

ISLAND COUNTY COMMISSIONERS – MINUTES OF MEETING

SPECIAL & REGULAR SESSIONS - AUGUST 23, 1999

SPECIAL SESSION

The Board of Island County Commissioners met in Special Session on August 23, 1999 at 9:00 a.m. in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa., with Mike Shelton, Chairman, Wm. L. McDowell, Member, and William F. Thorn, Member, present. The purpose of the Special Session conduct a public hearing, continued from August 16, 1999, on Ordinance #C-93-99 (PLG-022-99) Proposed Changes to Island County Comprehensive Plan and Chapter 16.25 and 17.03 ICC relating to Mineral Lands of Long Term Commercial Significance.

Attendance:

Staff: Phil Bakke

Consultant: Keith Dearborn

Public: 6 audience members [Attendance Sheet - GMA doc. #4608] .

Mr. Bakke handed out a packet of proposed amendments which were prepared after the August 16th hearing [GMA doc. #4611], and briefly reviewed each.

Amendment No. 1 dated 8/23/99 requested by the Coalition modify Amendment 3-P 7.03.180.U; update proposed Policy C and amend 17.03.180.U.1 & 2 to reflect the amendment. The amendment was prepared in response to the Coalition's August 20, 1999 letter to the Board commenting on the Mineral Resource Lands Plan. The amendment clarifies that in those instances where the County receives an application for a conditional use permit or site plan review for a new mineral resource land not previously identified in the Comprehensive Plan Map E, that the applicant will go through the community meeting requirement under 17.03 and at the time they submit their CUP will also concurrently submit an annual review amendment to be docket for the annual review process for the comp plan. Standards for siting and phasing include:

- a) The minimum site area of an extractive operation shall be 10 acres of contiguous area including the area required for setbacks and buffering.
- b) The minimum site area of a processing operation shall be 20 acres of contiguous area including the area required for setbacks and buffering.
- c) Extractive operations on sites larger than 20 acres shall occur in phases to minimize environmental impacts. The size of each phase shall be determined during the review process.
- d) Extraction and processing may not be located closer than 500 feet to any Rural Residential lands. [RAIDs]

This also proposes to amend Amendment 3-P to show the Mineral Lands Overlay Policy be renumbered as C, and read: "Applications for designation of new surface mines of long term commercial significance shall be reviewed based on WAC 365-190-070 and shall meet the following standards".

Mr. Bakke noted this would include showing the changes proposed above in #2, standards for siting and phasing.

Policy G is proposed to be updated to clearly require annual review amendment at the time a site plan review is submitted, if not already depicted on Map E, and clarify that if an applicant receives site plan approval prior to the Comp Plan Amendment, applicant may proceed to develop the resource and extract minerals prior to being added to Map E.

Proposal includes amendment to Exhibit E, Policy #162 to reflect:

"If a property owner wants to develop a new surface mine on a piece of property that has been identified on Map E they will be exempt from the community meeting requirements of Chapter 17.03 and will be able to proceed with a Conditional Use Permit under Chapter 17.03.180.U If the property owner wants to develop a new surface mine that is not identified on Map E they will have to comply with the community meeting requirements pursuant to Chapter 17.03 and at the time of the submittal of the Conditional Use Permit the applicant shall also submit a Comprehensive Plan Amendment to amend Map E and the Island County Zoning Atlas. "

Commissioner McDowell asked the question that if for some reason the Comprehensive Plan change did not occur or gain approval, yet the applicant received CUP approval could the applicant pursue with any hope of obtaining the permit?

Mr. Bakke explained that conditions for Comp Plan approval were very similar for CUP approval as proposed by today's amendment package. It will be the Hearing Examiner who will make a finding at CUP level as to whether or not the property meets standards of long term commercial significance so in all likelihood once CUP approval is received there should be no reason why the Comp Plan amendment would not be approved.

Commissioner Thorn added to note that the Comp Plan amendment seemed a formality.

The way Mr. Dearborn read the language he thought that if for some reason the Comp Plan amendment did not get approved, it would have no affect on continued use of the CUP if the applicant was complying with conditions of the CUP. As written, the Comp Plan amendment is not a pre condition to the exercise of CUP rights.

Commissioner Thorn agreed, and noted that the consequence of that would be that the operator would not have the protections of 16.25.

As far as the question by Commissioner McDowell whether or not there is such a thing as short term versus long term commercial because there could be needs in the County for gravel but only for a short period of time, Chairman Shelton was aware that on South Whidbey there are any number of places where people in the construction business have dug sand out of a bank for fill, not long term commercially significant but the quality of material in the bank adequate for fill sand. The Chair felt that Map E should include only those lands of long term commercial significance. He recognizes those who want the ability to continue what they are doing, but did not necessarily mean they have commercially significant materials on site. Ways need to be figured out to provide protection, probably through a CUP, for those types of people insofar as the conditional use.

Regarding Amendment No. 1 dated 8/23/99, Mr. Dearborn referred to G, the first sentence, to answer that, which is new language. Also, revision to Finding 162 makes no suggestion the owner has to be on Map E to be a surface mine. He suggested that when the process is finished, the Board may want to ask Mr. Kwarsick re-look at Grading Regulations to deal with the question of borrow pits because as part of the prior amendments, it was Mr. Kwarsick's determination there was no need to specifically deal with borrow pits in the zoning code for commercial AG because that is regulated by the grading code. There may be a need to make it clear there is a break point between a borrow pit and a grading permit and a CUP in terms of quantities so there is a clear delineation between the two in the code. A CUP is a quasi judicial process, a type 3 decision, with the Board involved only if there is an appeal of that decision. The designation process for mineral lands is a type 4 process.

For clarification on record, Mr. Dearborn reviewed the first page of the text of the amendment, bottom of the page under Mineral Lands Overlay, Policies, No. C, is actually a replacement for proposed C in amendment 1P page 3, and is all new language:

- A. Applications for designation of new surface mines of long term commercial significance shall be reviewed based on WAC 365-190-070 and shall meet the following standards.

The next page, the language at the top of the page, items 1, 2, 3 and 4, that is not underlined should be as it is new language as well,. Likewise for G. the language not underlined should be since it is new language.

Amendment No. 2 dated 8/23/99 Requested by the Coalition, Modify I-P 16.25.

020.G, Surface Mining Good Management Practices. [page 7, Exhibit B, G] to read:

"G. Surface Mining Good Management Practices means those practices that conform to the applicable regulations of Island County and State Law and specifically ICC 17.03.180.U."

On discussion, Mr. Dearborn agreed the language redundant talking about Island County and State Law and then citing ICC 17.03.18-U. This would modify Amendment I-P from last week. Mr. Dearborn and Mr. Bakke clarified the language should be proposed to read as follows:

"Surface Mining Good Management Practices means those practices that conform to all applicable regulations of Island County and State Law."

As Mr. Dearborn explained the concern that the Code Reviser will have with reference to the specific section is that if the Zoning Code is amended and a new subsection created within .180 the U will change to a different letter and require amendment of 16.25.

John Graham, representing the Coalition, recalled that at the last meeting on this subject the Coalition objected to the use of conditional use permit because conditions change from permit to permit. It was thought referencing the applicable code would suffice as a good management practice to which he was agreeable. The thought was to provide where a person would look within the code for that regulation. He made the point that 180.U is currently the surface mining regulation contained in the Zoning Code and that in combination with other County regulations that come from Title 11 and Title 8 constitute the regulations that the County will use for surface mining at present, but suspected over time those would become more stringent. He read the inclusion of the word "all" applicable regulations to include specific conditions that have been imposed as a part of a surface mine or certificate of zoning compliance. The reason the section was drafted with a specific reference to begin with was because while we have regulations that apply generally to all surface mines we will through conditional use process impose specific conditions relating to that site that may be expand on the regulations generally applicable and those too have to be complied with in order to maintain best management practices. Once a conditional use permit is granted each surface mine becomes in effect a mini regulation of the County applicable to that property, and important that those specific site conditions and site regulations also be complied with in order to maintain best management practices.

Amendment No. 1 August 20, 1999 Requested by the Planning Department, modify Finding #165 to reflect prior public hearing testimony.

For today's record, Mr. Bakke and Mr. Dearborn made the following correction to the proposed language amendment to Finding #165, the following sentence to read: "Processed materials are commonly supplied by Northor Central Whidbey or imported from mining operations in Skagit and Snohomish Counties to meet South Whidbey and Camano Needs."

Amendment No. 3 August 20, 1999 Requested by the Coalition, amend Proposed Amendment I-P, Exhibit A, Future Review to read:

"Pursuant to RCW 37.70A.130 the County will review this plan and development regulations not later than September 1, 2002. The County may also add to its designations, on a case by case basis through the annual review amendment process for the comprehensive plan."

Amendment No. 4 August 20, 1999 Requested by the Coalition, amend the first

sentence of 16.25.020 text to read: "It is the declared policy of Island County to conserve, protect, enhance and encourage agricultural and forestry operations and to conserve, protect and enhance mineral lands of long term commercial significance within the County." This amendment improves grammar and English.

Mr. Dearborn commented for the record to acknowledge that while the amendment process has been difficult to follow, there have been a lot of amendments and cross amendments, Mr. Bakke as of 8:00 p.m. last night was still working on the amendments and spent most of Sunday in extensive discussions with the Coalition to finalize the amendments being considered today. Good work has been done in trying to reach compromise on these issues.

PUBLIC INPUT

Curt Youderian, Coupeville, owner/operator Patmore Road Prairie pit, stated that he had a 4-acre parcel adjoining the gravel pit with an existing CUP, and he inquired if the 4 acre site could be included in his permitted gravel pit where 20 acres is being mined. He testified to the real need for small 5 acre parcels for fill for construction and asked that the Board do what could be done to preserve that. As an example, he noted that for all the roads in Pheasant Farm Acres every bit of borrow on site was mined on site; the same true at Race Lagoon Heights.

Mr. Bakke answered that standards are clarified for siting and phasing, with language added that for extraction minimum is 10 acres of contiguous area, and Mr. Youderian already has that. Mr. Dearborn agreed; nothing was being done here that would prevent that practice.

Commissioner Thorn agreed too that using materials from on site effectively extends the life of the rural land. Mr. Dearborn further noted that rural lands are intended for long term gravel and sand rather than borrow needs.

John Graham believed the Coalition could go along with all these amendments. Their main concern was that the original documents may or may not have allowed significant resources that were being mined to become NRLs, on a case by case basis, and concern was that if there is a gravel operation that has resources of long term commercial significance it has to be designated on Map E; the County has agreed to do that, and the Coalition agrees with it going ahead for as much as a year. If the amendments go forward as discussed, the Coalition's concerns are broadly met.

Tim Mason, Mason's Excavating & Landscaping, explained his situation: a 2-acre pit on Camano Island. His request was this his site remain on Map E. This was a County pit back in the Fifties; he currently operates out of the pit with about a couple thousand yards left. While most of his work is done for private individuals, the estimates done by the County probably does not include the needs of what work is done for the private parties. A lot of work is being done where fill is needed and should be included in the estimates; 80% of his work is all for private parties.

At Mr. Dearborn's suggestion, Mr. Bakke had reviewed all of the operations on Map E and concluded they all met requirements for designation as if they were a new site, except for Mr. Mason's property, which does not meet acreage or location requirements of the new designation criteria. Mr. Dearborn confirmed this would be a policy judgment call of the Board as to whether Mr. Mason's site should be on the map initially.

Board consensus: leave Mr. Mason's property on Map E. And John Graham verified the Coalition would have no problem with that.

Ray Gabelein, Langley, commented on proposed Amendment No. 1, 2d, with regard to 500' setback, for a proposed new RAID in the future, he asked where would the person be with an existing mining operation - who would take precedence?

