

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS

Monday, April 24, 1989

- 10:30 a.m. Public Works Department:
1. Public Hearing - Guemes Water Association Franchise Application.
 2. Signature - Quit Claim Deed.
 3. Call for Bids - Traffic Paint Striping.
 4. Miscellaneous Items.
- 1:30 p.m. Public Works Department:
1. Bid Opening - Recycling at Skagit County Solid Waste Facilities.
 2. Miscellaneous Items.
- 2:00 p.m. Continuation - Consideration of Appeal of Hearing Examiner's Decision Denying the Shoreline Substantial Development Permit Request #4-88 of Gary Moberg.

MISCELLANEOUS ITEMS.

The Skagit County Board of Commissioners met in regular session on Monday, April 24, 1989 with Commissioners Dave Rohrer and Ruth Wylie present. W. W. Vaux's absence was excused.

PUBLIC WORKS DEPARTMENT - JAY ENSLEY, DIRECTOR:

1. Public Hearing - Guemes Water Association Franchise Application.

Chairman Rohrer waived the reading of the Notice of Public Hearing, as published in The Skagit Argus on April 4 and April 11, 1989.

Jay Ensley explained that this Public Hearing is being held to consider a request for a franchise by the Guemes Water Association to construct, maintain and operate a 4 inch pipeline for potable water distribution along public roads near West Shore Drive and Eden Road. He located the area on a vicinity map and reported that the Public Works Department has reviewed the application and can find no objection, and therefore would recommend granting the franchise.

Mr. Leslie Venables of the Guemes Water Association explained that he is a member of an organization of 10 private property owners who have formed a non-profit association to undertake this project. He explained that they have received the permission of the Health Department and have all other permits necessary to complete the construction.

There being no further comment, Chairman Rohrer motioned to close the Public Hearing. Commissioner Wylie seconded the motion, which carried and was so ordered.

Commissioner Wylie then motioned to grant Guemes Water Association #526-38 the

requested franchise. Chairman Rohrer seconded the motion, which was carried and so ordered.

2. Signature - Quit Claim Deed.

Jay Ensley provided the Board with the history of the property in question near Fruitdale Road, Sedro Woolley, as received from Bruce G. Lisser, P.L.S., a surveyor employed by Mr. Harold Edson, property owner. Mr. Ensley indicated that the Northern Pacific Railroad Company had, in 1916, erroneously quit claim deeded the property to both the County and the property owner. He located the area on a vicinity map. Mr. Ensley stated that he has discussed the matter with Chief Civil Deputy John Moffat, who advised that the proper means of disposing of the property would be through a quit claim deed to the current landowners. He indicated that the property owners have been paying taxes on the property for an indeterminate period of time.

Commissioner Wylie then motioned to approve for signature the quit claim deed, deeding property received from the Northern Pacific Railroad Company recorded as Auditor's File #114229 to the current property owners. Chairman Rohrer seconded the motion, which carried and was so ordered.

3. Call for Bids - Traffic Paint Striping.

Following a short statement by Mr. Ensley, Commissioner Wylie motioned to adopt a resolution calling for bids for highway paint striping for 245 miles of highway centerline and 224 miles of edges for 1989. Chairman Rohrer seconded the motion, which was carried and so ordered. (Resolution #12019)

4. Miscellaneous Items.

Mr. Ensley reported that an offer of \$70,000 has been received for the surplus garbage compactor at Inman Landfill from Whatcom County. He reminded the Board that unrecovered costs for the compactor are approximately \$77,000 and recommended that a counter-offer of \$80,000 be made.

The Board directed Mr. Ensley to prepare a letter to Whatcom County proposing a counter-offer for signature. He was also asked to use his discretion in researching the possibility of obtaining a paint striping machine in trade.

MISCELLANEOUS ITEMS.

1. Commissioner Wylie motioned to adopt the Records of the Proceedings for Monday, April 17, 1989, Wednesday, April 19, 1989, and Thursday, April 20, 1989. Chairman Rohrer seconded the motion, which carried and was so ordered.

2. Commissioner Wylie motioned to adopt the amended Record of the Proceedings for Tuesday, April 11, 1989, in which a change was made to page 2, Consideration of Appeal of Hearing Examiner's Decision Denying Shoreline Substantial Development Permit Request #4-88 of Gary Moberg, so

that the determinations available to board will include "c) to uphold the decision of the Hearing Examiner." Chairman Rohrer seconded the motion, which carried and was so ordered.

3. As of this date, April 24, 1989, the Board, by majority vote, did approve those vouchers described below:
 - a) Vouchers #60606 through #60691 (Warrants #60606 through #60691) in the amount of \$86,258.45. (R12-89)
4. Commissioner Wylie motioned to approve the following Petitions for Property Tax Refunds:
 - a) M.E. Thompson, 217 W. Woodworth, Sedro Woolley, WA 98284, in the amount of \$85.40, due to a senior citizen exemption. (003389)
 - b) Bob A. Davis, Jr., 1400 N. 30th #56, Mount Vernon, WA 98273, in the amount of \$128.79 because of advance taxes paid in Pierce County, which should not be payable until 1990. (003189)

PUBLIC WORKS DEPARTMENT - JAY ENSLEY, DIRECTOR:

1. Bid Opening - Recycling at Skagit County Solid Waste Facilities.

Chairman Rohrer waived the reading of the Call for Bids, as published in The Skagit Argus on April 11 and 18, 1989.

