

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS

Tuesday, January 9, 1990

- 8:45 a.m. Call for Public Hearing - Supplemental Budget - Juvenile Probation Department Budget.
- 9:00 a.m. Ronald and Judy Nichols Appeal of Hearing Examiner's Decision Regarding Variance Request #V89-050 of Fred Aiken.
- 10:00 a.m. Public Hearing - Moratorium on Residential Building Permits on Agriculturally Zoned Land.
- 11:00 a.m. Treasurer's Office - Personal Property Write-Offs.
- MISCELLANEOUS ITEMS.
- 2:30 p.m. Planning Department Miscellaneous Items.
- MISCELLANEOUS ITEMS.

The Skagit County Board of Commissioners met in regular session on Tuesday, January 9, 1990, with Commissioners Ruth Wylie, W. W. Vaux and Dave Rohrer present.

CALL FOR PUBLIC HEARING - SUPPLEMENTAL BUDGET - JUVENILE PROBATION DEPARTMENT BUDGET.

Commissioner Vaux motioned to call for a public hearing on Tuesday, January 30, 1990, at 11:00 a.m., to consider a supplemental budget for substance abuse treatment grant funds to the Juvenile Probation Department budget of the Current Expense Fund #001. Commissioner Rohrer seconded the motion, which passed unanimously. (Resolution #12359)

RONALD AND JUDY NICHOLS APPEAL OF HEARING EXAMINER'S DECISION REGARDING VARIANCE REQUEST #V89-050 OF FRED AIKEN.

Chairman Wylie asked the Planning Department to open the discussion and present information on the appeal.

Grace Roeder, Associate Planner, provided staff photos and an assessor's map of the subject property. She provided a 1984 assessor's map at the time of an earlier variance, and well as a Department of Natural Resource map of nearby Coal Creek hillside showing the area as an alluvial fan.

Ms. Roeder explained 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.

She offered the entire Fred Aiken file for review. Each Commissioner had previously been provided with a copy of the Planning Department's Staff Findings, as well as the Findings of Fact and Entry of Order of the Hearing Examiner.

Ms. Roeder explained that Mr. Aiken has requested a variance to allow the subdivision of a 3.13 acre parcel with an existing residence into two parcels, one approximately 2.13 acres with the existing residence and one parcel of one acre. Mr. Aiken's property is located at 2522 Highway 20, just east of Sedro Woolley. Ms. Roeder stated that while the Staff Findings recommend denial of the request, the Hearing Examiner has granted the request following an appropriate public hearing. Ms. Roeder noted that a timely appeal of the Hearing Examiner's decision was received from Mr. and Mrs. Nichols.

Tom Moser, attorney for the Nichols', was then given an opportunity to speak. Mr. Moser pointed out an error in the Staff Findings regarding the zoning of the subject property. The Staff Findings had listed the property as Residential when in fact the property is Agricultural. Ms. Roeder confirmed this point. Mr. Moser requested that the Board set a public hearing date for this matter, arguing that the Hearing Examiner did not address the requirements contained in the Skagit County Code for agricultural property. Mr. Moser believes the decision constitutes a rezone of land. Mr. Moser indicated that additionally, Mr. Aiken has filed a lawsuit against the State of Washington and the Scott Paper Company for the flooding of his property by Coal Creek. Mr. Moser pointed out that by allowing Mr. Aiken's request, the County incurs this liability as well. Mr. Moser pointed out that a Hold Harmless Agreement for flooding damage has not been required by the Hearing Examiner.

Jim Fedema, who owns the property to the east of the Aiken property, noted that he has cut hay on the adjacent property for the past three years. He also encouraged that a public hearing be held.

