

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS

Monday, August 27, 1984

9:00 a.m. Board of Health:

1. Variance Request of Energy Resources Recovery, Inc., to allow use of a holding tank to serve the employee facilities at the proposed March's Point incinerator site.

9:30 a.m. MISCELLANEOUS ITEMS

10:00 a.m. Public Hearing on the proposed revised Skagit County Environmental Policy Ordinance (SCC Chapter 14.24).

11:00 a.m. Public Meeting for consideration for action regarding the Superior Court Remand of the Preliminary Plat Application of Kenart and Associates.

The Skagit County Board of Commissioners met in regular session on Monday, August 27, 1984, with Commissioners Norris, Mansfield, and Rohrer present.

BOARD OF HEALTH:

1. Variance Request of Energy Resources Recovery, Inc., to allow use of a holding tank to serve the employee facilities at the proposed March's Point incinerator site.

Tom Karsh, Environmental Health Specialist III, explained the conditions of approval for the variance request as delineated in the proposed resolution. He stated that Bill Frederick, representing Energy Resources Recovery, Inc., has agreed to these conditions, and Dr. Neils and the Permit Center have no objections if the conditions are met.

The Board pointed out that the sewage holding tank method was not for residential use, as stated by the State Code.

It was also pointed out that one of the conditions was that the applicant agrees to obtain County approval and to install an on-site sewage disposal system that meets current standards in the event that it can be determined that there is an acceptable site for this system after observing the site in the wet season.

Commissioner Mansfield motioned to approve the variance request by Energy Resources Recovery, Inc., to allow a sewage holding tank to be used at their refuse incineration facility at March's Point. Commissioner Rohrer seconded the motion. The motion was carried unanimously.

Commissioner Mansfield motioned to adjourn the Board of Health. Commissioner Rohrer seconded the motion. The motion was carried unanimously.

MISCELLANEOUS ITEMS

Robert Taylor, Administrative Officer, presented the following items:

1. Commissioner Rohrer motioned to approve Warrants #56992 through #57119 in the amount of \$206,434.32. Commissioner Mansfield seconded the motion. The motion was carried unanimously. (P/R 16)
2. Commissioner Mansfield motioned to schedule three Planning Commission referred items, namely a rezone, a special use request, and a code amendment, for Tuesday, September 4, 1984, at 11:00 a.m. Commissioner Rohrer seconded the motion. The motion was carried unanimously.
3. The Board reviewed the letter from Skagit County Public Utility District requesting assistance in forming a committee to review the rates they charge. The Board suggested that Gene Sampley, Director of the Public Works Department, be contacted if they were requesting technical assistance. However, if the P.U.D. was seeking assistance with making policy, the Board felt it would be inappropriate for a member of the Board to assist. Robert Taylor will contact the P.U.D. for more specific information.
4. The Board received a copy of a letter of resignation from Dr. Robert Clinton, Supervisor of the Weed Control Board, effective the end of this month. The Board instructed Robert Taylor to encourage the early appointment of the new supervisor. Discussion also followed regarding scheduling a discussion of the weed control program later in the year.
5. Commissioner Mansfield motioned to approve the Record of the Proceedings for Tuesday, August 21, 1984. Commissioner Rohrer seconded the motion. The motion was carried unanimously.
6. Commissioner Mansfield motioned to approve the Petition for Property Tax Refund for George Wright, 415 Milwaukee Street, Mount Vernon, Washington 98273, in the amount of \$512.43 for tax years 1982, 1983, and 1984, because of senior citizen exemption, as recommended by the Assessor and Treasurer. Commissioner Rohrer seconded the motion. The motion was carried unanimously.

PUBLIC HEARING ON THE PROPOSED REVISED SKAGIT COUNTY ENVIRONMENTAL POLICY ORDINANCE (SCC CHAPTER 14.24).

Megan Cheney, on behalf of Jerry McInturff, Skagit County Auditor and Ex-Officio Clerk of the Board, read the Notice of Public Hearing, as published in the Skagit Valley Herald on August 10, 1984.

Bob Schofield, Director of the Planning Department, pointed out that this item was not reviewed by the Planning Commission because it is not a land use matter.

Otto Walberg, of the Planning Department, reviewed the most noteworthy of the changes made to the Environmental Policy Ordinance. He stated that the Planning Department recommended approval.

In response to a question from Commissioner Mansfield, Mr. Walberg clarified several revisions. He explained that the revised ordinance encouraged shorter, more focused and better organized documents. He also explained the process of issuing a "mitigated" determination of nonsignificance rather than to require an Environmental Impact Statement.

Commissioner Mansfield motioned to close the public hearing. Commissioner Rohrer seconded the motion. The motion was carried unanimously.

Commissioner Mansfield motioned to adopt the ordinance approving the Revised Skagit County Environmental Policy Ordinance (SCC Chapter 14.24). Commissioner Rohrer seconded the motion. The motion was carried unanimously. (Ordinance #10169)

PUBLIC MEETING FOR CONSIDERATION FOR ACTION REGARDING THE SUPERIOR COURT REMAND OF THE PRELIMINARY PLAT APPLICATION OF KENART AND ASSOCIATES.

Bob Schofield, Director of the Planning Department, pointed out that the Board had reviewed copies of the transcripts of the previous meetings. He recommended to the Board if they approved all or a modification of the original application, that they include the conditions that were made a part of the original recommendation. Bob Schofield reviewed the conditions.

