

**RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS**

Monday, July 24, 1989

9:00 a.m. Board of Health:

- 1) Reconsideration of Big Lake Resort Moratorium - Lorna Haycox.
- 2) Discussion of Possible Program Changes - Carolyn Milat.
- 3) Indoor Air Pollution Program - Ken Willis.
- 4) Laboratory Update - Joanne Lynn.

10:30 a.m. Public Works Department - Mark Spahr, Director:

- 1) Public Hearing: Open Unopened Right-of-Way Lake Cavanaugh Road.
- 2) Public Hearing: Establishment of Brookings Road Extension.
- 3) Call for Public Hearing: Vacation of County Right-of-Way State Turn-Back - Burlington.
- 4) Call for Public Hearing: Restricting Truck Traffic on South Front Street, Clear Lake.
- 5) Signature: Ordinance Lowering Speed Limit on South Front Street, Clear Lake.
- 6) Signature: D.O.E. Flood Control Grants.
- 7) Resolution: Interdepartmental Transfer of Motor Vehicle.
- 8) Signature: Amendment No. 1 for Time Extension - D.O.E. Grant for Ground Water Monitoring Wells.
- 9) Miscellaneous.

MISCELLANEOUS ITEMS.

2:00 p.m. A. Reid Allison Appeal of Hearing Examiner's Decision Regarding Variance Request #V-89-020 of Charles Hand.

3:00 p.m. Update - Comprehensive Planning - Swinomish Indian Reservation.

The Skagit County Board of Commissioners met on Monday, July 24, 1989, in regular session, with Commissioners Dave Rohrer, Ruth Wylie and W. W. Vaux present.

BOARD OF HEALTH:

1) **Reconsideration of Big Lake Resort Moratorium - Lorna Haycox.**

Lorna Haycox, Environmental Health Specialist, stated that she has contacted Moe Batra of D.S.H.S., as requested by the Board, to discuss the moratorium on building permits at the Big Lake Resort. Mr. Batra felt that Mr. Stidman, owner of the resort, is still not in compliance, in that he has not installed a filtration system, and therefore the moratorium should not be lifted, regardless of the successful tests on water clarity, chlorination and turbidity. Furthermore, Mr. Batra disclosed that in approximately 1990 or 1991 the State will adopt rules which will require facilities to have filtration systems. Mr. Batra did, however, note that the addition of

bathrooms, as proposed by Mr. Stidman, would enhance the public health, and as long as the system continues to be well run, the additional bathrooms would be acceptable.

Ms. Haycox stated that, although Mr. Stidman was unable to attend, he had asked her to also convey to the Board his wish to install a 500 gallon spa at his facility.

The Board discussed with Ms. Haycox the possibility of PUD providing water hookup for the Big Lake area. The Board then made the decision to allow the addition of bathrooms and showers if Mr. Stidman installs a chlorine alarm and moves his water intake, but that the installation of the spa will not be allowed. Further, the Board directed the Health Department to be present at the time the intake is moved.

2) Discussion of Possible Program Changes - Carolyn Milat.

Carolyn Milat, Health Department Director, presented three changes to the Health Department's programs she wished the Board to approve.

- a) Ms. Milat proposed to extend some Health Department services to Concrete, offering one time per month clinics for immunizations, WIC Certifications and vouchers for food for pregnant mothers, and well child exams. The Board discussed with her the expected usage of the program, as well as similar programs in Sedro Woolley and Anacortes. Suggestions were made for possible locations for the clinic. The Board supported this plan, as long as the Health Department budget would permit such an expense.
- b) Ms. Milat requested approval of an application to the "First Steps" program under Medicaide's fee for service care, which provides maternity support services and case management. The Board approved application to this program.
- c) Ms. Milat stated that a new program is available through Northwest Regional Council which provides for visits to eligible clients homes by registered nurses to oversee the care being provided by visiting aides. The oversight visits are made four times per year, and the agency contracting to provide these visits is compensated at a rate of \$57.00 per visit. It is estimated that approximately 12 clients will be served per year. Ms. Milat submitted a grant application to the program for signature. Ms. Milat stated that the purpose of the program is to allow eligible clients to remain in their homes longer and avoid convalescent home care. The Board discussed with Ms. Milat the effects of the program on the Health Department's services, and the source of referrals. Ms. Milat stated that the effects will be discovered over time, and suggested that the program be initiated for six months and reviewed afterward. The Board approved the grant application for signature.

