claim for Damages R07-040 CD submitted by Donald Engelbach in the amount of \$5,000,000. Mr. Engelbach claims that he was "falsely arrested, unlawfully detained, maliciously prosecuted and defamed at and after an unwarranted stop during the blackout last December." The case was dismissed based on the Prosecutor's discretion.

CLAIM FOR DAMAGES R07-041 CD – VANCE HIBBARD

As recommended by Ms. Kemp in a memorandum dated January 28, 2008, the Board unanimously approved Claim for Damages C07-041 CD submitted by Vance Hibbard in the amount of \$1,125.33 for damage he sustained when an Island County Deputy backed into his 2001 Hyundai Accent while it was parked at 3195 Goldie Road in Oak Harbor.

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

HEALTH DEPARTMENT

As recommended by Tim McDonald, Health Services Director, by memorandum dated January 23, 2008, the Board unanimously approved the following:

Amendment No. 2 to Contract with Department of Ecology, Liquid Waste/Revolving Loan Fund. Final Adjustment to actual loan/interest balance for this On-Site Repair Financial Assistance Project. Contract No. L0300008; Contract Amount: \$279,738.40; Amendment Amount: \$(110,261.60) (*RM-HLTH-02-0055*)

Contract with Roger S. Case, MD to provide required local Health Officer as prescribed in RCW 70.05.050. Contract No. HD-44-07; Contract Amount: \$109,095 (*RM-HLTH-02-0043*)

Contract with NW Educational Service District 189, NW Early Learning Program to provide parent/infant support groups to families with infants in Island County. Contract No. HD-47-07; Contract Amount: \$7,810 (*RM-HLTH-07-0142*)

Amendment No. 6 to Contract with Department of Health, Consolidated Contract to provide \$90,782 to Local Capacity Development Funds and \$25,000 to the On-Site Program for data development. Contract No. C14949; Contract Amount: \$1,078,046; Amendment Amount: \$115,782 (*RM-HLTH-06-0140*)

Contract with DSHS, Early Family Support Services to continue the program formerly known as Alternative Response System providing home visits to CPS referral families. Contract No. 0863-33515; Contract Amount: \$5,187 (*RM-HLTH-07-0140*)

Contract with Department of Ecology, Coordinated Prevention Grant to continue funding for solid waste enforcement efforts and oversight of solid waste handling facilities. Contract No. G0800345; Contract Amount: \$142,465 (*RM-HLTH-98-0015*)

Contract with DSHS, Early Intervention Program (EIP) to continue the child abuse prevention program at current level of funding. Contract No. 0863-33930; Contract Amount: \$25,000 (*RM-HLTH-08-015*)

Contract with DSHS, Cover All Children Outreach, providing funding to assist DSHS to enroll children eligible to receive medical program benefits. Contract No. 0863-28747; Contract Amount: \$6,525 (*RM-HLTH-07-0193*)

Contract with Bess Windecker Nelson, PhD, Parent Educator Program. Funding continues consultation and representation of Family Support Alliance and staffing of "Mother's Circle" support groups. Contract No. HD-46-07; Contract Amount: \$15,960 (*RM-HLTH-05-0011*)

CONTRACTS WITH HOUSING AUTHORITY OF ISLAND COUNTY

The Board by unanimous motion approved the following contracts with the Housing Authority of Island County:

Amendment No. 1 continues funds for Glenhaven Condominiums which provides affordable housing to very low income persons. Amendment Amount: \$6,300; (*RM-BUDGET-08-010*)

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

Contract awarding low income housing funds to support Marjie's House which provides emergency and transitional housing; Contract Amount: \$18,000 annually for 3 years (*RM-BUDGET-08-011*)

INTERLOCAL COOPERATIVE AGREEMENT FOR NORTHWEST MINICHAIN

The Board by unanimous motion approved an Interlocal Cooperative Agreement with Whatcom County for Northwest Minichain to provide transportation services to Island County prisoners.

