

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

Tuesday, April 16, 1991

- 9:00 a.m. - 9:30 a.m. Department of Planning and Community Development - Scott Kirkpatrick, Director:
- 1) Enforcement Report Update.
 - 2) Miscellaneous.
- 10:00 a.m. - 10:30 a.m. Report on Horticulture Activities - Dvon Havens, County Extension Agent.
- 10:30 a.m. - 11:30 a.m. Appeal by Carroll and Evangeline Young/Tim and Gail Bruce of Hearing Examiner's Decision to Approve Variance Request #V-91-003 of Jeff Poole.
- 11:30 a.m. - 11:45 a.m. Tour of Old Granary Building.
- 1:30 p.m. - 2:00 p.m. Discussion - Skagit Council of Governments Funding Request.
- 2:00 p.m. - 2:30 p.m. 1) Discussion - Demolition of Blade Building.
2) Discussion - Sale of Weed Harvester.
- 3:00 p.m. - 3:30 p.m. Decision - Appeal by Ellis W. Lark, Jr., of Hearing Examiner's Decision to Approve the Preliminary Plat #PP-91-002 of Howard Smiley.
- 7:00 p.m. - 9:00 p.m. Public Meeting - Drainage and Flood Control.
(Rexville Grange, 1929 Rexville Road, Mount Vernon)

The Skagit County Board of Commissioners met in regular session on Tuesday, April 16, 1991, with Commissioners W. W. Vaux, Ruth Wylie and Robby Robinson present.

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

- 1) Enforcement Report Update.
- a) Mr. Kirkpatrick reported on the Valley Ready Mix jurisdiction issue. He stated that pre-existing, DNR approved pits, may not fall under local jurisdiction, according to a Whatcom County case discovered by John Moffat, County Chief Civil Deputy. Rock crushers are not exempt from DNR permitting. Although the Valley Ready Mix rock crusher appears to lie within the City Limits of Concrete, officials continue to research whether the County has jurisdiction.
 - b) Regarding the request of a citizens group to review the permitting of day care and elder care facilities, Mr. Kirkpatrick reported that the current fee of \$393 for application for a Special Use Permit is onerous to very small, neighborhood operations. The citizens group has requested that the code not be enforced and non-compliant day cares not be required to apply for permits until a fee review is conducted. The Special Use Permit portion of the Skagit County Code has been sent to the Planning Commission for review, with emphasis on the administrative review process. Mr. Kirkpatrick asked for direction on the fee reduction issue, and the Board agreed that it felt a fee reduction would be appropriate for non-commercial day care and elder care facilities.
 - c) The weekly enforcement report was provided for review.

2) Miscellaneous.

- a) Henniger and Ray of Seattle have been chosen as Regional Transportation Planning Organization Consultants.
- b) The Swinomish Tribe has agreed to participate in half of the costs for the Environmental Impact Statement for the joint Swinomish Comprehensive Plan.

REPORT ON HORTICULTURE ACTIVITIES - DVON HAVENS, COUNTY EXTENSION AGENT.

As part of the requirement of receiving tenure, Ms. Havens reported on her horticulture activities as an extension agent with the Skagit County W.S.U. Cooperative Extension Agency to the Board.

APPEAL BY CARROLL AND EVANGELINE YOUNG/TIMAND GAIL BRUCE OF HEARING EXAMINER'S DECISION TO APPROVE VARIANCE REQUEST #V-90-003 OF JEFF POOLE.

Jim Cahill, County Planner, provided an Assessor's Map and photographs of the subject property located at 706 Island View Lane, near the intersection of Hope Island Road and Sneeoosh Road near LaConner.

Chairman Vaux stated that the Board may exercise any of the following options:

- 1) To uphold the decision of the Hearing Examiner.
- 2) To remand the matter back to the Hearing Examiner for further consideration.
- 3) To call for the Board's own public hearing to consider testimony on the matter.

Mr. Poole has requested a variance to allow the continued construction of a single family residence within 9.5 feet of the rear property line (Hope Island Road) instead of the required 25 feet.