3) Indoor Air Pollution Program - Ken Willis.

Ken Willis, Environmental Health Specialist, stated that over the years, the Health Department has fielded many questions regarding indoor air pollution. He stated that with the increase in public awareness of chemical pollutants, there has been growing Health Department involvement with this issue. Mr. Willis provided a list of common pollutants and discussed common contaminants

and symptoms. Mr. Willis stated that although Skagit County is not a suspect area for radon gas contamination, the Health Department is suggesting study of a test area in Skagit County to offer reasonable reassurance about the presence or absence of radon gases. He stated that at a cost of \$10.00 per test, between \$500 and \$1,000 total would be spent on testing materials for tests which he has the expertise to perform. Mr. Willis stated that he would seek State level expertise for determining test sites.

The Board requested that Carolyn Milat, Health Department Director, check for funding within her department's budget and return with a recommendation.

4) Laboratory Update - Joanne Lynn.

Due to lack of time, the Board rescheduled this discussion to a later date.

PUBLIC WORKS DEPARTMENT - MARK SPAHR, DIRECTOR:

1) Public Hearing: Open Unopened Right-of-Way Lake Cavanaugh Road.

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

Commissioner Wylie disclosed that she had visited the site with employees of the Public Works Department earlier this week. Chairman Rohrer disclosed that he is also familiar with the road, having performed construction work on it in the 1940's.

Mark Spahr stated that the Public Works Department has received a request from the Georgia Pacific Corporation to open County right-of-way on Lake Cavanaugh Road in Subdivision 3, between lots 20 and 21 of Block 2. He located the area on a vicinity map. Mr. Spahr stated that the request has presumably been made to facilitate logging of Georgia Pacific holdings on Fraley Mountain. Mr. Spahr read a list of names of citizens who wrote with concerns about this logging. Mr. Spahr said that the content of the letters revolve around issues dealing with drainage, erosion, contamination of the lake waters, failed septic systems, degradation of the water quality, reduction in property values, and property damage from erosion of soil. Additionally mentioned were aluvial deposits from the unstable soil on Fraley Mountain, as well as impacts on the areas wildlife.

Mr. Spahr stated that there is a question of whether the County, by law, can deny Georgia Pacific legal access to their property. Mr. Spahr provided an Engineer's report submitted by Mary Cherberg, Office Engineer, which recommends the opening of the right-of-way, but recommends seven conditions, among which is the stipulation that if a logging operation is anticipated, Skagit County must be notified at least 60 days in advance to review potential drainage issues, traffic safety impacts, and proposed standards for a logging road access. Additionally, the road in question is quite narrow, with a rock outcropping encroaching upon the road in one spot, and limited sight distance on some curves. Considerable log truck traffic would be a cause for some concerns by the Public Works Department.

Dave Chamberlain, representing Georgia Pacific in Bellingham, referred to a

letter of July 21, 1989, from Georgia Pacific to the Board. He discussed the history of Georgia Pacific's acquisition of the land, and subsequent sale of adjacent lots which provided an alternate method of access to Subdivision #3. He stated that the company always believed that access could be obtained via opening of unopened County right-of-way, and had there ever been a doubt of this, the company would not have sold all the adjacent lots. Mr. Chamberlain read from documents filed at the time of the 1952 transaction which transferred the lands from Ralph A. and Blanche E. Wood to Puget Sound Pulp and Timber Company, the forerunner of Georgia Pacific, containing assurances of an easement for access. Finally, Mr. Chamberlain stated that Georgia Pacific has always been a good neighbor to residents and will not change. He stated the company will either maintain the lands as a tree farm, or will sell the lots for development.

Mr. Chamberlain answered the questions of Chairman Rohrer, stating that the company is, at this time, landlocked. John Moffat, Chief Civil Deputy, stated that he would research the question of landlocking. Commissioner Vaux stated that with the increasing environmental concerns over logging, it is becoming more and more difficult to obtain forest practice permits.

Chairman Rohrer then disclosed that 22 letters and one phone message have been received in opposition to the opening of the right-of-way, while one phone message was received in favor.

