

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

Tuesday, October 31, 1989

9:00 a.m. Senior Services Department - Tim Holloran, Director:

- 1) Discussion - Cities' Interlocal Agreement for Senior Services.
- 2) Signature - Northwest Regional Council Contract.

MISCELLANEOUS ITEMS.

10:00 a.m. Discussion - Standards for Indigent Public Defense Services.

2:00 p.m. Kenneth R. Renner Appeal of Hearing Examiner's Decision Regarding Application for Shoreline Substantial Development/Variance Permit #10-88.

MISCELLANEOUS ITEMS.

The Skagit County Board of Commissioners met in regular session on Tuesday, October 31, 1989, with Commissioners Dave Rohrer, Ruth Wylie and W. W. Vaux present.

SENIOR SERVICES DEPARTMENT - TIM HOLLORAN, DIRECTOR:

- 1) **Discussion - Cities' Interlocal Agreement for Senior Services.**

The Board briefly discussed with Mr. Holloran the effort to relocate the Anacortes Senior Center from its present location at the Anacortes City Hall to another location.

Mr. Holloran then presented to the Board a breakdown showing each city senior center, and each city's contribution for their centers for each year from 1980 to the present. Also included were proposed interlocal funding amounts for 1990. Mr. Holloran noted that a number of cities, particularly Mount Vernon, should be asked to contribute more to their programs this year. Mount Vernon is particularly singled out because Skagit County owns their senior center and pays for maintenance of the building. Mr. Holloran noted that the City of Sedro Woolley makes an outstanding effort to support their senior center, building their own center with community support, and contributing extra funds for maintenance and upkeep. Mr. Holloran did point out that the City of Concrete is probably not in a position to increase their contributions; however, since the City of Mount Vernon's contribution has remained the same since 1985, he felt at least they should be approached.

The Board volunteered to attend meetings to negotiate with each of the cities with Mr. Holloran. Mr. Holloran offered to schedule a meeting with officials from the City of Mount Vernon as soon as possible, but stated that some funding may have to be raised next year, as some cities' budgets are already set for this year.

2) Signature - Northwest Regional Council Contract.

The Board approved for signature a form acknowledging the Northwest Regional Council's Assessment Results of the Skagit Nutrition Project.

The Board also approved for signature an amendment to Contract #89-3110-06(02) with Northwest Regional Council to incorporate additional funds awarded under Title XIX non-COPES Case Management.

MISCELLANEOUS ITEMS.

- A. The Board approved for signature a Rafters Agreement with Wildwater River Tours of Federal Way to conduct commercial float trips down the Skagit River and exit onto County property commonly known as Howard Miller Steelhead Park. The contractor is to pay a deposit of \$100 to the County, must pay \$1.00 per person exiting the Skagit River onto County property, and shall be granted a rafters permit from October 1, 1989, to September 30, 1990.
- B. The Board approved for signature a Contract for Professional Services with Bob Miller of Ferndale to remove the top of a dangerous tree that is leaning over the road and presenting a potential hazard to park users, for compensation of \$125, to commence on October 27, 1989, and continue to December 31, 1989.
- C. The Board approved for signature the following Petitions for Property Tax Refunds:
 - a) Delphine Haley and Ferdie Businger, 436 W. Shore Drive, Anacortes, WA 98221, in the amount of \$665.12, due to a manifest error on improvements to the building site. (012089)
 - b) Bradley W. Walden, 1819 Echo Hill Road, Sedro Woolley, WA 98284, in the amount of \$224.75, due to the destruction of the property affidavit filed under #89-48. (012189)
 - c) Francisca G. Lopez, 2006 Skagit City Road, Mount Vernon, WA 98273, in the amount of \$126.81, due to a senior citizen exemption. (012489)

DISCUSSION - STANDARDS FOR INDIGENT PUBLIC DEFENSE SERVICES.

