Jerry Jones, 1686 Reintjes Lane, Oak Harbor, referenced Hackney Property moratorium associated with illegal timber cutting, having previously appeared before the Board on 4 December 1995 and asked then Chairman McDowell if the County would lift the moratorium if the property were annexed into the City. Mr. Jones stated he had still received no answer to that question. He acknowledged a copy of a letter dated January 18, 1996, signed by current Chairman Shaughnessy, with no indication that Commissioner McDowell had seen the letter.

Chairman Shaughnessy's January 18 letter quoted part of Island County law concerning the property, but only part of the law.

The portion quoted is as follows:

> "ICC 17.02.250.i states, in part:
> For property including contiguous property which has been subjected to clearing or grading activity in violation of this Chapter, no permit or approval of development of said property shall be authorized or granted for a period of ten (10) years from the date of unauthorized clearing or grading".

The part not quoted as indicated by Mr. Jones was the rest of the county law that states that in the event of intentional or knowing violation of this Chapter the county may bring an action against the owner of the land or operator who performed the clearing and if the county prevails the judgment shall be trebled. He stated that in a Board of Hearing three citations were noted where Mr. Hackney intentionally misrepresented his plan: (1) intentionally misrepresented his plan to Island County; (2) intentionally violated Forest Practices Permit; and (3) intentionally continued to go to the site and continue cutting after being notified to stop. There should be no question about intentional and willful violation of Island County law, and Mr. Jones asked why the County not treble the penalty.

Mr. Jones went on to comment that the 1/18/96 letter from the Chairman stated that "This section has been interpreted to apply only to County actions. Other jurisdictions are not bound by this code within their boundaries. Thus, if the property is annexed, the City may issue permits for the property.". However, in that regard Mr. Jones found RCW law contradicting that. He asked for the Commissioners response specifically as to why this section had been interpreted in this manner, who interpreted it and what the source of interpretation was, and wanted his questions answered directly and personally.

Mr. Jones felt County law had not been enforced, and the County allowed this individual to clear-cut despite overwhelming evidence it was done intentionally; the County failed to invoke trebling the penalty with no reference other than it appeared this did not apply in terms of lifting and nullifying the penalty. He believed there was no reason for public health or public safety for the City of Oak Harbor to need this property. Mr. Jones stated it was legally determined this individual took at least 200,000 board feet of timber off the property and at 1992 prices even pulp was worth about $22 a thousand. According to Mr. Jones, the County Prosecuting Attorney was quoted in the Oak Harbor Planning Commission meeting last week that a $6,000 fine was being negotiated. Mr. Jones questioned whether the Prosecuting Attorney should allow himself to be quoted and influence a Planning Commission on the possible annexation of the property.

Commissioner Shelton recalled when the activity originally occurred [April, 1992] an enforcement order was issued and served on Mr. Hackney by the Island County Planning & Community Development Department; he did not know where that order stood in the legal system at this point. The Board had not authorized anyone to say anything in public about where the matter stands. In terms of annexation of the property into the City of Oak Harbor, the Board will adhere to the law based on legal counsel. He agreed Mr. Jones raised a good question with respect to why the enforcement order took this amount of time to come to some sort of conclusion .

Mr. Jones suggested when the defendant's attorney appeared at a public hearing and stated Island County Prosecutor's concurrence that he could make the statement, he could only assume the Island County Prosecutor acted in accordance with the Island County Commissioners awareness and concurrence. The attorney for the defendant made some comments before the Planning Commission in Oak Harbor quoting the Island County Prosecutor; the County Prosecutor was not present at that meeting, but was quoted by the attorney for the defendant.

Commissioner McDowell confirmed that the Island County Prosecuting Attorney absolutely had drafted the January 18 letter signed by Chairman Shaughnessy.

Commissioner Shelton stated that the Prosecuting Attorney advised the Board that jurisdiction for an enforcement order on a piece of property annexed by another governmental entity would call into question the ability for Island County to enforce its moratorium, and the Board had no reason to assume that was not good legal advice.

Mr. Jones believed he had given the Commissioners reason to assume the advice was not correct, and suggested it would be very appropriate for the Prosecuting Attorney to provide defendant's attorney with a letter saying he took violent objection to his name being used as a source of information at a public meeting concerning the County's intentions on handling this property.

With regard to Mr. Jones' comment about Commissioner McDowell having not responded to his comments and questions from December 4, 1995, Commissioner McDowell explained the process: the Chairman speaks for the Board and the January 18 letter signed by Chairman Shaughnessy spoke for the other two Commissioners, confirming that the other two Commissioners see everything the Chair puts out. The letter written to Gene Coleman was in response to the questions raised that day and he apologized to Mr. Jones for not providing him a copy of the January 18th letter and confirmed the letter written was in response to that input on December 4.

Gene Coleman, Taxpayers for Responsible Government, 961 West Talon Lane, Oak Harbor, provided quotes from the tape of the February 27, 1996, Oak Harbor Planning Commission meeting where attorney Ed Beeksma said:

> "I have been negotiating with the Prosecuting Attorney's Office in an effort to resolve this case without either the County or the property owner going through the expense of litigation. We are very close to having a signed agreement. I have permission from the Prosecuting Attorney to disclose to you the status of that agreement that will be entered into if the property is annexed.
>
> If it is not annexed then we'll go back to court to resolve the case. If it is annexed you will note on the last page of my letter I quoted for you specific language that will be included in the court order and in the recorded notice that specifically and clearly provides that with County approval the moratorium terminates upon annexation. The County is not trying to exercise its jurisdiction over property in the City and the City can then exercise its own decisions and jurisdiction over the property. There will be a civil penalty of $6,000 paid to the County for the cutting violation."

Prior to the portion quoted, Mr. Coleman said that Mr. Beeksma insisted several times this was entirely a civil case with no criminal involvement, and Mr. Coleman believed that overlooked a the fact that when Mr. Hackney purchased the property he applied to DNR for a Forest Practices permit and since it involved conversion of land was referred to Island County Planning & Community Development Department. Mr. Hackney submitted a declaration of conversion to the County in which he stated: