

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

Monday, June 3, 1991

- 9:30 a.m. - 10:00 a.m. 1) Resolution - Supporting Purchase of McGlinn Island by Swinomish Tribal Community.
2) Proclamation - Honor The Flag Week - June 10-15, 1991.

10:00 a.m. - 11:30 a.m. Public Works Department:

- 1) Introduction - New Public Works Department Staff - David Baltz, Transportation Planner.
- 2) Public Hearing - Opening of Unopened Right of Way - Buchanan Lane.
- ③) Public Hearing - Declaration of Sole Source Replacement Components at Resource Recovery Facility.
- 4) C.R.P. Update - Lyman-Hamilton Road Reconstruction Project.
- 5) Signatures - Hickox Road Railroad Crossing: a) County/Railroad Agreement, b) Utilities and Transportation Commission Petition.
- 6) Signatures - South Texas Road Railroad Crossing: a) County/Railroad Agreement, b) Utilities and Transportation Commission Petition.
- 7) Resolution - Designating a Portion of Wood Road #2400 as a Primitive Road.
- 8) Bid Award Recommendation - Purchase of Small Pick Up Trucks.
- 9) Miscellaneous.

CONSENT AGENDA.

MISCELLANEOUS ITEMS.

1:30 p.m. - 2:30 p.m. Work Session - Six Year Road Program.

2:30 p.m. - 3:30 p.m. Public Hearing - Amendments to Skagit County Code Chapters 14.04.110 and 14.04.115 Regarding the Siting of Buildings in the Agriculture and Agriculture Reserve Districts.
(Hearing Rooms B and C, County Administration Building)

The Skagit County Board of Commissioners met in regular session on Monday, June 3, 1991, with Commissioners W. W. Vaux, Ruth Wylie and Robby Robinson present.

RESOLUTION - SUPPORTING PURCHASE OF MCGLINN ISLAND BY SWINOMISH TRIBAL COMMUNITY.

Present for this discussion was Jack Henriot, who represented the selling party, the Dunlap family, Allen Olson, who represented the Swinomish Tribal Community, and Bob Rose, who represented the Department of Natural Resources.

Mr. Rose explained that, in a cooperative effort between the three entities represented today, an agreement has been reached whereby the Federal Government, facilitated by the Department of Natural Resources, will purchase McGlinn Island and place it in Federal Trust for the Swinomish Tribal Community. The agreement bears the understanding that the Dunlap property will remain untouched and undeveloped in perpetuity. Mr. Rose asked that the Board sanction the agreement by passing a resolution in support of the plan.

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Mr. Olson alluded to the fact that the boatbuilding enterprise and shooting club who presently use small portions of the land will be allowed to remain at least until the expiration of their leases.

Commissioner Wylie motioned to adopt the resolution supporting a purchase of McGlenn Island by the Federal Government for the Swinomish Tribal Community. Commissioner Robinson seconded the motion, which passed unanimously. (Resolution # 12992)

PROCLAMATION - HONOR THE FLAG WEEK - JUNE 10-15, 1991.

The Board proclaimed the week of June 10-15, 1991, Honor the Flag Week. Earl Lind of the BPOE (Elks) Lodge was present to accept the proclamation.

PUBLIC WORKS DEPARTMENT:

1) Introduction - New Public Works Department Staff - David Baltz, Transportation Planner.

The Board was introduced to David Baltz, who was recently hired to fill the position of Transportation Planner.

2) Public Hearing - Opening of Unopened Right-of-Way - Buchanan Lane.

Chairman Vaux waived the reading of the notice of public hearing, as published in The Skagit Argus on May 21 and 28, 1991.

Linda Johnson, Office Engineer, reported that an application has been received from Mr. Ellis Buchanan, who owns property located east of Buchanan Lane requesting that an unopened portion of Buchanan Lane which borders his property be opened for the purpose of access to his property and to connect with roads he is proposing to build. Buchanan Lane, Ms. Johnson explained, is located off of Buchanan Road in the community of Clear Lake.

