

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

Tuesday, December 4, 1990

- 9:00 a.m. - 9:30 am. Presentation of Tulip Festival Poster - Mount Vernon Tulip Festival Committee.
- 9:30 a.m. - 10:00 a.m. 1) Signature - North Sound Regional Support Network Contract.
2) Signature - Mental Health Contract.
- 10:00 a.m. - 10:30 a.m. Discussion - Child Care Laws.
- 10:30 a.m. - 11:30 a.m. Planning Commission Recommendation: Approval - Preliminary Plat of Seaview, Division #4, Located Off the Rosario Road East of Biz Point Road.
- 1:30 p.m. - 3:30 p.m. Department of Planning and Community Development -Scott Kirkpatrick, Director:
- 1) Signature - Sphere of Influence Agreements.
2) Update - Sewer District #1 Moratorium.
3) Forest Practices Act Policy Discussion.
4) Miscellaneous.
- 3:30 p.m. - 4:00 p.m. Work Session - Skagit County Code Amendment - Chapter 12.12 - District Court Districting.

The Skagit County Board of Commissioners met in regular session on Tuesday, December 4, 1990, with Commissioners Ruth Wylie, W. W. Vaux and Dave Rohrer present.

PRESENTATION OF TULIP FESTIVAL POSTER - MOUNT VERNON TULIP FESTIVAL COMMITTEE

Audrey Medved, Director, Skagit Valley Tulip Festival; Jerry Kaufman, Chairman, Board of Directors; and Jerry McInturff, Skagit County Auditor, were present.

Mr. Kaufman presented the 1991 Tulip Festival Poster to the Board. He also indicated that the festival committees are working on some new projects such as off road parking and encouraging people to spend the night, etc.

Ms. Medved advised that the Tulip Festival has a 22 member board with 13 committees, and about 8 people serving on each committee. She noted that the flooding has emphasized the need to strengthen festival events and the quality of what is offered, just in case there is a year when there are not 1600 acres of tulips. Ms. Medved advised that a Festival Beautification Contest has been organized to encourage the participation of towns and neighborhoods, noting that this is a County wide event. She emphasized the economic importance of the Tulip Festival to the community.

MISCELLANEOUS

Stephanie Wood, Clerk of the Board, presented the following miscellaneous items to the Commissioners for their review and/or approval:

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- A) The following resolutions appointing board members to the Northwest Senior Services Board were approved:
- Commissioner Vaux motioned to approve Resolution #12734, whereas Lorna Cundiff, a member of the Northwest Senior Services Board, is not continuing membership due to failing health; and whereas, an application and interview process has been completed for the vacant position on the Board, and Maxine Williams has been recommended by the interview team to fill the vacancy, effective this date and expiring on June 30, 1992. Commissioner Rohrer seconded the motion, which passed unanimously.
 - Commissioner Vaux motioned to approve Resolution #12733, whereas Bette Richardson, a member of the Northwest Senior Services Board, is not continuing membership due to other volunteer commitments; and whereas, an application and interview process has been completed for the vacant position on the Board, and William J. Pliska has been recommended by the interview team to fill the vacancy, effective this date and expiring on June 30, 1991. Commissioner Rohrer seconded the motion, which passed unanimously.
 - Commissioner Vaux motioned approve Resolution #12732, whereas Rod McLean, a member of the Northwest Senior Services Board, is not continuing membership due to failing health; and whereas, an application and interview process has been completed for the vacant position on the Board, and Helen L. Aarnot has been recommended by the interview team to fill the vacancy, effective this date and expiring on June 30, 1993. Commissioner Rohrer seconded the motion, which passed unanimously.
- B) Following discussion, the Board agreed to cancel all sessions Christmas week, the week of December 24, 1990.
- C) The Board approved for signature an inter-local agreement with the Washington Timber Counties to participate in paying for legal representation in a suit against the Federal government pertaining to timber exports.
- D) Commissioner Vaux motioned to deny approval of Ray Johnson's request to purchase County property, based on the understanding that this is an eagle habitat and the use of the property for human habitation would be detrimental to the natural area. Commissioner Rohrer seconded the motion, which passed unanimously.
- E) Commissioner Rohrer motioned to approve a resolution authorizing 300 yards of rock rip-rap be granted to Dick Benson from the Dukes Hill Quarry to rip-rap approximately 250 feet of the left bank of Skiyou Slough adjacent to his property located in Section 21, Township 35 North, Range 5 East, W.M. Commissioner Vaux seconded the motion, which passed unanimously. (Resolution #12733)

1) Signature - North Sound Regional Support Network Contract.