Louis Requa of Skagit Surveyors represented Mr. Aiken. He recommended that the Board uphold the decision of the Hearing Examiner, stating that the Hearing Examiner delayed his decision in order to conduct a thorough review of all the facts. Mr. Requa pointed out that a similar variance was granted in 1984 to Mr. Aiken when he constructed his present residence. Mr. Requa said that the property is not prime agricultural land, and is not being used for agricultural purposes at this time. He maintained that the soil is different on the Aiken property than on the property to the east of Coal Creek. Mr. Requa noted that soil samples show that the property is not conducive to agricultural use. Regarding the map provided to the Board showing the Aiken property to be in an alluvial fan, Mr. Requa pointed out that the map was made by students of Western Washington University, not D.N.R. Regarding the lawsuit Mr. Aiken had filed against Scott Paper Company, Mr. Requa stated that the suit alleged Scott Paper's negligence in properly cleaning out the stream bed on their property upstream from the Aiken property. He noted that Scott Paper Company settled out of court, agreeing to pay for the rip rapping of the Aiken property.

Chairman Wylie inquired about the results of the soil samples. Ms. Roeder was unable to locate the test results in the file of the Hearing Examiner, and

stated that that information could not be presented; however, Mr. Requa ignored Ms. Roeder's statement and informed the Board that the soil was a Thornwood gravely loam.

Commissioner Rohrer noted that he is quite familiar with the Aiken property, and that it is indeed in an alluvial fan, but pointed out that so is the entire town of Rockport.

Ms. Roeder explained that, if the request is granted, at the time of the short plat of the property, an expert geological report could be requested. Then when an application is made for the building permit on the property, a Hold Harmless Agreement may be required.

Commissioner Rohrer at this time motioned to uphold the decision of the Hearing Examiner. Both Chairman Wylie and Commissioner Vaux declined the second Commissioner Rohrer's motion, and it was withdrawn.

Commissioner Vaux motioned to hold a public hearing on Monday, January 9, 1990, at 9:00 a.m. at the site of the Aiken property, 2522 Highway 20, Sedro Woolley, Washington. Commissioner Rohrer seconded Commissioner Vaux's motion, which passed unanimously.

PUBLIC HEARING - MORATORIUM ON RESIDENTIAL BUILDING PERMITS ON AGRICULTURALLY ZONED LAND.

The Clerk of the Board gave the reading of the Notice of Public Hearing, as published in The Skagit Argus on December 26, 1989, and January 2, 1990.

Chairman Wylie explained to the audience that the purpose of the public hearing is to accept public testimony in order to make a decision on whether this issue should be referred to the Planning Commission.

Commissioner Vaux explained that any moratorium imposed would be limited as to time. Discussions on any changes would take from 90 to 120 day, according to Planning Department Director Scott Kirkpatrick. Commissioner Vaux explained that the current Comprehensive Plan requires that a variance from Code is required for any residential construction on agricultural parcels of 40 acres or less. He explained that the Board's interests are twofold:

- 1) That the Hearing Examiner at this time is the sole decision maker on the variances, with no involvement from the Board of County Commissioners. It has been recommended that a system similar to that utilized by the Planning Commission be adopted, which would result in each decision coming before the Board as a recommendation of the Hearing Examiner.
- 2) That homes are being built in accordance with the Code on 40 acre parcels; however, are being built so as to take all or most of the parcel out of agricultural production because of the location of the home. A possibility for resolution of this situation would be a requirement that homes be situated within a certain distance from a road, stream, natural barrier or fenceline.

The audience was then given opportunity to speak.

John Roozen, a farmer, gave a statement supportive of the moratorium, indicating that a message should be sent to newcomers and others that Skagit County's policy is to preserve farmland.

John W. Garner, 1527 Cottonwood Lane, Mount Vernon, also supported the moratorium, if that is the only way to preserve farmland. As past chairman of the Planning Commission, he stated that the original intent of the Planning Commission was to follow the Comprehensive Plan in order to preserve farmland.

Jones Atterbury spoke for the Skagit County Association of Realtors. He felt there was no need for a moratorium, as there are few evidences of abuse of the agricultural zoning. He felt that if the problem lies with the hearing examiner, it should be dealt with accordingly. He suggested that a "right to farm" bill may be needed.

Kim Koopmans, 1250 Young Road, Mount Vernon, referred to a pamphlet compiled by the Office of Duane Berentsen, which states that farmers received \$107,000,000 in gross income in 1987. She declared that economics show that society receives six times that in benefits from farm yield. She was in favor of the moratorium.