Ms. Johnson explained that the Public Works Department is recommending the opening of this right-of-way upon the following conditions:

- the road must be brought up to County standards using approved plans.
- a performance bond must be issued equal to 125% of the estimated construction costs of the road.
- an additional 20 feet of right-of-way must be deeded to the County along the entire east side of Buchanan Lane beginning at Buchanan Road, a total distance of 1331.6 feet.
- an approved drainage plan must be made.
- an existing concrete loading ramp must be removed from the right-of-way.
- the road must be maintained by the property owner.

Mr. Buchanan stated that he will be unable to meet the condition which requires him to deed 20 feet of right-of-way to the County from his property because his house and mill would then be too close to the road right-of-way.

Ms. Johnson defended the position of the Public Works Department, stating that it is appropriate to acquire right-of-way now that would bring Buchanan Lane up to the County standard of a 60 foot width instead of waiting until development begins to occur on property which uses the roadway for access. To wait may mean it will be impossible to obtain the right-of-way at a later date. Ms. Johnson stated that there is potential for Mr. Buchanan to develop his property into 5 building lots. The property to the west may also

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hold as many as 5 homes. Ms. Johnson also mentioned the presence of the concrete loading ramp which must be removed from the right-of-way.

Al Berger, a Clear Lake resident, did not think that there was enough land contained in the parcels to the east and west of Buchanan Lane for 10 homes if the zoning allows only one home per acre; however, the plat map did indicate sites for 10 homes.

Ms. Johnson explained that it would be inappropriate to request the right-of-way from the property on the west side of the roadway, as the present right-of-way was initially taken from the west side property at the original platting.

Mr. Buchanan was still unwilling to agree to the condition.

Rich Medved, Interim Public Works Director, suggested that staff attempt to reach a compromise with Mr. Buchanan.

Chairman Vaux agreed to continue the public hearing to June 17, 1991, at 10:00 a.m. to allow for negotiations.

John Smith, a neighboring property owner, stated that he would be away on June 17, and wished to make statement at this time. He stated that he owns the property downhill to the east of Mr. Buchanan, and is disturbed by drainage from the upland area. He wished to see drainage mitigation as a part of the process to develop Mr. Buchanan's property.

Mr. Buchanan indicated he also suffers drainage problems from land upland of his. He felt that the opening of the right-of-way and subsequent drainage plan completion would help alleviate the problem.

3) Public Hearing - Declaration of Sole Source Replacement Components at Resource Recovery Facility.

Chairman Vaux waived the reading of the notice of public hearing, as published in The Skagit Argus on May 14, 21, and 28, 1991.

Jeff Monsen, Assistant Administrator - Solid Waste Division, presented and reviewed a resolution which he was recommending be passed declaring that, due to the existence of parts within the County's incinerator which are produced only by a single manufacturer and are unique in design and quality, a declaration of these sole source providers be made so that the County may waive the procedure for securing telephone, written, or formal bids and purchase directly from the sole sources. The resolution contained a list of the parts which will be effected are as follows:

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| - Turbine Generator System | Murray Turbo Machinery
Ideal Electric Company |
| - Overhead Crane & Grapples | Harnischfeger, P&H
Gleeson Reel
Gensco Equipment, Inc. |
| - Fly Ash Handling System | Ash Tech
Research-Cotrell |
| - Continuous Emissions
Monitoring System Software | Enviroplan, Inc. |
| - Cooling Towers | Marley Company |

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| - Boilers | Zurn Industries, Inc. |
| - Soot Blowers | Copes-Vulcan, Inc. |
| - Quench Reactor Nozzles | Coltec Industries |
| | Delavan-Delta |
| - Kiln Hydraulic Feed System | Technitalia |
| - Reciprocating Conveyor System | Technitalia |

Don Bockelman, a Day Creek citizen, who did not have a copy of the resolution, asked what parts were being considered.

Chairman Vaux stated that an example of the parts being considered was the Zurn boiler.

Mr. Bockelman then produced a letter of November 10, 1986 from a Mr. Bolmey to Joe Suave of Smith and Ardussi from which he read a paragraph which predicted the failure of the Zurn boilers.

