

RECORD OF THE PROCEEDINGS  
SKAGIT COUNTY BOARD OF COMMISSIONERS

Tuesday, October 22, 1985

Flag Salute

- 10:00 a.m. 1. Discussion - Creation of Skagit County Public Defender District.
2. Consideration of Resolution - Creating Skagit County Public Defender District.

MISCELLANEOUS ITEMS

- 11:00 a.m. Public Hearing - Receive input regarding potential rules and procedures to be contained within a resolution or ordinance regarding the regulation of advisory ballots.
- 1:30 p.m. Consideration of the remand of Skagit County Development Corporation Special Use Request #SP-84-002 for the commercial sale of gravel from an existing private pit.

The Skagit County Board of Commissioners met in regular session on Tuesday, October 22, 1985, with Commissioners Vaux, Walberg and Rohrer present.

1. DISCUSSION - CREATION OF SKAGIT COUNTY PUBLIC DEFENDER DISTRICT.

Tom Moser, Skagit County Prosecuting Attorney, outlined the procedure to be used should the Board decide to create a Skagit County Public Defender District, rather than contracting out for the service. He noted that a selection committee, consisting of one commissioner, one judge and one practicing attorney, would select a public defender, who would act as a department head of the Public Defender's Office.

Mr. Moser noted several points to be considered:

- a. The need to provide for conflicts;
- b. The cost of running the office; and
- c. The potential for lawsuits.

George McIntosh and Ken Evans, local attorneys, were present on behalf of the Washington State BAR Association to urge the Board to provide adequate representation for indigents.

Mr. Evans stated that he didn't understand how Skagit County could provide a lesser budget for the Public Defender's Office than they do for the Prosecuting Attorney's Office. He urged the Board to hire the most

experienced, rather than the cheapest legal assistance for those who cannot afford to choose their own legal representation.

Mike Woodmansee, Budget and Finance Director, explained the process used to arrive at several approximate budgets for the proposed Public Defender's Office:

- a. The estimated budget for an office consisting of three attorneys, four support staff members, a \$10,000 fund for professional services (conflicts or contracting attorneys, etc.), and miscellaneous supplies, etc., would be \$210,000.
- b. The estimated budget for an office consisting of four attorneys, four support staff members, and miscellaneous supplies, etc., would be \$238,000.

Chairman Vaux pointed out that prior to proceeding with a Public Defender District, the Board would need to reject the three proposals for indigent defense services, which the County recently received.

Mr. Woodmansee reviewed the three proposals received by the County, noting that Skelton & Tims submitted the highest proposal of approximately \$385,000 per year.

Steve Skelton, of Skelton & Tims, felt the Public Defender's Office could not be organized by January 1, 1986. He pointed out that his firm could use fewer attorneys to represent Skagit County's indigents, however, he felt adequate representation was more important.

Cindy Tims had no comment at this time.

Tom Moser explained the various duties of his staff members.

Cindy Tims noted that the Sheriff's Office has been very cooperative with investigation services.

Carol Perusek, Director of Court Services, stated that the judges had asked that they be consulted prior to the establishment of a Public Defender District.

Robert Taylor, Administrative Officer, stated that the proposed resolution drafted at this time would create a Public Defender's Office for a one-year trial period.

The Board continued this discussion until 4:00 p.m., Wednesday, October 23, 1985.

2. CONSIDERATION OF RESOLUTION CREATING SKAGIT COUNTY PUBLIC DEFENDER DISTRICT.

This item was not addressed at this time, but will be addressed in the future.

MISCELLANEOUS ITEMS

Robert Taylor, Administrative Officer, presented the following items:

1. Commissioner Rohrer motioned to approve a Petition for Property Tax Refund for Fred L. Binschus, 612 Jameson Street, Sedro Woolley, Washington 98284, in the amount of \$21.59, due to EDB contamination. Commissioner Walberg seconded the motion, as recommended by the Skagit County Assessor and Treasurer. The motion was carried unanimously. (#003885)
2. Commissioner Rohrer motioned to approve a Petition for Property Tax Refund for Louise Schulze Lee, 300 South Pine, Ellensburg, Washington 98926, in the amount of \$21.70, due to EDB contamination. Commissioner Walberg seconded the motion, as recommended by the Skagit County Assessor and Treasurer. The motion was carried unanimously. (#004185)
3. Commissioner Rohrer motioned to approve a Petition for Property Tax Refund for Peter B. Rogge, P.O. Box 3100, Juneau, Alaska 99803, in the amount of \$31.16, due to EDB contamination. Commissioner Walberg seconded the motion, as recommended by the Skagit County Assessor and Treasurer. The motion was carried unanimously. (#005085)
4. Commissioner Rohrer motioned to approve a Petition for Property Tax Refund for William N. Smith, 3564 Highway 20, Concrete, Washington 98237, in the amount of \$10.93, due to EDB contamination. Commissioner Walberg seconded the motion, as recommended by the Skagit County Assessor and Treasurer. The motion was carried unanimously. (#005385)
5. Commissioner Rohrer motioned to approve a Petition for Property Tax Refund for Danny E. Wood, 19117 Grannis Road, Bothell, Washington 98012, in the amount of \$44.36, due to EDB contamination. Commissioner Walberg seconded the motion, as recommended by the Skagit County Assessor and Treasurer. The motion was carried unanimously. (#005485)

PUBLIC HEARING - RECEIVE INPUT REGARDING POTENTIAL RULES AND PROCEDURES TO BE CONTAINED WITHIN A RESOLUTION OR ORDINANCE REGARDING THE REGULATION OF ADVISORY BALLOTS.

Megan Cheney, on behalf of Jerry McInturff, Skagit County Auditor and

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Ex-Officio Clerk of the Board, read the Notice of Public Hearing, as published in the Skagit Argus on October 15, 1985.