JoAnn Angevine, Director, Human Services, introduced Steve Reinig, Administrative Assistant for the North Sound Regional Support Network, to the Board.

The Board approved for signature a form amendment to amend the contract between the State of Washington Department of Social and Health Services, and Skagit County under the provisions of that Changes and Modification Clause therein, and to make other necessary changes within the scope of that contract and any subsequent amendments thereto.

2) Signature - Mental Health Contract

Ms. Angevine reviewed with the Board the Mental Health Contract that would be sent to them in final form at a later date for signature. The contract will set forth the contractual obligations of Skagit County relative to the North Sound Regional Support Network.

3) Signature - Mental Health Contract

Ms. Angevine also reviewed a contract amendment between Skagit County and Skagit Community Mental Health Center which will be sent to the Board in final form at a later date for signature.

DISCUSSION - CHILD CARE LAWS

Kay Haaland, Director, Cooperative Extension, introduced Jean Culver, VISTA Volunteer and co-founder of the Child Care Task Force; Robin Sherman, EDASC, Advisory Board member; and Peter Stroosma, Director, Small Business Resource Center, Skagit Valley College and Advisory Board member, to the Board of Commissioners.

Ms. Haaland advised that a grant had been applied for and a Resource Center will be started in mid-January. She noted that Jean Culver has been networking child care provider services and has come across some things that need to be looked at. One of those issues is the permit procedure for child care homes in the County.

Ms. Culver discussed with the Board the licensing of child care homes in the County. She recommended that a child care home be redefined as a family home with 12 or less children and a business would be those that have 12 or more children. Ms. Culver advised that there are approximately 70 child care homes in the County and most take care of 6 or less children. She emphasized the need to do everything possible to make sure that facilities are being licensed. There are three categories of child care facilities at this time and they are recommending that there be two. This would bring the County in conformance with the state.

The Board agreed to look at this matter further.

PLANNING COMMISSION RECOMMENDATION - APPROVAL - PRELIMINARY PLAT OF SEAVIEW, DIVISION #4, LOCATED OFF THE ROSARIO ROAD EAST OF BIZ POINT ROAD.

Dave Hough, Senior Planner, reviewed the Board's options in this matter. Mr. Hough stated that the Board may exercise any of the following options:

- 1) To approve the recommendation of the Planning Commission
- 2) To remand the matter back to the Planning Commission for further consideration.
- 3) To call for the Board's own public hearing to consider testimony on the matter.

The Board had previously been provided with copies of the recorded motion of the Planning Commission. Mr. Hough reviewed that motion.

Mr. Hough stated that Seaview Division IV is the fourth short plat in the Seaview Development located on the east side of Rosario Road near Biz Point Road. The developer, San Juan Fidalgo Holding Co., Inc., has proposed to create 19 single family residential lots on 11 acres, having public water and individual sewage disposal systems. Lot sizes vary from a minimum of about 1/3 acre to over 1/2 acre. The lots will access

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off of Seaview Way via two cul de sacs to be constructed by the developer.

Mr. Hough stated that the Planning Commission voted 7-0 to approve the preliminary plat, with the following conditions which must be met prior to final plat approval, abbreviated as follows:

- 1) Address wetlands.
- 2) Submit evidence of provision for schools and recreation.
- 3) Address drainage and erosion standards.
- 4) Address road standards.
- 5) Serve on a committee with the County Health and Planning Departments and the water purveyor, Del Mar Community Services, which will address water concerns. Perform mitigation measures, if necessary.
- 6) Final plat to reflect the accurate property boundaries of the proposed plat.
- 7) Conform to all requirements of Skagit County Code Chapter 14.12.
- 8) Preliminary plat valid for three years from approval date.
- 9) Provide water service for Roger Jewett, if his well becomes unusable.
- 10) Serve on a committee with the County Public Works and Planning Departments and the water purveyor, Del Mar Community Services, to study the causes of slides in nearby Jones Canyon. Perform mitigation measures, if necessary.

Commissioner Vaux questioned who would "foot the bill" for the Jones Canyon solution, if one is found.

Mr. Hough stated that the purpose of the study is to determine if any mitigation efforts should be made by the developer of Seaview Division IV, and that those mitigation efforts would be paid for by the developer.