Mr. Cahill stated that the staff report of the Department of Planning and Community Development recommended denial of the request based on the following conclusions:

- The property is flat, therefore no topographic hardships or special circumstances exist to allow the granting of the request.
- The granting of the request would confer a special privilege upon the applicant.
- There is adequate area available so enable the applicant to comply with the setback ordinance.
- The irregular shape of the parcel does not justify the granting of the variance.
- Although the irregular shape of the lot is not the applicant's fault, he did purchase the lot with the knowledge of the restrictions inherent in the construction of a house on the irregular shaped lot and himself created the hardships that the lot shape entails.

Mr. Cahill stated that the Hearing Examiner approved the request based on the following findings:

- Aesthetic improvement is the applicant's intent.
- The road and property configuration require a variance from the setback ordinance.
- No special privileges are conferred on the applicant, as all residents are entitled to enjoy the view from their lots.

Before accepting public testimony, Chairman Vaux warned the audience to limit their comments to facts which are contained within the file of the Hearing Examiner, and which pertain to the appellants' request to hold a public hearing to reconsider the variance request.

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Larry Smith, Attorney for the applicant, was given the first opportunity to speak. He maintained that it is a matter of law that the applicant is not at fault for the purchase of the irregular shaped lot, and it is not the intent of the variance ordinance to address this issue. He cited an opinion of John Leonard, engineer, that Mr. Poole's home will cause no traffic hazards. He stated that no testimony was given to the Hearing Examiner indicating that any adjacent neighbors' views would be effected by allowing the variance, as indicated by the appellants, and that neither the Bruces nor the Youngs would suffer any impediment of their view except at an extreme angle. He stated that the appellants' assertion that property values would be effected is a non-issue, as a petition of six neighbors states that the house is an enhancement of the neighborhood. It thought by the neighbors that if the variance were not granted, a smaller, more meager home would be built on the lot, thus reducing their property values. Mr. Smith maintained that "special privileges" as used in the variance ordinance, indicates favoritism which is bestowed on the property, not on the applicant. This "favoritism" is not present. He encouraged the Board to uphold the decision of the Hearing Examiner.

John Leonard, P.E., testified to his finding that no visual traffic impediments would occur as a result of the granting of the variance.

Mr. Poole, the applicant, indicated that Mr. Bruce himself testified that the house itself was in keeping with the character of the rest of the neighborhood. He reiterated points already made by Mr. Smith.

Ola Roald of Re/Max Bay Realty admitted that Mr. Poole had violated the setback ordinance when he began his construction, but that it would have no negative effects on the neighborhood.

Gail Bruce, representing the appellants, was then given an opportunity to respond. She maintained that a special consideration is given to the applicant in the granting of the variance, as the lot is irregularly shaped and would be buildable with a smaller house plan, which was known to Mr. Poole at the time of his purchase. She stated that his variance is required in order to allow Mr. Poole to take advantage of the best view, which is also the fault of the applicant. She maintained that the proximity of the home to the road, at 15 feet closer than the required setback, would make landscaping of the yard difficult, and she cited examples of traffic and pedestrian hazards. She repeated a statement made by Mr. Poole to her husband, Tim Bruce, to the effect that he was aware of the his violation of the setback ordinance, but did not believe anyone would catch him. She stated that the petition cited by Mr. Smith did not contain the names of Mr. Poole's immediate neighbors. She suggested a site visit by the Board.

Mr. Smith, in his rebuttal statement, again refuted the presence of a traffic hazard. He pointed out that the immediate neighbors are only concerned with the size of Mr. Poole's new home.

Mr. Poole vehemently denied the statement attributed to him by Mrs. Bruce.

Chairman Vaux then made a statement, indicating that he feels most strongly about Mr. Poole's apparent attempt to rectify a situation he caused by allowing his home to encroach upon the rear setback by 15.5 feet. This leads to the impression that the County must now approve his request, since he has spent so much money on his project to date. Chairman Vaux agreed that the neighbors' views would not be effected, but took the violation of the setback ordinance as a serious offense.

Dates of the building plans and subsequent plans submitted were compared, showing that the building plans initially submitted to the Department of Planning and Community Development indicated that Mr. Poole intended to comply with the setback ordinance. His lack of compliance was pointed out via a citizen's complaint, after which a stop work order was placed on the construction. Past policy has not required a footings inspector to check that the setback requirements have been met, and Mr. Poole maintained that

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his successful footings inspection indicated approval of the setbacks.

Commissioner Wylie pointed out that a safety problem does not exist, as other houses lie within the 25 foot setback. Mr. Cahill pointed out that a variance cannot be granted based on the action of the others.

Commissioner Robinson did not see any safety issue either.

Commissioner Wylie motioned to uphold the Order of the Hearing Examiner in the matter of the Jeff Poole variance request #V-91-003. Commissioner Robinson seconded the motion. The motion carried with votes from Commissioner Wylie and Commissioner Robinson. Chairman Vaux voted in the negative.

Mr. Poole then proceeded to lecture the Board on the lack of a setback measurement in conjunction with a footings inspection.

TOUR OF OLD GRANARY BUILDING.

The Board toured a building located adjacent to I-5 and just north and east of the Courthouse.

DISCUSSION - SKAGIT COUNCIL OF GOVERNMENTS FUNDING REQUEST.

Chairman Vaux, as the Board's SCOG representative, presented the request of SCOG for additional funding in the amount of \$7,895 (\$0.25 per capita for residents of the County's jurisdiction) to pay for administration of the SCOG programs which will suffer a shortage this year. Chairman Vaux recommended that the request be approved.

Commissioner Wylie commented that it is not equitable for the County to have only one vote on the SCOG, as the County's population is greater than that of any of the cities. She also commented that SCOG should assume the role of a grant writer/obtainer for other jurisdictions and not of grant administrator. She recommended that the SCOG charter be revisited to consider given SCOG a different form. Part of this review would include a review of how the SCOG is funded. She did agree that the County should fund projects that have already been started this year.

Commissioner Wylie motioned to approve the request of SCOG for an additional \$7,895 (\$0.25 per capita) for the year 1991. Commissioner Robinson seconded the motion, which passed unanimously.

DISCUSSION - DEMOLITION OF BLADE BUILDING.

Roger Howard, Facilities Manager, recommended letting a bid for site preparation prior to a construction bid for the construction of a new building on the site of the old Blade Building. He pointed out that this would allow construction bidding firms to bid with greater economy, since there would be no unknowns present with respect to the demolition of the old building.

The Board agreed, and instructed Mr. Howard to prepare a Call for Bids.

DISCUSSION - SALE OF WEED HARVESTER.

Mr. Spahr explained that the weed harvester has been used to harvest lilies and mill foil on a periodic basis during the summer on Clear Lake, Lake Erie, and Lake Campbell. Retired County employees operate the equipment as requests are received. Two operators are required, at a cost of about \$2,000 to \$3,000 per year. Mr. Spahr explained how the weed harvester worked.

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Commissioner Wylie pointed out that a resident of Big Lake had been denied his request for the County to harvest weeds near his home. She felt that if the County was not willing to provide the service fairly, the harvester should be sold and an independent business encouraged to provide the service.

Apparently, according to Mr. Spahr, the Big Lake resident had received incorrect information. The Board determined to keep the weed harvester, and directed Mr. Spahr to seek four permits to harvest weeds from Clear Lake, Big Lake, Lake Campbell and Lake Erie.

MISCELLANEOUS ITEMS.