Kirby Johnson, 1848 Chilberg Road, Mount Vernon, felt the matter is a massive over reaction to the Hollyhock Farms issue. He noted that at this time a meeting is being held on new spraying rules for the farmer, causing more and more legislation of farm activities. He felt that the government should "buy our rights" to farm land. He gave examples of poor land use decisions exclusive of the agricultural land rules.

Lloyd Loop, 1368 Field Road, Bow, felt that people not involved in farming have no right to make decisions. He opposed the moratorium.

Paul Taylor, 576 Cedar Drive, Bow, felt long range planning is important. He felt the preservation of farmland would be the most important issue of the decade, and that the county should devote time and effort to the planning now. If a moratorium is necessary to facilitate this planning, then he would support it.

Judy Nichols, 2554 Highway 20, Sedro Woolley, was in favor of the moratorium.

Robbie Robertson, 1780 Conway Hill Road, Conway, felt that the system that is presently in place should be supported, and that agriculturally related variances should be curtailed or denied. He opposed the moratorium.

Paula Hawkins, 1262 Allen West Road, Bow, felt that a moratorium is an emergency procedure that causes "layers of bureaucracy". She felt other areas besides farmlands should be made more attractive for growth.

Jim Mayo, 1766 Cook Road, Sedro Woolley, drew a parallel between this situation and that of his former home in Illinois where an agricultural county became a bedroom community for the city of Chicago.

Sara Haydock, 1972 Poulson, Mount Vernon, was in support of the moratorium.

Dave Hedlin, 1027 Valley Road, Mount Vernon, advocated taking time to review the situation. He felt 90 to 120 days is very little time to assess such an important issue, and supported the moratorium.

Pat Lewis, 121 S. Spruce Street, Burlington, reminded the audience that the moratorium would be to decide where a property owner can locate his home, not rezones of agricultural land.

Brian McGinnis, P.O. Box 296, Clear Lake, representative of Skagit-Island County Builders Association, noted that the public hearing notice stated the meeting would pertain to "residential building permits on agriculturally zoned land". He felt that new issues had been raised that were not advertized. Mr. McGinnis felt that if the notice had been more specific, those concerns could have been more adequately addressed.

Louis Requa, 310 W. Bennett, Mount Vernon, felt a moratorium is not needed. Himself a surveyor, he desired a meeting with the Planning Department and farmers to discuss numerous related issues.

Lisa Nielsen, 1635 E. Fairhaven, Burlington, Co-chairman of Skagitonians to Preserve Our Farmlands, supported the moratorium. She felt that building sites on agricultural land should be restricted so as not to impact the farmability of the land, and that the site itself should be accordingly restricted.

Dan Miller, 1439 Peterson Road, Burlington, was against a moratorium. He felt the current system is still working.

At this point, with time being limited for further discussion, Commissioner Vaux suggested a continuation of the public hearing. There were arguments from several members of the audience against the continuance.

Chief Civil Deputy John Moffat was asked for guidance, and stated that the Board has received testimony on the published matter today. Should the matter be referred to the Planning Commission, there would be a chance for more testimony on more specific issues at those future public hearings of the Planning Commission.

Commissioner Vaux felt a need for more testimony on the matter, and motioned to continue the public hearing to Wednesday, January 17, 1990, at 3:30 p.m. Commissioner Rohrer seconded the motion, which passed unanimously.

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

TREASURER'S OFFICE - PERSONAL PROPERTY WRITE-OFFS.

Tom Young, Accounting Technician for the Skagit County Treasurer's Office, presented a resolution authorizing the Treasurer's Office to cancel certain uncollectible taxes. He discussed various accounts included in the resolution and answered questions to the satisfaction of the Board.

Commissioner Vaux motioned to adopt the resolution authorizing the cancellation of uncollectible taxes of individuals and businesses as listed on the attachment to the resolution. Chairman Wylie seconded the motion, which carried and was so ordered. (Resolution #12360)

MISCELLANEOUS ITEMS.