John Moffat, Skagit County Chief Civil Deputy, opened the discussion by reviewing his memos of October 5 and October 25, 1989, in which he reports that Section 4 of Chapter 409 of the Laws of 1989 requires counties to set standards for the provision of indigent public defense services. He read Section 4, noting that the standards must include such things as compensation of counsel, duties and responsibilities, case load limits, expenses, support services, qualifications of attorneys, etc. He stated that the purpose of today's meeting is to discuss establishing and implementing such standards. He referred to a copy of the Washington Defender Association Standards for Public Defense Services, which he stated may act as guidelines in the establishment of standards for Skagit County.

In answer to questions from Prosecuting Attorney Mike Rickert, Rob Jones, County Public Defender, indicated that there is a movement in the Seattle area

to create a State public defender organization with a bureaucracy in Olympia that would administer the group. The purpose of the standards would be to create uniform guidelines for a state-wide office. Regarding the guidelines provided by the Washington Defender Association, Mr. Jones noted that these are only guidelines, and that there are several shortcomings in the guidelines that will need to be addressed.

Robert W. Taylor, Administrative Officer, clarified that there are presently no standards in effect for the Office of the Public Defender.

Gray Foster, Assigned Counsel Coordinator, noted that we are in compliance with applicable laws for client eligibility determination; however, the recoupment process requires some attention. She gave information on how portions of Chapter 409 came about.

George McIntosh, Court Commissioner, suggested that representatives from different facets of the Skagit County criminal justice system meet to compile standards for submittal to the Board.

Commissioner Vaux wished to make clear to the committee that standards should be formulated that do not obligate Skagit County to increase funding in order to comply with the standards.

The Board agreed to Mr. McIntosh's suggestion, directing Robert W. Taylor, Administrative Officer, to formulate a group whose goals will be the presentation of draft standards by December 31, 1989.

CONTINUATION OF PUBLIC HEARING - 1990 SOLID WASTE DISPOSAL RATES.

Mark Spahr, Public Works Department Director, showed graphs and tables used in previous meetings to demonstrate the use of 5.2% as a projected growth rate factor. He stated that when applied to the revenue summary presented yesterday, a \$150,000 reduction would be realized. Mr. Spahr stated, however, that it has recently become apparent that Skagit County will need to engage in a more efficient method of metal separation at the incinerator. He recommended that the rates recommended at the previous meeting be adopted, and that \$50,000 that is projected due to growth of the solid waste program be used for study of the issue of metal separation, and that \$100,000 be used to reduce the Solid Waste Fund debt to the Road Fund.

Commissioner Vaux noted that when the incinerator was first being contemplated, the D.O.E. insisted that the County prove that the fly ash byproduct would be separated from the bottom ash. Now, he stated, the D.O.E. has reversed their position and insists the two be combined to promote metal separation.

Mr. Spahr discussed the marketability of ferric metals that can be separated from the ash. He stated that the metals must be clean in order to realize their full market potential. Mr. Spahr indicated that the current recycling contractor, C&D Salvage, has been asked to submit a proposal for removing metals from the incinerator's waste stream to facilitate the improvement in

metal separation. Mr. Spahr noted that we have 18 months in which to demonstrate that the incinerator's ash has been separated of metals, and that it may be possible to obtain recycling grant money for the project.

In answer to questions from Commissioner Vaux, Mr. Spahr stated that, based on the information now available to the Public Works Department, the rates proposed for disposal of petroleum contaminated soil are adequate to cover their handling, but that the rates may need to be increased as more soil is handled and better figures are available.

Chuck Decker of C&D Salvage thought the County should provide incentives to those delivering small loads to separate and recycle materials. He suggested rebates or coupons for decreased dumping rates.

Terry Knudsen of Rural Sanitation expressed the following:

- Disposal of split tires is increasing from \$36 per ton to \$57 per ton. It is expensive to have tires split, and the rate raise for this item is greater than for others.
- The rates for disposing of asbestos and catalyst have been increased too much.
- Through revision of figures, the total revenues presented today are shown to be \$200,000 higher than those presented at the first public hearing session.