- A. The Board agreed to an expenditure of \$4,000 to \$5,000 to make a new building purchased by the County at 109 Broadway in Mount Vernon habitable for use by the Boundary Review Board of Skagit County.
- B. A Consultant Services Agreement with Huckell/Weinman Associates, Inc., was signed. The contractor agrees to prepare a Draft and Final Environmental Impact Statement and Planning Support Services for the proposed Nookachamps Hills Planned Unit Development. The total compensation to the contractor would not exceed \$84,900, and would be paid via a third party contract with the developer of the Nookachamps Hills P.U.D. A letter of commitment has been filed with the Department of Planning and Community Development by the developer. (Contract #00907)

DECISION - APPEAL BY ELIS W. LARK, JR., OF HEARING EXAMINER'S DECISION TO APPROVE THE PRELIMINARY PLAT #PP-91-002 OF HOWARD SMILEY.

Grace Roeder, County Planner, indicated on a map how the Skyridge Development contributes to the Smiley Development's runoff.

Mr. Smiley was allowed to again explain his drainage system.

Ms. Lark was also allowed to comment, and indicated that Mr. Smiley has been given no guidelines for ditch formation, so has constructed his ditches based only on "his best guess". Her concern was that once the homes are built on the parcels and the greenery cut, runoff would increase and the additional stress caused would not be able to be borne by the ditches.

Conditions #8 and #9 and #14 were discussed. They indicate Mr. Smiley's earlier application and rejection of the drainage plan, which later received support from a local engineer and has now been accepted by the Department of Planning and Community Development. They also indicate that a certification by a professional engineer must be submitted that indicates that the drainage system is working as designed, and that as-built drawings of the storm drainage be submitted to the Department of Planning and Community Development within thirty days of completion of the construction.

Based on the existence of these conditions, Commissioner Wylie motioned to uphold the decision of the Hearing Examiner in the matter of the approval of the Preliminary Plat of Little Mountain Estates, Division II, but Howard Smiley. Commissioner Robinson seconded the motion, which passed unanimously.

PUBLIC MEETING - DRAINAGE AND FLOOD CONTROL.

The Board convened at the Rexville Grange, 1929 Rexville Road, Mount Vernon, for a public meeting the purpose of which was to present a proposal for the formation of a county-wide drainage utility, and to gather public opinion on the proposal. Approximately 30 people attended.

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Chairman Vaux introduced Dave Brookings, Flood Control Engineer.

Mr. Brookings reviewed drainage and flooding issues, beginning in the far eastern reaches of the County and extending westward to Fidalgo Island. He then reviewed the revenues available for flood and drainage improvements and maintenance of flood and drainage facilities. Twelve dike districts and 13 drainage districts produce revenues through taxes in amounts from \$6,000 to \$35,000 annually to address the dike and drainage facilities in their respective areas. Nine sub-flood control zones, for which the Board of County Commissioners acts as administrators, also produce revenues through taxes to address flood and drainage issues in their respective areas. The county-wide drainage utility would respect the role these districts play in flood and drainage control, and would not disturb their functions. The County Road Fund allots \$240,000 for drainage maintenance necessary to protect County Roads and is applied to projects outside the perimeter of the roads. The River Improvement Fund provides \$20,000 which is apportioned to the dike, drainage and sub-flood control districts through a grant program. One person, Mr. Brookings, makes up the staff of the Flood Control Division.

Mr. Brookings reviewed the components necessary to a comprehensive drainage program. Planning and studies should include the following steps:

- identify issues and solutions
- clarify jurisdictional roles
- develop a system to evaluate and prioritize projects
- identify maintenance needs
- facilitate compliance with Department of Ecology regulations
- set appropriate fees

Mr. Brookings explained that the staff has reviewed ways in which to fund this study and has the following options:

- sub-flood control zones and diking and drainage districts to cover the entire County. Does not deal with regional issues, but does compel everyone to participate.
- River Improvement Fund raised by a county-wide vote to exceed tax limit.
- Mitigation fees. These cannot alone provide a solution to water problems, as they can be used only to benefit whatever development pays them.
- Federal and State grants. These require matching funds of up to \$0.50 on each dollar raised through grant applications.
- County-wide drainage utility.

