

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

Monday, January 29, 1990

- 9:00 a.m. Public Hearing - Ronald and Judy Nichols Appeal of Hearing Examiner's Decision Regarding Variance Request #V-89-050 of Fred Aiken. (At site of Aiken residence - 2522 Highway 20, Sedro Woolley)
- 10:00 a.m. Proclamation - Community College Week - February 12-16, 1990.
- MISCELLANEOUS ITEMS.
- 10:30 a.m. Public Works Department - Mark Spahr, Director:
- 1) Public Hearing - Establish Packard Lane as a County Road.
 - 2) Discussion - Swinomish Channel Wake Law.
 - 3) Signature - Final Costs - Haddon Road #1790-1
 - 4) Signature - Request for Qualifications and Proposals for Performance of Waste Stream Composition Analysis.
 - 5) Signature - Notice of Intent to Purchase Miscellaneous Office Furniture.
 - 6) Discussion - Roto-Step Screen Replacement.
 - 7) Miscellaneous.
- 1:30 p.m. Presentation - Cypress Island Conservation Area Management Plan - DNR Land and Water Conservation Unit.
- MISCELLANEOUS ITEMS.
- 2:30 p.m. Discussion - Timber Clearcutting.

The Skagit County Board of Commissioners met in regular session on Monday, January 29, 1990, with Commissioners Ruth Wylie, W. W. Vaux and Dave Rohrer present.

PUBLIC HEARING - RONALD AND JUDY NICHOLS APPEAL OF HEARING EXAMINER'S DECISION REGARDING VARIANCE REQUEST #V-89-050 OF FRED AIKEN.

The Board met on the site of a proposed variance request of Fred Aiken at 2522 Highway 20, Sedro Woolley. The residence of the applicant, Mr. Aiken, was also located at 2522 Highway 20. The residence of the appellants, Mr. and Mrs. Nichols, was located at 2554 Highway 20, Sedro Woolley, behind and to the west of the Aiken residence. The property proposed for subdivision from the Aiken parcel was located directly behind the Aiken residence and was bordered on all sides by a fence. Coal Creek bordered the Aiken property on the east side. The driveway for the Aiken property accessed off of Highway 20 on the west side of Coal Creek west of the residence. The Nichols driveway accessed off Highway 20 on the east side of Coal Creek, bridging Coal Creek south of the Aiken property and turning west to access the Nichols home.

The Notice of Public Hearing was read.

Grace Roeder was asked to open the discussion, and stated simply that the

Planning Department had recommended denial of the request, while the Hearing Examiner's decision was in favor of the request.

Tom Moser, an attorney representing the Nichols', referred to letters he had submitted on Friday afternoon, January 26, 1990, from neighbors in opposition to the subdivision of the Aiken property. Mr. Moser introduced Bill Parnell, a geologist with W.D. Parnell and Associates of Bellingham; Mark Buer, a certified engineer; Curt Buchanan of the State Department of Fisheries; and Tom Osborne of the Department of Natural Resources.

Willard Parnell, 4202 Meridian, Bellingham, gave the first statement. He gave his credentials as a geologist with 30 years in active practice. He discussed the implications of the alluvial fan area encompassing the Aiken property. Mr. Parnell gave a geological history of the area surrounding the Aiken property. He stated that a debris flow during a 50 or 100 year flood would most probably destroy the Aiken home and surrounding property. He noted that the earth beneath the Aiken property is composed of porous, rocky material.

Mark Buer gave his credentials in engineering. He discussed the placement of a septic field on the site of the proposed subdivision of the Aiken property. He cited the poor filtration of the soil on the Aiken property, and noted a probable threat of contamination to a well located on the Nichols property by a drain field located on the Aiken subdivision.

Commissioner Vaux questioned Mr. Buer on whether a specially designed septic system would alleviate the threat of contamination of the Nichols' well. Mr. Buer replied in the affirmative.