LIQUOR LICENSE APPLICATION 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 liquor license application:

Special Occasion Liquor License No. 091224 by the Camano Island Yacht Club for a special occasion to be held on February 16, 2008 from 5:30 p.m. to 9:00 p.m. at the Camano Island Yacht Club, 129 N. Sunset Dr., Camano Island, WA.

PUBLIC WORKS

By unanimous motion the Board approved the following as recommended by Bill Oakes, Public Works Director:

Roads

Certification of 2008 Road Levy & Estimated Revenue Produced - County Road Administration Board (CRAB)

Agreement with Washington State Department of Transportation, Local Agency Federal Aid Project Prospectus-STPE; Island County Bicycle Touring Enhancement. Work Order No. 74. Contract Amount: \$220,000 (\$80,000-Engineering/\$140,000-Construction) WSDOT Funding. (*PW-0720-120*)

Agreement with Washington State Department of Transportation, Local Agency Agreement; Island County Bicycle Touring Enhancement. Contract Amount: \$80,000 (Engineering-WSDOT Funding). (*PW-0720-121*)

Bid Award for Crushed Rock Supplies for 2008-2010 to Krieg Construction for Coupeville and Bayview Road Shops; Award to Aggregates West, Inc. and Concrete Nor'West for Camano Road Shop

Bid Award for Radar Reader Boards for East Camano Drive Safety Improvement Project to Intuitive Control Systems, LLC. Contract Amount: \$11,750

Temporary Construction Easement with Ledgewood Beach Property Owner's Association; Driftwood Way Drainage Outfall. Work Order No. 201; Lot B, Division No. 2 of Ledgewood Beach, Sec. 30, Twp 31N., R 3E. (*PW-0720-115*)

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

Solid Waste

Resolution C-04-08/SW-03-08 In the Matter of Adopting the Island County Comprehensive Solid Waste and Moderate Risk Waste Management Plan.

Contract with Edge Analytical for Laboratory Groundwater Analysis for post-closure Coupeville Solid Waste Landfill. Contract Amount: \$55,296 (SW-08-22)

Contract with SCS Engineers for post-closure care at Coupeville Solid Waste Landfill. Contract Amount: \$153,768. (SW-08-23)

Trails

Memorandum of Understanding with Coupeville School District #204; Coupeville Connecting Trail Construction, Operation and Maintenance. (PW-0820-01)

**HEARING HELD: RESOLUTION C-01-08/PLG-001-08 IN THE MATTER OF
AMENDING THE PLANNING AND COMMUNITY DEVELOPMENT BUILDING
PERMIT FEE SCHEDULE**

The Chairman opened the public hearing at 2:30 p.m. as scheduled to consider Resolution C-01-08/PLG-001-08 in the Matter of Amending the Planning and Community Development Building Permit Fee Schedule.

To orient the Board to the resolution Jeff Tate, Director of Planning and Community Development, detailed the three attached exhibits. Exhibit A, the Building Permit Fee Schedule, establishes permit fees and plan check fees based on the valuation of a structure; Exhibit B, Building Permit Valuation Schedule, establishes dollars per square foot for valuing structures or dollars per linear foot if it happens to be a fence or retaining wall; and Exhibit C, Reduction of Building Permit Fees to Promote Affordable Housing. Planning and Community Development approached the Board in 2007 as part of the budget process indicating that the building permit fee schedule had not been amended since 2002. The Board directed staff to review what other surrounding jurisdictions are doing in this area in an attempt to make sure the County will match up or maintain a lower cost. Mr. Tate said his Department reviewed the valuation of the square footage and linear feet, how structures are valued, and in his opinion the County is pretty much in line with what other counties and cities are doing. Mr. Tate presented an amended Exhibit A, the Building Permit Fee Schedule, a chart for valuing structures, reflecting an adjustment to account for the cost his Department incurred over time. The chart adjusts by about 1-1/2% per year from the time that fees have not been updated. Regardless of the adjustment, Mr. Tate believes his Department is still not maintaining the rate of inflation. He is attempting to keep the cost as low as possible yet still get the job done.