Mr. Ness gave a lengthy explanation on the disposal of tires, asbestos and catalyst, stating that the cost of handling is greater for these items.

Mr. Knudsen maintained his arguments, stating that if the County raises rates to compensate for the cost of handling on one item, it should raise them for all, not just random items.

There being no further comment, Commissioner Wylie motioned to close the public hearing. Commissioner Vaux seconded the motion, which was unanimously approved.

Incidentally, Mr. Spahr stated that Rebecca Voerman, Recycling Coordinator, did speak with D.O.E. regarding a grant to build a tire recycling facility in Skagit County, as suggested by Mr. Bockelman at yesterday's meeting. Ms. Voerman stated that the D.O.E. is in the process of preparing guidelines for tire recycling grants at this time, and she will keep abreast of the developments of the grant applications.

Commissioner Vaux made a short statement, and then motioned to approve the resolution submitted by the Public Works Department, establishing 1990 solid waste disposal rates. Commissioner Wylie seconded the motion, which passed unanimously. (Resolution #12269)

KENNETH R. RENNER APPEAL OF HEARING EXAMINER'S DECISION REGARDING APPLICATION FOR SHORELINE SUBSTANTIAL DEVELOPMENT/VARIANCE PERMIT #10-88.

Oscar Graham, Associate Planner, gave the following chronology of events regarding Mr. Kenneth Renner's continuing attempts to receive a shoreline

substantial development/variance permit to allow construction of a boathouse on the shoreline of Lake Cavanaugh.

03/10/89 The Board of Skagit County Commissioners passed Resolution #11962, setting forth two options for construction of a boathouse by Mr. Renner, summarized as follows:

- 1) Construct a boathouse no larger than 25 feet long by 14 feet wide by 12 feet high which is set back a minimum of 50 feet landward of the Ordinary High Water Mark (OHWM).
- 2) Construct a boathouse no larger than 30 feet long by 12 feet wide by 14 feet high set back a minimum of 150 feet landward of the OHWM.

Additionally, the resolution established the OHWM as coinciding with an existing rock bulkhead in Lake Cavanaugh.

03/20/89 The Planning Department sent a packet of information on the Renner application to the Department of Ecology for review and consideration.

04/25/89 The Planning Department received a request from the DOE for a binding site plan, indication of which option Mr. Renner wished to exercise from Resolution #11962, and other information.

07/21/89 The Planning Department met with Mr. Renner to discuss his building permit and an application was submitted by Mr. Renner for a building permit.

08/03/89 A letter was sent to Mr. Renner from the Planning Department outlining the permitting process.

08/16/89 The Planning Department received an administrative appeal from Mr. Renner regarding the Department's direction that Mr. Renner either complete the shoreline permit application with DOE or withdraw his application.

08/22/89 DOE returned Mr. Renner's packet.

09/06/89 The Hearing Examiner upheld the decision of the Planning Department.

09/12/89 The Planning Department received a reconsideration request.

09/19/89 The Hearing Examiner denied the reconsideration request.

Mr. Graham provided a packet of information to the Board, which contained the correspondence mentioned, as well as the Hearing Examiner's order and Mr. Renner's appeal.

Mr. Graham 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.

Chairman Rohrer reminded the audience that no new evidence may be presented at an appeal proceeding.

Mr. Renner then gave his statement. He stated that after 03/10/89 and before 03/20/89 he had a conversation with Mr. Graham in which Mr. Renner indicated that 150 feet from the OHWM there is a stump blocking construction, necessitating that any construction be moved back to 200 feet from the OHWM. Mr. Renner stated that at that time, Mr. Graham indicated that he would issue a building permit for the boathouse. Afterwards, Mr. Renner stated, Mr. Graham apparently changed his mind and told Mr. Renner that he would have to receive approval from the DOE before a building permit could be issued.