Gary Bellows, 2550 Highway 20, Sedro Woolley, the property owner directly west of the proposed Aiken subdivision, discussed his opinion of the groundwater flow. He opposed the variance request.

Tom Perkins, 816 Sims Road, Sedro Woolley, the owner of an apple orchard located downhill to the south of the Nichols property, gave his opinion that an underground stream flows beneath the Aiken property. The stream would fill in times of increased lowland flooding, and would endanger any homes on the Aiken property.

Mr. Parnell felt that at times when the creek dries up, underground water flow will be directly underneath the current home sites.

Tom Osborne, 919 N. Township, a representative of the DNR, read a letter sent earlier to the Board of Commissioners requesting that the variance be denied on the basis of DNR's presumed liability for any flood or slide damage to homes built on the property.

Curt Buchanan, representing the Department of Fisheries, indicated his agreement with the geologist's report. He stated that the creek bank in the area of the subdivision has a stable bank with trees and vegetation stabilizing the bank; however, he felt that if a new home is built on the site, the bank would subsequently be cleared of stabilizing vegetation,

endangering the integrity of the creek bank and the fish habitat.

Mr. Aiken made comments about the stability of the creek bank near his home.

Louis Requa, a surveyor representing Mr. Aiken, described the location of a driveway accessing the property. He discussed the existing wells, which he felt would not be effected by a properly designed septic system. Mr. Requa pointed out that on the DNR alluvial fan map, the slippage area is indicated to end on the north side of Highway 20, north of the Aiken property.

Judy Nichols, 2254 Highway 20, Sedro Woolley, pointed out that all opposition letters came from people with a vital interest in the property.

Mr. Moser invited the Board to tour the Nichols property at their leisure.

Mr. Requa gave his final remarks. He stated that he felt each individual variance request should be treated differently, according to each unique situation. He felt that many of the references in the opposition letters received from neighbors referred to the Feddema property to the east rather than the Aiken property.

Mrs. Nichols refuted Mr. Requa's interpretation of the opposition letters, stating that all referred to the Aiken property.

Mr. Purnell pointed out that cumulative effects may be realized if this alluvial fan area is allowed to be populated.

Violet Aiken, 2522 Highway 20, remarked that they were unable to obtain flood insurance, as the insurer informed them they were not in a flood area.

After all public comment had been taken, Commissioner Vaux motioned to continue the public hearing to January 30, 1990, at 1:30 p.m. in the Commissioners' Hearing Room, 202A, of the County Administration Building. Commissioner Rohrer seconded the motion, which passed unanimously.

PROCLAMATION - COMMUNITY COLLEGE WEEK - FEBRUARY 12-16, 1990.

Commissioner Vaux read the proclamation declaring February 12-16, 1990, Skagit Valley College week, in honor of National Community College Month, February, 1990.

Chris Molesworth of Skagit Valley College accepted the proclamation on behalf of Dr. James Ford, Skagit Valley College President, and his staff. She thanked the Board for their support and invited them to visit the college during Skagit Valley College Week.

MISCELLANEOUS ITEMS.

- A. In accordance with action previously taken, the Board approved for signature the resolution calling for a public hearing on the Lowell Engberg Appeal of the Hearing Examiner's decision regarding his

Shoreline Substantial Development/Conditional Use/Variance Request #11-89, to be held on February 12, 1990, at 1:30 p.m. (Resolution #12373)

- B. Don Bockelman, a Day Creek citizen, made statements that a letter provided to him by the Board from Jamie Randalls of Northwest Air Pollution Authority is purposely misleading in the assessment of the possibility of CFC gases emitted by the incinerator.

The Board requested that Mr. Bockelman contact Mr. Randalls regarding his letter, and that any further communication from Mr. Bockelman regarding this matter be submitted in writing prior to any discussions.

