

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

Tuesday, June 9, 1992

8:00 a.m. - 9:00 a.m. Work Session - Six Year Road Program.

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

- 1) Agricultural Data Project
- 2) Annexation proposals
- 3) Code Enforcement Report
- 4) Miscellaneous.

10:00 a.m. - 10:30 a.m. Planning Commission Recommendations:

- 1) Max and Pearle Jensen - Comprehensive Plan Map Amendment #CPA-92-011, East of Swinomish Channel, North and West of the Town of LaConner.
- 2) Amendment to Skagit County Code 14.04 - Unclassified Special Uses and Definitions.

10:30 a.m. - 11:30 a.m. Appeal by Maurice Beck, 581 Highway 9, Sedro Woolley (Located 3.5 Miles North of Sedro Woolley on Highway 9) of Skagit County Health Officer's Determination to Disallow Use of a Dug Well for a New Subdivision.

1:30 p.m. - 2:30 p.m. Administrative Appeal - Short Plat Applications SPT-92-006 (Milnor), SPT-92-007 (Campbell), and SPT-92-008 (Johnson), Cascade Ridge.

2:30 p.m. - 3:00 p.m. Discussion - District Court Collections, Judge Gene Anderson.

The Skagit County Board of Commissioners met in regular session on Tuesday, June 9, 1992, with Commissioners Robby Robinson, Ruth Wylie, and W. W. Vaux present.

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

1) Agricultural Data Project.

Scott Kirkpatrick, Director - Department of Planning and Community Development, advised that the Planning Department has been working on this project, agricultural land conversions and the amount of agricultural land that could be developed, for some time.

Kraig Olason, Assistant Director - Department of Planning and Community Development, reported. He stated that the ultimate goal is to ascertain, based on existing zoning and land divisions, what the future holds for agriculturally zoned lands. Mr. Olason introduced Zoe Pfahl, Planning Intern, who has also worked extensively on this project. He added that zoning maps, parcel and plat maps, the Assessor's property role and some aerial photographs were all used to check on whether dwellings existed on the parcels.

Mr. Olason stated that there are roughly 72,000 acres of agricultural land in Skagit County, with a total of 5,000 parcels (a parcel is a buildable unit). The number of dwellings that exist are almost 2,000, with the potential for an additional 1,500 dwellings. The potential average acres per dwelling is a key factor. As the process of critical and resource land evaluation is reviewed it will be found that some of those parcels are needed. It may be necessary to look at parcels in the agricultural reserve that don't need prime soils as possible citing sources.

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Mr. Olason reviewed several charts showing the "Average Acre Per Parcel", "Number of Acres Per Dwelling, Existing", "Number of Acres Per Dwelling, Potential," etc. When the ability to build is exercised, some of those areas will undergo significant change.

There was some discussion about the agricultural data. Mr. Kirkpatrick noted that "if agriculture preservation is equated to lot size then we are deluding ourselves if we think that is a tool for preservation". It is important to look at more effective tools that could be used. It is hard to believe that the majority of those 1,465 lots would be consumed by farming families and that there is a demand for additional housing units in the agricultural zone.

Lisa Nielsen of Skagitonians to Preserve Farmland noted that in a survey that covered over 9,000 acres they found that over 50% of the ag land was not owned by farm people.

2) Annexation Proposals.

Scott Kirkpatrick reported that Planning staff has spent considerable time analyzing annexation and other proposals occurring within the urban growth boundaries or the cities themselves. When special purpose districts and cities request enlargement of service boundaries or to annex incorporated properties, often the County is asked to respond to such requests after a SEPA threshold determination has been issued by the lead agency or after formal application has been made to the Boundary Review Board.

Due to the reactive nature by the County to the above requests, Mr. Kirkpatrick advised that the Planning Department is recommending that a policy be adopted that states that the Board of County Commissioners will invoke the jurisdiction of the Boundary Review Board unless pre-annexation agreements or service boundary changes are agreed to in advance of any decision by the respective governmental entity. It would be helpful to put a hold on annexations until urban growth boundaries have been determined. Mr. Kirkpatrick expressed concern about the cities annexing portions of the County without enough process prior to annexation.

Commissioner Wylie suggested that the drainage districts and other parties be brought into pre-annexation discussions.

Commissioner Vaux arrived at the meeting at this time and entered into the discussion.

After further discussion, Commissioner Robinson and Commissioner Wylie expressed their belief that a policy relative to annexation proposals would be reasonable.

Commissioner Wylie motioned that a policy be created whereby the Board of County Commissioners will invoke the jurisdiction of the Boundary Review Board unless pre-annexation or service agreements are agreed to in advance of any decision by the respective governmental entity and that all parties be involved that are effected by the annexation. Commissioner Vaux seconded the motion, which passed unanimously.

3) Code Enforcement Report.

Mr. Kirkpatrick presented the Code Enforcement Report to the Board for their information.

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PLANNING COMMISSION RECOMMENDATIONS:

1) Max and Pearle Jensen - Comprehensive Plan Map Amendment #CPA-92-011, East of Swinomish Channel, North and West of the Town of LaConner.

