

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

Tuesday, July 16, 1991:

9:00 a.m. - 10:00 a.m. Department of Planning and Community Development - Scott Kirkpatrick, Director:

- 1) Discussion - Resource Lands and Critical Area Classification Program.
- 2) Enforcement Report Update.

10:00 a.m. - 11:00 a.m. Appeal by Kendall Gentry of Hearing Examiner's Decision to Deny Shoreline Substantial Development Permit and Preliminary Plat of Rivers Bend.

11:00 a.m. - 12:00 p.m. Appeal by Donald R. Clark of Hearing Examiner's Decision to Uphold an Administrative Procedural Decision Regarding Clark's Skagit River Resort.

1:30 p.m. - 2:00 p.m. Bid Openings:

- 1) Leachate Hauling Services - Inman Landfill.
- 2) Fir Island Road Repair.
- 3) Reconstruction of Portion of Francis Road.

2:00 p.m. - 2:30 p.m. Public Hearing - Amendments to Chapter 2.36 of the Skagit County Code Regarding Public Defender Standards.

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

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

- 1) Discussion - Resource Lands and Critical Area Classification Program.

Gary Christensen, Associate Planner, and Jim Cahill, Assistant Planner, gave information. They provided a draft document describing the procedure that will be following to classify Skagit County's resource lands and critical areas and comply with the Growth Management Act.

They explained that resource lands include mineral, forest, and agriculture land. Critical areas include wetlands, aquifer recharge areas, frequently flooded areas, fish and wildlife areas and unstable slopes. Wetlands are being classified under a separate contract with an independent contractor.

A September 1 deadline for completion of the task has been given under the Growth Management Act, but Substitute House Bill 1025 allows for an extension of the deadline of 180 days upon request, and Mr. Christensen stated that Skagit County will be applying. To date, a technical advisory committee has been formed and a consulting firm (Parametrix) selected. A total of \$36,000 is available in the Planning Department budget to complete this task. The Department plans to involve the public in the process. They will work to standardize data available and received, create maps, computerize and automate information.

Mr. Christensen stressed that the study will be a "paper study". No new information from field studies will be obtained. No site specific information will be identified. The study is not for regulatory purposes, and no property owners rights will be changed as a result of the study. The study will, however, aide in the completion of the Comprehensive Plan update, and ordinances and interim controls may result from the study.

Mr. Cahill reviewed testing overlays and the discussion ended.

2) Enforcement Report Update.

Provided for review.

APPEAL BY KENDALL GENTRY OF HEARING EXAMINER'S DECISION TO DENY SHORELINE SUBSTANTIAL DEVELOPMENT PERMIT AND PRELIMINARY PLAT OF RIVERS BEND.

Grace Roeder, Associate Planner, provided photographs, a plat map and an Assessor's map of Section 12, Township 34, Range 3. The subject property is located at 1570 Bennett Road in Mount Vernon and is zoned Residential. The applicant is requesting a six lot subdivision, and is requiring 2500 cubic yards of gravel fill to elevate the grade level to accommodate a daylight basement and provide a view for the home. The placement of the fill requires a Shoreline Substantial Development permit.

A number of public hearings were held by the Hearing Examiner, the last of which was held on May 8, 1991. During review of the proposal, it was discovered that the dike near the subject property is subject to seepage and/or boiling.

The hearing examiner chose to deny the 6 lot plat, but approve a plat of 4 lots maximum, and to deny the Shoreline Substantial Development Permit, and require that 500 cubic yards of material that had been stockpiled on the property be removed.

Ms. Roeder reviewed the appeal by Mr. Gentry. The appeal stated that the 6 lot density was denied based on drainage impacts of the proposed fill, without benefit of engineering expertise on the part of the Hearing Examiner. Additionally, Mr. Gentry stated that the Hearing Examiner was in error by indicating that 1500 cubic yards of fill would be placed, when Mr. Gentry felt only 300 cubic yards is needed to build a paved road within the development. Finally, Mr. Gentry's appeal stated that a shoreline permit should not be required because Mr. Gentry is no longer planning on placing the fill as he had indicated before.

Ms. Roeder explained to the Board that throughout the review, Mr. Gentry has continued to reduce the amount of fill he will need for the development and has continued to offer to move it to different places. She stated that the Staff Findings are based on the original amount that Mr. Gentry requested, 1500 cubic yards.