- C. The Board approved for signature Contract #2490-75340 between Skagit County and Pioneer Ridge Healthcare - Local Focus Program to provide developmental disabilities services to Skagit County residents for the period from January 1, 1990, to June 30, 1991. The Local Focus Program will receive \$45,000.00 from Skagit County from the biennial DSHS grant.

PUBLIC WORKS DEPARTMENT - MARK SPAHR, DIRECTOR:

1) **Public Hearing - Establish Packard Lane as a County Road.**

Chairman Wylie waived the reading of the Notice of Public Hearing, as published in The Skagit Argus on January 9th and 16th, 1990.

Jeff Monsen explained that Packard Lane, just off Chuckanut Drive, north of Burlington, was taken over by the State during the construction of Interstate-5. The State has now turned the road back to Skagit County. Mr. Monsen recommended that Skagit County assume responsibility for maintenance of the road and issue an Order of Establishment accordingly.

Kevin Entrikin, 1090 Chuckanut Drive, stated that his property borders Packard Lane to the north. He wished to point out that a 60 foot portion of right-of-way bordering Packard Lane encompasses a large portion of his lawn that he has maintained for many years. He hoped to continue this arrangement with the County. Mr. Entrikin was assured that this arrangement could continue, as long as he did not place any obstruction along the right-of-way.

Seeing no further public comment, Commissioner Vaux motioned to close the public hearing. Commissioner Rohrer seconded the motion, which passed unanimously.

Commissioner Rohrer motioned to sign the Order of Establishment for Packard Lane #3440. Commissioner Vaux seconded the motion, which passed unanimously.

2) **Discussion - Swinomish Channel Wake Law.**

Mr. Spahr explained that the Public Works Department has received complaints from residents of the Shelter Bay development located outside of LaConner on the Swinomish Indian Reservation regarding concerns with a number of boats

speeding along the Swinomish Channel which fronts the development and causing destructive wakes.

Mr. Monsen stated that discussions with the Coast Guard have revealed that the County has the jurisdiction to establish a speed limit on the Swinomish Channel in all areas save for those located within the City of LaConner, where a speed limit already exists.

Commissioner Vaux recalled that the Board had previously directed the posting of signs on the Swinomish Channel warning against speed, however, Mr. Monsen did not remember this direction. He pointed out that a change must be made to the Skagit County Code in order to impose a speed limit on the Channel.

Commissioner Vaux noted that the City of LaConner's signs state, "WAKE LAW ENFORCED - SPEED LIMIT 4 KNOTS".

Chairman Wylie felt a speed limit would be appropriate in this instance.

Mr. Monsen stated that he has discussed the matter with Chief Civil Deputy John Moffat, who would be able to make appropriate changes to the Skagit County Code to facilitate a speed limit imposition.

Commissioner Vaux recommended that Mr. Monsen contact the Army Corps of Engineers about the matter, as well as Sheriff Frazier regarding enforcement of the speed limit.

The Board directed the Public Works Department to schedule a public hearing regarding the changes discussed to the Skagit County Code pertaining to a speed limit to encompass the Swinomish Channel from the railroad bridge to the southern boundary of Shelter Bay, excluding the channel within the City of LaConner.

3) Signature - Final Costs - Haddon Road #1790-1.

Commissioner Rohrer motioned to adopt the resolution authorizing final costs to complete the Haddon Road project #1790-1, bringing the final total for the project to \$65,317.06. Commissioner Vaux seconded the motion, which passed unanimously. (Resolution #12374.)

4) Signature - Request for Qualifications and Proposals for Performance of Waste Stream Composition and Analysis.

Copies of a Request for Qualifications and Proposals for performance of a previously discussed waste stream composition study were provided to the Board. Commissioner Rohrer motioned to adopt the resolution approving the RFQ, as submitted.

Rebecca Voerman, Recycling Coordinator, noted that at the Skagit Council of Governments the RFQ was discussed and questions answered. The current Hazardous Waste Plan consultant, SCS, was represented at that meeting. The

SCOG members were supportive of the waste stream composition study.