Chairman Wylie, referring to Condition #10, asked if the committee is charged with solving the Jones Canyon problem.

Mr. Hough responded that the committee will only address work which the developer may be required to perform on the drainage system for the Seaview Division. This condition must be completed before any work can begin on the subdivision. The drainage system must be in place before any construction can take place on the site, although Seaview Way has been constructed all the way to the proposed cul de sacs.

Commissioner Vaux asked whether Condition #10 must be completed before any lots can be sold.

Mr. Hough replied that once preliminary plat approval is obtained, the applicant can offer lots for sale, depositing the proceeds from the sales in an escrow account, but no sales can be final until final plat approval is obtained.

Commissioner Vaux asked, with these condition, what can be done.

Mr. Hough replied that under the recommended conditions, studies can be started and offers can be taken for the sale of the lots, but no construction can begin.

Chairman Wylie, pointing out a requirement of the new Growth Management Act, asked whether potable water is available to the subdivision.

Mr. Hough replied that Del Mar Community Services has submitted a letter indicating their availability to provide potable water to the lots.

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Regarding Condition #10, Commissioner Vaux stated that although the composition of the committee is spelled out, the ability of the parties to agree is questionable. He asked what that inability to come to terms would do to the final plat approval.

Mr. Hough stated that the Planning Commission is assuming that a resolution will be reached, but if not, no work can begin on the subdivision. He stated that this is incentive for the developer to cooperative with the committee. He also pointed out that the conclusion the committee reaches may only reduce the possibility of slides in Jones Canyon, not prevent them.

At this point, Chairman Wylie reminded the Board and the audience of the options available to the Board, warning the audience to confine their comments to these points, and invited public comment.

Peter Eggle, Suite 1212, Baker California Building, Seattle, Washington, represented Del Mar Community Services. He requested that the Board hold their own public hearing based on facts earlier conveyed to the Board in two letters submitted by Del Mar Board of Directors President, James Morrow. Mr. Eggle read excerpts from Mr. Morrow's second letter. Mr. Morrow's letter maintained that the conditions recommended by the Planning Commission were non-specific, and did not assign costs or responsibilities to the developer. Mr. Eggle also explained that the Seaview Division IV would be located directly over the aquifer which supplies the Del Mar water system. The developer's response to this fact is that the Del Mar system is so polluted, it would not matter if it was further contaminated by the development, and that the development would better be served by the City of Anacortes water system. Mr. Eggle reported that water tests performed by an independent laboratory were submitted to the County Health Department, proving the cleanliness of the Del Mar water.

Finally, Mr. Eggle pointed out that there was some sort of staff error which prevented the tape recording of the Planning Commission's public hearing on this subdivision, rendering the case undefendable in the event it is appealed to Superior Court. Mr. Eggle reiterated that Del Mar does not believe that the conditions adequately address the slides at Jones Canyon, and that the same conditions were not met during the development of Seaview II and III, so it is impractical to believe that they will be met this time. He stated that the recommendations of a hydrogeologist engaged by San Juan-Fidalgo were not adopted during development of any of the previous subdivisions. Mr. Eggle referred to R.C.W. 58.17 and argued that the conditions do not protect the public, in that they give preliminary approval of the development now, allowing the applicant to address any problems later instead of the other way around. He argued that, although the Planning Department states that if Del Mar is not satisfied with the solutions the committee reaches under Condition #10 no work can proceed, it actually does not specify this in the condition.

Commissioner Vaux questioned Mr. Eggle on a statement he made that the conditions set on the applicant came too late in the process. He asked Mr. Eggle when he would have had the conditions set.

Mr. Eggle responded that one condition was introduced at the deliberation stage of the Planning Commission's meeting, when the public hearing was already closed and Del Mar could not comment.

The applicant was then given an opportunity to respond.

Gary Jacobson, 3015-112th N.E., Suite 203, Bellevue, WA, represented the applicant. Mr. Jacobson contended that R.C.W. 58.17 says that nothing can be done before final plat approval can be obtained. He seemed to indicate that even sales of the property are severely regulated during the preliminary stages. Mr. Jacobson stated that hours and hours of meetings have gone into the establishment of the Planning Commission's conditions, and that it is inappropriate to come up with "eleventh hour" concerns. Mr. Jacobson contended that the County did not request any further information within 90 days of the plat

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application, therefore the Supreme Court has ruled that the County cannot now request further information. Mr. Jacobson stated that the issue is not whether or not the plat conforms to County rules, but rather is a growth issue. He stated that a vocal minority is attempting to halt orderly growth by bringing up superfluous information. Mr. Jacobson stated that no public hearing is appropriate under the circumstances.