Ms. Roeder 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. Gentry was allowed to state his appeal. He stated that he is not contesting the denial of the shoreline permit for the fill, even though his neighbors have been allowed to place fill similarly. Mr. Gentry charged that his application has been delayed and mismanaged. He stated that the Hearing Examiner is in error in that he made his decision believing that all the fill would be used on the road, when actually a portion of the fill would be used to elevate the one of the homes near the dike. Mr. Gentry argued that the Hearing Examiner's finding that a 6" gravel base and a 10" asphalt base would disrupt the topography of the lot and create a drainage hazard is not supported by the Environmental Checklist and Declaration of Non-Significance on the property. Mr. Gentry charged that the requirement for a shoreline permit was imposed by the Hearing Examiner and not the Shorelines Manager, and now the Hearing Examiner is using it to deny him the full six lot plat.

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Rich McMinimen, an attorney for Mr. Gentry, related much of the same information. He also felt the Hearing Examiner should not rely on the shoreline permit to deny the plat. He also pointed out that the Hearing Examiner showed no basis for denying a six lot subdivision and approving four instead. He pointed out that the DNS was challenged by the Audubon Society and another private party.

Ms. Roeder pointed out that if Mr. Gentry had not begun the road before he started the plat was begun, a shoreline permit would not have been required. He did, however, so the plat is reviewed subject to the shoreline permit.

Brad Furlong, an attorney representing a private party, Dick and Betty Swihart, asked that the Board uphold the decision of the Hearing Examiner. He cited potential dike system failure in the Riverbend area where the subdivision is proposed. He cited case law (Merkle v. Brownsville) which upholds the application of the shoreline permit to the approval of the plat. He stated that a four lot plat is a good compromise to minimize flood exposure.

Mr. McMinimen argued that the Staff Report indicates that the subdivision complies with the flood control ordinance, and meets the zoning requirements.

Mr. Furlong and Mr. McMinimen exchanged comments regarding the applicability of the shoreline permit to the plat.

Finally, Commissioner Wylie motioned to remand the matter back to the Hearing Examiner to discover the reason for the denial of two of the lots. Commissioner Robinson indicated that, due to changes in the original application which makes it unclear what the applicant intended to do, he would second the motion.

Chairman Vaux stated that he believes the Hearing Examiner was justified in limiting the number of lots acceptable to minimize flood exposure.

A vote was called and Commissioners Wylie and Robinson voting in favor of the motion. Chairman Vaux cast a dissenting vote.

Commissioner Wylie explained the intent of her motion for Mr. Gentry, stating that the Hearing Examiner should clarify the need for a Shoreline Substantial Development Permit, should clarify the reason for approving four lots instead of six, and that the Hearing Examiner may revise his decision if he wishes to do so.

APPEAL BY DONALD R. CLARK OF HEARING EXAMINER'S DECISION TO UPHOLD AN ADMINISTRATIVE PROCEDURAL DECISION REGARDING CLARK'S SKAGIT RIVER RESORT.

Dave Hough, Senior Planner, explained that the applicant owns a trailer park and resort at 5675 Highway 20 in Marblemount on property zoned Commercial-Light Industrial. The Department of Transportation intends to improve Highway 20 near the property, and will take some of the C-LI property owned by the applicant. Mr. Clark wishes the County to compensate for his loss by rezoning some of his other property, which is zoned differently, and to allow him to expand his trailer park and resort without requiring him to obtain a Special Use Permit. The Planning Department Director has denied Mr. Clark's request, on the basis that the Planning Department has no authority to rezone or exchange zoning on any property, and that travel trailer parks and resorts require a Special Use Permit regardless of the underlying zoning. Mr. Clark appealed that decision of the Planning Director to the Hearing Examiner, and the Hearing Examiner upheld the decision of the Planning Director. Mr. Clark is now appealing the decision of the Hearing Examiner.

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Mr. Clark stated that he first applied for a rezone of his property for the purpose of expanding his operation in 1989 and it has not yet been considered. He believes that he is entitled to a "logical extension" of his property without benefit of a Special Use Permit, and claims that this was promised to him at a previous meeting with the former Planning Director.

Extensive discussion ensued, with Mr. Clark refusing to consider applying for a Special Use Permit until and unless he receives his C-LI zoning, and Mr. Hough arguing that a rezone is not appropriate for the expansion of his business.

Mr. Clark maintained that he would prefer to live with the risk that the laws which govern C-LI property may change, as opposed to the more permanent nature of a Special Use Permit.

Finally, Commissioner Wylie motioned to uphold the decision of the Hearing Examiner in this matter, but promised to investigate the processing of Mr. Clark's 1989 rezone request. Commissioner Robinson seconded the motion, which passed unanimously.