Chairman Vaux responded that the County's consultant had investigated the reliability of the Zurn boiler and found it to be dependable. That reliability has been proven thus far in the life of the incinerator.

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

Commissioner Wylie then motioned to adopt the resolution declaring sole source suppliers for replacement components for the Resource Recovery Facility, as listed above. Commissioner Robinson seconded the motion, which passed unanimously. (Resolution # 12993)

4) C.R.P. Update - Lyman-Hamilton Road Reconstruction Project.

Commissioner Wylie motioned to adopt the resolution authorizing construction funds in the amount of \$277,303.00 for the Lyman-Hamilton Road County Road Project #9402-1. Commissioner Robinson seconded the motion, which passed unanimously. (Resolution # 12994)

5) Signatures - Hickox Road Railroad Crossing: a) County/Railroad Agreement, b) Utilities and Transportation Commission Petition.

The Board approved for signature a City/County Railway Agreement for Federal Aid Safety Project #RRP-2029(21), which provides \$68,515 in grant funding to install two automatic flashing light traffic control devices with gates and train activation devices at the Hickox Road Railroad Crossing. Also approved for the same project was a petition to the Washington Utilities and Transportation Commission to allow the upgrading of the crossing. (Contract #01001)

6) Signatures - South Texas Road Railroad Crossing: a) County/Railroad Agreement, b) Utilities and Transportation Commission Petition.

The Board approved for signature a City/County Railway Agreement for Federal Aid Safety Project #RRP-2029(21), which provides \$58,918 in grant funding to install two automatic flashing light traffic control devices with gates and train activation devices at the South Texas Road Railroad Crossing. Also approved for the same project was a petition to the Washington Utilities and Transportation Commission to allow the upgrading of the crossing. (Contract #01002)

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7) Resolution - Designating a Portion of Wood Road #2400 as a Primitive Road.

Robin LaRue, Design/Construction Engineer, located Wood Road on a vicinity map near Edison off of Colony Mountain Drive. Mr. LaRue reviewed for the Board the criteria for declaring a road to be "primitive". He stated that due to the use of Wood Road for logging activity that is being conducted, it is in the best interests of the County to post the road as primitive to provide liability protection to the County.

Commissioner Robinson motioned to adopt the resolution declaring a portion of Wood Road #2440 as a primitive road. Commissioner Wylie seconded the motion, which passed unanimously. (Resolution # 12995)

8) Bid Award Recommendation - Purchase of Small Pick Up Trucks.

Upon the recommendation of the Public Works Department, Commissioner Robinson motioned to adopt the resolution awarding bids for two new small pick up trucks to Greg Hinton Oldsmobile-Cadillac-GMC Trucks to furnish one new 1991 GMC four-wheel drive pickup truck for the bid price of \$12,704.54, and to Blade Chevrolet to furnish one new 1991 Chevrolet four-wheel drive extended cab small pick up truck for the bid price of \$14,765.13. Commissioner Wylie seconded the motion, which passed unanimously. (Resolution # 12996)

9) Miscellaneous.

There were no miscellaneous items from the Public Works Department.

CONSENT AGENDA.

Commissioner Wylie motioned to adopt the consent agenda of May 3, 1991, as submitted. Commissioner Robinson seconded the motion, which passed unanimously.

* Petitions for Property Tax Refunds:

1. Georgia Pacific, P.O. Box 1077, Bellingham, WA 98227, in the amount of \$205.87, due to a manifest error. (006391)
2. Carl Sorensen, 2321 Minkler Road, Sedro Woolley, WA 98284, in the amount of \$122.34, due to the sale of the property. (006291)
3. James A. Lagoe, 4712 Kingsway, Anacortes, WA 98221, in the amount of \$68.30, due to a cancellation of the assessment by the Department of Revenue. (005591)
4. Mount Vernon Christian School, 820 W. Blackburn, Mount Vernon, WA 98273, in the amount of \$96.64, due to an exemption by the Department of Revenue. (005891)
5. Roy Grant Logging, 711 Metcalf, Sedro Woolley, WA 98284, in the amount of \$458.11, due to a manifest error. (006091)

* Health Department:

6. Amendment to Contract #2635-00669 with the State Department of Health for services under Title XIX AIDS Case Management. Extends the contract through June 30, 1993, (originally, expiration

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was 06/30/1991) so as not to disrupt service, and adds \$10,000 to the contract - the same sum as was received last biennium.