Mr. Tate also provided a corrected resolution from that submitted to the Board January 7 as it referenced an incorrect resolution number in the fourth "Whereas" clause and included wrong Exhibit B materials.

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

Commissioner Bakke asked the Board to consider asking staff to re-visit the numbers indicated in Exhibit C in light of increasing fees. He wants to make sure the numbers are in fact appropriate incentives and suitable for people seeking affordable housing.

There being no public comment either in support of or in opposition to the resolution, and public comment having been closed, by unanimous motion the Board approved continuing the public hearing to February 4, 2008 at 10:25 a.m. to determine whether to approve the resolution, Exhibit C, as submitted or consider suggested changes and continue consideration to a future date to allow for another public hearing.

**HEARING HELD: ORDINANCE C-02-08/PLG-011-07 UPDATING ISLAND COUNTY'S
COMPREHENSIVE PLAN AND DEVELOPMENT REGULATIONS RELATING TO
WETLANDS**

[Presentation of Planning Commission's Recommendation January 7, 2008]

The Chairman opened another public hearing to consider Ordinance C-02-08/PLG-011-07 Updating Island County's Comprehensive Plan and Development Regulations Relating to Wetlands.

Mr. Tate began by saying the public hearing today is to consider the Planning Commission's recommendation to adopt modifications to the County's policies and regulations pertaining to wetlands and wetlands protection. The hearing is specific to four proposed amendments discussed at the January 7 presentation. Those amendments are:

1. Amendment to a reference to wetland mitigation banks;
2. Modification of effective date of the ordinance, changing it to July 1, 2008;
3. Removal at the request of Department of Ecology, Community Trade and Economic Development and Fish and Wildlife of an exemption pertaining to Storm Water Management; and
4. Request to take another look at the Planning Commission's recommendations on cleared area percentages that are used to determine land use intensity. The Board's request was to attempt to create a more equitable gradated range of parcel sizes and cleared areas to avoid abrupt changes and idiosyncrasies that were added as a result of applying those cleared areas from one parcel size range to another.

Mr. Tate said that at the January 7 public meeting the direction that the Board provided was to first of all advertise and schedule a public hearing for January 28 on the first three items. The Board at its January 14 meeting considered whether to add a fourth amendment and specific language. The Department transmitted an alternative proposal regarding Amendment No. 4; the notice placed in the newspaper mentioned all four amendments; and the Department attempted to make it clear that the public hearing today was not to discuss and get comment on the remainder of the ordinance but rather is limited to the four amendments. The materials were placed on the Department's website January 14 following the Board's final confirmation that all four amendments would be considered.

Mr. Dearborn noted for the record three comment letters received addressing the four amendments: one dated January 25 from the Department of Community Trade and Economic Development [*GMA No. 9766*]; one dated January 28 from Jeanne Hunsinger [*GMA No. 9698*]; and

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

one dated January 28 from WEAN (attaching WEAN's January 7 letter and Op Ed). [GMA No. 9767].

Public Comments

Steve Erickson, Whidbey Environmental Action Network, explained WEAN's January 28 letter to the Board indicating it addresses the four amendments and corrects typographical errors in its January 7 submittal. From that letter he reviewed his concerns about the four amendments (*quoted in part*):

Amendment No. 1 – WAC reference for mitigation banks.

“The perceived purpose of this amendment is reasonable. We don't believe it is necessary, but have no concerns about its effect.”

Amendment No. 2 – Change of effective date to July 1, 2008

“We have no objection to changing the effective date of the ordinance.”

Amendment No. 3 – Delete storm water management exemption.

“We support deleting this exemption.”

Amendment No. 4 – Create more stratification in the range of parcel size categories and apply impervious surface limitations on all parcels greater than 1 acre.