Mr. Dearborn responded that the Comp Plan prohibits modification of boundaries of RAIDs cannot be changed, but someone can bring forward a proposal to designate a RAID and met all criteria it would be the call of the Board as to whether it was created or not. As clarification, he recalled that a previous question was if in the future there was a need for more RAID land could RAID land be added and the answer under GMA was no; but if there is an area not within a RAID that meets RAID criteria a new RAID could be created. There is nothing in the GMA or the County's Comp

Plan that would not allow as part of an amendment process to consider a new RAID. If resource property is listed on Map E, the RAID could come no closer than 500' to the gravel resource, or provide some kind of protection to the gravel resource to ensure that the designation of the RAID does not preclude the continued use of the resource. He agreed with Commissioner McDowell's take on the issue: if the property is on Map E, that operation could not be closed down because of some future Comp Plan action

John Graham noted an inconsistency with regard to Amendment No. 1 8/23/99, Policy G. The way it is written, the Hearing Examiner makes a finding whether or not the resource qualifies as long term commercially significant; the next sentence says it has to go ahead to the Comp Plan process. He suggested disconnecting the conditional use process from the determination process of long term commercial significance and handle that entirely in the Comp Plan amendment process. Recommendation leave off entire first sentence "For those surface mine conditional use permit applicants involving lands not shown on mineral lands Map E, a finding shall be made in the conditional use permit determination whether or not the resource qualifies as long term commercially significance pursuant to Policy C." Start G with: "At the time ..." and to meet the concern, add: "If an operation is granted a conditional use permit but fails to qualify for Map E, the operation may continue as a conditional use."

Mr. Dearborn mentioned that the way it is written all applicants would have to submit with conditional use an annual review amendment, which involves paperwork and a fee. If there is a determination by the Hearing Examiner that it does not meet long term commercially significant criteria presumably the application for the map amendments dies and does not go forward.

Mr. Graham's concern was to leave no possibility that a sizable viable gravel pit escapes designation and wanted the link between conditional use permitting and Map E to be very strong.

He will go along with the language as written, explaining he just thought it easier to strike the first sentence .

Mr. Dearborn agreed although the language could probably be perfected the way it is written gets to the point everyone has made.

Discussion Amendment No. 1-P Presented 8-16-99 Mineral Lands Overlay Policy Exhibit A and 16.25 text

Commissioner McDowell was curious whether current language covered everything operations needed to have covered that needs to be in a gravel pit , i.e. processing seemed to be left out.

Mr. Dearborn explained this was a 1998 amendment to GMA sponsored by the mineral industry and are the specific words in GMA that the notice is required to contain.

Responding to the question posed by Commissioner McDowell, Curt Youderian and Chuck Krieg thought the only thing perhaps not stated would be screening operation – some materials are pre-screened before washing.

No other public comments were made and the public comment portion of the hearing closed.

BOARD DELIBERATION AND ACTION:

Amendment #1 8-20-99 to Ordinance C-93-99 Finding of Fact #165

By unanimous motion, the Board approved proposed Amendment #1 dated 8-20-99, Finding of Fact #165, with the wording change as discussed during this hearing, with Section 165 to read as follows:

Whidbey Island's future sand and gravel needs will be met, for the most part, , from North Whidbey and Central Whidbey resource lands and off-island. Mineral resources on South Whidbey and Camano Island are largely limited to pit run material. Processed materials are commonly supplied by North or Central Whidbey or imported from mining operations in Skagit and Snohomish Counties to meet South Whidbey and Camano needs.

Amendment #3 8-20-99 to Ordinance C-93-99 Amend Proposed Amendment I-P, Exhibit A, Future Review

By unanimous motion, the Board approved proposed Amendment #3 dated 8-20-99 as written.

Amendment #4 8-20-99 to Ordinance C-93-99 Amend first sentence of 16.25.020 text

By unanimous motion, the Board approved proposed Amendment #4 dated 8-20-99 as written.

Amendment #1 8-23-99 to Ordinance C-93-99 Modify Amendment 3P; update proposed Policy C and amend 17.03.180.U.1 & 2 to reflect amendment

The Board by unanimous motion approved Amendment #1 dated 8-23-99 as presented with the following changes:

Cover Page: Under "Issue" correct to reflect: "The Department respectfully modifies Amendment 1P and 3-P; update proposal Policy C and amend 17.03.180.U.1&2 to reflect amendment; and reference "and Amendment 2, August 20, 1999" is deleted;

First page of the text of the amendment, bottom of the page under Mineral Lands Overlay, Policies, No. C, replaces proposed C in amendment 1P page 3, and is all new language and to be reflected in underline;

Language at the top of the next page, items 1, 2, 3 and 4, all language underlined to reflect new language.

Language in G not underlined likewise is to be underlined to reflect it is all new language.

Amendment #2 8-23-99 Amend 16.25.020.G text

By unanimous motion, the Board approved Amendment #2 dated 8-23-99 as written, with the following amendments:

Cover Page: Issue – add "modifies 1-P"

Change to Item G, Page 7, to read:

"Surface Mining Good Management Practices means those practices that conform to all applicable regulations of Island County and State law."

Amendment 1P presented 8-16-99

The Board by unanimous motion adopted Amendment 1P presented 8-16-99 with the following changes:

Exhibit A Page 1 Under *Mineral Lands Designation*, add screening so the sentence will read: "These activities include mining, extraction, screening, washing, crushing, stockpiling, blasting, transporting and recycling of minerals."

Exhibit A Page 2, top of page, Amendment No. 3 changed the language at the top of the page; therefore, language "Future Review" is deleted from 1P [1P then begins with Mineral Lands Overlay on page 2];

Exhibit A Page 3 Amendment No. 1 dated 8-23-99 replaces C

Exhibit A Page 4 Item G modified by Amendment No. 1 dated 8-23-99

Exhibit B 16.25.020 Definitions Modified by Amendment No. 4 dated 8-20-99

Exhibit B Item G modified by Amendment No. 2 dated 8-23-99

Exhibit B 16.25.040.A. Add "screening" so the underlined sentence will read: "For mineral lands these activities may include mining, extraction, screening, washing, crushing, stockpiling, blasting, transporting and recycling of minerals";

Exhibit B 16.25.-4-.C. Third paragraph add "screening" to the next to the last sentence, to read: "For mineral lands these activities may include mining, extraction, screening, washing, crushing, stockpiling, blasting, transporting and recycling of minerals".

Amendment No. 2P dated 8-16-99 Application Requirements

The Board by unanimous motion approved Amendment No. 2P dated 8-16-99 as written.

Amendment No. 3P dated 8-16-99 Standards

Withdrawn [replaced with Amendment No. 1 dated 8-23-99]]

Amendment No. 1M dated 8-16-99 Add 6 contiguous parcels

By unanimous motion, the Board adopted Amendment No. 1M dated 8-16-99 as presented.

Amendment No. 2M dated 8-16-99 Remove 5 parcels from Map E

By unanimous motion, the Board adopted Amendment No. 2M dated 8-16-99 as presented.

Amendment No. 3M dated 8-16-99 Addition of five parcels to Map E and Zoning Atlas

The Board on unanimous motion approved Amendment No. 3M dated 8-16-99 adding five parcels to Map E and Zoning Atlas as requested by Kenneth Gilbertson.

Amendment No. 4M dated 8-16-99 Remove parcel owned by Tim Mason

No action; withdrawn

Amendment No. 1-Z dated 8-16-99 Identify 2 additional parcels – Penn Cove, Inc.

By unanimous motion, the Board approved Amendment No. 1-Z dated 8-16-99 identifying the two additional parcels on proposed Zoning Atlas Map by Penn Cove, Inc.

Amendment No. 2-Z dated 8-16-99 Identify 1 additional parcel – Rempel Brothers

The Board by unanimous motion approved Amendment 2-Z dated 8-16-99 identifying the one parcel as requested by Rempel Brothers Concrete, Inc.

Modification to Exhibit E dated 8-16-99 Excerpt from Findings of November 9, 1999

pages 17-19.

The Board by unanimous motion approved the modification to Exhibit E dated 8-16-99 as presented, with the following changes:

#162 already modified by Amendment No. 1 dated 8-23-99 and #162 therefore deleted as proposed in Exhibit E

#165 already modified by Amendment No. 1 dated 8-20-99 and #165 therefore deleted as proposed in Exhibit E .

Ordinance #C-93-99 as Amended:

By unanimous motion, the Board adopted Ordinance #C-93-99 PLG-022-99 in the matter of designating and conserving mineral lands of long term commercial significance pursuant to RCW 36.70A.060 and RCW 36.70A.170, as amended. [GMA doc. #4607]

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF ISLAND COUNTY, WASHINGTON

IN THE MATTER OF DESIGNATING AND CONSERVING MINERAL LANDS OF LONG TERM COMMERCIAL SIGNIFICANCE PURSUANT TO RCW 36.70A.060 AND RCW 36.70A.170)) ORDINANCE C-93-99) PLG-022-99)
---	---

WHEREAS, various parties filed petitions with the Western Washington Growth Management Hearings Board ("Board") to review Island County's adopted GMA Comprehensive Plan ("Comp Plan") and Development Regulations; and

WHEREAS, the Board entered its Final Decision and Order on June 2, 1999; and

WHEREAS, the Board identified the need to complete the designation and conservation of mineral lands of long term commercial significance in its remand order regarding rural densities; and

WHEREAS, the County completed environmental review under Chapter 43.21C RCW, SEPA on its Comp Plan and Development Regulations including surface mining and mineral lands of long term commercial significance; and

WHEREAS, pursuant to WAC 197-11-600, the County SEPA official has determined that the proposed changes to Chapter 17.03 ICC relating to mineral resource lands, are not likely to have significant adverse environmental impacts that were not considered in the environmental documents prepared for the Comp Plan and Development Regulations. **NOW, THEREFORE**,

IT IS HEREBY ORDAINED in order to comply with the June 2, 1999 Final Decision and Order of the Western Washington Growth Management Hearings Board, the Board of Island County Commissioners hereby adopts the amendments to the Comp Plan (Exhibit A); Chapter 16.25 (Exhibit B); Chapter 17.03 (Exhibit C); The Zoning Atlas (Exhibit D); and Findings and Legislative Intent (Exhibit E) relating to Mineral lands of long term commercial significance. Material stricken through is deleted and material underlined is added.

BE IT FURTHER ORDAINED that the Board of Island County Commissioners hereby designates pursuant to RCW 36.70A.170 those lands depicted on Map E of the Comp Plan as mineral lands of long term commercial significance and the amendments to Chapter 16.25; Chapter 17.03 ICC; and the Zoning Atlas referenced above are hereby adopted as GMA development regulations pursuant to RCW 36.70A.060.

Reviewed this 26th day of July, 1999, and set for public hearing at 1:30 P.M. on the 16th day of August, 1999, continued to August 23, 1999 @ 9:00 A.M. special session.

**BOARD OF COUNTY
COMMISSIONERS OF**

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST:

Margaret Rosenkranz

Clerk of the Board

BICC 99-432

APPROVED AND ADOPTED this 23rd day of August, 1999 following public hearing.

**BOARD OF COUNTY
COMMISSIONERS**

OF ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

William. F. Thorn, Member

ATTEST: Margaret Rosenkranz, Clerk of the Board

Amendments to chapter 16.25 & chapter 17.03 ICC

APPROVED AS TO FORM:

DAVID L. JAMIESON, JR.

Deputy Prosecuting Attorney

& Island County Code Reviser

(Note: Exhibits to Ord. C-93-99 placed on file with the Clerk of the Board)

There being no further business to come before the Board at this time, the Chairman adjourned the special session at 10:45 a.m., with the Board to meet in Regular Session beginning at 11:30 a.m.

**BOARD OF COUNTY
COMMISSIONERS**

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST: _____

Margaret Rosenkranz, Clerk of the Board

ISLAND COUNTY COMMISSIONERS - MINUTES OF MEETING

REGULAR SESSION - AUGUST 23, 1999

The Regular Meeting of the Board of Island County Commissioners was held on August 23, 1999 beginning at 11:30 a.m. for the monthly Roundtable with Elected Officials, following with other meeting items as listed on the Agenda. The meeting was held in the Island County Courthouse Annex, Hearing Room, Coupeville, Wa., with Mike Shelton, Chairman; Wm. L. McDowell, Member; and William F. Thorn present.