Mr. Renner stated that he has spoken with representatives from the DOE, who say that it is unusual and irregular for the Planning Department to submit site drawings from an original plan which was not allowed and a resolution containing two options, without indicating which option is to be chosen. They stated that normally a well defined package would be submitted. Since then, Mr. Renner has submitted his current plans to DOE.

Furthermore, Mr. Renner asserted, he asked the DOE if a structure was built over 200 feet from the OHWM if the DOE would be interested as pertains to a shoreline permit, to which the representative answer no, however, they would be interested in any boat launching rails. Mr. Renner stated that he felt the Board would see that there was enough controversy surrounding the handling of his permit to warrant calling for their own public hearing to receive new testimony on the matter.

Mr. Renner then began a statement on the application of WAC 173.14.064 to his situation. At this point he was interrupted by Commissioner Vaux, who asked what remedy Mr. Renner is seeking. Mr. Renner replied that he wishes the Planning Department to abide by WAC 173.14.064 and issue him a building permit.

Mr. Renner went on to list the salient points of his appeal as follows:

- The date of the written application for the boathouse was listed incorrectly by the Planning Department.
- The packet of information received back from the DOE was returned to Mr. Renner with a letter stating that the packet must be returned until the appeal process has ended, not because DOE had refused to consider the request.
- Allen T. Miller, Assistant Attorney General for the DOE, was contacted by Mr. Renner and allegedly stated that the Hearing Examiner was wrong when he cited WAC 173.14.064 in his final order. Mr. Renner read excerpts from WAC 173.14.064 which, in summary, indicates that certain revisions may be made to permits. Mr. Renner maintains that he, after receiving Shoreline Substantial Development Permit #1989-10237 from Skagit County, may make revisions to his permit, according to the WAC.

Mr. Renner discussed the cases DOE v. Kirkland and Merkel V. Port of Brownsville, which he noted were cited in the final order of the Hearing Examiner. He maintained that these cases were not germane to his permit, and that the Hearing Examiner takes statements from the cases out of context. He accused the Hearing Examiner of exercising judicial authority that he does not possess.

Commissioner Wylie clarified that on 07/22/89, Mr. Renner gave formal notification of which option he intended to exercise.

Glen Moses, 606 1st Street, Snohomish, WA, gave the next statement. Mr. Moses owns the easement on which Mr. Renner plans to construct his boathouse. A Superior Court decision has previously affirmed Mr. Renner's right to do so. Mr. Moses asked that the decision of the Hearing Examiner be upheld so that the appeal process may run its course. He stated that on 03/27/89, his attorney, Paul Taylor, wrote to Mr. Renner, asking which option was being chosen, and when a building permit would be requested. Follow up letters were sent on 04/07/89 and 06/05/89, but Mr. Renner never indicated which option he would choose. Mr. Moses pointed out that, although Mr. Renner maintains that Mr. Graham was fully aware of which option he had chosen ever since their meeting of 03/20/89, Mr. Renner refused to indicate to Mr. Taylor what that option was. Mr. Moses stated that on 09/26/89, he filed lawsuits against Mr. Renner to determine real estate rights, and requested a temporary and permanent injunction against the construction of the boathouse.

Commissioner Wylie asked if Mr. Renner wanted a building permit for just the boathouse at this time. Mr. Renner answered that yes, he wished to build just the boathouse for now, but will pursue the rails at a later date. He indicated that Mr. Moses' lawsuit should not be considered in the Board's deliberations on Mr. Renner's appeal. Mr. Renner noted that Assistant Attorney General Miller had advised him to file an appeal with the State Shorelines Hearing Board, if he was unable to settle with the County. Mr. Renner expounded on the bureaucratic mishandling of his case, suggesting that some type of ombudsman's office be developed in Skagit County for handling complaints against negligent departments and their personnel.

