

RECORD OF THE PROCEEDINGS
SKAGIT COUNTY BOARD OF COMMISSIONERS

Tuesday, June 12, 1990

- 9:00 a.m. - 10:00 a.m. Board of Health:
- 1) Discussion - Ray Wibbens Illegal Sheetrock Disposal Site Clean Up.
- 10:00 a.m. - 11:00 a.m. Public Hearing - Appeal of Hearing Examiner's Decision Regarding Special Use Permit #SP-89-042 of Ray Melton.
- 1:30 p.m. - 2:00 p.m. Presentation by Skagitonians to Preserve Farmland.
- 2:00 p.m. - 3:00 p.m. Department of Planning and Community Development - Scott Kirkpatrick, Director:
- 1) Sphere of Influence Agreements.
 - 2) Enforcement Update.
 - 3) Staffing Update.
 - 4) Miscellaneous.
- 3:00 p.m. - 3:45 p.m. Briefing on 1991 Puget Sound Plan - Nancy Hanson of Puget Sound Water Quality Authority.
- 4:00 p.m. - 4:30 p.m. Public Comment Period.

The Skagit County Board of Commissioners met in regular session on Tuesday, June 12, 1990, with Commissioners Ruth Wylie, Dave Rohrer, and W. W. Vaux present.

BOARD OF HEALTH:

- 1) Discussion - Ray Wibbens Illegal Sheetrock Disposal Site Clean Up.

John Thayer, Environmental Health Supervisor, reviewed a memo he had previously sent to the Board, to Mr. Wibbens, and Mr. Wibbens' legal counsel, regarding the clean up of the Wibbens illegal dump site at 405 Friday Creek Road. He stated that the purpose of the meeting is for the County to work with Mr. Wibbens to facilitate the clean up of the illegal dump.

Mr. Thayer put forth the following suggestions for clean up of the site, which were contained in his memo:

- a) Clean up by the owner.
- b) Clean up by the owner, with a break in the disposal tipping fees by the County.
- c) Clean up by Skagit County, with costs recouped through a property lien and fines imposed.
- d) Clean up by Skagit County with costs recouped through a property lien, but with no fines imposed.
- e) Clean up by Skagit County with no liens and no fines.

Mr. Thayer reviewed past County actions regarding illegal dumps, and requested that the Board determine how and if the County will assist Mr. Wibbens.

Mike Lewis, Mr. Wibbens' legal counsel, indicated that he had understood at the last meeting of the Board on this subject that the Board wanted to work to help Mr. Wibbens, and that he and his client have been waiting for subsequent meetings at which this help would be discussed. Mr. Lewis objected to Mr. Thayer's characterization that Mr. Wibbens has not submitted any solutions for clean up, as he felt that Mr. Wibbens should have been the recipient of an offer of some help from the County.

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Chairman Wylie stated that the Board's intent was to check with the Public Works Department to see whether the County could perform the work more cheaply than a private contractor.

Commissioner Rohrer stated that he has received five or six phone calls from persons who wish to remain anonymous, who indicate that if the County pays for the clean up of Mr. Wibbens illegal dump, they will sue the County.

Commissioner Vaux asked Mr. Wibbens how much of the material was dumped on his property prior to January of 1988. Mr. Wibbens indicated that it was a little over two-thirds.

Commissioner Vaux stated that the Board cannot appear to condone Mr. Wibbens' actions. He stated that Mr. Wibbens must be held entirely responsible for his actions, and that the Health Department is responsible only in that they have indicated a goal to clean up the site. He suggested that the County could charge a disposal fee comparable to that fee that was in place in 1988. He stated that it is impossible for the County to waive the tipping fee entirely, when those who were following the law paid the full price for disposal of their sheetrock.

Chairman Wylie proposed that a fixed rate be set, such as 50% of the present tipping fee.

Bob Moe of Skagit Drywall stated that the tonnage of the wet material will reflect an amount greater than when the sheetrock was dry.

Mark Spahr, Public Works Director, stated that the computation of the approximate tonnage was based on a dry weight. The charge will be based on that.

Discussion ensued on how the dry weight will be figured, and Mr. Spahr stated that the number of cubic yards dumped could be estimated and a conversion factor of 1,080 pounds per cubic yard could be used, as supplied by a sheetrock manufacturer.

Discussion ensued on how to fix the tipping fee. Mr. Spahr provided figures for the tipping fees from 1985 to the present. Chairman Wylie suggested that an average rate of \$30 per ton be charged for 2/3 of the material, and the other 1/3 be charged at \$46.62, the rate effective in 1989. Commissioner Vaux suggested that the 1982 rate of \$10 per ton be included in the average. Commissioner Rohrer directed that the tonnage be computed by the Public Works administrative staff, not the scalehouse staff.

Commissioner Vaux motioned that, due to a solid waste violation, the Board demands that a sheetrock site belonging to Ray Wibbens at 405 Friday Creek Road be cleaned up by October 1, 1990, and that the tipping fee for disposal of the sheetrock be charged at \$30 per ton and computed as dry tons by the Public Works Department. Commissioner Rohrer seconded the motion.

Commissioner Vaux amended his motion to stated that, if clean up occurs and tipping fees are paid by the deadline of October 1, 1990, no fines will be assessed to Mr. Wibbens. Commissioner Rohrer seconded the amendment, which passed unanimously.

A vote was then called on the amended motion, and it passed unanimously.

PUBLIC HEARING - APPEAL OF HEARING EXAMINER'S DECISION REGARDING SPECIAL USE PERMIT #SP-89-042 OF RAY MELTON.

Chairman Wylie waived the reading of the Notice of Public Hearing, as published in The Skagit Argus.

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Betsy Stevenson, Assistant Planning Department Director, reviewed Mr. Melton's request for a Special Use Permit to locate a sand manufacturing business on a parcel of land zoned Agriculture north and west of the intersection of Cook Road and Green Road near Burlington. She stated that an Environmental Check List as submitted for the proposal, and a Declaration of Non-Significance was issued with conditions. She gave a description of the property, which she stated is identified in the Northwest District Comprehensive Plan as being mostly Agriculture, but with a portion on the western part appearing to be Commercial. She stated that the property has been recently cultivated. Ms. Stevenson stated that the property is located within the 100 year floodplain.

Ms. Stevenson then described Mr. Melton's proposal, which is to truck raw materials from a location in Hamilton to the site for crushing in a proposed 20,000 square foot building, which would require placement of 20,000 yards of fill on which it will be built. Between 12,000 and 20,000 tons of material per year would be processed at the site and sold in bulk, shipped out either by rail or truck. Transportation by rail would require the construction of a railroad spur from a nearby railroad line. Six to eight employees would be employed. The site would utilize P.U.D. water and an existing septic system.

Ms. Stevenson stated that the Planning Department staff reviewed the request for conformance to the Northwest District Comprehensive Plan, as well as portions of the Skagit County Code pertaining to Agricultural Districts and Unclassified Special Uses. The Planning Department recommended denial of the request because of its lack of conformance with the purpose of the Agricultural District, its effects on the community, the suggestion that it constitutes "strip development", and the fact that the property is currently farmed. The Hearing Examiner concurred with the findings of the Planning Department, and issued a denial to Mr. Melton.

Chairman Wylie requested clarification on the statement that a portion of the property appears to be commercial. Ms. Stevenson stated that a portion of the property is commercial in the Northwest District Plan, but it is impossible to tell how much. However, the zoning is Agriculture, and the zoning takes precedence over the Northwest District Plan.

Bill Nielsen, Mr. Melton's legal representative, was given an opportunity to speak first. Mr. Nielsen indicated that representatives of various business concerns would give testimony to support Mr. Melton's request. Mr. Nielsen argued that the proposal is a "floating zone project", and does not fit anywhere, so it must be reviewed as to its compatibility with the surrounding environment. Mr. Nielsen stated that the owner of the property has submitted a letter stating that unless the property is used for sand manufacturing, he will have to remove the property from agricultural production, it is not cost effective to farm.

Ms. Nielsen indicated that 4 acres of the property is proposed for the sand manufacturing business, while 8 acres will be left in agricultural production. A local nursery has expressed an interest in establishing nursery stock or a tree farming operation on the remaining 8 acres.

Mr. Nielsen argued that the project produces agricultural benefits because of its production of lime, which can be used for fertilizer. He stated that all production is performed inside the building so that the noise levels are reduced. He gave arguments on the proposal's conformance to the Comprehensive Plan. He argued that the enterprise is a joint agricultural and commercial operation which would be a much better use than what is planned for the site.

Mr. Nielsen noted that the Planning Department does not have the expertise to determine whether air pollution would result from the project; a task better suited for the Northwest Air Pollution Authority during subsequent permitting.

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Mr. Nielsen stated that the business will have no effect on the neighborhood or region, and that no other property has been found that satisfies the requirements for Mr. Melton's business.

Mr. Melton provided an artist's conceptual drawing of the proposal. He provided a packet to the Board containing a petition containing 200 signatures of persons from all parts of the County in favor of his business. A letter from Sturdy Engineering regarding a noise level study indicated that a noise level of 68 was found at the Green Road location, while the Hamilton Olivine Plant produced a noise level of 63. A letter from the Mount Vernon Lions Club and Maillards Landing Nursery indicates their intention to plant nursery stock on the parcel. A letter from Burlington Northern Railroad offered rail service for the project. Letters confirming availability of sewer, water and gas service were also included. Mr. Melton maintained that the business is agriculture related, in that it provides lime for fertilizer.

Mr. Melton offered a letter from a competitor who requested that his name be withheld. Chairman Wylie explained that any materials submitted were public record and could not be kept confidential. Mr. Melton withdrew the offer of the letter.

Mr. Melton discussed the amount of fill needed to bring the site up to the level of the flood plain, disputing the finding of a need for 20,000 cubic yards. He stated his willingness to enter into an agreement with the County to upgrade Green Road. Other descriptive information was provided by Mr. Melton.

Jerry Looney, Trainmaster for Burlington Northern Railroad in Bellingham, stated that a spur would not cause blockages of Cook Road for periods any longer than two to five minutes, probably only one time per day in the afternoon.

Patsy Manion, a Certified Public Accountant with Peterson and Associates, made statements regarding the profits which would result from this business. She related these profits to a positive financial effect on Skagit County.

At a point in Ms. Manion's statement, Commissioner Vaux interrupted to speak with the County's legal counsel. On his return to the hearing room, he divulged that he had just noticed his father's signature on Mr. Melton's petition. Commissioner Vaux confessed his ignorance regarding his father's involvement in the petition, stating that he has not discussed the project with his father. He invited the audience to voice their objections to his involvement in the proceedings. No objections were made.

Ms. Manion then proceeded with her statement.

Earle Dralle, 1497 Beaver Marsh Road, owner of a sand manufacturing business, stated that a shortage of fertilizer lime exists this year, so there is a need for another source.

Jim Stoler, 905 Green Road, presented a petition of residents in the immediate vicinity opposing Mr. Melton's request. He also presented a letter from the resident on the corner of Cook and Green Roads, Susan D. Reed, who opposes the proposal. Mr. Stoler stated that if an increase in the County tax base is what is desired, why shouldn't all owners of agricultural property be allowed to develop their properties. He felt that one business would start a commercial strip on Green Road. He stated that there is no guarantee that a railroad spur will be built, nor is there a guarantee that nursery stock will be planted.

Jay Stover, 1222 Pulver Road, provided a photo of swans which have congregated in the area directly to the east of the proposed project, as well as a drawing of the area. He also made reference to the possibility of strip development on

Green Road. He asserted that there is other available property for commercial concerns, and that the Northwest District Comprehensive Plan should be followed in denying this request. He felt that attempts to tie the business to an agriculture related concern is an attempt to subvert the decision of the Board.

Sandy Wibbens, 1700 Cook Road, the neighbor to the south east of the property, stated that the proposal is not compatible with the area. She stated that once a Special Use Permit is granted, the conditions will not be followed, as with another business that has been allowed directly adjacent to her. She supplied photographs of this business.

Lisa Nielsen, Director of Skagitonians to Preserve Farmlands, supported the Hearing Examiner's decision and staff findings that the property is inappropriate for a commercial or industrial endeavor. She stated that although the project appears to have economic advantages, those advantages are not the issue. She felt that if businesses are sited in inappropriate areas with conflicting uses adjacent, it creates an inability for the business to expand and thrive. She urged the Board to set a precedence by denying the request.

Bob Zimmerman, 881 Green Road, questioned, regarding the notion of planting of nursery stock on the remaining 8 acres of property, what will happen when the contract for the stock expires and the business decides it wants to expand?

