

**BOARD OF ISLAND COUNTY COMMISSIONERS MINUTES OF MEETING
DECEMBER 29, 2008 – SPECIAL SESSION**

The Board of Island County Commissioners met in Special Session on December 29, 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, William L. McDowell, Member, and Helen Price Johnson attended. The purpose of the Special Session was for the Board to discuss a decision it made on December 22, 2008 appointing David Sherman to the Planning Commission from Commissioner District No. 2.

In Attendance: Approximately 17 members of the public and press attended.

Chairman Dean began by saying that he was under the impression that there existed a vacancy on the Planning Commission from Commissioner District No. 2 and out of professional courtesy to Commissioner McDowell, he voted to appoint Mr. Sherman to that vacant position. Apparently in the past there was some precedence in appointing a Planning Commissioner at the end of a Commissioner's term, however, in those cases, no objection to the appointment was expressed from the incoming Commissioner-Elect; in this case, there is. After the decision was made, Commissioner-Elect Homola phoned Chairman Dean asking that the decision be reconsidered in light of the fact that the term of office does not expire until January 2, 2009; Commissioner-Elect Homola's term, not Commissioner McDowell's term. Chairman Dean commented that out of professional courtesy to Commissioner McDowell he supported the appointment but now, out of professional courtesy to incoming Commissioner-Elect Homola, the Board agreed to reconsider its decision.

Commissioner McDowell said that at staff session on December 17, 2008, just prior to his request to appoint on December 22, he provided Chairman Dean and Commissioner Price Johnson with a letter that spoke to his reasoning for wanting to appoint Mr. Sherman to the vacant position. He indicated at that time that on the following Monday, December 22, he would motion for a vote. In part the letter said that a position in Commissioner District 2 would expire at the end of Commissioner McDowell's tenure and past history has allowed the outgoing Commissioner to fill a position regardless of party affiliation. He asked for the same courtesy.

Commissioner Price Johnson said that Commissioner McDowell's intent for full disclosure did not meet her intent; it was not clear to her that the appointment would be considered at the upcoming meeting because it did not appear on the agenda. Because the appointment was not on the agenda she therefore did not research the position ahead of time. Following the discussion and vote of the Board Commissioner Price Johnson researched the position and determined that the term did not expire at the end of Commissioner McDowell's term but instead, expired at the beginning of Commissioner-Elect Homola's term. She also looked at minutes and agendas to establish past practice and looked at the procedure of other counties. Commissioner Price Johnson recommends that as the Board moves forward that it follow a similar pattern as that of Skagit County. In light of the new information she would like to reconsider the vote.

Chairman Dean believes the Board should improve its practice of allowing more public awareness and also, at the very least, request resumes for the other Commissioners who may not know the applicant nominated or applying for the position. He is torn between professional courtesies among two people he respects but believes he needs to fall on the side of incoming Commissioner-Elect Homola with an apology to Commissioner McDowell.

Commissioner McDowell remarked that he said at staff session he would bring up the subject of the appointment on the following Monday at the Board's Regular Meeting and he followed the process for doing that; at the appropriate time on December 22 when the Board approved the agenda, or made additions or deletions to the agenda, that is when he motioned that the appointment be added. Commissioner McDowell did not know whether the Board would accept

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the nomination so he did not presume to include it on the agenda. Instead, he asked at the proper time that it be added to the agenda which it was.

Commissioner Price Johnson believes the appointment should have been on the published agenda so people in the community were aware of the open position should they wish to apply.

Chairman Dean opened the floor to public comment.

Paula Spina said she is encouraged about the Board's willingness to change the process so the process is more publicly visible and more professional. She commented that it was troubling to hear that an outgoing Commissioner was given the courtesy to make an appointment that would be prospective, an appointment that would begin in the newly-elected Commissioner's term. The right to make appointments is not something that any one person holds; the right to make appointments belongs to the electorate. Ms. Spina believes there are different philosophies of governance, different philosophies toward what the Planning Commission should be doing, and those philosophies should be taken into account when making such appointments. Ms. Spina hopes the Board will reverse its decision then properly approach the subject again after the new commissioner takes office.

Steve Erickson seconded Ms. Spina's comments. He said that currently the way the legislative process is set up in the County the Planning Commission has a huge responsibility and very typically, Mr. Erickson has seen with the Board of Commissioners that it does not hold an independent hearing on the Planning Commission's recommendations but simply accepts those recommendations. In Mr. Erickson's opinion the people on the Planning Commission in many respects have a huge amount of power that is far out of proportion to what appears at first glance because of the current system. It would be good practice, he said, for a vacant position to be filled by the Board of Commissioners that is sitting at the time when that position becomes vacant, in other words, January 2.

Beth Munns said it is preferable to have people in place to begin work on January 2. It would be discourteous to Mr. Sherman, and is a slap in the Board's face, to now rescind the Board's decision to appoint. Changing the selection process for the future is fine but the Board is wasting time now by reconsidering an earlier decision; she believes the Board should move on. Ms. Munns said the Board, elected by the majority, should not allow one group to govern what the Board does. If the Board decided Mr. Sherman to be a good candidate then the decision should remain; the next Commissioner will have plenty of time to appoint people within her term.

Jan Pickard believes it good practice to correct errors when errors are made. It would be important that the Commissioners as they exist in the future have an opportunity to size up the composition of the Planning Commission. She was shocked to learn there is no process for bringing people onto commissions. Ms. Pickard thanked Commissioner Price Johnson for her investigation into what other counties are doing; transparency is important to the community.

Jason Joiner, Fort Casey Road, Coupeville, is concerned on more than one level for the County and for the Board of Commissioners. To make a decision in one meeting and then attempt to retroactively remake that decision defies the definition of decision. The Board had the opportunity at the December 22 meeting to abstain from voting or could have made a motion to delay for further investigation. Anyone who supports the legislative process and the democratic process as a whole understands that one must be educated when voting. The decision was negligent to make a vote and put forth a unanimous decision without actually knowing where the Board stood on the decision. Mr. Joiner believes what is happening now to be a considerable waste of time on the Board's part and also on the part of the person who put good faith into the

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application process. There is plenty of time to change the process and prevent it from happening again in the future. The decision has been made, however, and the Board would be setting a dangerous precedent to begin to rescind decisions. Commissioner McDowell, Mr. Joiner said, has served the community and County honorably since 1993 and the Board should respect an intelligent man's decision in the nomination and selection process.

Marianne Edain, Whidbey Environmental Action Network, remarked that when a mistake is recognized there are opportunities for correction and this is a good opportunity to correct this particular one. Continuing a mistake compounds the error; this is a perfect opportunity to stop, take a step back, and do it right.

Michael John, Old Town, Oak Harbor, agrees that when an error is recognized or new information is received the issue should be reconsidered. If the decision is not in the best interest of all, it is not in the best interest of all; the community must be supported. Commissioner-Elect Homola should be a part of the process.

David Sherman thanked the Board for considering him for the position. If he does serve the appointment he would serve it with honor and integrity and long-term vision, not just what is best for today.

Chairman Dean corrected the notion that a mistake has been made. Having Mr. Sherman serve on the Planning Commission is not considered a mistake and nor does Commissioner-Elect Homola consider it a mistake. She would just like to participate in the selection process and wants to have a conversation with Mr. Sherman about the position.

Chairman Dean closed the public comment portion of the meeting.

Commissioner McDowell said that Republicans and Democrats alike in the past have allowed the last appointment by an outgoing Commissioner when the term of a position expires at the end of a Commissioner's tenure. He again requested that Commissioners Dean and Price Johnson not rescind the appointment; the decisions of both to appoint should be respected. Mr. Sherman was elected a school board member in Oak Harbor, serves on the Child Protection Team, knows a fair amount about affordable housing, and has lived in Oak Harbor for a long time. He is good for the position. Commissioner McDowell is concerned about Mr. Sherman's reputation and how a decision to rescind may affect him personally. Any new process the Board wants for the future certainly can be created, but it should be prospective not retroactive.

Commissioner Price Johnson said as an elected official it is her responsibility when there is new information to react to the new information and take corrective measures when necessary. She apologized to Mr. Sherman that this has happened with him in the middle. Technically, and for all purposes however, Mr. Sherman has not yet taken office with the Planning Commission. That is the only reason the conversation is possible and is also the reason she believes that the appointment should be postponed until January 2. In her opinion Mr. Sherman will not see any stain on his reputation by the Board's action; that the Board's action is certainly no reflection on him. She does admit the situation to be awkward, to have not realized beforehand that she did not have the correct information when making her decision and now there is a need to take corrective action. Regardless how awkward and embarrassing the situation, Commissioner Price Johnson believes she must do what is right. For that reason she would like the Board to reconsider the vote.

Chairman Dean concurred with Commissioner Price Johnson saying that it is his hope that Commissioner-Elect Homola will consider Mr. Sherman as a valuable candidate for the position.

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Commissioner Price Johnson moved to rescind the appointment of David Sherman to the Planning Commission, Commissioner District 2 position. The position will be open for applications for a period of two weeks, to be submitted to the Commissioners' office by close of business on January 9, 2009. Applications for the Commissioner District 1 Planning Commission position will be open for the same period of time. Motion seconded by Chairman Dean, carried by majority vote. Commissioner McDowell opposed the motion.

A press release about the application period will be submitted to the newspapers and placed on the County's website.

The Special Session concluded at 10:42 a.m.

BOARD OF COUNTY COMMISSIONERS
ISLAND COUNTY, WASHINGTON

John Dean, Chairman

[Wm. L. McDowell, Member: Absent when signed]

Helen Price Johnson, Member

ATTEST:

Elaine Marlow, Clerk of the Board