The Board discussed the performance of SCS. Bill Ness, Solid Waste Engineer, explained that there is a difference of opinion between Skagit County and SCS on whether the contract included a waste stream composition study. The County asserts that it is included, while SCS believes that the survey consists of contacting other agencies for survey data to compile findings. The Department of Ecology will not accept these findings as a proper survey, and so the County is placed in a position of needing a more comprehensive study by another contractor.

The Board discussed the possibility of requiring a refund from SCS for incomplete contract items.

Commissioner Vaux then seconded Commissioner Rohrer's motion, which passed unanimously. (Resolution #12375)

5) Signature - Notice of Intent to Purchase Miscellaneous Office Furniture.

The Board approved for signature a Notice of Intent to purchase miscellaneous office furniture for the outfitting of a new Public Works Department annex in the Riverside Office Building.

6) Discussion - Roto-Step Screen Replacement.

Mr. Ness explained that, in response to Skagit County's inquiries into purchasing a replacement screen for the Burlington Waste Water Treatment Facility, the Hicor Company has offered a new screen worth an estimated \$35,000 with a one year guarantee for \$10,000. The County's counter-offer at present is \$7,200. The City of Burlington has been approached for the \$2,800 difference between Hicor's offer and the County's counter-offer, but is reluctant to commit to the proposal. The price is uninstalled, and County forces would complete the installation.

Roger LaRue, Waste Water Treatment Operator, recommended that the Board accept the proposal of the Hicor Company. He discussed the filtering of leachate trucks using a manual system devised by employees.

Mr. Ness noted that only in Lake Bluff, Illinois, is there a roto-step screen available for demonstration, and it is uninstalled. There are no units presently installed in the United States. Mr. Ness recommended a site visit, and discussion of the possibility of adding a rock trap to the unit.

The Board discussed the cost of the unit. Mr. Ness felt that the repair costs would be high enough to justify the purchase of a new screen at the cost suggested by Hicor.

Commissioner Vaux then motioned that the offer of the Hicor Company be conditionally accepted, based on the results of a site visit arranged by the Hicor Company by a representative of Skagit County. Commissioner Rohrer seconded the motion, which passed unanimously.

Commissioner Vaux also directed that the Public Works Department pursue DOE involvement in payment for the new screen.

7) Miscellaneous.

- A. The Board approved the issuance of a permit to the Local Atomic Workers Union at the Shell Refinery to place a trailer on the site of the refinery should the union declare a strike. This was a regular and recurring request.
- B. The Board approved for signature the Out-of-State Travel Requests of Superior Court Judge Stanley Bruhn and Superior Court Commissioner George McIntosh to attend a Juvenile Justice Workshop in New Orleans, Louisiana, from March 24 through 30, 1990.
- C. The following Petitions for Property Tax Refunds were approved by the Board:
- 1) George B. Howell, 401 W. Main, Concrete, WA 98237, in the amount of \$162.96, due to a senior citizen exemption. (000290)
 - 2) Winston J. Thomas, 407 4th, Anacortes, WA 98221, in the amount of \$154.24, due to a senior citizen exemption. (000190)
 - 3) R.A. Hanson Co., P.O. Box 7400, Spokane, WA 99207, in the amount of \$295.18, due to the sale of the property to the Department of Natural Resources. (014889)
- D. The Board approved for signature a Maternal Support Services Agreement with Skagit Community Mental Health Center to provide client assessment and counseling visits for Medicaid eligible pregnant women. Payment to the contractor occurs at \$40.00 per client visit. The agreement is automatically terminated in the event of termination of grant funds.
- E. The Board approved for signature the 1990 Skagit County contract with Northwest Regional Council through the Skagit County Health Department for Senior Screening Services. The grant amount is \$7,000, and will terminate at the end of 1990.
- F. The Board approved for signature an agreement with Skagit Valley Hospital and Health Center for a cardiovascular risk reduction screening program at a cost of \$14 per Skagit County employee. The screening program will take place on March 29, 1990, and April 12, 1990.