- “Historical clearing trends. Insofar as the clearing thresholds for classification of land use intensity are based on historical trends, this is precisely backwards from the approach that should be used. The classification thresholds should be based on likely effects of the clearing on wetlands, including secondary effects that affect and filter through buffers, and landscape scale effects.
- Land use intensity classification for multiple structures or uses. We support the addition of the provision that land use intensity classification should be based on the most intense use or structure on the site.
- Site specific characteristics and land use intensity classification. It is appropriate to recognize that site specific characteristics, spatial location, or orientation of development may magnify impacts to adjacent buffers and wetlands. The most basic protective mechanism of the ordinance is provision of buffers. Since size of buffers is primarily dependent on land use intensity classification, it is essential that there be explicit authority to raise the land use intensity classification in these situations. However, in these circumstances this should be mandatory, not discretionary as proposed.
- Rural Stewardship Plans (RSPs) do not always justify buffer reductions. We oppose reducing buffers through this mechanism for two reasons: First, the practical effect of lowering the land use intensity classification is to automatically decrease the required buffer. The process is classified as a Type-I decision. There is no public notice of any sort and only administrative appeals (to the Hearing Examiner) by the applicant are allowed. Almost by definition, the land use intensity classification change and accompanying buffer reduction are automatic and completely without public notice, oversight, review, or potential challenge. We oppose automatic granting of critical area

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

buffer reductions. Second, the standards in the RSPs do not always justify reduction of buffers. We support the concept of RSPs, but not their use as end runs around normal public review and oversight of development proposed within wetland buffers. As proposed, this provision provides a mechanism for evasion of these safeguards and will result in reduction of protection in trade for measures that simply do not and cannot replace that protection and lost buffer function.

- The standards for low intensity uses are not BAS and fail to protect wetlands. As we have previously commented, the changes by the Planning Commission to the proposed standards for classifying land use as low intensity are not BAS and significantly weaken wetland protection. The ordinance should instead go to a two-tier land use intensity classification system encompassing the current “medium” and “high” classifications.
- Impervious surface area. We are pleased with the addition of an impervious surface threshold for classification of land use intensity for residential development on lots larger than 1 acre. However this misses the point. The threshold (10%) is set at the very upper limit beyond which system-wide degradation of the aquatic network is virtually assured and the ordinance does not prevent this. As a practical matter, there needs to be demarcation in the ordinance between parcel sizes where keeping impervious surface below 10% is very difficult, potentially difficult, and generally easy.
- Definition of impervious surface not BAS. The Island County Code contains two different definitions of “impervious surface.” We suggest that the definition in the Zoning Code be replaced by that found in the Storm Water and Surface Water Ordinance.”

Mr. Tate informed Mr. Erickson that the proposed amendments before the Board pertain to high intensity and low intensity, cleared area limits, and impervious surface limits. The Rural Stewardship Plan is not at this time proposed for amendment.

Mr. Dearborn said that WEAN’s letter and certain oral comments received today in part address items not proposed by the Board to amend so Mr. Erickson’s testimony and the correspondence is not appropriate for the record.

Mr. Erickson adamantly disagreed saying he believes it is appropriate according to the GMA. The Growth Management Act says there will be early and continuous public participation, up to the time of adoption.

Jeanne Hunsinger, 4639 Saratoga Road, Langley mentioned the letter she submitted and was in attendance to answer any questions from the Board. There were no questions from the Board at this time.

Angie Homola, 2362 Happy Lane, Oak Harbor said she was unable to locate where the information is before the Board today so she could review it beforehand. She further commented that she recognizes there are only four items that may be discussed today but she urges the Board to consider before adopting the ordinance the comments received from state agencies concerning historic uses of agricultural areas and others.

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

Mr. Tate said that everything has been posted on the Department's website since January 14 and he will point her in the right direction.

The Chairman closed the public comment portion of the hearing.

Board Comments

Commissioner McDowell moved that the Board accept the first three amendments as proposed: (1) delete the reference to Chapter 173-700 WAC based on the request of the code reviser; (2) change the effective date to July 1, 2008 as requested by the Planning Director; and (3) delete the storm water management exemption as requested by the Department of Ecology because the Department of Ecology did not believe it should be treated as an exempt activity. Commissioner Bakke seconded the motion, unanimously carried.