Jerry McInturff informed the Board of the events in the initiative process. He then made several recommendations for the Board's consideration regarding the potential adoption of rules and procedures to be enforced for the creation of advisory ballots. He also recommended the Board retain the option to place their own advisory issue on the ballot by waiving all adopted rules and procedures.

Chairman Vaux suggested including a rule requiring the Board which placed the issue on the ballot to take official action on the results of the election.

Zell Young, of west Mount Vernon, felt any rules or procedures adopted would conflict with his right to collect signatures to advise the Board.

Commissioner Walberg motioned to continue this public hearing to 8:30 a.m., Wednesday, October 23, 1985, to allow additional consideration. Commissioner Rohrer seconded the motion. The motion was carried unanimously.

CONSIDERATION OF THE REMAND OF SKAGIT COUNTY DEVELOPMENT CORPORATION SPECIAL USE REQUEST #SP-84-002 FOR THE COMMERCIAL SALE OF GRAVEL FROM AN EXISTING PRIVATE PIT.

John Moffat, Chief Civil Deputy, read two portions of the Snohomish County Superior Court Order issued regarding the Skagit County Development Corporation Special Use Request #SP-84-002. He noted that the Order, dated September 2, 1985, found an appearance of fairness problem with this issue. Mr. Moffat asked Commissioner Rohrer if he remembered the substance of the conversations which took place in July, 1984, which the Court determined to be the appearance of fairness problem.

Commissioner Rohrer stated that he could not remember the substance of the conversations.

Mr. Moffat asked Commissioner Rohrer to step down from deliberation on this matter.

Jim Hopkins, attorney for Skagit County Development Corporation (SCDC), requested that Commissioner Rohrer be included in the decision of this remand only.

In answer to a question from Commissioner Walberg, Mr. Hopkins stated that in the event of a split vote, the third Commissioner would make the deciding vote. He pointed out that he was requesting a limited waiver of SCDC's right to challenge the decision of today only.

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In answer to a question from Mr. Moffat, Commissioner Rohrer stated that he could not make an impartial decision on the matter.

Mr. Moffat and Mr. Hopkins agreed that Commissioner Rohrer should step down from the deliberations on this matter.

Mr. Moffat read a third portion of the Supreme Court's Order, which stated that the Planning Commission was not found to be arbitrary and capricious.

Entered into the record were the following items:

1. Snohomish County Supreme Court Order dated September 2, 1985.
2. Letter dated August 23, 1985, from the Economic Development Association of Skagit County (EDASC), urging the Board to hold their own public hearing. Chairman Vaux noted that he is a board member of EDASC, however, he was not present at the board meeting which took the action to draft the letter.
3. Letter dated October 14, 1985, from Jim Hopkins, attorney for SCDC, urging the Board to hold their own public hearing.
4. Documentation of a phone call today from Dahlman Pump and Drilling, urging the support of SCDC's application.

In answer to a question from Mr. Moffat, Chairman Vaux stated that he could be impartial with regard to this matter.

Steve Wood, of the Department of Planning and Community Development, stated that he had no additional correspondence to enter into the record. Mr. Wood presented a site plan as submitted with the application, and explained SCDC's proposal for the commercial sale of gravel from their existing private pit.

Mr. Hopkins stated that they disagree with the Snohomish County Superior Court's decision that the Planning Commission's recommendation was not arbitrary and capricious. He addressed and refuted each of the Planning Commission's findings. He also noted that SCDC can use the pit for any of their own property or any Forestry zoned property. Mr. Hopkins urged the Board to hold their own public hearing.

In answer to a question from Commissioner Walberg, Mr. Hopkins stated that he felt SCDC had the opportunity to present all facts to the Planning Commission. However, he felt the Planning Commission ignored the facts or didn't objectively evaluate the facts, as the Commission appeared to be swayed by public opinion. He stated that it was possible for a decision to meet the arbitrary and capricious standards and still be very unfair.

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Bill Thrumer, of SCDC, pointed out the importance of supporting a local business which provides employment opportunities for Skagit County citizens. He felt that a public hearing before the Board of Commissioners would offer the opportunity to resolve any problems observed by the community.

Vivian Vaughan, of 1597 West Gunderson Road, Mount Vernon, stated that the roads are dusty, streams are polluted, and her well has become high in minerals.

Morris Nilson, 1453 West Gunderson Road, Mount Vernon, read a letter from Jim Hinton urging the Board to deny the request. Mr. Nilson stated that he owns property adjacent to the pit site, and he also urged the Board to uphold the Planning Commission's recommendation of denial.

Robbie Robertson questioned the proposed high density development in the Gunderson Road area.

Jim Finnegan, a gravel user, stated that it would be in his best interest to have a large quantity and wide variety of gravel available. He asked that the opinions of competitors or their family members be overlooked.

Jim Fellman, a general contractor, stated that there is a need for more gravel now more than ever because of the flood plain requirements.

Commissioner Walberg stated that the burden is placed on the applicant to provide adequate reason why the request should be granted.


Commissioner Walberg motioned to uphold the Planning Commission's recommendation to deny Skagit County Development Corporation's Special Use Request #SP-84-002. Chairman Vaux seconded the motion. The motion was carried and so ordered.

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ADJOURNMENT

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

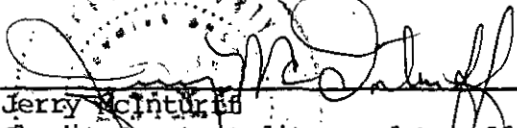
BOARD OF COUNTY COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON

  
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W. W. Vaux, Chairman

  
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Otto M. Walberg, Jr., Commissioner

  
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Dave Rohrer, Commissioner

ATTEST:

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