PRESENTATION - CYPRESS ISLAND CONSERVATION AREA MANAGEMENT PLAN - DNR LAND AND WATER CONSERVATION UNIT.

Pat Powell, Stan Carouski and Tom Osborne were present from the Department of Natural Resources to give a presentation on the Cypress Island Conservation Area Management Plan.

Ms. Powell explained that Cypress Island is one of four National Resource

Conservation Areas designated by the DNR. The main purpose of the designation is to protect areas with outstanding resource and recreational values. The purpose of the management of the area is to provide opportunities for low impact recreation and outdoor education. The funding for the program is through an increase in real estate excise taxes.

Ms. Powell explained that most of the program funds were expended in the purchase of Cypress Island. Other acquisitions will have to be made from other funding sources. A management plan for the area has been required by the legislature which includes identification of the location of significant resources and identification of appropriate land uses.

Ms. Powell stated that a 12 to 13 member advisory committee is being formed to discuss the management plan. Included on the committee will be Betsy Stevenson, Assistant Director of the Skagit County Planning and Community Development Department. December of 1990 is the target date for completion of the plan, but interim restrictions are being created to serve until the plan is finished.

The Board asked questions on the planned recreational facilities. Ms. Powell stated that the DNR will coordinate with the local Parks and Recreation Department through Skagit County's representative on the committee, but the Director of the Parks and Recreation Department may also attend committee meetings as an observer.

Discussion was held on requirements for zoning changes for recreational purposes. Further information on the plan will be needed to discover what those zoning changes may entail. The plan will also determine the status of the timber on the island, which will probably remain standing, as well as the fire protection. Currently the DNR is working on getting a fire vehicle and caretaker situated on the island.

The DNR is looking to close the airport on the island, which is not compatible with a conservation area.

Rye Hill of Secret Harbor Schools on Cypress Island asked questions concerning zoning. Ms. Powell explained that current property owners may choose not to be included in the conservation area.

The Board thanked the DNR representatives for their information.

MISCELLANEOUS ITEMS.

A. The Board approved for signature Parks and Receptions Department Officials contracts for basketball scorers, referees and coaches. The contracts run from January 1, 1990, to December 31, 1990, and are reimbursed at \$5.00 to \$14.00 per game or at \$5.00 per hour, depending upon the service. The following contractors were approved.

- 1) Ross Erickson
- 2) Bridget Doucet

3) Maureen Bee

B. As of this date, January 29, 1990, the Board, by unanimous vote, did approve for signature the following warrants and vouchers:

- 1) Warrants #62678 through #62727 (Vouchers #62678 through #62727) in the amount of \$53,462.84 (R-5-90).
- 2) Warrants #70025 through #70093 (Vouchers #70025 through #70093) in the amount of \$141,011.98 (R-4-90).
- 3) Warrants #51750 through #52194 (Vouchers #914068/000136 through #914534/000418) in the amount of \$643,914.49 (C-7-90).

C. In accordance with a recommendation from the Environmental Health Section of the Skagit County Health Department, Commissioner Rohrer motioned to adopt the resolution accepting the proposal of Columbia Analytical Services, Inc., for laboratory services for groundwater sampling around Skagit County landfills. Chairman Wylie seconded the motion, which passed unanimously. (Resolution #12376)

DISCUSSION - TIMBER CLEARCUTTING.

John Moffat, Skagit County Chief Civil Deputy, introduced Tracy Goodwin and Ed Level from the Snohomish County Prosecuting Attorney's Office. He explained that Ms. Goodwin and Mr. Level are approaching Skagit County with a request that Skagit County become an amicus or "friend of the court" in Snohomish County's appeal of an administrative decision by Washington State Department of Natural Resources.