Tom Moser, Prosecuting Attorney, stated that the Court of Appeals remanded the preliminary plat application to the Board because the findings did not support the decision. He stated that the Board can enter findings that would support their decision of denial or hold their own public hearing to receive information to then support a decision of approval or denial.

Commissioner Mansfield stated that he felt the drawing up of new findings to support their decision of denial would be futile.

Tom Moser stated that if the Board wanted to approve the application, they would have to schedule a public hearing. Discussion followed regarding the exact options available.

Lorna Shuler stated that she lives on Highway 9 across from the proposed project. She asked if the Board has been out to look at the project, as she felt they were ignoring the concerns of the people who live in the area. Chairman Norris explained that a lot of time and expense has already gone into reviewing this application, and the Board is concerned with all aspects, including the concerns of the residents.

Patty Bos, an area resident, stated that she has new evidence in the form of pictures showing the property under water. She asked why the Board didn't try to develop new findings to support their decision rather than start all over again. Chairman Norris stated the Board was trying at this time to decide what would be the best for everyone.

Sharon Beaver asked why the Court of Appeals denied the Board's decision. Commissioner Mansfield stated that the Court of Appeals felt that the findings presented did not support the Board's decision.

Ms. Beaver then asked if there has to be another public hearing. Tom Moser stated that modification or approval of the existing plan would require a public hearing.

Lorraine Rothenbuler stated that she felt the Board of Commissioners would be wrong in reversing their decision of denial to one of approval simply to get this application over with. Commissioner Mansfield stated that the review of the proposed project has not been hurried along to get it over with. He pointed out that much time and expense has been put into the review.

Bill Nielsen, attorney, was present to represent Kenart and Associates. He stated that the Court of Appeals made a lengthy review of the project and found the decision by the Board was inappropriate according to the findings presented. He felt that no additional public hearing would be necessary and a decision could be made today.

Tom Moser once again explained the Court of Appeals' decision: The information presented was not inadequate. The findings drawn from the information presented did not support the decision of the Board.

Robert Beaver expressed concerns with the drainage. Chairman Norris explained that this would be new information that could be presented at a public hearing.

Patty Bos asked if the County could submit a new set of findings to support their earlier decision. Tom Moser stated that this was one possibility. Also, the Board could hold their own public hearing and make a decision following that public hearing one way or another.

Larry Earnst stated that he felt a public hearing was necessary to clarify drainage, sewage and access problems.

Patty Bos expressed concern with the Board changing their original decision based on the Court of Appeals decision.

Lorna Shuler stated that she understood that the rezone to 5 acres was to keep the owner from developing the property. John Moffat, Assistant Prosecuting Attorney, stated that the property was rezoned to 5-acre minimum, until the owners appealed and had the zoning reverted back to the original zoning.

Don Van Etten stated that if the Board denies this plat one more time, it will probably be appealed to Supreme Court.

Geraldine Earnst stated that there isn't the demand for housing that there was at the beginning of this project application.

Lorraine Rothenbuler felt a new hearing would be appropriate.

In answer to a question from Sharon Beaver, Tom Moser explained the Court of Appeals process in which only the attorneys are present.

Bill Nielsen objected to the new evidence being addressed.

Chairman Norris asked Mr. Nielsen if he would prefer continuing this meeting a week until Ken Evans, attorney for the applicants, could be present. Mr. Nielsen felt that would not accomplish anything, although he stated he felt another public hearing would be unnecessary.

Tom Moser stated that new findings could be entered into the record without a public hearing.

Chairman Norris asked John Moffat if the findings of the Planning Commission were questioned at the time they were prepared. John Moffat responded that they had not anticipated any problems at that time, and the Superior Court Judge Walter Deierlein, Jr., found no problems with the Board's denial.

Discussion followed regarding the most expedient, cost efficient, and fair way to resolve a decision.

Commissioner Mansfield stated that he thought it would be futile for the Planning Commission to rewrite their findings to support their decision.

John Moffat clarified for Bob Schofield, Director of the Planning Department, that the present Planning Commission members could revise the findings.

Commissioner Rohrer stated that he was in favor of sending the item back to the Planning Commission.

Commissioner Mansfield stated that he would agree if the Planning Commission would enter new findings from the record rather than simply rewrite the old findings.

Commissioner Rohrer motioned to refer this item to the Planning Commission to review the record to enter new findings which would substantiate their previous decision of denial. Commissioner Mansfield seconded the motion. The motion was carried unanimously.

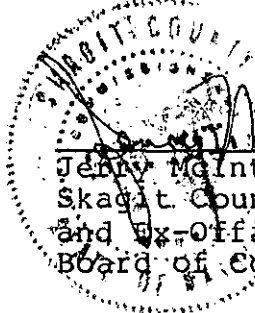
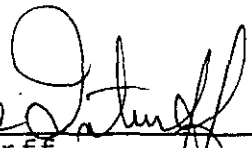
ADJOURNMENT

Commissioner Mansfield motioned to adjourn the proceedings. Commissioner Rohrer seconded the motion. The motion was carried unanimously.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

ATTEST:


Bud Norris, Chairman



Jerry McInturff
Skagit County Auditor
and Ex-Officio Clerk of the
Board of County Commissioners

Jerry Mansfield, Commissioner


Dave Rohrer, Commissioner