Roundtable Meeting with Island County Elected Officials

Elected Officials: Tom Baenen; Greg Banks; Alan Hancock; Maxine Sauter; Suzanne Sinclair.

Others: Margaret Rosenkranz

Discussion continued from last week relative to possible impacts should I-695 be adopted.

One of the important things that many people tend to lose sight of is if it passes, where the State chooses to make cuts will have a major impact on Island County, which will be the Ferry System and the Bus System.

There was some discussion among the group about the possibility of drafting a resolution in regard to a stance on the part of Island County, and also a potential press release giving impacts from the County's perspective, with specifics and hard numbers about what the County would lose if 695 passes. A general fact statement or fact sheet was basically the consensus of the group, addressing not just Island County government, but what losses will mean as far as the ferry system that serves Island County, and the transit system.

The Chairman suggested too that the Board would go through the budget process in the regular way and then develop a budget assuming 695 passage, and that budget process be done in a

collaborative way with Elected Officials and Department Heads.

Next Roundtable: September 27, 1999 at 11:30 a.m.

ExEcutive Session

The Board met in Executive Session at 12:15 a.m., as allowed under RCW 42.30.110(1)(i) for the purpose of discussing pending litigation with Special Legal Counsel. The Chairman expected that the executive session would last approximately 1 hour and did not anticipate making a decision on return to open session at 1:30 p.m.

VOUCHERS AND PAYMENT OF BILLS

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

Voucher (War.) # 56835-57125..... \$ 758,195.45.

FERRY ADVISORY COMMITTEE APPOINTMENTS

By unanimous motion, the Board made the following appointments to the Keystone Ferry Advisory Committee and the Clinton Ferry Advisory Committee:

Keystone Ferry Advisory Committee Clinton Ferry Advisory Committee

Judy McDonald, Coupeville Joan P. Nelson, Clinton

Reappointed for a term to 8/31/03 Reappointed for a term to 8/31/03

MARINE RESOURCES COMMITTEE APPOINTMENTS

The Board, by unanimous motion, named the following to serve on the Marine Resources Committee:

- **Education - WSU Cooperative Extension:** Don Meehan
- **Commissioner District #1 Nominations**

(Sports Fishery) Mike Gallion

(Commercial-Ferry Cap.) Les Hoffstad

(Marine Biologist) Jan Holmes

- **Commissioner District #2 Nominations**

(Scientist - Marine) Matt Klope

(Municipal Planner) Chuck Crider

(Navy) Dick Toft

- **Commissioner District #3 Nominations**

(Beachwatcher) Gary Wood

(Commercial) George Lundgren

(Recreational) Tom Campbell

- **At-Large Member Appointments**

Linda Schoenharl Vineyard Owner

Tom Roehl Port of South Whidbey

Tom Shaughnessy EDC/Port of Coupeville

RURAL DENSITIES REMAND COMMITTEE - MISSION STATEMENT

AND APPOINTMENTS

Committee nominations were presented. The Board agreed on the following:

Chair William L. McDowell

Planning Commission Rep. Tom Olsen

Property Rights Alliance Tom Roehl

Citizens Growth Mgt. Coalition John Graham.

Additionally, each Commissioner proposed two appointees:

District #1 Sandy Roberts, Coupeville

Joyce Fossek, Langley

District #2 John K. Luechauer, Oak Harbor

Paul Newman, Oak Harbor

District #3 Rolf Seitle, Langley

Marilyn Alexander, Langley

Chairman Shelton was a little uncomfortable that Commissioner Thorn's nominations came from Langley rather than North Whidbey/Camano to represent District #3. Commissioner Thorn explained that he tried but out of 8 or 9 contacts each person had valid reasons they could not sit on the committee and the two nominations stepped forward to volunteer, both happened to be from Langley.

Commissioner McDowell likewise was somewhat uncomfortable placing on the committee three representatives from a City of 850 people, and leaving North Whidbey/Camano Island under-

represented. He suggested the EDC Director, who is from Camano, be named to the Committee in place of one of the nominations from Langley, but agreed it was Commissioner Thorn's call and appointment. This Wednesday will be the first meeting, an organizational meeting.

Commissioner Thorn was opposed to that suggestion of adding the EDC Director in place of one of the nominations. He did point out that the Planning Commission representative, Tom Olsen, was from District 3, residing on Camano Island.

By unanimous motion, the Board appointed members to the committee as proposed:

Chair William L. McDowell

Planning Commission Rep. Tom Olsen

Property Rights Alliance Tom Roehl

Citizens Growth Mgt. Coalition John Graham.

District #1 Sandy Roberts, Coupeville

Joyce Fossek, Langley

District #2 John K. Luechauer, Oak Harbor

Paul Newman, Oak Harbor

District #3 Rolf Seitle, Langley

Marilyn Alexander, Langley .

After the vote, Commissioner McDowell did clarify for the record that he believed it wrong to appoint three people from Langley completely leaving out District #3, particularly all of Camano Island. He voted for it recognizing it was Commissioner Thorn's option to present two nominees. Again, Commissioner Thorn pointed out that the Planning Commission representative, Tom Olsen, was from District 3. [appointment list GMA doc. #4618]

RURAL DENSITIES MISSION STATEMENT

The Rural Densities Mission Statement was presented for the Board's review and adoption.

Commissioner Thorn moved approval of the Rural Densities Mission Statement; motion was seconded by Commissioner McDowell.

Under discussion, Commissioner Thorn stated that under Issue #1 it seemed there were significantly more questions than A, B, C, and did not believe A, B, C represented what Issues #1 does, and suggested that Commissioner McDowell as Chair of the Committee, consider adding:

- How do we create the variety that the Growth Board has placed on the County
- "Since RA and RF can be readily rezoned to 5 acres, they do not meet the "variety

requirement" the discuss include elimination of the automatic rezone.

Commissioner McDowell indicated he would take that under advisement. Motion, as made and seconded, carried unanimously. [GMA doc. #4617]

RURAL DENSITIES

MISSION STATEMENT

August 23, 1999

The Western Growth Board has remanded the Rural Zone to the County directing that the retention of 5-acre lots be reconsidered and to limit the overall size and intensity of development allowed in PRDs. See pages 73 and 74 for the specific remand direction and pages 35-40 for the Western Board's discussion of residential densities in the Rural Zone. Responding to the Order, the County has adopted an interim regulation for the Rural Zone (C-75-99) converting the minimum lot size from 5 to 10 acres.

The Rural Densities Committee is charged with the responsibility to recommend actions to comply with the Western Board's Order for these two issues. These recommendations are to be presented to a Joint Board Planning Commission Workshop scheduled for September 24, 1999.

Issue #1

Reconsider the retention of the allowance of 5-acre lots throughout the Rural Zone. Ensure a variety of rural densities and preclude a pattern of 5-acre lots from presenting an undue threat to natural resource lands (both current and future), critical areas and future expansion of UGAs. Since RA and RF can be readily rezoned to 5 acres, they do not meet the "variety" requirement.

A. Do 5-acre lots present an undue threat to the expansion of UGAs for Langley, Oak Harbor or Coupeville?

B. Do 5-acre lots present an undue threat to critical areas?

C. Do 5-acre lots present an undue threat to current and future natural resource lands of long term commercial significance?

Issue #2

Limit the overall size and intensity of development allowed in PRDs to ensure compatibility with rural character and preclude the future need for urban services.

A. What size and density limit should be established to maintain the compatibility of a PRD with rural character?

B. What size and density limit should be established for PRDs to preclude the future need for urban services?

Staff Session Schedule for September

The Board approved the September staff session schedule for distribution. As noted, both staff sessions in September are special sessions, instead of the 1st and 3rd Wednesdays, the sessions will be held on the 2nd and 4th Wednesdays, September 8 and 22, 1999, beginning at 9:00 a.m.

in the Island county Courthouse annex, Basement Hearing Room, Coupeville, Wa.

Hiring Requests AND Personnel Actions

The Board, by unanimous motion, approved the following personnel action authorizations all from within the Public Works Department:

PAA# Description Action Eff. Date

082/99 Laborer I, Camano #2245.15 Replacement 8/23/99

083/99 Operator I, Camano #2239.09 Replacement 8/23/99

084/99 Asst. Planner #1707.02 Replacement 8/23/99

084/99 Support Clk. #413.00 Replacement 9/1/99.

HEARING SCHEDULED: Ordinance #C-104-99 Increasing Neutered/Spayed License Fees and Boarding Fees Established by the Island County Dog Control Ordinance, Chapter 6.08

By unanimous motion, as presented by Betty Kemp, Director, General Services Administration,

the Board scheduled a Hearing on Ordinance #C-104-99 Increasing Neutered/Spayed License Fees and Boarding Fees Established by the Island County Dog Control Ordinance, Chapter 6.08 ICC, for September 20, 1999 at 11:30 a.m. The ordinance proposes to increase the fee for boarding of dogs impounded at county animal shelters from \$4 to \$7 per day, increase the annual dog license fee for neutered/spayed dogs from \$5 per year to \$7 per year and the senior citizen rate for such license from \$2 per year to \$4 per year.

Amendment to Contract #EM999415, between Washington Military Dept. & Island County, Tsunami Warning Evacuation Signs, extension of contract deadline

Amendment to Contract #EM999415, between Washington Military Dept. and Island County for Tsunami Warning Evacuation Signs, was presented for approval of the Board by T. J. Harmon, Island County Department of Emergency

Services. This particular contract extends the termination date of the contract to September 30, 1999.

The Board, by unanimous motion, Amendment to Contract #EM999415, between Washington Military Dept. and Island County for Tsunami Warning Evacuation Signs as presented.

Proclamation Resolution #C-103 -99 Local Business

Appreciation Month September, 1999

Chairman Shelton read into the record as proposed proclamation to proclaim September, 1999, as Local Business Appreciation month, September, 1999.

Tom Shaughnessy, Executive Director, Economic Development Council for Island and San Juan Counties, observed the last sentence in the proclamation as the issue at hand, to patronize local businesses, and pointed out that a healthy economy leads to a healthy community, and stressed the importance of promoting local business and shopping locally.

Mr. Shaughnessy took this opportunity to comment with respect to the visitation program. As far as the business retention, expansion and improvement action plan. with Mr. Shaughnessy today was Larry Munns, former base commander, now retired, who will be leading the visitation team for the county, employed under contract for the next 60 to 90 days.

By unanimous motion, the board adopted resolution #c-103-99 proclaiming the month of September, 1999, as Local Business Appreciation month.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

PROCLAMATION

Resolution No. C-103-99

WHEREAS, individuals, public and private organizations, and communities should come together to ensure the health of their local economy; and,

WHEREAS, the health of the local economy depends, in part, upon the creation of new jobs and 60-80% of all new jobs result from existing businesses; and,

WHEREAS, by opening up the communication lines between businesses, individuals, and public and private organizations, we can more effectively provide business resources and assistance; and,

WHEREAS, to continually promote an environment where local businesses can prosper will require us to come together for that purpose and to conduct studies, develop strategies, assign technical assistance providers, and pass legislation that is favorable to businesses.

NOW, THEREFORE, the Island County Commissioners do hereby proclaim the month of **September 1999** as

LOCAL BUSINESS APPRECIATION MONTH

in Island County and to urge all people to seek knowledge and understanding of business issues, to offer their assistance to local businesses, and to patronize local businesses.

Dated the 23rd day of August, 1999.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST:

Margaret Rosenkranz

Clerk of the Board BICC 99-481

Intergovernmental Agreement between Washington State Military Department and Island County, Contract #EM019010

The Intergovernmental Agreement, Contract #EM019010 between Washington State Military Department and Island County for State Enhanced 911 account funds for salary assistance to the County for E-911 having been reviewed and approved by the Deputy Prosecuting Attorney and Risk Manager, the Board by unanimous motion, approved the contract.

Signature on Deed, Escrow and Closing Papers for

Delbert Pfeifer Property

Lee McFarland, Assistant Director, GSA/Property Management, requested the Board's approval and signature on closing papers for the Delbert Pfeifer property, pursuant to the Settlement Agreement previously executed on August 20, 1999.