Jim Cahill, Assistant Planner, read the recorded motion of the Planning Commission. Mr. and Mrs. Jensen are proposing to reclassify 1.5 acres of agricultural property located along the east side of the Swinomish Channel, directly north and west of the Town of LaConner and Port of Skagit County property to commercial property. The Planning Department has recommended approval of this Comprehensive Plan Amendment and the Planning Commission has likewise recommended approval. Mr. Cahill reviewed maps of the area with the Board.

After discussion Commissioner Vaux motioned to approve the recommendation of the Planning Commission relative to the proposal of Max and Pearle Jensen to reclassify 1.5 acres of agricultural property located along the east side of the Swinomish Channel from the present agricultural designation to a commercial designation. Commissioner Wylie seconded the motion, which passed unanimously.

2) Amendment to Skagit County Code 14.04 - Unclassified Special Uses and Definitions.

Jim Cahill read the recorded motion regarding proposed changes to Skagit County Code 14.04, Zoning Ordinance.

In Motion #1 relative to day care facilities, the Planning Commission recommended that day cares be allowed outright in Highway-Oriented Commercial, Multi-Family Residential, Residential, Residential Reserve, Rural, Rural Intermediate, Agricultural, Agricultural Reserve, and as an Unclassified Special Use in Aviation, Industrial and Forestry.

In Motion #2 relative to Large Animal Veterinary Clinics, the Planning Commission's motion included "Animal Clinics" as an Unclassified Special Use administered by the Hearing Examiner in Rural, Agriculture, and Agricultural Reserve zones. Rural Intermediate was excluded.

Mr. Kirkpatrick explained that relative to large animal veterinary clinics, the whole point of the amendment is to allow facilities of this nature to perform surgical and other procedures that could not occur on a farm or horse ranch. John Zaccardi, DVM, was present in support of the proposed amendment to the Skagit County Code.

In Motion #3 relative to Unclassified Special Uses, the Planning Commission agreed with the recommendation of the Planning Department that travel trailer or recreational vehicles parks be allowed in an Industrial zone and be administered by the Hearing Examiner.

In Motion #4 relative to Storage of Unlicensed and/or Unoperable Vehicles, Mr. Kirkpatrick recommended that "structure" be changed to "building" to better describe the intent of the code, i.e. a pump house is a structure, but would not normally be described as a building.

After discussion Commissioner Wylie motioned to approve the recorded motion regarding proposed changes to the Skagit County Code 14.04 Zoning ordinance. Commissioner Vaux seconded the motion, which passed unanimously.

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APPEAL BY MAURICE BECK, 581 HIGHWAY 9, SEDRO WOOLLEY, WASHINGTON, (LOCATED 3.5 MILES NORTH OF SEDRO WOOLLEY ON HIGHWAY 9) OF SKAGIT COUNTY HEALTH OFFICER'S DETERMINATION TO DISALLOW USE OF A DUG WELL FOR A NEW SUBDIVISION.

Lorna Haycox, Environmental Health Specialist II, Skagit County Health Department, reported. She introduced Mr. and Mrs. Beck and their daughter Sharon to the Board. Ms. Haycox described the property in question, indicating that Mr Beck desires to short plat his 11+ acre parcel into 2 pieces. The new lot would be for their daughter, Sharon. The parcel is located 3.5 miles north of Sedro Woolley on Highway 9.

Ms. Haycox explained that a new ordinance regarding wells went into effect January 1, 1992. Mr. Beck knew about the ordinance and wanted to submit his short plat before January 1, 1992 to avoid the new rule. Unfortunately, his surveyor was unable to keep to this schedule. In September, Mr. Beck advised his surveyor that he was going to put in a well. The surveyor assumed it would be a drilled well. Mr. Beck found out that a dug well was unacceptable after it was fully constructed.

Ms. Haycox further explained that the goal of the new ordinance regulating public drinking water standards is to be a health based code, educating the public to current public health knowledge about providing consistent and sanitary drinking water. The Ad Hoc Committee that helped to develop the new regulations desired some leniency with existing lots, but less leniency when new lots were created. They felt the long range view must be taken, that new lots shouldn't impact the neighbor's ability to develop and that new lots should be done correctly at the beginning.

Ms. Haycox said that thirty years ago hand dug wells were an accepted source of drinking water. That is not the case now. The Health Department is now aware of many contaminated aquifers and more aware of how pathogenic agents, such as bacteria, viruses and parasites are able to find their way into a dug well. Dug wells have fallen from favor both with EPA, SDOE and SDOH. The state considers dug wells to be a significant danger to health. They are recommending that building permits be denied and development restricted for areas needing such systems.

Ms. Haycox stated that Mr. Beck's well has passed the inorganic criteria set in the code and he has had both good and bad bacteriological samples. The concern of the Health Department with dug wells is the quality. Dug well construction is vulnerable to contamination and decreased quantity, as shallow aquifers are dependent on previous rainfall. Repeated complaints are received from people with dug wells relative to contamination and their inability to solve the problem as well as going dry in late summer.

Ms. Haycox presented an overhead of a drilled well, a DOE dug well and Mr. Beck's well.