BID OPENINGS:

1) Leachate Hauling Services - Inman Landfill.

This bid opening was delayed one week.

2) Fir Island Road Repair.

Chairman Vaux waived the reading of the notice of call for bids, as published in The Skagit Argus on June 25, July 2, and 9, 1991.

The following bids were received and opened:

- 1) Waterworks, Inc.
2123 E. Bakerview Road
Bellingham, WA

Total Bid: \$206,475.65

- 2) Lakeside Industries
P.O. Box 729
Anacortes, WA 98221

Total Bid: \$178,846.30

- 3) Valley Paving and Construction, Inc.
624 So. Spruce St.
Burlington, WA 98233

Total Bid: \$160,518.23

- 4) Wilder Construction Company
3315 15th St.
Everett, WA 98210

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Total Bid: \$222,148.30

- 5) Comm-Exco Construction, Inc.
953 Green Road
Burlington, WA 98233

Total Bid: \$214,498.90

- 6) Associated Sand and Gravel Co., Inc.
P.O. Box 2037
Everett, WA 98203

Total Bid: \$236,004.51

- 7) Callen Construction Co., Inc.
P.O. Box 498
Custer, WA 98240

Total Bid: \$222,840.35

The bids will be reviewed and an award made at a later date.

- 3) Reconstruction of Portion of Francis Road.

Chairman Vaux waived the reading of the notice of call for bids, as published in The Skagit Argus on June 25, July 2, and 9, 1991.

The following bids were received and opened:

- 1) Waterworks, Inc.
2123 E. Bakerview Road
Bellingham, WA

Total Bid: \$119,658.00

- 2) Valley Paving and Construction, Inc.
624 So. Spruce St.
Burlington, WA 98233

Total Bid: \$152,132.00

- 3) KLB Construction, Inc.
P.O. Box 158
Mukilteo, WA 98275

Total Bid: \$151,413.00

- 4) Comm-Exco Construction, Inc.
953 Green Road
Burlington, WA 98233

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Total Bid: \$126,250.80

- 5) Callen Construction Co., Inc.
P.O. Box 498
Custer, WA 98240

Total Bid: \$159,686.90

The bids will be reviewed and an award made at a later date.

MISCELLANEOUS ITEMS.

- A. Commissioner Robinson motioned to adopt the resolution awarding the bids for Senior Citizen Meals to Island Hospital, for delivery to the Anacortes area, and to Affiliated Health Services, for delivery to the Burlington, Mount Vernon and Sedro Woolley areas. Commissioner Wylie seconded the motion, which passed unanimously. (Resolution # 13069)
- B. Commissioner Wylie motioned to adopt the resolution awarding the bid for the construction of a new maintenance shop at the Resource Recovery Facility to Thomco Construction, the lowest bidder, at \$151,288.00. Commissioner Robinson seconded the motion, which passed unanimously. (Resolution # 13070)
- C. 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, July 16, 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 #81708 through #81863 (Vouchers #81708 through #81863) in the amount of \$218,212.08. (R-16-91)
- 2) Warrants #13425 through #13500 (Vouchers #PDRAWJUL979 through #PDRAWJUL1054) in the amount of \$27,740.19. (P-14-91)

PUBLIC HEARING - AMENDMENTS TO CHAPTER 2.36 OF THE SKAGIT COUNTY CODE REGARDING PUBLIC DEFENDER STANDARDS.

Chairman Vaux waived the reading of the notice of public hearing, as published in The Skagit Argus July 2, 1991.

Rob Jones, Public Defender, indicated that the committee formed to submit a proposed ordinance is supportive of this ordinance, and all appropriate reviews and approvals have been received from the members. The ordinance is necessary to comply with legislation which requires that public defender standards be adopted, and it is felt to appropriately address Skagit County's needs.

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

Commissioner Wylie motioned to adopt the ordinance amending Chapter 2.36 of the Skagit County Code regarding Public Defender Standards. Commissioner Robinson seconded the motion, which passed

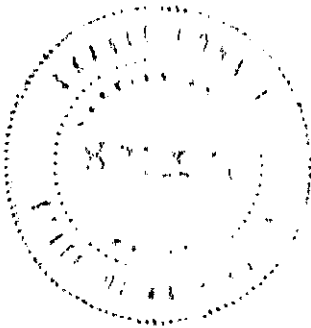
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unanimously. (Ordinance# 13071)

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