Included in the paperwork presented to the Board was a memorandum dated this date from Linda B. Kipling, Deputy Prosecuting Attorney, confirming documents had been reviewed and approved as to form. Closing costs will be paid by the County. It is anticipated that the necessary documents will be recorded on August 24, 1999 and funds disbursed on August 25, 1999, and dismissal of the foreclosure action filed after September 10, 1999.

Mr. McFarland advised that all documents had been signed by Mr. Pfeifer except for the second addendum to Settlement Agreement, and Supplement to Settlement and Release Agreement. He asked that the Board sign all closing papers upon assurance escrow will not proceed until all papers have been signed by Mr. Pfeifer.

The Board by unanimous motion approve and sign Deed and Escrow and Closing papers for the Delbert Pfeifer property, contingent upon signature from Mr. Pfeifer in a timely manner

before escrow released.

Public Input or Comments

Bill Vaux, Anacortes, who appeared before the Board on July 12, 1999, addressed again the property his wife and her sister own on Camano Island. The north 40 always zoned Residential, but as a result of GMA, zoned Forestry and in asking a Planner why was told that more than 20 acres was in open space forest and located south of Mt. View Road. When he appeared before the Board in July his question was what do they have at Mt. View Beach, the north 40 acres zoned Residential always, but now zoned Forestry, which means it went from 50, 60 or 80 lots down to only 2. He brought up the fact that the plat has a permitted golf course. At that time Mr. Dearborn told him that in the Rural zone a golf course is a use that is allowed but in Mr. Vaux's case, he would have to look at the 1930 approval to see if it had any force and effect today and advised Mr. Vaux to provide his documentation directly to the Commissioners and ask for advice on whether it was still in effect.

Mr. Vaux provided today for the record, a copy of Division #1 Mountain View Beach and Golf Club on Camano Island, signed by the Board of County Commissioners May 5, 1930. He clarified that where it says "Scenic Drive" it is now North Camano Drive. The golf course is a 6 hole golf course. Contiguous to that there is another 25 acres and another 25 acres zoned Forest, always has been and there is no bone of contention over that. His request is: leave the 40 acres zoned Residential as it always has been so if they ever desire to go forward and develop the golf course they can do so. His brother in law is now retired, and Mr. Vaux not far from it, and they are contemplating going ahead with plans for the golf course.

Follow-up: The plat map, along with copy of these notes, forwarded to Phil Bakke, Comprehensive Plan Manager, Island County Planning Department, for review and report back to the Board.

Central/South Whidbey Watershed MGT. Advisory Appointment

As presented by Larry Kwarsick, Public Works/Community Development Director, the Board by unanimous motion, the Board appointed Robert Barnes to the Central/South Whidbey Watershed Management Advisory Committee to fill the vacancy on resignation of Katy Langstaff.

Dispute Resolution Center Contract #RM-BOCC-99-0027

The Board, on unanimous motion, approved and signed the Dispute Resolution Center Contract, #RM-BOCC-99-0027 with Volunteers of America, as reviewed and approved by the Risk Manager, and approved as to form by David L. Jamieson, Jr., Deputy Prosecuting Attorney.

GMA PUBLIC HEARINGS

The Board opened a public hearing at 3:30 p.m. as scheduled and advertised for the purpose of considering five proposed ordinances:

Ordinance #C-95-99 (PLG-017-99), To comply with the Invalidity Order of the WWGMHB regarding certain Rural Residential RAIDs

Ordinance #C-96-99 (PLG-018-99), To comply with the Invalidity Order of the WWGMHB regarding Type 5 Stream Buffers

Ordinance #-97-99 (PLG-019-99), To comply with WWGMHB provisions relating to Critical Area Regulations in 17.02

Ordinance #-98-99 (PLG-025-99), Regarding Rural Forest & Commercial Agriculture Zones

Ordinance #-100-99 (PLG-026-99), Implementing the Langley Interlocal Agreement

Attendance

Public: Approximately 24 members of the public attended; Attendance Sheet on file [*GMA doc. #4631*]

Staff: Vince Moore, Larry Kwarsick, Jeff Tate

Consultants: Keith Dearborn; Alison Moss; Andy Castelle

Ordinance #C-95-99 (PLG-017-99), To comply with the Invalidity Order of the WWGMHB regarding certain Rural Residential RAIDs

The Public Hearing opened with consideration on Ordinance #C-95-99 [*as set for hearing 8/2/99 for this date and time GMA doc. #4468*].

Proposed Ordinance amends the boundaries of eight RAIDs and amends densities of several RAIDs, a specific remand matter from the Western Washington Growth Management Hearings Board and in response to an invalidity determination for the eight RAIDs. As noted by Mr. Dearborn, the Ordinance, if adopted, and approved by the WWGMHB, would eliminate the invalidity determination for the eight RAIDs: Harrington Lagoon; Lands Hill; Livingston Bay Heights; Penn Cove; Teronda West; Useless Bay/Bayview; West Beach; West Deer Lake.

Jeff Tate posted eight RAID maps on the wall during the hearing, and went through each map in order to explain to the Board the WWGMHB's order and the County's response. Each map showed the original RAID boundary in a dashed line; proposed revised RAID boundary in a solid line; red hatched area represented the area specifically addressed in the WWGMHB's order; series of dots on each parcel represents developed parcels; when applicable a blue line showed water system boundary; highlighted yellow are areas if the RAID boundary is revised that would have been potentially subdividable when in the original RAID boundary, but now taken out of RAID boundary; highlighted blue areas show parcels subdivided or developed since 1990.

[GMA document numbers:

Teronda West 4691 Harrington Lagoon 4696

Lands Hills Estates 4692 Useless Bay 4697

W. Deer Lake 4693 Bayview 4698

Livingston Bay Hts. 4694 West Beach 4699

Penn Cove/Bonnie View 4695]

Mr. Tate provided a hand out packet under cover memo dated 8/23/99 "RAID Modifications, Ordinance C-95-99". The packet included a detailed description of each RAID boundary change, and revised RAID statistics. Facts and figures were included as far as numbers and affect in terms of subdivision potential. Further included was a change to 17.03, and some additional quarter section maps that had been inadvertently left out of the Board's packet. **Net affect:** proposed revisions would reduce total RAID acreage by 647 acres; reduce the number of existing lots in RAIDs by 285; and reduce the theoretical development potential of RAIDs by 240 lots. [*GMA doc. #4632*]

Harrington Lagoon RAID

Remove 31 acre parcel but leave the rest of the Lawana Beach plat because it meets the designation criteria of a RAID because there are already four subdivisions that meet the criteria. This one is adjacent to those subdivisions that meet the designation criteria. There is only a two lot potential by leaving Lawana Beach in the RAID.

Land's Hill RAID

Reduce size of the RAID to include only the Plat of Land's Hill Estates and those lots east of Smith Road and north of SR 532. Deletion of the 8 parcels to the north of Land's Hill Estates results in a reduction of 93 acres. The RAID is bound on all three sides by some sort of development or existing infrastructure, and the entire area is served by a water system.

Livingston Bay Heights RAID

Reduce size of the RAID by taking out the northern parcels referred to in the Order; deletion of 9 parcels results in a reduction of approximately 60 acres. This RAID was listed as 3 units per acres which was incorrect [calculated based on a different RAID size]. The RAID density is 1 unit per acre.

Penn Cove RAID

The Hearings Board order called out the area that connects the plat of Penn Cove Park and the plats of Scenic Heights

and Bonnie View, and stated that the plats of Bonnie view and Scenic Heights were not developed and did not justify the connecting strip. However, when the County provided maps to the WWGMHB the dots that represented developed parcels did not exist [couple instances where the dots were not generated by the computer for the plats]. Staff hand-drew which parcels were developed and it can be seen there is in fact a development pattern that exists. The County's response as far as the rest of the area that the Hearings Board order addressed, the larger parcel to the north and the connecting strip, pulled almost all of it out, leaving in a couple parcels based on: a 21-acre parcel was annexed into the water system and purchased rights to ten water shares and already in the process of placing infrastructure on the property to serve those lots. There are five parcels just south of Scenic Heights plat, four are about an acre and the other parcel about 8 acres and included because the plat has road ends that come up to the edge of that piece of property, which would make sense for some development within there to occur. Because the connecting strip has been removed, there are two RAIDS: Penn Cove RAID and Bonnie View RAID. Modification to the RAID results in a reduction of approximately 150 acres. Each of the RAID densities would be 2 units per acre.

Teronda West RAID

Reduce the size by removing everything south of the plat resulting in a 100 acre reduction in the RAID. With the exception of two parcels, it is consistent with the water system boundary of Teronda West on the south; and the RAID was not expanded on the north .

Useless Bay/Bayview RAID [two RAIDS]

Useless Bay RAID. Included Useless Bay Shores plat and the golf course, but did not go further to the southwest and include another portion of the Useless Bay Shores plat.

Bayview RAID. Propose to no longer have the language for the conservation easement provision and propose to cut the RAID boundary back along Bayview Road, cut short on the south end to stay consistent with the water system boundary; comes up around Sunlight Shores plat and up along the Diking District boundary back up to the commercial area connecting commercial and residential portions of the RAID.

West Beach RAID

Maps that were provided to the Hearings Board did not include information regarding the development pattern of the plat of Sea View and failed to show which lots were developed and which lots were undeveloped which lead the Hearings Board to believe it was an undeveloped plat which is not the case. The plat of Sea View is about 97% developed. Staff hand-drew in the dots to show where the development takes place. Therefore, no revision to the boundary of this plat is proposed.

West Deer Lake RAID

The designation criteria in the development regulations states that subdivisions, short subdivisions and PRDs would be the basis for designating a RAID. There are short subdivisions within this area and proposed is to furnish the Growth Board with additional information and not change the boundary because of the existing water system boundary and significant water system infrastructure improvements [process started in 1988]. The infrastructure is in place and approved for 24 connections. There is only one piece of property that can be subdivided under this concept, a 6.9 acre piece of property. The original density for that proper was 3-1/2 units per acre and this proposal would put that at one unit per acre and allow an additional 6 lots within that RAID.

Mr. Tate clarified that the first three quarter section maps in the original packet provided with Ordinance #C-93-99 were in error and at this time, replaced those [marked by a yellow post-it-note: **Map 786, 787 and 784** replaced in the original document held by the Clerk of the Board]. The first would be the new Useless Bay RAID; and the second two are part of what would be the new Bayview RAID. There were a series of maps left out of the packet which now have been included. Also presented was an addition to Exhibit A, a change to 17.03 ICC, within Appendix A of the Zoning Ordinance, a strike-through of the provisions for the Bayview RAID and the Livingston Bay Heights RAID which lists a series of parcel numbers that are ineligible for inclusion within the RAID subject to conservation easement approval by the Board.

Confirmation was provided by Mr. Tate that there have been no new lands added to any of the RAID boundaries; every modification is a deletion of parcels from RAIDs.

PUBLIC INPUT

Thad McArthur, Freeland, proposed adding 5 parcels to the Bayview RAID, an addition of about 48 acres, or about 96 building sites. The 5 parcels enjoy one of the best views on the Island [displayed a large photograph to show the view from one of the five parcels; photo was not provided for the record]. The net value of the view component of those building sites he thought would range from about \$20,000 per site to \$70,000 per site, and about 4 million dollars of view value alone, and the land worth something in the area of 6 billion, and if built, for ½ acre or larger lots result eventually in about 22 million dollars worth of real estate value. The 5 parcels are already surrounded on two sides by much greater density: across Bayview Road; Sunlight Shores; Olympic Marine View; short plat on the Covis property – about 14 parcels.

Diane Wallace, Co-president, Cascade View Water Association, one of eight folks present from the area, presented a Resolution opposing the provision of the Comprehensive Plan that placed the View Road properties within the Sandy Point RAID and requested the County relocate the southern boundary of the proposed RAID northward to Ridenour Road. [GMA doc. #4614]

Ms. Wallace was advised that no proposal was before the Board today with respect to Sandy Point RAID, that RAID not having been remanded to the County from the Growth Board. The Board could not change the boundary of that RAID today, inasmuch as that is not a part of this Public Hearing. She was advised to submit the Resolution to the Planning Department for the purpose of having the matter come on some future docket.