Dick Schutter, 4028 N.E. 185th Street, Seattle, stated that he has been a property owner on Lake Cavanaugh since 1982, and represents other property owners in the area. He stated that the property owners recognize the right of Georgia Pacific to utilize their lands; however, they have concerns regarding the County's opening of the road as a connective link to the logging operation. They feel it sets a precedent for other planned operations in the area. He stated that he understands Georgia Pacific is planning to log 40 to 50 acres for their first cut of the 200 acres owned on the ridge. He stated that the land is unstable and the cutting poses public safety issues. He discussed those issues, as well as the vacillating level of the lake and the high level of rainfall experienced yearly by the area. He requested denial of the permit until all issues raised have been addressed. He stated that a number of neighbors would like to give first hand testimony as to their concerns, and that they are willing to spend their time and efforts in researching the history of the area. He felt an Environmental Impact Statement should be required.

In view of the fact that insufficient time had been allotted to give all those who wished to an opportunity to speak, Commissioner Wylie motioned to continue the public hearing to Wednesday, August 16, 1989, at 7:00 p.m., in Hearing Rooms A, B, and C of the County Administration Building. Commissioner Vaux seconded the motion. The motion passed unanimously.

2) Public Hearing: Establishment of Brookings Road Extension.

Chairman Rohrer waived the reading of the Notice of Public Hearing, as published in The Skagit Argus on July 11 and 18, 1989.

Mr. Spahr presented an Engineer's Report, which recommended extension of at

least 50 feet of Brookings Road to eliminate access problems for neighbors of the Brookings Road. Mr. Spahr stated that the road in question, which he located on a vicinity map, has been assumed by many to be a County road for a number of years. Mrs. Dixie Proctor, who owns land adjacent to Brookings Road actually sold a strip of property that provides access to her home, assuming she had access via Brookings Road. The first 20 feet of the proposed extension belongs to George Brookings, who is willing to dedicate the land for the extension. The next 30 feet belong to the McNabs. Should the County only extend the road 50 feet, Mrs. Proctor would have access to her home, but would not have sufficient access to the land beyond her home, if she would ever want to develop it in any way.

Tom Moser, an attorney representing Mrs. Dixie Proctor, stated that George Brookings conveyed the land on which Brookings Road is located to the Morans, who then sold to the McNabs. Mrs. Proctor currently runs a dead animal service from her property, and has a licensed gravel pit located on her property as well. Mr. Moser provided photos of the road, and stated that neighbors will concur in the fact that they assumed the County owned the road. He stated that school buses and postmen use the road as a turn-around. Mr. Moser stated that in 1971 Mrs. Proctor gave 20 feet of her land to her neighbor, George Brookings, to legalize his holdings, but effectively landlocked herself because of this. She now owns 77 acres in the area. Mr. Moser requested that the Board extend the road at least an additional 10 feet to allow Mrs. Proctor the possibility of obtaining a variance for development of the land beyond her residence. He stated that she has no intention at this time of doing so, however, would like to be able to do so in future, if she so desires. Mr. Moser stated that Grip Road neighbors Mr. and Mrs. Metcalf and Mr. and Mrs. Lovett are in attendance to support Mrs. Proctor's claim. Mr. Moser provided a letter from former Skagit County employee Calen Parish, which testifies to the County's year-round maintenance of Brookings Road, under the assumption that it is, indeed, a County road.

Gary Jones, an attorney representing Mr. and Mrs. McNab, stated that his clients own the property west of the subdivision line. He stated that a disagreement on the property line necessitated a survey in the late 70's to establish the present property line. He stated that the McNab's are willing to allow access to the Proctor property via a 50 foot extension of Brookings Road, but are opposed to any additional extension because of their opposition to the development of any more of the Proctor property. He stated that the access of the postman and school buses is for convenience only, and in no way establishes the road as belonging to the County.

Mrs. Proctor then made a statement. She said she purchased the property in 1963, and always believed Brookings Road was a county road, as it was signed and maintained as such.

Chairman Rohrer questioned whether the McNabs were prepared to undertake repairs if the culvert placed by the County washes out or if the road deteriorates, to which Mr. McNab stated there would be no problem.

Mr. McNab stated that at the time of his purchase of the property, he consulted a realtor about the road. His attorney, Hugh Ridgway, also reviewed and approved his deed. As a further safeguard, he consulted the Skagit County

Public Works Department and was informed by Mark Watkinson that the road located on his property was not a County road. He was also notified that the road sign would be removed. Mr. McNab believes Mrs. Proctor was also aware of this fact at the time. Mr. McNab refuted the fact that the County had ever performed year-round maintenance on the road.