- A. The Board approved for signature the renewal of a Memorandum of Agreement with Skagit County Community Action Agency for the year from January 1, 1990, to December 31, 1990. Skagit County agrees to fund the director's salary and benefits, as well as \$17,120 for provision of services through the Contractor by Skagit Rape Relief and Battered Women's Services.

PLANNING DEPARTMENT MISCELLANEOUS ITEMS.

- A. Scott Kirkpatrick, Director, reminded the Board that a request has been received by the Georgia Pacific Company on behalf of the Lake Cavanaugh Fire Department to waive the fees for land use approval and building permits for a fire hall. Georgia Pacific intends to donate the land for the fire hall to Lake Cavanaugh. Mr. Kirkpatrick stated that in the past, fees have inconsistently been waived, and there is no indication that any land use fees have ever been waived by the Board in similar situations.

Mr. Kirkpatrick explained that he has asked Georgia Pacific to have the Lake Cavanaugh Fire Department make the request; however, Georgia Pacific has firmly refused to do so. Mr. Kirkpatrick suggested that an amendment to the current zoning ordinance might be drafted to allow the Board the discretion to waive fees on a request basis. He asked for direction at this time on whether or not to waive the \$350 plus fees of the Georgia Pacific Company.

The Board authorized the waiver of the fees.

MISCELLANEOUS ITEMS.

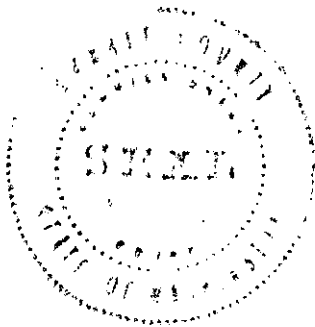
- A. The Board approved for signature the following School Facility Applications and Agreements:
- 1) LaVenture Gym for Saturday, January 13, 1990, for volleyball - rental fee: \$50.00.
 - 2) LaVenture Gym for Friday, January 16, 26, February 9, 16, 23, March 2, 9, 16, 23, 1990, for volleyball - rental fee: \$50.00 per night.
 - 3) LaVenture Gym for Tuesdays, January 16, 23, 30, February 13, 20, 27, March 6, 13, 20, 1990, for volleyball - rental fee: \$50.00 per night.
 - 4) LaVenture Gym for Wednesday, January 10, 17, 24, 31, February 7, 14, 21, March 7, 14, 21, 1990, for volleyball - rental fee: \$50.00 per night.
 - 5) LaVenture Gym for Thursdays, January 11, 18, 25, February 1, 8, 15, 22, March 1, 8, 15, 22, 1990, for volleyball - rental fee: \$50.00 per night.
 - 6) LaVenture Gym for Wednesday, January 10 through March 21, 1990, for

- 7) volleyball - rental fee: \$25.00 per night.
 - 7) Burlington High School Fieldhouse for Saturday, January 13, 20, 27, February 3, 24, March 3, 10, 17, 1990, for basketball - rental fee: \$50.00 per night.
- B. The Board approved for signature the following Parks and Receptions Officials Contracts, to run from January 1, 1990, through December 31, 1990, at current Parks and Receptions officials fees:
- 1) Marty Lopez
- C. The Board approved for signature the following Parks and Receptions Department Rafters Agreements for the period from October 1, 1989, to September 30, 1990, with all current rafters fees and regulations:
- 1) Orion Expeditions, Inc.
 - 2) River Drifters
- D. The Board approved for signature Grant #TAX-90091 between Skagit County and the State Department of Ecology, for a solid waste enforcement grant to the Skagit County Health Department in the amount of \$50,000 (75% grant), and as presented to the Board of Health by John Thayer, Skagit County Environmental Health Supervisor, on January 8, 1990.

ADJOURNMENT

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

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



Ruth Wylie

Ruth Wylie, Chairman

W. W. Vaux

W. W. Vaux, Commissioner

Dave Rohrer

Dave Rohrer, Commissioner

ATTEST:

Stephanie Wood

Stephanie Wood, Clerk
Skagit County Board of Commissioners