Dean Thiem, Commissioner, Penn Cove Park Water District, addressed the Penn Cove RAID issue as it affects the Water District. The District recently installed a new water treatment distribution system at a cost of 1.6 million dollars. To pay for the system properties adjoining the District were given the opportunity to opt in and purchase hook up rights, which cost up to \$7,550 a share. Three parcels adjoining the District boundaries purchased multiple hook ups: Parcel 133210865140 on the southwest boundary purchased 4 shares; Parcel 13222218305 purchased 10 shares and has been addressed in Mr. Tate's presentation; Parcel 132222150660 on the north boundary purchased 2 shares. The shares were purchased under the assumption they would be included in the RAID and be able to subdivide. [Mr. Thiem identified the parcels on the map posted on the wall for the Penn Cove RAID]. Only one of the three have been excluded, 13.48 acres, purchased the 2 shares. ULID construction was financed through public works trust fund and commercial loan; payments to the institutions must be made over the next 20 years to pay for the loans. The yearly payments from the owners service the debt. The three properties he mentioned were assessed a total of \$180,000 and the funds needed to service the debt. Should any of those properties be left out of the RAID or become not developable the financial impact on the district would be severe.

Bob Olson, Freeland, spoke concerning two subjects.

First, with respect to Map 786, handed in a copy of the Plat Map of Useless Bay Colony, Divisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, & 17, Bayview Beach Gardens and Bayview Beach Addition, revised: November 1976, January 1977, October 1977, March 1978, January 1998 as testimony to the fact that 4.25 acre corner piece should be added to the Useless Bay RAID. Since 1965 when Useless Bay Colony was platted that small northeast corner piece is included. This was previously pointed out to the Planning Director in December of 1997 with copies to the Planning Commission and Board. He requested that corner property of 4.25 acres be included as shown on the original plat map, right on the 13th tee of the 14th green. The property is in the Bayview Beach Water District and served by Bayview Beach Water. [Letter dated this date requesting the property continue in its present zoning with December 3, 1997 letter attached to Vince Moore same subject – GMA doc. #4634]

Secondly, in H & H Properties, Incorporated, has a vast amount of wetlands in their properties, including about 2/3 of Deer Lagoon. Shore Avenue is not included in the RAID, mostly built up but there are a number of back lots and several front lots not yet built out. Since it is already a high density area he asked consideration that the lower part of Shore Avenue be retained in the RAID, the narrow strip from Double Bluff Road to the end of Shore Avenue.

Chairman Shelton advised that that had been considered, but left out because the County did not think there was any additional development potential and saw no point in leaving Shore Avenue in the RAID.

Mr. Olson's concern was with the change in zoning in such cases where – if a house burned down; or a lot platted but not yet built upon.

It was explained to him by Mr. Dearborn that the Code addresses existing uses. There is a three year time period within which to start construction. There is also no impact on existing structures for remodeling, additions, etc.

John Graham, Citizens Growth Management Coalition, referenced the Coalition's 2-page letter this subject dated 8/20/99, by fax and 3-mail [*GMA doc. #4625*] and spoke briefly to it. In general, the Coalition agrees with the changes the County proposes but still see several discrepancies which Dean Enell later on will talk about more specifically. He urged the Board take this opportunity to also reconfigure at least four Camano RAIDS with boundaries that seem excessive: Saratoga Shores, Livingston Bay, Lost Lake and Elger Bay. The first reason-consistency: the boundary of these four RAIDS on Camano are worse and more in need of revision than the eight RAIDS singled out by the Growth Board. Secondly, for governance issues that. In response to several of the other comments, he did not know whether changes requested in Penn Cove or Bayview RAIDS were appropriate, but did know that adding to a tax base and reducing water district user fees are not criteria under GMA for including lands in RAIDS.

Dean Enell, speaking for the Coalition, reiterated Mr. Graham's comments about the four RAIDS. He was impressed with the redrawing done on the eight RAIDS, and particular impressed now there are some objective and discernible criteria and complimented the County on that. Rather than just relooking at the four RAIDS Mr. Graham mentioned, he suggested the County relook at the remaining 33 RAIDS. He saw no great difference between the eight RAIDS that were invalidated and the other 33 that did not. He agreed with the proposal for Teronda West, West Beach and Harrington Lagoon.

Lands Hill RAID, in Mr. Enell's opinion, was the "worst of the worst", reduced now from 150 to 40 acres and now makes sense. He thought a lot of good changes had been made to Penn Cove RAID but objected to the inclusion of a 35-acre dairy farm and two 5 acre parcels on the west end [pointed out on the map posted on the wall]. Livingston Bay Heights RAID looks much better than it did but he did question the addition of 30 acres in Government Lot #2. The Bayview RAID shows much improvement, but the Coalition objects to inclusion of the 200 acre area wt of Bayview road and mostly north of Gabelein Road. Bayview commercial has a 15 acre parcel to the far north of the RAID that was added for no logical or GMA compliant reason. Mr. Enell stated that RAID criteria should be based on development existing as of July 1990, and believed West Deer Lake RAID lacked such criteria and seemed to exist to serve one property owner. [*written statement GMA doc. #4633*]

Mr. Dearborn did point out that there was no change in Bayview commercial being proposed, not a matter remanded.

Marianne Edain, Whidbey Environmental Action Network (WEAN), stated that WEAN disagreed with other members of the Coalition in this regard. In general, she saw Island County acting on an assumption that water service justifies a RAID and many of the places pointed out as inappropriate and undeveloped appear to be those parcels that can claim they are in a water district or have water service. It appears that the relevant information was not available in time to make comments. As to the proposed revisions, while Mr. Tate says no parcels were added, somehow there seems to be an increase in the number of parcels between 5 and 10 acres. And she inquired, if between 5 and 10 acres, how is it they average 1.82 acres?

Mr. Tate referred Ms. Edain to the new table in today's hand-out packet, and acknowledged an error because in fact there are no parcels added, much less parcels larger than 5 or 10 acres. He noted that if between 5 and 10 acres, the average listed of 1.82 acres reflects an error in the formula.

Ms. Edain was still bothered by what she saw as fairly large acreage ranging from 5 to greater than 20 acres within the RAIDS and did not believe such large parcels belong in RAIDS.

Steve Erickson, WEAN, commented that, based on the information distributed today, in the new Bayview RAID the

parcels between 5 and 10 acres comprise 15.9% of all the land in that RAID; between 10 and 20 acres, 15.1%; and parcels greater than 20 acres comprise 19.7% of all the land in the RAID, so the total area of Bayview RAID in parcels greater than 5 acres is a little more than 50.6%. that indicated to him the RAID was still seriously flawed. He saw the West Deer Lake RAID basically for the benefit one land owner and thought that that speculative infrastructure post dated July 1, 1990, and believed it postdated the County's designation of UGAs and that it could even post date the County's initial adoption date when the County was to have adopted a Comp Plan and regulations, and it amounted to an attempt to find a means to create 6 non-conforming lots and he did not believe it was appropriate.

No others indicated a desire to speak on Ordinance #C-93-99, and the public input portion closed.

Commissioner Thorn complimented staff on the job done, and having the good set of criteria with a substantial reduction in land area in RAIDs overall, and thought the directed the county was headed was appropriate action, today's hearing restricted to the specific 8 RAIDs remanded by the Growth Board. He would not object to looking at the additional four RAIDs on Camano as suggested by the Coalition, but would not support review of all RAIDs. The Commissioner was interested to hear from Mr. Tate, in the case of the jog in the corner of Useless Bay RAID pointed out by Bob Olson, why that had not been included in the first place.

Mr. Tate recalled that the property had been included in the original RAID boundary but in going back he had not been aware that it was part of the master plan of that platted area and within the water district boundary and meeting the general criteria. It was an error in terms of omitting that.

Commissioner Thorn suggested that property be added to the Useless Bay RAID.

Commissioner McDowell agreed that the 4.25 acres should be added to the Useless Bay RAID, based on the fact that the property was included in the master plan since 1965. On the Penn Cove RAID, he asked about the reason the Hearings Board felt that the middle area [red and yellow] should be left – was that because the Hearings Board was not aware because the map was inaccurate and did not reflect the fact that the plat to the north was in fact built? And if so, why would the center portion be excluded?

Mr. Tate read from the Growth Board's Order:

"The Penn Cove RAID consists of a mostly developed subdivision in the southern most portion of Penn Cove Park connected by a number of larger lots to mostly undeveloped subdivisions in its northern portion, Bonnie View and Scenic Heights. We find that the inclusion of the connecting strip of larger lots within the RAID would allow development of a new pattern of low density sprawl and consequently substantially interferes with the fulfillment of GMA goal 2."

The area was not shown to the north as being developed and that error has now been corrected.

The reason for the approach of separating the two was due to the second sentence of the Order.

With regard to the request from the individual to add 5 lots to the Bayview RAID, Commissioner McDowell saw that request based on two reasons: the view for these particular lots and the property is surrounded on two sides by very dense development, the second issue is more germane than the view. He supported the inclusion of the 5 lots on the basis the being surrounded on two sides by higher developed property. He would support including the acreage on quarter section Map 786 and suggested review of the Penn Cove RAID based on the fact that the County had provided incomplete data to the Hearings Board.

The Chairman agreed with inclusion of the 4.25 acre corner piece of property to Useless Bay RAID. The Bayview RAID was particularly difficult for him because it involved a commercial portion of the RAID with connecting links, and seems to be a logical extension to the residential-commercial type of a RAID. Originally the 5 parcels were included in the RAID; however, the Hearings Board said the County needs to take a second look at that. One of the things he mentioned before the County submitted that original RAID was that he had taken a driving tour with Tom Campbell and Diane Kendy around RAID boundaries, and recalled their largest objection seemed to be to the property on the east side of Bayview Road. The other issue that is difficult is there is a considerable amount of property here and

some of those parcels extend into the lowlands and the County is not proposing anything below that line [the line segregating the lowlands from the uplands]. Some of the parcels extend down into what would be critical areas, and the County is in no way proposing that development be allowed in those types of areas. Although the map does not show it, between the Covis family [in the audience today] the one parcel of property between the two developed areas [pointed out by Jeff Tate on the map posted] that parcel has an approved PRD so that property is already in affect divided as well.

As to including the 5 parcels in Bayview RAID, the original boundary included all parcels Mr. McArthur is concerned about along with some others. But Commissioner Shelton totally disagreed with Mr. McArthur's analysis for inclusion: because as you move closer to Bayview commercial, because the property going to the north is behind trees and that would somehow exclude that from the RAID, but the view property should be included. He did not think that supportable, potential value is not part of the criteria for including or excluding property in a RAID.

However, Commissioner McDowell stated if one looked at the 5 parcels and with the clarification that one parcel appears to be vacant actually has a PRD, those parcels in fact are different from those further to the north and are immediately adjacent to a significant development.

Dean Enell disagreed with that and did not think that was the case at all.

Commissioner McDowell explained that it is different from those further to the north that are not adjacent to heavily developed property and that was his rationale for including them.

Commissioner Thorn did not think adjacent density had anything to do with it. GMA says it is existing areas of density and did not think the County would be justified in the bird-shaped portion shown on the map north of the developed areas that connects with the business area. He saw no rationale for connecting the two.

Board Action:

Commissioner Thorn, moved to accept the RAID modifications outlined in Ordinance #C-95-99 dated August 23, 1999, put together by Jeff Tate, with one exception, that there be a 4.25 acre addition to the northeast corner of the Useless Bay Raid. Motion, was seconded by Commissioner McDowell.

Commissioner McDowell moved to modify the proposal to revise the Penn Cove RAID to include the area shaded in yellow between the two highly developed areas based on the fact the County provided incorrect or incomplete data to the Hearings Board, and the Hearings Board commented based on the fact that the County was proposing to connect two areas, only one of which was developed, when in fact both were developed.

Motion died for lack of a second.