Mr. Moser gave further evidence of County maintenance of the road. Mr. Jones stated that, should the County attempt to take more than 50 feet for an extension of the road, a potential ownership suit may follow, or at least compensation of the McNabs should occur.

Mr. Moser and Mr. Jones then argued the legalities of claiming of property by usage.

Commissioner Wylie stated she felt a need to visit the site to determine the present state of repair of the road, and also to consult with Chief Civil Deputy John Moffat. Commissioner Wylie motioned to continue the public hearing to Wednesday, August 2, 1989, at 11:00 a.m., at the site of Brookings Road in Sedro Woolley. Commissioner Vaux seconded the motion. The motion was unanimously approved.

3) Call for Public Hearing: Vacation of County Right-of-Way State Turn-Back - Burlington.

Commissioner Wylie motioned to call for a public hearing on Monday, August 21, 1989, at 10:30 a.m., to consider the vacation of a portion of a State Turnback located near Interstate 5 in Burlington. Commissioner Vaux seconded the motion, which passed unanimously. (Resolution #12138)

4) Call for Public Hearing: Restricting Truck Traffic on South Front Street, Clear Lake.

Commissioner Wylie motioned to call for a public hearing on Monday, August 21, 1989, at 10:30 a.m., to consider restricting truck traffic on South Front Street in Clear Lake, from State Route 9 to Beaver Lake Road. Commissioner Vaux seconded the motion. The motion passed unanimously. (Resolution #12139)

5) Signature: Ordinance Lowering Speed Limit on South Front Street, Clear Lake.

In accordance with action previously taken, the Board approved for signature an ordinance lowering the speed limit on South Front Street in Clear Lake, from State Route 9 to Beaver Lake Road, from 35 m.p.h. to 25 m.p.h. (Ordinance #12140)

6) Signature: D.O.E. Flood Control Grants.

The Board approved for signature flood control grants with the Department of Ecology as follows:

- a) Steelhead Park river bank repair: \$10,000 (50% local match)
- b) Dike District #1 dike improvement: \$20,474 (50% local match)
- c) Swinomish Channel dike improvement: \$16,883 (50% local match)

- d) Dike District #17 dike improvement (maintenance): \$20,103
(50% local match)
- e) Nookachamps Creek dike improvement (maintenance): \$14,245
(50% local match)

7) Resolution: Interdepartmental Transfer of Motor Vehicle.

Commissioner Wylie motioned to adopt the resolution authorizing the inter-departmental transfer of a 1981 Chevrolet Citation two-door sedan from the Prosecuting Attorney's Office to the County's Equipment Rental and Revolving Fund No. 501, the unit having a value of \$2,000 at the time of transfer. Commissioner Vaux seconded the motion. The motion was unanimously approved. (Resolution #12141)

8) Signature: Amendment No. 1 for Time Extension - D.O.E. Grant for Ground Water Monitoring Wells.

The Board approved for signature amendment #1 to the Department of Ecology Grant #89042, extending the Skagit County Ground Water Monitoring Wells Grant from May 15, 1989, to October 31, 1989, and resulting in revised completion dates.

9) Miscellaneous.

There were no miscellaneous items from the Public Works Department.

MISCELLANEOUS ITEMS.

There were no miscellaneous items for presentation at this time.

Chairman Rohrer's absence was excused for the following items.

BID OPENING: CONCRETE SENIOR CENTER ENERGY CONSERVATION INDOOR AND OUTDOOR LIGHTING.

Commissioner Wylie waived the reading of the Notice of Call for Bids, as published in The Skagit Argus on June 24 and July 4, 1989.

The following bids were received and opened:

- a) Skagit-Island Electric, Inc.
1579 Dunbar Road
Mount Vernon, WA 98273

Base Bid Total: \$5814.00
Additive Alternate #1 (Lobby): \$1,041.00
Additive Alternate #2 (Office): \$1,314.00
- b) Fountain Electric
776 B Hobson Road
Bow, WA 98232

Base Bid Total: \$3,126.00

Additive Alternate #1 (Lobby): \$420.00
Additive Alternate #2 (Office): \$420.00
Other Proposed Conservation Measures: Remove existing fixtures and
add two 22 w circleline fixtures in unheated hall: \$199.00

Commissioner Vaux motioned to award the bid to the lowest bidder, Fountain Electric, for the bid listed above. Commissioner Wylie seconded the motion. The motion carried and was so ordered.