7. Out-of-State Travel Request for John Hadman, Environmental Health Specialist, to travel to Portland, Oregon, from June 22 to June 26, to attend the National Environmental Health Association's annual conference. Round trip mileage and parking is \$160.00. Mr. Hadman will stay with relatives in lieu of having the County provide accommodations.

* Commissioners' Office:

8. Record of the Proceedings from Tuesday, May 28, 1991.

* Sheriff's Office:

9. Out-of-State Travel Request for Mike Murrell, Deputy, to travel to Sacramento, California, from June 6, 1991, through June 12, 1991, for the purpose of attending the WSIN Drug Conference. Cost of Travel: \$500 for motel and food.

MISCELLANEOUS ITEMS.

- A. Vouchers audited and certified by the auditing officer as required by R.C.W. 42.24.080, and those expense reimbursement claims certified as required by R.C.W. 42.24.090, have been recorded on a listing which has been made available to the Board.

As of this date, May 3, 1991, the Board, by a majority vote, did approve for payment those vouchers included in the above-mentioned list and further described as follows:

- 1) Warrants #68612 through #69030 (Vouchers #106215 through #106770) in the amount of \$1,170,086.49. Transmittal #C-25-91.
- 2) Warrants #81287 through #81381 (Vouchers #81287 through #81381) in the amount of \$259,237.56. Transmittal #R-13-91.
- 3) Warrants #85881 through #86041 (Vouchers #85881 through #86041) in the amount of \$317,249.22. Transmittal #PR-10-91.
- 4) Warrants #12030 through #12639 (Vouchers #102300 through #102872) in the amount of \$977,615.77. Transmittal #P-10-91.

PUBLIC HEARING - AMENDMENTS TO SKAGIT COUNTY CODE CHAPTERS 14.04.110 AND 14.04.115 REGARDING SITING OF BUILDINGS IN THE AGRICULTURE AND AGRICULTURE RESERVE DISTRICTS. (HEARING ROOMS B AND C, COUNTY ADMINISTRATION BUILDING.)

Chairman Vaux waived the reading of the notice of public hearing, as published in The Skagit Argus on May 21 and 28, 1991.

Chairman Vaux explained to the audience the purpose of the meeting and the steps leading up to the hearing. He told the audience that the Board was satisfied with the recommendations of the Planning Commission regarding the location of buildings on farmlands, but was not satisfied with the administrative variance procedure.

Kraig Olason, Assistant Director of the Planning Department, stated that the Planning Commission held 10 study sessions and three public hearings to consider the matter of siting of buildings on agriculturally zoned

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land. Mr. Olason provided packets to each audience member containing the proposed County Code amendments, the Staff Report, and the Recorded Motion of the Planning Commission. Mr. Olason reviewed the Recorded Motion.

Chairman Vaux then opened the floor for public comment.

Dan Peth, 1663 Kamb Road, Mount Vernon, Chairman of the Planning Commission, advocated adoption of the proposed administrative variance procedure, stating that it would serve to assure that farmland preservation would continue even when future Boards of Commissioners do not give it a high priority. He stated that the proposed siting criteria eliminates "loopholes" that were present in the recently repealed Policies and Guidelines Pertaining to the Division of Agricultural Land (1980). Mr. Peth urged the Board to put their trust in their appointed administrators and adopt the proposed amendments. He stated that the Planning Commission considers the Board's insistence on holding their own public hearing after all of the time the Planning Commission has committed to this issue a "slap in the face".

David Day, an attorney representing Jim and Alice Summers and Wendell Carlson, made a statement. Using an illustration of property which does not border a County Road, he asked how the new legislation would identify the "front property line" from which the 200 foot setback must be measured. He stated that the proposal presumes that all agricultural properties front on County roads.