Betsy Steven, Assistant Planning Department Director, refuted Mr. Renner's claim that WAC 173.14.064 applies to Mr. Renner's case. She stated that Mr. Renner actually does not have a permit because any document issued by Skagit County must first be approved by the DOE before it is valid. She stated that the DOE has neither issued nor denied the shoreline permit, therefore it cannot be revised.

Commissioner Vaux discussed with Ms. Stevenson and Mr. Graham the implications of a "stand alone" building, as pertains to DOE involvement. Ms. Stevenson stated that Mr. Renner was given the option of building his boathouse 150 feet from the OHWM and withdrawing his application for a shoreline permit for the rails, or to construct a boathouse with rails 50 feet from the OHWM and complete the shoreline permitting process. She stated that Mr. Renner has committed to neither option.

Commissioner Vaux made a statement that he felt the issue would never be resolved to either party's satisfaction. He stated he understood the intent

of Resolution #11962 was not to allow for a stand alone building, but for the rails and boathouse to be considered as one element. He asked Mr. Renner why he was against completing the shoreline permitting process.

Mr. Renner responded that the process takes one year, and that he has spent 16 months in deliberations over the project as it is. Mr. Renner again encouraged the Board to verify his claims with Assistant Attorney General Miller.

Mr. Moses noted that during the first of Mr. Renner's appeals to the Board, Mr. Renner had emphasized the importance of the rails and boathouse as a unit, citing an inconvenience in using the launching facility some three miles distant. Mr. Moses felt that now Mr. Renner was attempting to "get a foot in the door" by constructing the boathouse, so that later he could claim a desperate need for the rails.

Mr. Renner again brought up his telephone consultation with Assistant Attorney General Miller, encouraging the Board to verify his story.

Mr. Graham made two points regarding Mr. Renner's arguments. He stated that Mr. Renner has no permit, so is unable to apply the implications of WAC 173.14.064 to his situation, and secondly, had a site plan been submitted when it was requested by the Planning Department and DOE, Mr. Renner's shoreline permit process would have been complete by now. Mr. Graham also recommended that Mr. Renner commit to an option, either withdrawing his shoreline permit request or following through with it.

Commissioner Wylie clarified that Mr. Renner did apply for a building permit, and that he can receive that permit if he either withdraws his shoreline permit application or follows through and receives a shoreline permit.

When asked by Commissioner Wylie why he did not follow through with the shoreline permit, Mr. Renner insisted that he has a permit and is allowed to change it in accordance with WAC 173.14.064. He accused the Planning Department of manufacturing a new procedure to hinder his project, and of incompetence in the handling of his requests.

The Board agreed that time should be spent in research and study of the issue, and Commissioner Wylie motioned to continue the discussion to Thursday, November 2, 1989, at 1:30 p.m. Commissioner Vaux seconded the motion, which carried unanimously.

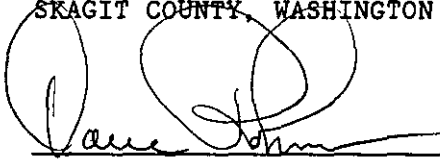
MISCELLANEOUS ITEMS.

There were no miscellaneous items for discussion at this time.

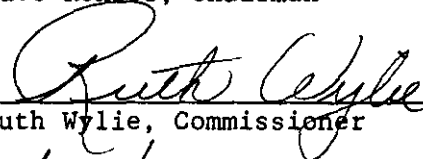
ADJOURNMENT

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

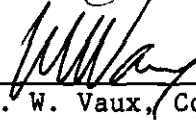
BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



Dave Rohrer, Chairman



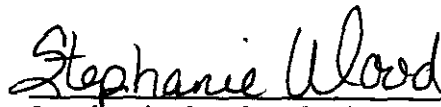
Ruth Wylie, Commissioner



W. W. Vaux, Commissioner



ATTEST:



Stephanie Wood, Clerk
Skagit County Board of Commissioners