MISCELLANEOUS ITEMS.

- A. Commissioner Vaux motioned to adopt the resolution of the Senior Services Department, awarding the bid for Senior Catered Meals for the calendar year 1990 to Island Hospital, Anacortes, Washington, for the bid price of \$2.27 for hot home-delivered meals, \$2.02 for hot congregate meals, and \$1.35 for frozen home-delivered meals. Commissioner Wylie seconded the motion. The motion carried and was so ordered. (Resolution #12142)
- B. Commissioner Vaux motioned to call for bids for senior catered meals for the 1990 calendar year, no bids having been received the first time for services to some areas. Commissioner Wylie seconded the motion. The motion carried and was so ordered. (Resolution #12143)
- C. The Board briefly discussed janitorial services for the Mount Vernon and Concrete Senior Centers with Tim Holloran, Director of the Senior Services Department.
- D. Commissioner Vaux motioned to adopt the Records of the Proceedings from Monday, July 17; Tuesday, July 18; and Wednesday, July 19, 1989, as submitted. Commissioner Wylie seconded the motion. The motion carried and was so ordered.
- E. The Board approved for signature the following Petition for Property Tax Refund:
- a) Continental, Inc., J/M Martin L/E, 8th Floor, Pacific Building, Seattle, WA 98104, in the amount of \$173.05, due to a senior citizen exemption. (006789)
- F. The Board approved for signature a contract between D.S.H.S. and the Skagit County Human Services Department for \$4,282.00 for an inter-agency project which will be carried out by the Skagit Youth Services Coalition via its Birth to Six Committee. The Human Services Department will act as a pass-through for the funds, which are intended to help identify young children who are at risk of being developmentally delayed, and to provide early services to correct the problem.

A. REID ALLISON APPEAL OF HEARING EXAMINER'S DECISION REGARDING VARIANCE REQUEST #V-89-020 OF CHARLES HAND.

Commissioner Wylie explained to the audience the consequences of a split vote between the two commissioners present. No representative of the appellant,

Mr. Allison, was present to object to the hearing of the appeal, therefore,

the proceedings continued.

Grace Roeder, Associate Planner, explained that the appeal was first scheduled for July 11, 1989, at which time Mr. Allison was not represented. Mr. Allison was contacted at the time designated for the hearing of the appeal at his office in California. He requested a delay of the appeal until mid-August, or in lieu of a delay, phone conference capability at the next scheduled date for the appeal. Mr. Allison was informed that the appeal would continue with or without him, in fairness to Mr. Hand. The appeal was rescheduled, and after consultation with Chief Civil Deputy John Moffat, it was determined that telephone conference via a speaker in the hearing room would not be allowed. Mr. Allison was recontacted with this information. Mr. Allison indicated that he would not attend today.

Commissioner Vaux and Commissioner Wylie were in agreement that further delay was inappropriate, and directed that Mr. Allison's written appeal and accompanying written documents should act as his representation in his absence.

Ms. Roeder presented staff photos of the site, a site plan submitted by Mr. Hand, and an assessor's map. Mr. Hand also submitted a hand-drawn scale map of his property that is part of the Hearing Examiner's record.

Ms. Roeder stated that a public hearing was held on June 7, 1989, to consider Mr. Hand's variance request to locate an accessory structure for storage of furniture and personal items on a parcel of property without a primary structure. The structure would also shelter a motorhome during times when Mr. Hand is visiting in the area. The Hands intent to build a residence on the subject property at 837 Samish Island Road, Bow, at some undetermined time in the future. Ms. Roeder read from applicable sections of the Skagit County Code, and a written policy regarding review of variation requests. She stated that the Planning Department made a recommendation for approval of the request, which was affirmed by the Hearing Examiner on June 11, 1989. Four minor conditions were attached to the approval.

Ms. Roeder then summarized Mr. Allison's appeal and attached affidavit and comments, which had previously been submitted in their entirety for the Board's review. Mr. Allison asks for denial of the variance by the Board, based upon a number of factors including neighborhood impact, reduction of property values, and non-conformance to the applicable laws governing granting of variances. Ms. Roeder explained that denial of the variance is not among the options available to the Board. Ms. Roeder stated that the Board may exercise any of the following options:

- 1) To uphold the decision of the Hearing Examiner.
- 2) To remand the matter back to the Hearing Examiner for further consideration.
- 3) To call for the Board's own public hearing to consider testimony on the matter.

Mr. Hand was then given an opportunity to speak. He stated that he intends to construct a 40 foot by 60 foot pole building with metal siding, with a roof extension on one side to shelter his motorhome. He stated that the finished

height of the building will be 24 feet at the peak. He stated that he plans to fully finish the building in anticipation of his impending retirement and construction of a residence on the property. He indicated that an on-site sewage system for a three bedroom home has already been installed and approved, and that he is in the process of installing permanent electrical hook-up to the site.

There being no further comments from the audience, Commissioner Vaux made a motion to uphold the Hearing Examiner's decision regarding Variance Request #V-89-020 of Mr. Charles Hand. Commissioner Wylie seconded the motion. The motion carried and was so ordered.

UPDATE - COMPREHENSIVE PLANNING - SWINOMISH INDIAN RESERVATION.

John Moffat, Chief Civil Deputy, opened the discussion with an update on a recent Supreme Court decision regarding land use jurisdiction on the Yakima Indian Reservation. He summarized the decision, stating that, where reservation land has been sold to the public, the tribe no longer has jurisdiction for land use decisions. Where area within the reservation remains "closed", the tribe retains the power to regulate land use. He stated that a criterion for establishing "closed" land is that no County roads exist there. "Open" area contains County roads and services. By way of background, Mr. Moffat explained that in the 1890's a statute was enacted enabling tribes to convey lands to tribal members. Those members then in turn were able to convey that land to non-Indian buyers. A 1930's statute prohibited this transfer of reservation lands to non-Indian buyers; however, those lands previously sold have formed a "checkerboard" pattern of fee simple and tribal owned land within reservations. Mr. Moffat explained that virtually all of the Swinomish Reservation is "open" area and subject to County jurisdiction, if fee simple.

Gary Christensen, Associate Planner, explained that in view of this "checkerboard" pattern of zoning and the recognized need to coordinate land use planning, Skagit County signed a Memorandum of Understanding (MOU) with the Indian Tribal Community on March 17, 1987. The MOU provides for a Advisory Planning Board to oversee the implementation of a joint comprehensive planning process. The two groups must work together to submit a draft comprehensive plan to this Advisory Board for review and approval. Mr. Christensen stated that during the past 1-1/2 years, efforts have been made to complete this comprehensive plan. In the interim, an interlocal agreement is required by the MOU to establish joint review procedures for a number of land use actions. Mr. Christensen also provided a brochure distributed by the Northwest Renewable Resources Center which explains this intergovernmental cooperation. Mr. Christensen stated that the release of a draft comprehensive plan is impending, with a number of sections completed already. Under SEPA guidelines, an Environmental Impact Statement must also be completed, and then public meetings and workshops will be held. It is hoped that sometime this fall, a public hearing can be scheduled to consider formal adoption of the plan.

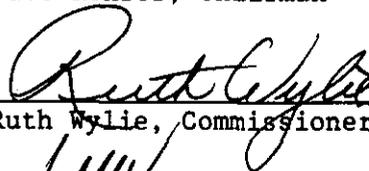
ADJOURNMENT

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

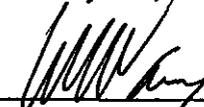
BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



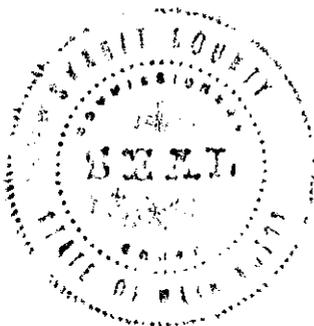
Dave Rohrer, Chairman



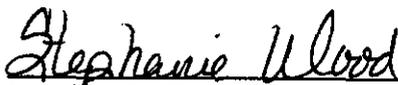
Ruth Wylie, Commissioner



W. W. Vaux, Commissioner



ATTEST:



Stephanie Wood, Clerk
Skagit County Board of Commissioners