Using a second illustration, Mr. Day depicted a situation where following the 200 foot setback requirement would remove more farmable land from production than would siting a house in a stand of trees or near another natural geographical anomaly. In order to site a home at the more appropriate sites, the landowner would be forced to go through a cumbersome variance process. He stated that the legislation removes the property owners' ability to determine the highest and best use of their land. Additionally, it overburdens staff with more variance requests to process.

Mr. Day concluded, stating that, first, the 200 foot setback rule is a bad idea. He stated that instead of solving the problem in this manner, policies should be written to encourage home siting such as was illustrated in scenario #2. Secondly, if the Board does choose to adopt the 200 foot setback requirement, he asked that the process for variances be by an administrative approach, with strict time limits so that the landowner receives the variance by default if it has not been processed within 30 days.

Wendell Carlson, 1366 Allen West Road, Bow, made a statement supportive of Mr. Day's testimony.

John Roozen supported the proposed amendments. He stated that his family currently rents land from 54 landowners in order to retain enough farmland to conduct their farming business. He stated that the same people who want to be allowed their rights to develop their land as they wish will complain when their neighbor subdivides his. He stated that the variance procedure is provided for those who need it, but the rules are designed for those who would destroy farmable land.

The following speakers advocated the rights of farmers to use their land as they wished, without governmental controls on building siting:

- Robert Judd, 1915 Francis Road, Mount Vernon
- Tom Solberg, Alger
- Frank Sybrandy, who also stated that his tax assessment was increased by 200% by the County Assessor.
- Bill Benson, 990 Avon Allen Road

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Don Kruse stated that non-farmers and non-residents view agricultural lots as "40 acre building lots". He gave two examples of situations where farmland was taken out of production by the location of homes in the middle of farmable acreage.

Bob Hulbert, 2049 Dry Slough Road, Mount Vernon, stated that the proposed ordinance is not directed at the farmers, but at the non-farmers. He stated that variances, although inconvenient, are meant to serve the public. He gave, as an example of allowing the division of agricultural holding to less than 40 acre lots, an account of how an 8 acre lot near his property was destroyed for agricultural purposes because it is a pre-existing substandard lot that is being sold as an \$8,000 building lot. Mr. Hulbert did, however, agree that a 30 day time limit should be placed on the issuance of variances.

Paula Hawkins, Legislative Chairman of the Skagit County Association of Realtors, also felt that the proposed amendments are an infringement on the rights of private property owners. She pointed out that variance processes are cumbersome and add to the cost of building and development.

Gary Jones, a Pleasant Ridge resident, pointed out that the bulk of prime agricultural land is relatively uniform. Only a relatively small amount of farmland would be subject to getting a variance for alternative building sites.

Bill Nielsen, who represented "some of the farmers", stated that the ordinance is a "planning tool" rather than a "public safety measure". He stated that variances are difficult to obtain, with the burden of proving the need for a variance falling upon the applicant. He stated that the County is "opening the floodgates" for all of the problems associated with an increase in the number of land use decisions. He felt that the proposed amendment penalizes the many honest farmers for the transgressions of a few.

Dave Hedlin pointed out that the instance of needless removal of land from farmability is not an isolated instance. He stated that the residential component of farmland is driving agricultural land prices. He pointed out that many more stringent ideas were thrown out through the Planning Commission process in order to arrive at this point.

John Sandell, 835 Ershig Road was opposed to the new legislation.

Ken Knutsen, 1111 Chuckanut Drive, Burlington, advocated farmers' rights. He stated that homes located closer to the property lines would also be closer to neighboring farm operations. He did not feel that it was too much trouble to farm land where houses were sited in the center.

Serena Campbell stated that by allowing the siting of houses in the middle of lots makes agricultural land more appealing to non-farmer buyers, which in turn drives the price of farmland up.

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

Chairman Vaux announced that a decision would be made on Monday, June 17, 1991, at 9:00 a.m.

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
W. W. Vaux, Chairman

Robby Robinson
Robby Robinson, Commissioner

Ruth Wylie
Ruth Wylie, Commissioner

ATTEST:

Stephanie Wood
Stephanie Wood, Clerk
Skagit County Board of Commissioners