Mr. Eggley voiced offense at Mr. Jacobson's statements that the information being argued today is insignificant or needless. Mr. Eggley again brought up the inability of Del Mar to block development if they are not satisfied with the two study group's findings. He indicated that Del Mar does not want to block development, but simply wants improved conditions.

John Leonard, the applicant's surveyor, agreed that some of the conditions are vague, but that their vagueness can work to benefit both sides.

Mr. Eggley then immediately suggested that the applicant and Del Mar cooperate to redraft the conditions.

A Donald Doss, 1402 Seaview Drive, Anacortes, interrupted at this point to object to a condition of the preliminary plat which assigns the liability for drainage systems, such as the retention ponds, to the homeowners. He stated that this condition then makes the homeowners liable for downstream drainage; something they were unaware would be their responsibility at the time of their purchase.

Commissioner Vaux then spoke. He stated that he did not feel that remanding the matter back to the Planning Commission was possible, leaving only the options of approval or a new public hearing. Commissioner Vaux admitted his concern for the delicacy of the situation, for the possibility of legal action in the manner of an appeal, and with the appearance of trying to rush the issue. He stated that he is disturbed by the accusations that the application process has been a flawed, which he felt could be cured only by holding a new public hearing. Commissioner Vaux stated that the most expeditious solution would be for both parties to negotiate outside of a public hearing.

Commissioner Rohrer felt that the 7-0 vote of the Planning Commission is strong indication that the decision was a fair one.

Chairman Wylie stated that she had no objection to the conditions set forth, and the fact that work could not begin before all conditions are satisfied.

Commissioner Vaux noted that the soonest a public hearing could be held was December 24, 1990, or January 2, 1991. He asked Dave Hough what could be done differently this time to make the conditions work.

Mr. Hough responded that the review process has become very efficient within the past year, and that cooperation between departments has heightened so that compliance can more efficiently be assessed. Also, he stated, the Planning Department recognizes that their efforts will be needed to ensure that conditions are met.

Chairman Wylie asked what assurances we have that the conditions will be met.

Mr. Hough replied that the Hearing Examiner is charged with reviewing the applicant's request for final plat approval, at which time he receives information on whether the conditions have been met.

Commissioner Vaux asked Mr. Hough the intent of Condition #3B, which is the condition which assigns the maintenance and operation of all drainage facilities to the Homeowners Association, a condition which will

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be added as a note to the Plat.

Mr. Hough answered that this is a normal condition associated with development. He stated that the County is not in a position to maintain private drainage facilities. The County maintains only drainage facilities on public lands.

Commissioner Rohrer asked if potential buyers are notified of this.

Mr. Hough responded to the extent that we must "let the buyer beware".

Mr. Doss loudly pronounced that no disclosure of this fact was ever made to him by the developer or the seller, and was called out of order.

Commissioner Vaux noted that Condition #10E states that only drainage systems of Seaview Division #IV can be changed as a result of the Jones Canyon study.

Mr. Hough noted that the changes do effect or include a portion of Seaview Division #II.

Mr. Egglely submitted that his client would agree to add language to Condition #10 that all parties must agree on the conclusions reached and all work must be performed before final approval.

Mr. Jacobson contended that this language is already included in the condition.

Mary Cherberg, the chief engineer for the project, stated that it would be acceptable to San Juan Fidalgo Holding Company to add Mr. Egglely's language to the condition.

Mr. Egglely suggested that the condition additionally state, "No final plat approval should occur until agreement has been reached by all parties listed in Condition #10 (Public Works Department, Department of Planning and Community Development, Del Mar Community Services, and the applicant) on work to be performed, and until all prior work has been completed".

Ms. Cherberg suggested to substitute "100% agreement" for "agreement".

At the request of Chairman Wylie, Mr. Hough explained the process for final plat approval. He stated that legally, the developer could bond all of the projects he has to complete rather than actually completing them.

Mr. Egglely argued that his clients are asking that either specific work to be performed be listed in the conditions, or that Del Mar be given power to veto actions in conditions #10 and #5.