Commissioner Bakke recommended continuing consideration of Amendment No. 4 in part due to comments received from the Department of Community Trade and Economic Development on January 25, 2008; comments received January 28, 2008 from Jeanne Hunsinger; and comments received January 28, 2008 from WEAN. He said what he was striving to do in the amendment is to seek a balanced range that makes good sense. He would like staff to have an opportunity to review the three comment letters in light of the language being proposed and return to the Board with comment February 4.

Mr. Dearborn said the hearing was closed on Amendment No. 4 so if the Board wishes to consider changes there is a need to re-open the hearing to allow comment on those changes before taking action.

Mr. Tate said staff could certainly evaluate each letter over the course of the week and report back to the Board February 4, confirming for Commissioner McDowell that if there is a need to re-open the hearing for comment the next date for that hearing would be February 25 due to a holiday February 18.

Commissioner Bakke moved to continue Amendment No. 4 until February 4 to consider the three comment letters received from CTED, WEAN, and Jeanne Hunsinger and re-evaluate the proposal to see if there are some common threads that can be drawn on to arrive at something more representative and equitable for those who will need to use the provision. Commissioner McDowell seconded the motion, unanimously carried.

Commissioner McDowell takes issue with the CTED letter dated January 25, 2008 as it concerns the suggested removal of proposed 17.02A.050.F because he believes the majority of people desire to maintain agricultural use of property rather than convert it to residential use. He said, in his opinion, the desire is to maintain the rural character of Island County and authorizing new agricultural activities on land that has been used historically for agricultural activities makes absolutely good sense. CTED is concerned with the provision because it does not comply with SSB 5248 (adopted by the 2007 Legislature). Commissioner McDowell requests that staff obtain any copies of legal advice available that speaks to the fact the provision does not comply with state law. He would like to discuss this issue February 4.

Commissioner Bakke added that agriculture in Island County is something he believes is fairly fragile with a number of people over the years having ceased their agricultural activities for

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

periods of time. The idea if one is not conducting agriculture for a period of five years, that it is not considered existing or ongoing, is difficult to contend with because everyone is aware of prime properties in the County that may fit into that category. He said the impact and pressure upon landowners absent the County's ability to look at the use as agriculture is going to put a lot of development pressure on that property which is the opposite of what folks want to have happen. He would like the Board to work toward having more opportunities for agriculture in Island County, promoting the goods that could be sold from the land, promoting the land available for agriculture because agriculture in Island County is part of its rural character and heritage, adding that the need to protect and expand agricultural activities in Island County is replete in the comprehensive plan. He understands CTED's concern but believes perhaps the concern is a little broadly applied, particularly when taking into account Island County's situation.

Mr. Dearborn said he will follow-up on any legal opinions but noted that at the end of the year when the Planning Commission took its action there were none; there was no guidance from the state on how to interpret the law. Planning Commission staff and Mr. Dearborn in reviewing the facts realized that a real non-common sense solution was evolving if the County did not address the new agriculture issue because it would mean the County would be required to apply to new agriculture buffers that are larger than the County applies to residential development in a similar circumstance. Pastures are for the most part going to require a water quality buffer, not a habitat buffer, and invariably for most intensity of uses that buffer is smaller than 100 feet, resulting in potentially an odd situation of having a circumstance where property owners are going to be pushed into converting their land to residential development instead of retaining it in agriculture. He said the concern of the Planning Commission, and the Commission went a little beyond the proposal in its recommendation to Board, were areas that had changed vegetation in some way and now exhibited more characteristics of a wetland than they did some time ago, including re-forestation. The Planning Commission attempted to create a compromise that was balanced but obviously that compromise did not satisfy the state agencies or WEAN. Still, Mr. Dearborn said the root problem is that if the County does not do something than it potentially will be telling those who want to re-establish pastures that it is better for them to develop those pastures with houses because the buffers will be smaller.