Mr. Level explained that Lake Roesiger and surrounding area is contained within the borders of Snohomish County. Presently, 250 to 350 residences surround the lake below land that was owned by the Weyerhouser Timber Company and later sold to smaller logging companies. As in other areas of Washington State, it is a case where large timberland owners are liquidating property which is purchased by newer, smaller timber companies who need to cut large amounts of timber to fund the purchase of the land. Mr. Level explained that in the case of Lake Roesiger, 3500 to 5000 board feet of timber would be cut within a period of less than two years, causing an extreme impact on the lake and surrounding creeks. Mr. Level explained that the first set of applications for timber cutting were approved by DNR and property owners became alarmed at the cutting occurring near the watershed for the area. The second set of applications were subject to the "TFW" process and a number of conditions attached to the approval, but these conditions did not satisfy Snohomish County.

Mr. Level stated that the concerns of Snohomish County regarding the process by which the application was approved included the fact that only the environmental impacts on public resources were considered. Impacts on the aesthetics of the area were ignored. Also the cumulative impacts were not considered, as past or future cuttings were not addressed. Finally, the DNR does not apply SEPA regulations to these permits, which is a main source of concern for Snohomish County. Snohomish County feels that the DNR is not

taking an adequate look at the long term effects of extensive timber cutting and the future of timberlands.

Mr. Level explained that Snohomish County has appealed the permit approval in the Superior Court of Snohomish County. He stated that the matter is a growing concern to every timber county in Washington State and that those counties should have a vested interest in the outcome of the current appeal. Mr. Level stated that Snohomish County feels they have stuck their necks out for the good of all timber counties in Washington State, and would like some support in return.

In answering Commissioner Vaux's questions about what Snohomish County hopes to gain by their appeal, Mr. Level explained that they feel it is necessary to obtain an Environmental Impact Statement on all private permits that impact the environment. He felt that other methods of conducting an up front evaluation of these permits should be employed. He touched on the notion that the DNR and private timber concerns are deciding the fate of the land without the representation of public interest.

Mr. Level and Commissioner Vaux briefly discussed the Forest Practices Board in relation to the issue. Mr. Level felt that this board would not make any appreciable changes in the permitting methods.

Mr. Moffat suggested that the purpose of the appeal is to have language stricken from the statutes that exempts private timber companies from the regular permitting review. Mr. Level agreed that that could be a solution.

Mr. Moffat indicated that the filing of an amicus by Skagit County would involve someone from Prosecuting Attorney's office preparing a brief for the appropriate court, and possibly including oral arguments. He stated that no decision is required of the Board today.

Commissioner Vaux felt that the conversion issue right now is not remarkable in Skagit County; however, cumulative effects will be important in the future.

Mr. Level indicated that he will probably make the same request of Pierce County that he has made to Skagit County. Whatcom and King Counties have been unwilling to join with Snohomish County in the appeal, as they feel they have a good working relationship with the timber cutters in their area, and because of their faith in the Timber, Fish and Wildlife (TFW) process.

Henry Campbell, a concerned citizen, urged the Board to look at both sides of the issue. He felt the TFW process is working fine, and that Skagit County's situation is not the same as that in Snohomish County.

Bill Wallace, DNR Regional Manager, stated that the TFW process has been in effect for two years. He felt that it is a good process, although certainly has room for improvement. He felt that the Forestry Roundtable is addressing improvements at this time.


ADJOURNMENT

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

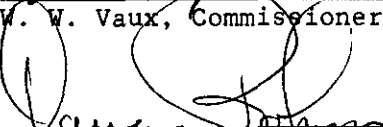
BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON



Ruth Wylie, Chairman




W. W. Vaux, Commissioner



Dave Rohrer, Commissioner



ATTEST:



Stephanie Wood, Clerk
Skagit County Board of Commissioners