Commissioner McDowell moved for the Bayview RAID, based on the fact of needing to balance the 13 GMA Goals, one of which is property rights, per testimony from the individual stating that the property is bounded by highly developed property on two sides, which is different from the remainder of that yellow strip on the map and those 5 parcels should be added.

Motion died for lack of a second.

Commissioner Thorn moved to amend the motion to approve the Staff-requested modification in the packet handed out today, a change to Exhibit A, Zoning Code Amendment, deleting the reference to the conservation easement for Bayview and Livingston Bay Heights RAIDs; and Amendment to Exhibit B, Zoning Atlas, to substitute the nine pages included in the August 23 memorandum from Jeff Tate for the nine pages covering the same subject matter in Ordinance #C-95-99; and Map 786 to be corrected to include the 4.2 acre parcel in the Useless Bay RAID. Motion, seconded by Commissioner McDowell, carried unanimously.

The original motion, as amended, carried by unanimous vote. *[Ordinance as adopted is on record as GMA doc. #4571]*

Keith Dearborn commented that the August 23rd memo also has statistics on each RAID and a description of each RAID and also changes in development potential. At the Board's September 13th meeting, he will come back with Findings that incorporate this information in modified findings and legislative intent. The summary page is clearly incorrect. In every case, there is a reduction in the number of 5 to 10 acre parcels. There is a calculation discrepancy in Bayview that Jeff will have to relook at. It was his belief that the 5 to 10 acre parcel numbers have declined and not increased.

Commissioner Thorn expressed an interest in directing staff to respond to the request to re-look at four particular RAIDs on Camano to re-assess boundaries, an issue he assumed would come forward as a Comp Plan Amendment for next year's docket.

Commissioner McDowell believed it a little premature and did not support going back to reopen RAIDs at this point in time. Chairman Shelton did not comment in support of Commissioner Thorn's request.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF AMENDING CHAPTER 17.03 ICC AND THE ZONING ATLAS TO COMPLY WITH THE INVALIDITY ORDER OF THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD REGARDING CERTAIN RURAL RESIDENTIAL RAIDs)))))))	ORDINANCE C-95-99 PLG-017-99
---	---------	-------------------------------------

WHEREAS, various parties filed petitions with the Western Washington Growth Management Hearings Board ("Board") to review Island County's adopted GMA Comprehensive Plan (Comp Plan) and Development Regulations; and

WHEREAS, the Board entered its Final Decision and Order on June 2, 1999; and

WHEREAS, the Board found the logical outer boundaries of eight Rural Residential RAIDs invalid and therefore modified boundaries are needed to govern land use in these RAIDs. The specific RAIDs are:

1. Harrington Lagoon
2. Lands Hill
3. Livingston Bay Heights
4. Penn Cove
5. Teronda West
6. Useless Bay/Bayview
7. West Beach
8. West Deer Lake

WHEREAS, the Board also found the density permitted in the Livingston Bay Heights RAID invalid; and

WHEREAS, in 1998, the County completed environmental review under Chapter 41.21C RCW, SEPA, on its Comp Plan and Development Regulations including the Rural Residential Zone; and

WHEREAS, pursuant to WAC 197-11-600, the County SEPA official has determined that the proposed changes to Chapter 17.03 ICC relating to the Rural Residential Zone, to comply with the Order of the Growth Board are not likely to have significant adverse environmental impacts that were not considered in the environmental documents prepared for the Comp Plan and Development Regulations; and

WHEREAS, RCW 36.70A.390 authorizes the County to adopt interim zoning regulations; **NOW, THEREFORE,**

BE IT HEREBY ORDAINED in order to comply with the June 2, 1999 Final Decision and Order of the Western Washington Growth Management Hearings Board, the Board of Island County Commissioners hereby adopts the proposed amendments to Chapter 17.03, attached hereto as Exhibit A and the Zoning Atlas attached hereto as Exhibit B, relating to certain lands classified in the Rural Residential Zone. Material stricken through is deleted and material underlined is added.

BE IT FURTHER ORDAINED that the amendments to the Rural Residential Zone and Zoning Atlas shall not take effect until the Western Washington Growth Management Hearings Board determines that these amendments do not substantially interfere with the goals of the GMA.

Reviewed this 2nd day of August, 1999 and set for public hearing at 3:30 PM on the 23rd day of August, 1999.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST: Margaret Rosenkranz

Clerk of the Board

BICC 99-443

APPROVED AND ADOPTED this 23rd day of August, 1999 following public hearing.

BOARD OF COUNTY COMMISSIONERS

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST: Margaret Rosenkranz

Clerk of the Board

APPROVED AS TO FORM:

as to original proposal and original exhibits

David L. Jamieson, Jr. 8/2/99

Deputy Prosecuting Attorney

& Island County Code Reviser

(Exhibits placed on file with the Clerk of the Board)

Ordinance #C-100-99 (PLG-026-99), In the Matter of Amending Chapter 17.03 ICC to Implement the Langley Interlocal Agreement

With regard to this particular ordinance [*Ord. #C-100-99 on 8/9/99 set for this date and time GMA doc. #4520*] the amendment to the County's Zoning Code was for purposes of implementing the Langley Interlocal Agreement, adds definitions and adds a new zoning section to the Code for the Urban Growth Area of Langley. There are some minor differences from Exhibit C to the Interlocal Agreement, but on review both Mr. Dearborn and Jack Lynch believe those minor differences make sense.

Jack Lynch, Langley Planning Director, agreed that in coming up with the implementing ordinance the basic substance was largely the same as in Exhibit C to the Interlocal Agreement, with few definition items. Included in the definitions in Exhibit A are those definitions for those uses in the Langley code that were not definitions included in the County Code. Those have been listed here so that the uses have a definition. Originally in Exhibit B to this Ordinance, under Type 3 decisions, were listed cottage housing and clustered residential developments, but after further thought, realized it did not make sense that those be included because those are urban density developments. The City of Langley does recommend on Page 6, Item G-Maximum Height, be changed to reflect the correct maximum height for accessory structures to be 15' consistent with the maximum height in Langley's code.

No others in the audience expressed a desire to address proposed Ordinance #C-100-99.

Commissioner Thorn moved approval of Ordinance #C-100-99, PLG-026-99, in the matter of amending Chapter 17.023 ICC to implement the Langley Interlocal Agreement, as presented, with one change, to Page 6 of Exhibit B, changing in Item G the maximum height for accessory structures from 20' to 15' as requested by the City of Langley. Motion, seconded by Commissioner McDowell, carried unanimously. [*GMA doc. #4573*]

Mr. Dearborn pointed out that subsequently he would come back before the Board with a Zoning Atlas amendments to reflect the new zoning classifications.

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

<p>IN THE MATTER OF AMENDING CHAPTER 17.03, ICC TO IMPLEMENT THE LANGLEY INTERLOCAL AGREEMENT</p>	<p>)) ORDINANCE C-100-99) PLG-026-99</p>
---	--

WHEREAS, on June 28, 1999 the City of Langley and Island County executed an Interlocal Agreement to govern land use decisions within the Langley UGA; and

WHEREAS, public hearings were held on February 22, 1999, April 5, 1999, April 19, 1999, May 3, 1999, May 17, 1999, June 21, 1999 and June 28, 1999 to receive public testimony on the proposed Agreement; and

WHEREAS, it was determined that the Langley Interlocal Agreement is a procedural element of the Island County Comprehensive Plan and the County completed environmental review in 1998 under Chapter 43.21C RCW, SEPA, on its Comprehensive Plan and Development Regulations; and

WHEREAS, amendments to Chapter 17.03 ICC are needed to implement the Interlocal Agreement;
NOW, THEREFORE,

IT IS HEREBY ORDAINED that the Board of Island County Commissioners hereby adopts the amendments to Chapter 17.03 ICC attached hereto as Exhibits A and B to implement the Langley Interlocal Agreement. Material underlined is added.

Reviewed this 9th day of August, 1999 and set for public hearing at 3:30 p.m. on the 23rd day of August, 1999.

**BOARD OF COUNTY
COMMISSIONERS OF
ISLAND COUNTY,
WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST: Margaret Rosenkranz

Clerk of the Board

BICC 99-467

APPROVED AND ADOPTED this 23rd day of August, 1999.

**BOARD OF COUNTY
COMMISSIONERS OF
ISLAND COUNTY,
WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST:

Margaret Rosenkranz

Clerk of the Board

APPROVED AS TO FORM:

as to original proposed ordinance and original proposed Exhibits A & B

David L. Jamieson, Jr.

Deputy Prosecuting Attorney 8/6/99

& Island County Code Reviser

(exhibits to Ordinance C-100-99 placed on file with the Clerk of the Board)

**Ordinance #C-96-99 (PLG-018-99), To comply with the Invalidity Order
of the WWGMHB regarding Type 5 Stream Buffers**

[Ord. C-96-99 as presented on 8/2/99 and set for hearing this date and time GMA doc. #4467]

First, with regard to the Stormwater Remand Issue #21, Larry Kwarsick, Public Works/Community Development Director, addressed Growth Hearings Board Order, Remand Issue #21, dealing with a request by the Hearings Board that Island County review its stormwater regulations to determine whether or not they provide adequate protection to streams from surface water discharges. He handed-out a packet of staff memos prepared by a Buktenica, Watershed Project Manager, who reviewed existing stormwater regulations and identified, not only within the regulations but also within the design manual component of the regulations, those elements that provide for controls relative to direct discharges, as well as indirect discharges into those areas [GMA record doc. #4635] . [Note: Also to be submitted for the record will be a text summary of Mr. Kwarsick's description of the efforts the County is making on salmon-bearing streams].

It was Mr. Kwarsick's opinion, supported by Ms. Buktenica's work, was that from the standpoint of velocity, erosion, sedimentation control, source and water quality controls, velocity, rate and volume controls, there is adequate protection built into the County's ordinance and the Stormwater Design Manual. Island County adopted the Department of Ecology's Stormwater Manual for that purpose.

Mr. Kwarsick reviewed the County's work with regard to salmon habitats and salmon enhancement programs, regarding Type 4 streams that are associated with or tributary to salmon streams. The County has been involved in watershed program development with the Department of Ecology and Department of Fish and Wildlife, and currently involved in the preparation of Central and South Whidbey watershed planning efforts and participated in a salmon technical advisory group. The County has a variety of different on-going projects related to salmon recovery involving creek inventories funded under Centennial Clean Water Fund Act and 2496 funds; water stewardship programs involving Maxwellton Creek and Glendale Creek; well withdrawal studies on fish- supporting creeks; work with the Island County Health Department, partially funded by Grant 2496 funds, on stream gauge installation; County creek culvert inventory activities and replacement; Glendale Creek restoration plans; involved with and plan to further remove culvert impediments along Maxwellton Creek and Chapman Creek. Mr. Kwarsick believed that the additional buffer enhancement for those stream systems that are tributary to salmon bearing streams would be appropriate. [Note for the record: Mr. Kwarsick's comments addressed both Type 5 Streams Ordinance and the Critical Area Regulations.]

Alison Moss, Dearborn & Moss, provided a series of three charts relating to Type 5 stream buffers [GMA Doc. #4636]:

1. Is. Co. Critical Areas Growth Board Decision-stipulated issues compliance
deadline-Nov. 30 1999, status

2. Is. Co. Critical Areas Growth Board Decision-Invalidity Issues, Status

3. Is. Co. Critical Areas Growth Board Decision-Remand Issues, compliance

deadline-Nov. 30, 1999, status

She submitted also for the record a of documents beginning with a summary of some of the studies Mr. Castelle would be discussing: Survey of Scientific Studies on the Efficacy of 25-foot Riparian buffers, 8 pages[GMA Doc. #4637]. Ms. Moss stated that she would subsequently provide in written form by FAX her testimony for the record on proposed Ord. PLG-019-99 and elaboration of testimony given on 8/23/99 for proposed Ord. PLG-018-99.