Mr. Hough felt that it is not possible to add a condition at this juncture without holding a new public hearing. He suggested that agreements associated with the conditions be signed as a contract between the applicant and Del Mar.

Both parties agreed to such a contract, and the meeting recessed for approximately 30 minutes to draw up the contract.

When the meeting was once again convened, Mr. Egglely reported that the Board of Directors of Del Mar Community Services met in a special session and voted to sign a Memorandum of Understanding with the San Juan-Fidalgo Holding Co., Inc., represented by Mary Cherberg. The Memorandum indicates that all

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parties must agree to the conclusions found in Conditions #10 and #5, and that all work must be completed under these conditions prior to final plat approval.

Commissioner Vaux thanked both parties for their negotiation efforts, and motioned to approve the recommendation of the Planning Commission in the matter of the Preliminary Plat of Seaview Division #IV, with the addition of the aforementioned Memorandum of Understanding. Commissioner Rohrer seconded the motion, which passed unanimously.

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

1) Signature - Sphere of Influence Agreements.

Mr. Kirkpatrick related that the signing of the agreements today is not possible due to the absence of official agreements from the cities of Mount Vernon and Sedro Woolley. He did, however, use visual aids to demonstrate the territories which are presently identified as the spheres of influence of the four major cities. He explained that the agreements that will be signed will simply reaffirm the old boundaries while the cities work on adjusting their boundaries to comply with the Growth Management Act. These adjusted boundaries will not be finalized until the cities have justified to the County each adjustment. Mr. Kirkpatrick, again using the visual aids, demonstrated the areas that the cities are considering to add or delete from their spheres of influence.

Mr. Kirkpatrick promised to bring the resolutions reaffirming the sphere of influence agreements next week for the Board's signature. Brief discussion was held on the smaller cities' abilities to comply with the development of the sphere of influence agreements.

Carol Ehlers, an audience member, charged that the staff make clear to the public the purpose of Urban Growth Boundaries.

2) Update - Sewer District #1 Moratorium.

Mr. Kirkpatrick stated that the Planning Department has been asked by the Department of Ecology (DOE), which is also representing the interests of the Swinomish Tribe, to discontinue the issuance of building and/or sewer permits to residents of Sewer District #1 because of DOE's discovery of the discharge of untreated sewage into the bay from local private sewage treatment systems. A letter advising the sewer district of this fact has been sent by DOE and received by the district, but the DOE has not placed their own moratorium on the district, although it plans to issue notices of violations.

The Board discussed with Mr. Kirkpatrick the implications of a sewer permit moratorium on the ability of the district residents to receive building permits. It was revealed that no stop order has been issued by the DOE, and that all that has been asked of the district is voluntary compliance.

Mr. Kirkpatrick stated that he is researching the issue of a moratorium with legal counsel at this time.

The Board directed Mr. Kirkpatrick to arrange a meeting of the Board with the Sewer District Commissioners and legal counsel.

3) Forest Practices Act Policy Discussion.

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Gary Christiansen gave an overview of the format the staff wishes to take for the refining of the County's forest practices policy. He stated that he would like to submit to the Board by the week's end a report detailing the discussion items, and then he would like to arrange a work/study session with the Board for next week to go over the discussion items in detail.

Mr. Christiansen stated that staff would like to further define the policies to answer questions such as:

- What should be done with applications made prior to the instigation of the forest practices policy? Should they be grandfathered in, or should different criteria be used based on the adjacent zoning?
- Can a six-year moratorium alone protect long-term commercial timber lands?
- If a Class III Forest Practices Application indicates that no conversion is anticipated, but the Planning Department suspects there will be subdivision occurring just beyond the legal time limit of the Forest Practices Application, should the Planning Department close this "back door"?
- Should the County assert its role in land clearing as pertains to surface runoff which is believed to contribute to flooding?

Mr. Christiansen explained that the staff wishes to discuss these issues with the Board so that the staff can become more comfortable with implementing policy, knowing the Board's direction.

The Board scheduled a work session with the staff for the following week.

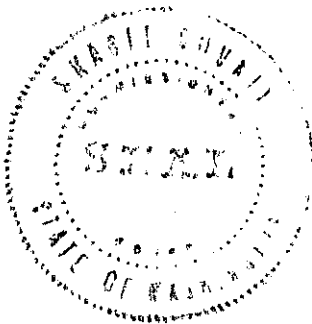
4) Miscellaneous.


Mr. Kirkpatrick had no miscellaneous items.

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