Roger Anderson 1020 Sterling Street, Sedro Woolley, stated that the public hearing is Mr. Melton's "last ditch" effort at getting the permit. He felt that other requests for businesses in the area would come before the Board individually for consideration, therefore Mr. Melton's business should be allowed.

Mr. Nielsen then recapped his client's position.

Trudy Zimmerman, 881 Green Road, indicated that a slough exists on the property. She also stated that, as the owner of a nursery, she has personal experience that Christmas tree farming is a short term contractual concern.

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

Commissioner Vaux recommended a deliberation period, and that a decision be announced on Tuesday, June 26, 1990, at 11:00 a.m.

PRESENTATION BY SKAGITONIANS TO PRESERVE FARMLANDS.

Lisa Nielsen, Director of the Skagitonians to Preserve Farmlands, referred to a letter from her group that had been previously submitted to the Board, in which a request for \$12,000 in funding over a 12 month period is delineated for the group to compile a Farmland Preservation Program Document.

Ms. Nielsen recounted the following reasons for the granting of this request:

- There is a need for farmland preservation planning identified in house bill 2929.
- The Comprehensive Plan update would be augmented by the availability of a farmland preservation document.
- The Planning Department's staff is committed to other issues and does not have the time to complete such a document.
- Utilizing Skagitonians to Preserve Farmlands in this manner is a cost effective way to obtain such a study.
- With a plan in place, the County is eligible to apply for farmland preservation funds.

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- As a 5013C non-profit organization, STPF is eligible to apply for funds.

Ms. Nielsen briefly reviewed the proposed project, stating that the first three months would be spent in data collection, the next six months would be spent evaluating the data. The last three months would see the development of the document. The County would then take up to one year to implement the plan through public input and meetings.

Ms. Nielsen provided an STPF organizational structure, as well as a budget breakdown and letter for support from WSU Mount Vernon Research and Extension Unit representative Wilbur Anderson.

Paul Taylor, STPF member, stated that at present no plan exists for Skagit County, and the cost to hire staff and create a plan would be far greater than the grant request amount. He also stated that STPF has expertise needed for this task.

Serina Campbell, President of the Skagit Farm Bureau, and Betty Nortman of the Skagit Conservation District were also in favor of the request.

Chairman Wylie invited the comments of Scott Kirkpatrick, Director of the Department of Planning and Community Development.

Mr. Kirkpatrick stated that he is aware of the request through his conversations with Ms. Nielsen and the groups represented. He stated that his update of the Comprehensive Plan will not address any programmatic solutions, other than to update the language of the current plan. The update will not be done from the standpoint of solving specific problems, but will include the refinement of the County's general methods of handling issues related to agricultural lands. Mr. Kirkpatrick did state that if we wait until after the completion of Comprehensive Planning to design programs aimed at preservation of farmland, we may miss out on the ability to preserve those lands.

Commissioner Vaux questioned whether Mr. Kirkpatrick would anticipate the development of a positive relationship with STPF. Mr. Kirkpatrick indicated that such a relationship already exists. He stated that STPF is not looking to duplicate the efforts of the Planning Department, but to augment them.

Commissioner Vaux mentioned that, if money were committed, he would be concerned over the fact that the project would not be totally funded, so STPF would have obligations to other funding sources.

Chairman Wylie was concerned that STPF would become part of the County payroll if they were funded entirely. She favored their relationship as more of an advisory committee.

Commissioner Rohrer stated his wish to consider the request and issue a decision at a later date.

Commissioner Vaux saw the relationship as that of a consultant to the Planning Department, who would then take the document to the Planning Commission for review.

The Board decided to consider the matter further, and have subsequent discussion on their agenda in two weeks.

DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT - SCOTT KIRKPATRICK, DIRECTOR:

1) Sphere of Influence Agreements.

Mr. Kirkpatrick explained that house bill 2929 mandates that municipalities enter into Sphere of Influence Agreements. He stated that since 1981-82, Skagit county has had the same such agreements with the cities of Mount Vernon, Burlington, LaConner, Concrete and Anacortes (Contract #00316). He provided copies of the those agreements. Mr. Kirkpatrick explained that the agreements define certain areas which are designated as being areas of interest to the cities and areas where they would like to have input in planning decisions.

