of manure, and the application of fertilizers, soil amendments, and pesticides. If conducted in a manner in compliance with local, state and federal laws these inconveniences or discomforts are hereby deemed not to constitute a nuisance for purposes of the Island County Code".

As far as the term "public nuisance", a public nuisance is one that only protects people from claiming they are a nuisance on an area wide basis. The definition of forest practice should be the definition in state law. Using the state definition a person could not file an action just because they perceive a nuisance, an action is filed because it can be proved actual.

Jeanne Hunsinger, representing the Frei Family Tree Farm, Langley, stated that some of the same issues Mr. Roehl brought up had been brought up by the Frei family previously as well. She did not believe their operation would be drastically hurt if this ordinance were approved as is, but thought it more restrictive than state law in that if farming in zones outside of Ag and Forestry areas this would not be a specific protection, whereas under state law would have protection. They did not know how much the signing would really be of help versus the cost to the County. She understood that the Heritage Lands Task Force proposal was for an educational brochure made up by a committee of citizens who were not necessarily from the farm and forestry community which in their opinion would not be very helpful.

John Hitt, representing himself and as the husband of a Greenbank farmer, appreciated what Mr. Roehl suggested and believed the changes he suggested would be very beneficial to those who practice agricultural activities on a small scale in the rural residential zone, and would meet the goal of preserving rural environment.

Benye Weber, Central Whidbey, representing herself as a land owner with small woodland parcel and individual who practiced small farming to take to a farmer's market for supplemental income, agreed with what Mr. Roehl and Ms. Hunsinger stated regarding farm and forestry practices. She pointed out that the federal and state governments have a number of laws regarding best management practices and "in compliance" that have to be adhered to; if not a farmer or forester are deemed out of compliance and restricted as far as receiving any other type of program the government has in place [in any county in the nation]. Regarding "Mailed Notice" she questioned the language reading "consistent with proper and accepted standards", thinking instead it should refer to being out of compliance with state and federal law. There are many small land owners with parcels under cultivation as small as 2 to 5 acres, and that practice should be allowed all over the County.

Speaking now for the USDA/Whidbey Island Conservation District, Natural Resource conservation Service, Ms. Weber reported those groups had taken no position on this at all. Likewise, the Ag/Forestry Council of Whidbey Island took no position; the matter was discussed but the Council chose not to take a position.

Mr. Dearborn recalled that Ms. Hunsinger previously testified and the language she asked for the Planning Commission included in the ordinance, i.e. a reference to the Society of American Foresters on page 2 item f. With respect to Tom Roehl's comments, Mr. Dearborn spent some time discussing his initial argument that the ordinance is not needed. Mr. Roehl sent to the Planning Commission a letter March 31, and shortly after that, Mr. Dearborn talked with him at length about his letter and pointed out the sections of RCW 7.49 Mr. Roehl did not cite, and sections of GMA that required the ordinance in some form. As to argument it is not needed, Mr. Dearborn did not agree. Regarding the argument that it is more restrictive it is probably broader than what state law would require. Broadening it to all nuisances rather than just public nuisances he thought would put the county at running the risk subjecting the County to liability for activities occurring that are not being done according to best management practices if no qualifications are provided.

Further addressing comments and questions from Board members, Mr. Dearborn explained that the focus is on public nuisances and activities being conducted that are permitted under zoning, and activities conducted based upon the practices recommended by the bodies with expertise. As for the need for the ordinance and the process used to date, a Heritage Lands Task Force convened and came up with a series of recommendations. The Planning Commission considered the recommendations, as well as Tom Roehl's suggestions, and specifically discussed the question of whether it was needed or not, and concluded it was. The issue of whether it should apply to all lands was not a question addressed directly by the Planning Commission. Concern is not to the notice that is recorded or sent out with the property tax statement, but how would the County know whether that activity is in fact occurring or not in the rural zone. Reading the ordinance the

way it is proposed, it would only be forest or farm operations within the zones that are protected; it would not be forest or farm operations in the rural area that would receive the same protection. The provision of this ordinance needed for GMA compliance is provision C on page 3, section .040, the 300' reference. The recommendation before the Board is that be 500' as proposed by the Heritage Lands Task Force. The signage would be permanent to go on the highway in areas yet to be determined. King County has a sign reading something like "now entering farming area of the county" identifying the boundaries of the area being devoted to commercial AG.

Vince Moore, Director, Island County Planning and Community Development, commented that this came as a recommendation of the Heritage Lands Task Force who discussed this at length and in part was an effort to get the county into promoting the Ag and Forest industry even though it may be a fairly small percent of the labor force and per capita income, it is a very significant industry in terms of preservation of the open space. The concept is more along the highway as opposed throughout the county and not associated with a particular activity that might be occurring.

The Board deliberated on various amendments to the ordinances and discussed same back and force with Mr. Dearborn.

The Commissioners discussed including some type of statement or reference in the ordinance to make it clear that anything contained in the County's ordinance was not meant to increase or lessen any rights guaranteed by state law. Mr. Dearborn acknowledged that there would certainly be no harm caused by the reference and in fact, to the extent people need to be directed to look at the RCW as well, putting a reference to the specific section of RCW would be fine.

The Board members talked about the need for further information, clarity, and specifics on the proposed section in 16.25.050, Public Information, the proposal for educational brochures and signage. Further information needed such as cost/budget, how will the brochures be distributed and by whom, and generally believed this was premature and should be deleted. Mr. Dearborn suggested that should the Board decide to eliminate this section at this time, WSU could be asked to come back with a more specific proposal and a budget if the Board wanted to consider it as a separate item.

BOARD ACTION.
By unanimous motion, the Board adopted Ordinance #C-84-98 in the mater of adopting a new ordinance, chapter 16.25 ICC, to protect farm and forest activities, with the following changes:

Page 1. 16.25.010 Purpose

- First paragraph delete "that have been zoned by an agriculture or forestry zoning classification" and replace with: "that have agriculture or forestry operations".

- Second paragraph the second line after the word Act, insert "RCW 7.48".

Page 2. 16.25.010 Purpose

- Delete Section C entirely, and renumber D, E & F to C, D & E respectively
- Definition of Nuisance be changed to read: "Nuisance" refers to activities defined by RCW 7.40.

Page 3. 16.15.040

- Change first sentence to read: "The following measures shall be taken to protect agriculture and forestry operations in Island County:"

A. Mailed Notice. Notice language be changed to read:

"Island County has established a policy for unincorporated areas to protect and encourage agriculture and forestry operations. If your real property is located near an agriculture or forestry operation, you may be subject to inconvenience or discomfort arising from such operations, including, but not limited to, noise, odors, fumes, dust, flies, and other associated pests, the operation of machinery of any kind during any 24-hour period, the storage and disposal of manure, and the application of fertilizers, soil amendments, and pesticides. If