She explained that the critical areas issues in the Hearing's Board decision fell into three categories. The first were four topics stipulated that either needed to be changed or the stormwater issue Mr. Kwarsick reviewed. The second category was two provisions the Hearing's Board invalidated, the exemption for existing and on-going agricultural as it related to lands which had not been designated commercial long term significance and type 5 stream buffers. The third category is all the other issues that were either not stipulated and were not ruled invalid but were remanded. Ordinance #C-96-99 addresses the invalidity ruling on type 5 stream buffers. On Page 62 of the Order, the Growth Board stated that none of the science in the record supported 25' buffers for in stream water quality let alone other buffer functions. Ms. Moss noted that that was not consistent with Mr. Castelle's belief from his own studies and Mr. Castelle was asked to go back and review the literature to determine whether there was scientific literature supporting 25' buffers for protecting water quality. The County has significant efforts underway to protect and to restore salmon bearing streams. The ordinance proposes to increase the buffers on type 5 streams: those that discharge to the salmon bearing streams, buffers would be 50' and treated in the same fashion as a type 4 buffer. There are still provisions for increasing the buffers on case by case basis. She thought the Hearings Board had misunderstood inasmuch as since 1984 Island County in fact had a provision allowing the Planning Director to increase buffers on wetlands and streams, but testimony was that it had never been used because there was no guidance on when to use it. In 1998 when the Board adopted Ordinance #C-62-98, specific examples were provided of the kinds of circumstances in which it would be appropriate to increase stream buffers.

Andy Castelle, Natural Science Director, Adolfson and Associates, used a set of three figures

[overheads] for the presentation [GMA Doc. #4638]:

Figure 1 Buffer Width(m)/Nitrate removal %; Source-Desbonnet et al 1994

Figure 2 Effectiveness of Vegetation: Sediment Removal: Source-Castelle & Johnson

Figure 3 Effectiveness of Vegetation: Chemical Removal; Source-Castelle & Johnson

Sediment Removal: Buffer width shown in meters and percent effectiveness – how good is a buffer of these widths at performing a specific function and the function listed at the top of the page, the effectiveness of removing sediment. Sediment itself is considered a pollutant should it get into aquatic resources, and there are many other types of pollutants that get bound to sediment. If a buffer can knock sediment down and trap it before it reaches streams, it does a good job of taking care of those as well.

He showed in a solid red line where a 25' buffer would be, and the dotted red line where a 50' buffer would be, and did the conversion from meters to feet. He is not saying that a 25' buffer out performs a 50' buffer; rather, the data shows them to be very similar in performance. The 25' buffer provides a substantial amount of potential sediment removal. He did not think it appropriate to classify a 25' buffer as inappropriately small with regard to sediment removal. He pointed to another line on the graph: a dark dash line which is based on a study done on very steep slopes on gradient soils in Idaho, a logging road sediment runoff study, that suggests with steep and unstable slopes the buffers should be bigger to attain the same removal effectiveness. And that has been provided for in the proposed ordinance. Type 5 streams are the smallest streams identified in the State's hydraulic code, no larger than 2' in width, many flow seasonably, some ephemerally; seasonal they would flow throughout the rainy season but then dry up in the summer. He agreed there were type 5 streams that do flow year around but are so small, by definition do not have fish

populations. The significance from an in-stream perspective of the type 5 streams is to deliver a reliable amount of water of reliably high quality to down stream receiving waters where fish populations, salmon is most import in this part of the county, might lie and that's why the emphasis has been placed on, on waterquality in the, in the Board's remand.

The second graph was set up to show buffer widths on the bottom of the scale, in this case looking at effectiveness of chemical removal [i.e. pesticides, phosphorus, fertilizers, etc.]. The shape of the curve is very similar to the shape of the sediment curve because a lot of the contaminants are bound to sediment particles and there are other processes at work in a buffer. The solid red line shows about where a 25' buffer would be and the dotted red line shows where a 50' line would be. Mr. Castelle did not testify that a 25' buffer out performs a 50' buffer, but did say the difference was small and the 25' buffer provides a substantial amount of that buffer. The first two graphs came from a paper Co-authored by Mr. Castelle, and the third came from the Department of Ecology put out in 1994, similar to the other two graphs, and the solid red line represents where the 25' buffer would be and the dotted red line reflects where a 50' buffer would be. They are very similar in the removal efficiency, in this case for nitrate, and he characterized a 25' buffer as removing a substantial portion of that which can be removed.

Also for the record Mr. Castelle submitted a copy of an article from the Journal of American Water Resources Association, August, 1999, article "Sediment and Nitrogen Transport in Grass Filter Strips" [GMA Doc. #4639]. The study buffers on an 18% slope, agricultural runoff and studied buffers of two different lengths: one was 8-1/2 meters [about 27-28 feet], and one of 4.3 meters: "The 8.5 m filters reduced sediment, nitrate, ammonia, and TKN yields significantly with mean reductions of 90, 77, 85, and 82%, respectively", supporting that a 25' buffer is not the end all but certainly provides a substantial amount of improvement when it comes to water quality. He pointed out the top sheet in the packet from his "quick walk through the literature" and pulling out some items that talk about buffers and adequacy in the range of, of 25'. A few are slightly larger and some slightly smaller. The buffers range from 7' to about 33' in width and talk about removal of a variety of contaminants, nitrogen, phosphorus, fecal coliform, fecal bacteria, and percent removals tend to be rather high which he thought was consistent with some of the graphs shown.

Steve Erickson, testifying for Whidbey Environmental Action Network, stated that the proposed ordinances had not been provided to C-TED, Department of Ecology, or the Department of Wildlife. Mr. Erickson referred to a letter sent to the Board last week on this subject. [GMA Doc. #4624]. He provided another letter dated today's date concerning additional comments on Critical Area Ordinance revisions [GMA Doc. #4641]. He mentioned that the two overlapped because questions on critical area ordinances overlap. Looking at the list of citations provided by Mr. Castelle, the only one citation that apparently deals with function other than nutrient and sediment removal, is by Ahola, of which he was not familiar, but thought it rather unusual. The Department of Fish and Wildlife's riparian buffer recommendations reviewed the ranges and recommendations of most of the literature and the basic conclusion was that 25' buffers were inadequate to maintain wildlife functions over time, either in stream or for terrestrial and amphibious wildlife.

One of the major functions of streams, associated areas and riparian areas, are as habitat in their own right, and as corridors for dispersal and movement of wildlife throughout the landscape. The smallest streams provide the greatest proportion of that function because the smallest streams provide the greatest amount of stream distance. Using information from the Department of Natural Resources, he believed the figure was at least 44.5% of all the stream distance in Island County is in type 5 streams--those streams provide the access to habitat for wildlife in Island County, and that importance magnified because of the constrained island landscape, and the primary wildlife habitat in Island County for terrestrial wildlife and amphibious wildlife. The only way inadequate buffers can be justified is to ignore that function of streams and adjacent areas as corridors and habitat, and Mr. Erickson did not believe the 25' buffer complied with best available science. He did not think the Board had the discretion to reject one of the most major functions of streams, which is for terrestrial amphibious wildlife.

Marianne Edain, WEAN, read from the Growth Management Hearing's Board order, Item 15, about increasing buffer width for type five streams using best available science and GMA's critical protection requirements, and to, among other things, clarify if the County is partially relying on category B wetlands and their 25' buffers to protect wildlife functions. She agreed that category B wetlands are not considered streams, but type 5 streams in this context are in that same position. The Board's Order continued to say: "if the answer is no, analyze the adequacy of remaining provisions to protect wildlife functions. If yes, increase the buffers to at least 50 feet".

Fred Frei, Langley, believed that buffers in fact had been substantially increased on type five waterways. As to a 50' buffer on tributary streams, the majority of type five waterways are tributary to Puget Sound and will be tributary to salmon bearing streams. There has been much talk about best available science. He submitted for the record a photo copy of an article from the Everett Herald in which a man from the Department of Ecology points out there has been over two thousand complaints in regard to similar issues of streams: "the proposed regulations are intended to address new development activities of all kinds but they are not retroactive. Existing and on going agriculture would be allowed to continue unaffected by the rules" [GMA Doc. #4640]. In his perception there were two things in 1984 the County committed to the Forest and AG people: one, there would be some kind of compensation; two, rights to farm would be protected. The interim ordinance now in effect indicates to some of them that when push comes to shove their right to farm isn't being protected. The proposal goes far beyond what the Growth Hearings Board required. Mr. Frei believes at issue here is a gut level liberty and justice for all issue. As an example, he said that when he grew up, between Sixth Street and Second Street in Langley was a wetland with a stream which has now been paved [Brookhaven]. If Rural Forestry and AG folks cannot count on investing in something long term and not having it taken away from them, he suggested it was very difficult to convince children to continue farming or forestry.

Tom Campbell, representing the Coalition, referenced the Coalition's letter relative to this topic dated 8/22/99 [GMA Doc. #4612]. The Coalition's reading of the Growth Management Hearings Board Order was that the buffer has to be increased. He questioned and asked confirmation about what Mr. Frei said, i.e. that most of the type five streams are salmon bearing.

Mr. Frei clarified he meant Tributary. Chairman Shelton clarified too that Type 5 streams do not have fish. Ms. Moss added to note that by definition, that is how they are defined.

Mr. Campbell still did not think that answered the Growth Board's requirement, and the Coalition did not think this variation should be allowed, and suggested making the buffer for all type 5 streams the same.

Maxine Keesling, 15241 N.E. 153rd, in Woodinville, commented from the wildlife corridor aspect. She thought that GMA stated that wildlife corridors must be designated and mapped in the Comprehensive Plan; therefore if you used every ephemeral trickle that flowed a few weeks or months a year and designated 50 feet, 25' on either side or 100' if it were 50', and did it mainly because of wildlife habitat corridor, it would make too many. On a large acreage perhaps mapping an occasional ephemeral stream type 5 would not be such a large deal but for small acreage or a city lot with an ephemeral stream, could lose the use of the width of some of that lot.

Steve Erickson regarding stream buffer widths, believed Ms. Keesling might be confusing GMA's requirement to designate greenbelts in UGAs, because he did not believe GMA required designating wildlife buffers per se. On type 5 streams, the reason for the buffers is to protect water quality on down stream reaches. There also is a great deal of work which would indicate that the buffers in those citations are not really adequate. Many of those studies, particularly the ones dealing with grassed areas tend to be done under very ideal situations. He thought the real issue was whether the County would ignore the best available science which is that one of the major functions of type 5 streams is as habitat in corridors for riparian areas in general not just type 5 streams, and as corridors and buffers for terrestrial and amphibians.

Maxine Keesling stated that the GMA referred to it as wildlife corridors which must be designated and mapped. King County has in its Comp Plan designated wildlife corridors.

Fred Frei thought it obvious from Mr. Campbell's comments that different people interpret differently. Page 11 of the protection of stream standards, tributary to salmon-bearing streams 50' buffers. If it's true as Mr. Campbell states about Maxwelton Creek, he agreed he was wrong. But if talking about any streams tributary to the Sound in general, the majority of type 5 streams are somehow going to run into the Bay and would be tributary.

Chairman Shelton provided some clarification. The type 5 stream would have to run into a salmon bearing stream before the salmon bearing stream ran into Puget Sound. So, if a type 5 stream ran directly into Puget Sound it would not make it tributary to a fish bearing stream because Puget Sound is not a stream.

All three Commissioners agreed that was their intent as far as interpretation.

Keith Dearborn commented on a statement made concerning receipt of ordinances by State agencies. His understanding was that all agencies were sent a copy of the Type 5 Stream Ordinance and the Critical Areas Ordinance 10 days' ago. Copies were sent to the distribution list C-TED provided [3/23/99 revised] the County. It was learned last Wednesday the Regional DOE Office had not received a copy, and Phil Bakke, Comprehensive Plan Manager, hand-delivered the ordinances to Alice Schisel, that afternoon and it is his understanding that the appropriate Regional staff received it on Thursday last week. The Regional DOE Office is not on the distribution list, only the State DOE Office.

Commissioner Thorn called attention to the water typing criteria in the WAC [table] 17.02.110 c defining type 5 streams, where it says "not significant numbers of fish"; therefore, there could be fish in a type 5 stream, and may or may not be intermittent. All waters accrue to the near shore, which is a major habitat. He agreed 100% with WEAN's presentation in terms of riparian corridors where the wildlife comes and goes and thrives and lives. Mr. Castelle did address the chemistry and what happens with nitrogen and phosphorous, etc., but did not address woody debris, and the corridor necessary for vitality of the species, temperature affects in the stream, all a part of the function of a buffer. He thought what was provided for in terms of buffer in the proposed ordinance was totally inadequate. The reaches should be clean because of the accrual of more and more debris, pollution, contamination, and sediment going down stream. He suggested that Page 11, Item 3A of the Ordinance, the type 3 stream definition of a reach without anadromous fish present and with anadromous fish present violates the definition on the preceding table of the WAC which states that any type 3 stream is used by substantial of anadromous fish or resident game fish for spawning, nesting, etc. To differentiate it out makes no sense and he thought violated the definition. The fact that all type 5 streams eventually accrue to the Sound, even though they may or may not go through salmon bearing streams, go through other fish bearing streams perhaps, and saw no justification for having anything less than say a 100' buffer on a salmon bearing, tributary to a salmon bearing stream or a type 4; and nothing less than a 50' buffer on a stream that is not tributary to a direct salmon bearing stream. He noted the fact that buffer widths can be reduced substantially, on which he did not agree. [as shown on Page 12]. On the graphs Mr. Castelle presented, the curves even on the chemical removal, are virtually vertical at the front end, very steep at the front end, a very small change in buffer width at that point creates a dramatic reduction in the ability of the buffer to function as a buffer as intended.

Commissioner McDowell observed that a lot of Mr. Erickson's comments were based on the need for buffers as wildlife habitat, but then he went on to state that GMA did not require it, so he had some confusion at the conflicting statements.

With regard to the relative law of diminishing returns on a curve and responding to some of Commissioner Thorn's concerns, Commissioner McDowell felt clearly the 50' on the curves were well after where the small change of buffer widths have huge dramatic changes so it only becomes a question for the Board to decide as far as a policy issue in balancing the goals of GMA on how far to create a buffer width. And he saw that now as well beyond where there are really significant changes with small movements in the buffer width, up around the curve, approaching the curve top. It is a matter of balancing of basic private property rights and how far the County will go to prevent a person from using their property versus the ecological impacts of buffer widths. Clearly the statement presented in the Pate Survey of Scientific Studies, 7 out of 10 would seem to support 15', therefore, 25' clearly well within the boundaries. As far as the comment about it being most important to keep the farthest reaches the cleanest, and if that were the case, the buffers would be inverted, which would be just opposite of what all the other counties are doing. He made it absolutely clear that on the 50' versus 25' buffer on the stream, that it only referred to Type 5 stream as tributary to another stream such as a type 4 and if that is a salmon bearing stream, then that would be a 50' buffer, but it would have nothing to do with going into the Sound. As far as how much buffer widths can be reduced for other type streams, that is a matter not in front of the Board today; only Type 5 streams. As far as upstream issues causing all the problems for the Sound, he thought that extremely debatable. He supported the ordinance as prepared and presented today.

Commissioner Thorn believed it was a matter of good science practice to go beyond the knuckle of the curve in selecting a point to get to a point of diminishing returns. Looking at the 25' points on Mr. Castelle's curve, those were well before where he would site them in trying to pick a point where it ceased to be or was a point of diminishing returns.

Commissioner McDowell observed the process here as doing more than just good science, and included balancing the goals of GMA.

Commissioner Thorn believed that when directed to use best available science the emphasis was on best.

Chairman Shelton commented that Andy Castelle was here today to reiterate to the Hearings Board that the County believes best available science was used. Mr. Castelle quoted a significant number of studies that document the fact that 25' is an adequate buffer. When talking about stream buffers on Type 5 streams, and that those should be cleaner at the head waters, he thought that was exactly what has been shown with these studies that the County will be providing adequate protection to ensure that by the time the water gets to a salmon bearing tributary or to Puget Sound the County provided the protection. With regard to mention of wildlife corridors, he agreed with the need to protect the County. He noted from his observation in flying over the County that habitat for wildlife is readily available in this County and the vast majority of Island County still forested. The shade of the stream that would protect water temperature, etc. certainly will not be provided by a tree 50' away. It is in his opinion those much closer buffers that are going to provide the majority of the shade for Type 5 streams. He thought Mr. Castelle today again had presented that based on best available science, the County is and can protect its Type 5 streams with a 25' buffer. And as Commissioner McDowell pointed out, there is that balancing of the goals in the GMA. To increase the buffers on Type 5 streams would be to go against the science presented and would not balance the goals of the Growth Management Act. He too supported the ordinance as presented.

Ms. Moss pointed out that it had been explained in public hearings and in private meetings with WEAN that the intent as drafted by Mr. Castelle and reviewed by her of the stream buffers was to protect fish habitat and water quality that provide an incidental benefit of wildlife habitat and wildlife corridors. She never made the statement that the County had the discretion to choose to reject a buffer function.

She confirmed that Commissioner Thorn was correct; the water typing rules state that Type 5 streams are not used by significant fish. However, in all her years of practice, significant has been defined as one, and the Department of Fish and Wildlife issued an emergency rule earlier this year that made clear that significant fish usage is usage by one fish. Mr. Castelle did not bring all of his charts showing some of the buffer functions to which Commissioner Thorn referred. Those are important buffer functions and Mr. Castelle will summarize what those charts show and send to the County those charts for the record. [provided under cover letter dated 8/30/99 from Alison Moss, and entered into the record as *GMA doc. #4638*].

Mr. Castelle explained that it was the same papers that generated figures two and three shown earlier on the sediment and the chemical removal. He also had other charts for stream bank stability; large organic debris; recruitment and particular organic matter recruitment, another important function, as well as information on temperature, shade recruitment for temperature. The shapes of those curves are very similar to the shapes of these curves in an unrelated sediment removal, but has nothing to do with providing shade or providing large organic debris. These are log rhythmic curves: as you go further and further away from the stream you get a disproportionate loss of additional benefit to the point of diminished return. Approaching those knuckles on those curves typically in that 25 ' to 50' range; as a policy he suggested the Commissioners might want to be towards the short end of that range. If there are fish in the stream or fish meeting down stream, and might at a future date make their way in there, and want to provide for some of that large organic debris and that's the reason to have the somewhat larger buffers. The idea of the buffer reductions is not simply: "do I get my choice of X-foot wide buffer or half X-foot wide buffer; I'll take the half X-foot wide buffer". He mentioned that rule would only go into effect when there is some beneficial trade-off for the stream system. If in the opinion of a biological expert helping a land-owner or project proponent or county staff a certain stream could use shading, there would be an incentive for that landowner or that developer to provide some shade in the way of stream-site plantings in exchange for somewhat more developable room. It is a trade-off to provide certain functions where needed, on an as needed basis.

Commissioner McDowell moved to adopt Ordinance #C-96-99, PLG-018-99, in the matter of amending chapter 17.02 Island County Code to comply with the invalidity order of the Western Washington Growth Management Hearings Board regarding type five buffers as submitted. In the absence of a second from Commissioner Thorn, motion seconded by Commissioner Shelton. Motion, as made and seconded, carried by majority vote; Commissioner Thorn

opposed. [GMA doc. #4572]

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF ISLAND COUNTY, WASHINGTON**

IN THE MATTER OF AMENDING CHAPTER 17.02 ICC, TO COMPLY WITH THE INVALIDITY ORDER OF THE WESTERN WASHINGTON GROWTH MANAGEMENT HEARINGS BOARD REGARDING TYPE 5 STREAM BUFFERS)))))	ORDINANCE C-96-99 PLG-018-99
---	-------	-------------------------------------

WHEREAS, various parties filed petitions with the Western Washington Growth Management Hearings Board ("Board") to review Island County's adopted GMA Comprehensive Plan ("Comp Plan") and Development Regulations; and

WHEREAS, the Board entered its Final Decision and Order on June 2, 1999; and

WHEREAS, the Board found the Type 5 Stream Buffer provisions of Island County's Critical Area Regulations (Chapter 17.02 ICC) invalid and therefore replacement regulations are needed to govern land use in the County; and

WHEREAS, in 1998, the County completed environmental review under Chapter 43.21C RCW, SEPA, on its Comp Plan and Development Regulations including Critical Area Regulations; and

WHEREAS, pursuant to WAC 197-11-600, the County SEPA official has determined that the proposed changes to Chapter 17.02 ICC relating to Type 5 Stream Buffers, needed on an interim basis to comply with the Order of the Board are not likely to have significant adverse environmental impacts that were not considered in the environmental documents prepared for the Comp Plan and Development Regulations; and

WHEREAS, RCW 36.70A.390 authorizes the County to adopt interim regulations; **NOW, THEREFORE,**

BE IT HEREBY ORDAINED in order to comply with the June 2, 1999 Final Decision and Order of the Western Washington Growth Management Hearings Board, the Board of Island County Commissioners hereby adopts the amendments to Chapter 17.02, attached hereto as Exhibit A, relating to Type 5 Stream Buffers. Material stricken through is deleted and material underlined is added.

BE IT FURTHER ORDAINED that this amendment to Chapter 17.02 ICC shall not take effect until the Western Washington Growth Management Hearings Board determines that it does not substantially interfere with the goals of the GMA.

Reviewed this 2nd day of August, 1999 and set for public hearing at 3:30 PM on the 23rd day of August, 1999.

**BOARD OF COUNTY
COMMISSIONERS**

**ISLAND COUNTY,
WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST: Margaret Rosenkranz

Clerk of the Board

BICC 99-444

APPROVED AND ADOPTED this 23rd day of August, 1999 following public hearing.

**BOARD OF COUNTY
COMMISSIONERS**

**ISLAND COUNTY,
WASHINGTON**

Mike Shelton, Chairman

Wm. L. McDowell, Member

[Voted No: William F. Thorn,
Member]

ATTEST:

Margaret Rosenkranz

Clerk of the Board

APPROVED AS TO FORM:

as originally proposed & originally proposed exhibits

David L. Jamieson, Jr. 8/2/99

Deputy Prosecuting Attorney

& Island County Code Reviser

[Exhibits placed on file with the Clerk of the Board]

HEARINGS CONTINUED ON ORDINANCE #C-97-99 AND #C-98-99

The Board, by unanimous, continued the public hearing for purposes of considering Ordinance #C-97-99 (PLG-019-99), To comply with WWGMHB provisions relating to Critical Area Regulations in 17.02 [GMA doc. #4465] and Ordinance #C-98-99 (PLG-025-99), Regarding Rural Forest & Commercial Agriculture Zones [GMA doc. #4466] to September 13, 1999 at 3:30 p.m. [Notice of continuance, GMA doc. #4619 and 4620]

RECORD NOTATION: RE Voter Tabulation Contracts

Following up from August 16th Board Meeting, the Auditor presented contracts related to a new computerized vote tabulation system to the Board during Staff Session on August 18th. Both contracts reviewed and approved by the Deputy Prosecuting Attorney and the Risk Manager, signed by vendors. The Board at Staff Session, by unanimous motion, approved and signed the contracts [for reference, see 8/18/99 Staff Session notes; copy of contracts on file with

the Clerk of the Board].

Special Session – August 27, 1999

On August 27, 1999 beginning at 9:30 a.m. the Board will meet in Special Session for purposes of conducting a joint Board of County Commissioners and Planning Commission Workshop on Ag Lands of Long Term Commercial Significance and to schedule a hearing date for AG lands. The next regular meeting will be held on September 13, 1999 at 9:30 a.m. August 30th is a fifth Monday and there is no regular meeting. September 6th is a County Holiday and all offices are closed.

There being no further business to come before the Board at this time, the Chairman adjourned the meeting at 6:15 p.m., to meet on September 13, 1999, beginning at 9:30 a.m. in Regular Session.

**BOARD OF COUNTY
COMMISSIONERS**

ISLAND COUNTY, WASHINGTON

Mike Shelton, Chairman

Wm. L. McDowell, Member

William F. Thorn, Member

ATTEST: _____

Margaret Rosenkranz, Clerk of the Board