Mr. Kirkpatrick explained that 2929 requires the establishment of 20 year duration agreements, with a review period at 10 years. Mr. Kirkpatrick stated that he has been meeting with representatives from the cities regarding the implementation of 2929 on July 1. He stated that they are concerned that areas within their sphere of influence agreements are being developed at standards which are below their own city standards for construction. This decreases the desirability of these areas for annexations.

The Board and Mr. Kirkpatrick had lengthy discussion on the implications of sphere of influence agreements and their relationship to annexations. Mr. Kirkpatrick stated that apparently there is argument from the cities that they are not receiving full consideration in decisions regarding their designated areas.

After considerable discussion, Mr. Kirkpatrick indicated that the topic would be continued at the Planning Department session next week.

2) Enforcement Update.

The enforcement activity report was briefly reviewed.

3) Staffing Update.

Mr. Kirkpatrick introduced Craig Stevenson, new Plans Examiner, and Jeff Morgan, new temporary Water Quality and Comprehensive Planning Technician, to the Board.

4) Miscellaneous.

- A. Mr. Kirkpatrick read into the record a resolution establishing interim controls on the issuance of building permits on residences proposed in areas not within a fire district. He explained that, on the advice of legal counsel, the resolution was written as an interim control rather than as a moratorium.

The Board approved the resolution for signature. (Resolution #12535)

- B. Mark Spahr, Public Works Director, presented a Grant Agreement with the Department of Ecology, who is offering \$30,000 for a Household Hazardous Waste event similar to that sponsored by Skagit County in 1989. The event is expected to cost approximately \$65,000. The remainder of the costs will be borne by the solid waste account's \$.50 per ton tipping fee surcharge, and in contributions of services. (Contract #00317)

- C. Tom Sheahan, Emergency Services Director, stated that Skagit County farmers experienced approximately \$10,000,000 in crop losses during the unseasonable rains the past few weeks. Mr. Sheahan stated that there is a need to call a meeting of the emergency disaster committee for Monday. He stated that he will report the outcome of that meeting to the Board

directly after. Mr. Sheahan stated that the recommendations of the committee will be forwarded to the U.S. Department of Agriculture as a proposal for assistance, and will then be forwarded to the Governor. Mr. Sheahan stated that there are no Small Business Association loans for farmers or ranchers, and the crop losses are not covered by any insurance. Ditching and replanting might be funded to those who qualify through a USDA grant, if a loss of 60% to 100% can be documented.

- D. Commissioner Vaux motioned to adopt the resolution authorizing a budget line item change in the amount of \$72,000 from the Contingencies line item to the Medical line item of the Current Expense Fund for payment of medical insurance costs in excess of the insurance premiums for the last quarter. Commissioner Rohrer seconded the motion, which passed unanimously. (Resolution #12536)
- E. The Board approved for signature a Cooperative Agreement between the US Forest Service and the Skagit County Sheriff's Office which compensates the Sheriff's Office for provision of narcotics enforcement on lands owned by the Forest Service. (Contract #00318)

BRIEFING ON 1991 PUGET SOUND PLAN - NANCY HANSON OF PUGET SOUND WATER QUALITY AUTHORITY.

Nancy Hanson of the Puget Sound Water Quality Authority provided copies of the draft 1991 Puget Sound Water Quality Management Plan. She brief the Board on the plan, reviewing Puget Sound legislation, funding proposals and Puget Sound grant programs.

PUBLIC COMMENT PERIOD.

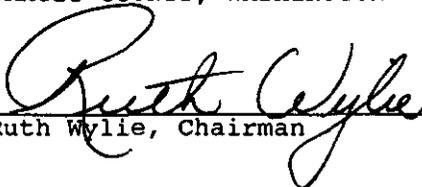
There were no members of the public present for the Public Comment Period.

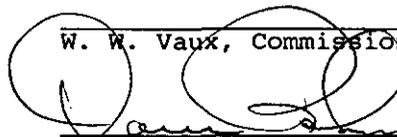
ADJOURNMENT:

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

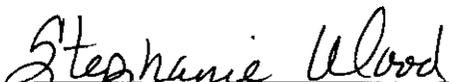
BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON




Ruth Wylie, Chairman

W. W. Vaux, Commissioner

Dave Rohrer, Commissioner

ATTEST:


Stephanie Wood, Clerk
Skagit County Board of Commissioners