Mr. Brookings reviewed the State law pertaining to the County-wide drainage utility, which is being recommended as the option to pursue. The County-wide drainage utility can be formed by a vote of the Board of Commissioners. Initial assessments would fund the drainage study. The study would then identify how assessments should be made to fund future construction and maintenance projects based on the land use activity on the property. An initial assessment of \$10.00 per parcel has been suggested.

Finally, Mr. Brookings reviewed a timeline for planning and implementation.

Curt Johnson, vice president of the Flood Control Council and Dike District #22 Commissioner, agreed that flood control should be a county-wide task; however, felt that a study should of cost \$350,000, as reported in the newspaper. The Flood Control Council, he stated, would be willing to perform the study at no charge, and has a membership with a great deal of flood control experience. He felt that each area's watershed residents should be made to pay, but those who don't contribute water to the Skagit, should not have to

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pay. He also felt that residents of Dike District #22 should not have to pay for the study, as they are already assessed \$9.45 per acre.

Bill Roozen gave statement supportive of the Utility.

Tom Solberg of Edison, strongly felt that the uninhabited timber areas to the east are great contributors to the drainage and flooding problems and should be taxed accordingly. Logged areas are greater contributors than farmland, he reasoned, and should be charged greater amounts in taxes.

As a result of a question from the audience, Commissioner Wylie pointed out that she hoped that by assessing residents county-wide, assessments for the Diking and Drainage Districts would be reduced.

Mr. Johnson did not believe in assessing property based on valuations, but felt that the County should be divided into watershed and residents assessed and money divided accordingly.

John Roozen felt that the complicated issues of drainage were worth \$10.00 per parcel to study.

Phil Jennings, Drainage District #15 Secretary, pointed out that large areas of the County are not currently paying any type of drainage or flood control tax, and that most Districts are concentrated in western Skagit County. He pointed out that if these residents will not form their own Districts, they will not help to pay for flooding and drainage control except through a County-wide program.

Judy Menish supported the County-wide concept, but pointed out that if State roads are taxed, we would simply be paying taxes with our tax money.

Ross Barnes of Anacortes felt the study should be conducted in two parts. One part would be a pre-study to determine what problems should be studied, and part two would proceed to study those identified issues raised in the first study. He encouraged the program to be carefully administered and that antiquated solutions be avoided.

Mr. Brookings and Mr. Solberg discussed the magnitude of the November flood, Mr. Brookings classifying it as a 25 year flood. Mr. Solberg made the point that it may be cost prohibitive to plan for a 100 year flood.

Leif Barum believed that 95% of Skagit County voters would favor the dredging of the Skagit.

Bud Lenning, a former Drainage District #15 Commissioner, was concerned with who would perform the study. He indicated a distrust for consultants and large bureaucracies.

Frank Campbell also favored local expertise for the study.

Pete Walker was supportive of a county-wide utility that would not localize areas, but would equally share the funding.

The point of the inclusion of the cities in the taxation was brought up. Chairman Vaux indicated that he felt that the residents of Anacortes should not be assessed for the study, as they already pay for a drainage utility. The audience was not in favor of Chairman Vaux's suggestion.

Tom Solberg felt that the matter of county-wide drainage should be subject to a popular vote of the people; however, Bill Roozen pointed out that in 1979 a \$1 to \$2 million grant was offered to Skagit County from the Army Corps of Engineers, but was turned down after a vote of the people.

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Dan O'Donnell cited statutes which he claimed denied the County the ability to create a county-wide drainage utility by decision of the county legislative authority.

Dave Hedlin also felt that there is a great resource in the experience of the local Districts which usually isn't appreciated by outside consultants, although he was in favor of a study being conducted.

At this point, the meeting turned toward the subject of dredging and shortly thereafter was adjourned.

ADJOURNMENT:

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

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON





W. W. Vaux, Chairman

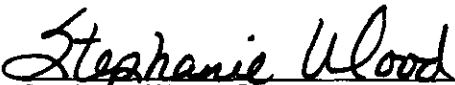


Robby Robinson, Commissioner



Ruth Wylie, Commissioner

ATTEST:



Stephanie Wood, Clerk
Skagit County Board of Commissioners