The following bid was opened and reviewed:

- a) C and D Salvage and Recycling
120 South 10th
Mount Vernon, WA 98273

Cost to County: \$5,200.00 per month, \$62,400.00 annual amount.
No bid bond was enclosed.

The Public Works Department will review the bid and return with a recommendation for award at a later date.

2. Miscellaneous Items.

There were no miscellaneous items for discussion from the Public Works Department.

Commissioners Rohrer, Wylie and Vaux were present for the following items.

CONTINUATION - CONSIDERATION OF APPEAL OF HEARING EXAMINER'S DECISION DENYING THE SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT REQUEST #4-88 OF GARY MOBERG.

Commissioner Wylie opened the discussion with a disclosure that she lives approximately one mile from Mr. Moberg, and that her husband is a distant cousin of Mr. Moberg. Mr. Moser stated no objection to her participation in

RECORD OF THE PROCEEDINGS

Monday, April 24, 1989

Page 4

the discussion and agreed to proceed.

Betsy Stevenson, Assistant Director, Planning and Community Development Department, described the nature and location of a project completed by Mr. Moberg and described as an observation platform and studio, located at the end of a private dike on the Skagit River on Fir Island. She explained that no permits for the structure were obtained by Mr. Moberg at the time of construction, and that a subsequent enforcement action by the Planning Department prompted Mr. Moberg to make application for a Shoreline Substantial Development Permit, which has been denied by the Skagit County Hearing Examiner, after which a timely appeal was received via Mr. Moberg's attorney, Tom Moser. She read from a report of Staff Findings dated February 15, 1989, compiled by Oscar Graham, Assistant Planner, and approved by Ms. Stevenson. She read the Planning Department's recommendation to deny Mr. Moberg's permit request and to restore the site to its original pre-construction condition. She provided the Board with photographs of the structure and adjoining area.

The Board then reviewed Mr. Moser's Notice of Appeal, filed March 28, 1989.

Mr. Moser stated that his request at this time is that the Board hold a Public Hearing on the matter and give Mr. Moberg the opportunity to show why his request should be granted and then to subsequently grant his request based on the following facts:

- 1) That evidence shows that the area is not a designated aquatic area, but rather is upland and residential. John Leonard, a surveyor employed by Mr. Moberg, has concluded that the structure is 2.3 feet above the mean high water mark, in conflict with the Hearing Examiner's claim that the area is below the ordinary high water mark.
- 2) That the structure is not a residential use building, but rather is a recreation facility, with shoreline dependent use. Further, that this is a unique project on a private dike outside of the diking district and would not be a presager of other construction of similar nature.

Ms. Stevenson refuted Mr. Moser's statement regarding measurement of the mean high water mark and read the definition from the Skagit County Shoreline Major Management Plan.

Mr. Moser stated that Mr. Moberg is aware of his violation and has made immediate attempts at reparation by hiring a Seattle consultant, an attorney, a private surveyor, and making application for all necessary permits. He reiterated his point regarding the determination of the mean high water mark.

Discussion ensued, in which Ms. Stevenson explained how the high water mark is determined. At a question from Commissioner Vaux, Mr. Moser explained that his reference to ex parte communication of the Hearing Examiner with a member of the Prosecuting Attorney's Office was prompted by a statement on page 2 of the Hearing Examiner's Decision in which he references "information received from the Prosecuting Attorney's Office". Mr. Moser explained that this information was never discussed at the Public Hearing; and that due to the

time constraints of filing the appeal he felt it best to mention it in the appeal so as not to jeopardize its admissibility at a later date.

John Garrett, representing the Washington State Wildlife Department, 2214 Wylie Road, Mount Vernon, stated that he had written a communication to the Planning Department regarding the negative impact of the construction on the surrounding wetlands, and additionally wished to state that the position of his agency is that the impact on the wildlife area is the same whether the structure is built on pilings in the water itself, or on the end of the dike.

Commissioner Wylie then stated that she felt that the location was, indeed, aquatic, and the structure was therefore illegally constructed, and motioned to uphold the decision of the Hearing Examiner in this case. Commissioner Vaux seconded the motion. The motion passed unanimously.

MISCELLANEOUS ITEMS.

There were no miscellaneous items for discussion at this time.

ADJOURNMENT

Commissioner Wylie motioned to adjourn the proceedings. Commissioner Vaux seconded the motion. The motion was carried unanimously.

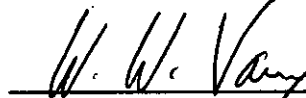
BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



Dave Rohrer, Chairman



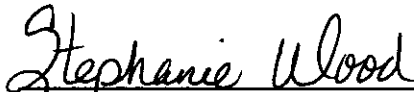
Ruth Wylie, Commissioner



W. W. Vaux, Commissioner



ATTEST:



Stephanie Wood, Clerk
Skagit County Board of Commissioners