Commissioner Bakke asked Mr. Dearborn if CTED does not provide a legal analysis, would it be possible for the Board to revisit the issue spending some time and effort looking into it for local circumstances, and work it into the Fish and Wildlife update later in the year?

In response Mr. Dearborn said the CTED letter raises a number of valid issues concerning the amendments as drafted in terms of how does one determine how far back to go, those are good questions and somewhat similar to questions raised by WEAN. It is certainly something that can be looked at and worked on. As for Fish and Wildlife he said stream buffers are as important an issue for agriculture as wetland buffers so he believes the Board could revisit the issue at that point if a solution is not arrived at.

Commissioner Dean commented that everyone is in agreement that what the islands are all about in many ways is promoting agriculture as much as possible saying as it goes away there is a need to bring it back. CTED questions how the County would determine which lands have historically been used for agricultural activities and he feels it important not to create a loophole.

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

Mr. Dearborn said he and staff will first look to see if there is now a formalized opinion on what SSB 5248 does allow counties to do or not do and will report back February 4.

Commissioner Bakke asked about CTED's comment concerning 17.02.050.A.4.d.ii, no new lots shall be created that totally comprise of wetlands.

Mr. Dearborn said the omission was his error. He said it is an existing provision in 17.02, the old critical areas ordinance, and was not carried over to the new ordinance. He said it was never pointed out by staff, by any member of the public in the public comment process, by the Planning Commission or any agencies. It was not until Mr. Erickson raised the omission that it was realized as missing. He and staff both agree the provision should be carried over into the new ordinance. Mr. Dearborn will bring to the Board February 4 a proposed amendment carrying forward the language into 17.02A.

Commissioner Bakke moved that the Board request staff bring forward, in addition to Amendment No. 4 previously discussed, an Amendment No. 5 concerning 17.02.050.A.4.d.ii in conjunction with CTED's comments of January 25, 2008.

Mr. Dearborn said if CTED has formal guidance from the Attorney General indicating that SSB 5248 does in fact create a time-out for any change, then he believes that decision must be respected and he will prepare an amendment accordingly. If no legal guidance then there will be no recommendation in terms of a specific amendment but Mr. Dearborn will be prepared to discuss options with the Board. In looking at WEAN's January 7 letter Mr. Dearborn noticed several places where he thinks clarifying findings, not changing the ordinance, may be helpful and he possibly could present those to the Board for discussion on February 4 as well.

The Chairman confirmed Commissioner Bakke's motion to bring a proposed Amendment No. 5 to the Board on February 4 concerning the issue of replacing the provision in 17.02.050.A.4.d.ii inadvertently omitted from the ordinance. Commissioner McDowell seconded the motion, unanimously carried.

Commissioner Bakke and Mr. Dearborn both remarked that the ordinance must be formally continued. The assembly was reminded that the ordinance is continued without public input, that any public input is limited to proposed changes. Mr. Dearborn clarified that the purpose of the February 4 meeting is merely for the Board to have an opportunity to discuss the proposed amendments. He said if the Board decides to consider changes it will set a hearing date for those changes.

Commissioner McDowell moved that the Board continue consideration of Ordinance C-02-08/PLG-011-07 in the Matter of Updating Island County Comprehensive Plan and Development Regulations Relating to Wetlands to February 4, 2008; that Amendment No. 4 (*modifying cleared area percentages that are used to determine intensity of land use*) be continued as well to February 4 with the possibility of re-opening public comment at a future date if changes are proposed; and that a proposed Amendment No. 5 be presented that date replacing the provision in 17.02.050.A.4.d.ii inadvertently omitted from the ordinance. Commissioner Bakke seconded the motion, unanimously carried.

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
JANUARY 28, 2008 - REGULAR SESSION**

There being no further business to come before the Board the meeting adjourned at 3:20 p.m.
The Board will meet next in Regular Session on February 4, 2008 beginning at 10:00 a.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

John Dean, Chairman

Phillip Bakke, Member

William L. McDowell, Member

ATTEST:

Elaine Marlow, Clerk of the Board