

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS

Wednesday, October 15, 1986

Flag Salute

9:00 a.m. Consideration of Burlington Northern Appeal of Hearing Examiner Decision.

MISCELLANEOUS ITEMS

3:00 p.m. Discussion - Corps of Engineers.

MISCELLANEOUS ITEMS

The Skagit County Board of Commissioners met in regular session on Wednesday, October 15, 1986, with Commissioners Rohrer, Vaux and Walberg present.

CONSIDERATION OF BURLINGTON NORTHERN APPEAL OF HEARING EXAMINER DECISION.

Steve Wood, Assistant Director of the Department of Planning and Community Development, presented the Hearing Examiner's Written Order #FP-86-002/Appeal. Mr. Wood explained that Burlington Northern Railroad was appealing the Hearing Examiner's decision which requires Burlington Northern to remove fill from its Bridges 25 and 26 crossing Gages Slough. In his decision, the Hearing Examiner concluded that there had been no error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of the Flood Damage Prevention Ordinance of Skagit County.

Mr. Wood read Burlington Northern Railroad's Notice of Appeal to the Skagit County Board of Commissioners. He noted that the Board had three choices: (1) Uphold the Hearing Examiner's decision; (2) Remand the matter back to the Hearing Examiner for further consideration; and (3) Hold their own public hearing.

Newell Smith, Attorney for Burlington Northern Railroad, stated that they didn't know they were in violation of County regulations when they began repair of the bridges. He explained that Burlington Northern has two deteriorating bridges under Skagit County's jurisdiction. They are proposing to use 48-inch culverts with fill to repair the bridges at a cost of about \$70,000. To construct entirely new bridges with concrete piers would cost approximately \$300,000 and would be cost prohibitive for Burlington Northern at this time. Mr. Newell requested the Board either (1) overturn the Hearing Examiner's decision and allow repair of the bridges with fill and culverts, or (2) order that the Skagit County Department of Planning and Community Development does have the authority to grant a variance to Burlington Northern Railroad to allow its construction of Bridges 25 and 26 with fill and culverts, should it find that such construction will not pose a greater danger of flood.

Chairman Rohrer felt two 24-inch culverts would be more than adequate. He felt Burlington Northern had not received fair treatment.

Commissioner Vaux asked John Moffat, Assistant Prosecuting Attorney, if the Board could grant such a variance as requested by Burlington Northern.

Mr. Moffat stated that he was not prepared to answer that question at this time. The question to be decided by the Board is did Burlington Northern receive the opportunity to present their facts to the Hearing Examiner.

Commissioner Vaux motioned to remand the matter back to the Hearing Examiner for further consideration. He stated that he felt: (1) Burlington Northern does have the money to reconstruct the bridges without fill and culverts, and (2) Burlington Northern did know they needed appropriate permit approval prior to beginning work.

Commissioner Walberg seconded Commissioner Vaux's motion to remand the matter back to the Hearing Examiner for further consideration.

Discussion followed.

Commissioner Walberg stated that there was more at stake to Skagit County than some culverts and a railroad grade.

The motion to remand the matter back to the Hearing Examiner was carried unanimously.

Chairman Rohrer was absent for the following items:

MISCELLANEOUS ITEMS

1. Commissioner Walberg motioned to schedule for 9:00 a.m., Tuesday, October 21, 1986, the following Planning Commission referred items:
 - a. Rezone Request #R-86-016 for Sharon and Joe Gooch.
 - b. Zoning Code amendment regulating adult businesses.
 - c. Procedural amendment regarding legal notice and posting of property.

Commissioner Vaux seconded the motion. The motion was carried and so ordered.

2. Tom Karsh, Environmental Health Specialist III, informed the Board of a conference he recently attended in Everett regarding environmental programs, such as the Adopt a Stream Program. The conference was sponsored by Snohomish County, Washington State Department of Fisheries, etc.

The Board instructed Mr. Karsh to obtain more information from Snohomish County regarding how they initiated their programs.

DISCUSSION - CORPS OF ENGINEERS.

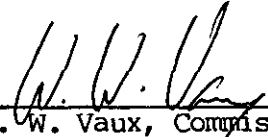
This item was cancelled and will be rescheduled at a later date.

ADJOURNMENT

Commissioner Walberg motioned to adjourn the proceedings. Commissioner Vaux seconded the motion. The motion was carried and so ordered.

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

Dave Rohrer, Chairman

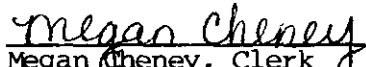


W. W. Vaux, Commissioner



Otto M. Walberg, Jr., Commissioner





Megan Cheney, Clerk
Skagit County Board of Commissioners