Ms. Haycox concluded that this well is not the best source of drinking water on this property. Both the well logs and well drillers indicate that a deeper groundwater source appears to be available. Alternative sources are to be discouraged since they are vulnerable and might result in disease and diminished or no water in a low rainfall year. This source is clearly substandard and the well does not even meet minimum standards for a shallow well. Finally, the Health Department requires disinfection and filtration for shallow dug wells. Alternative sources with treatment are required to file water system status reports. The ordinance clearly states that systems with status reports cannot be used for the creation of new lots. Ms. Haycox added that the Health Department realizes a drilled well costs more, but as a Health Department they are mandated to direct the public to the best source of drinking water; and it is the belief of the Health Department that Mr. Beck's well is not the best source of drinking water. Ms. Haycox requested that the Board of Health concur

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with the recommendation of the Health Department.

Mr. Beck responded to Ms. Haycox's presentation, thanking the Board for the opportunity make a presentation about his appeal. He read excerpts from a diary relative to the process he went through to install the well on his property. He explained that he and his wife wished to give the property to their daughter and that a mobile home was purchased to put on the property. Mr. Beck said he signed a contract with Skagit Surveyors last September at which time they were advised of his intention to dig a well. They were informed by Mr. Requa of a new law to take place January first and it was their intent to complete the work prior to this time.

Mr. Beck stated that he went to the Health Department at this time and asked them if there were any regulations or rules about digging your own well and was told that at the present time there were not. A well was dug from September 6 through October 8. On the 15th a sample of water was taken to the Health Department to be tested and the Becks were advised it contained no fecal coliform. On October 25, the soil was tested for a septic system and this was approved. On October 30, another sample of water was taken to the Health Department. Mr. Beck distributed water reports to the Board.

Mr. Beck further explained the process he went through relative to drilling the well on his property and his contacts with the Health Department and the results of further water samples. He stated he did not feel this ordinance could apply since it did not go into effect until after his well was finished. He said he was not advised in September that he needed to concur with the ordinance. Mr. Beck said that all the conclusions made by the Health Department are invalid.

Mr. Beck concluded, asking that the Board accept the existing well without any conditions or restrictions and allow them to proceed with installation of the mobile home for his daughter's family.

Stephanie Wood said that since there is no provision in the ordinance for a public hearing the Board can make a decision about Mr. Beck's appeal without holding a public hearing.

There was discussion by the Board regarding this matter.

Commissioner Vaux noted that the date on the short plat, which has not been granted yet, is what triggers which ordinance applies. Mr. Beck responded that he hired a surveyor to do the work by the end of October and if it had been done as promised they would have been well ahead of the ordinance.

Commissioner Robinson asked if back in September when Mr. Beck went into the Health Department for information, was information provided at that time? Ms. Haycox said they handed out copies of the draft ordinance all year although it was not a final ordinance at that time.

Mr. Beck said the person he talked to said "no, not at this time although there is one going in".

Commissioner Robinson asked Ms. Haycox about the water tests. Ms. Haycox said maybe two tested free of coliform bacteria. Commissioner Robinson asked if Mr. Beck put ventilation or some type of disinfection unit in would his well then be satisfactory. Ms. Haycox said that is for Mr. Beck to discuss with the Department of Ecology. Ventilation and disinfection would make it sanitary.

Commissioner Vaux asked, prior to January first what process was needed to dig a well. Lorna clarified that no one in the Permit Center would have asked about a water source prior to January first.

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Commissioner Vaux requested that the decision of the Board be delayed until the following week. Monday, June 22 at 3:00 p.m. was set for a decision on the appeal by Maurice Beck.

Mr. Beck noted that when they had their well tested after the flood last year it still tested all right. It was also below the creek at that time. He added that he believes the aquifer they are in is a good one.

ADMINISTRATIVE APPEAL - SHORT PLAT APPLICATIONS SPT-92-006 (MILNOR), SPT-92-007 (CAMPBELL), AND SPT-92-008 (JOHNSON), CASCADE RIDGE.

Dave Hough, Senior Planner, acknowledged that Mr. Hicks, attorney for the appellants, has also represented Mr. Hough on other matters.

Mr. Hicks had no objection to Mr. Hough's involvement in the appeal.

Mr. Hough explained that the three short plat applications by Milnor, Campbell and Johnson were submitted in 1992.

Mr. Hough provided an Assessor's map with colored blocks depicting the three properties. Mr. Hough explained that in 1991, Keith Johnson short platted his property into three parcels (colored green). Two of the parcels were then sold, one to Mr. Milnor and one to Mr. Campbell (marked blue and red, respectively). One of the parcels was retained by Mr. Johnson. In 1992, all three parcel owners submitted for short plats.

Mr. Hough read from Skagit County Code 14.08.090 Requirements of a Short Subdivision, which states that information required on the short plat shall be as follows: (j), "all contiguous land in which the developer has an interest; Additional short subdivisions on the remainder of such lands will not be eligible for approval for five (5) years unless the total divisions are less than four (4), in such instances, the total divisions shall not total over four (4) during the five (5) year period."

Mr. Hough explained that the intent of Skagit County's short plat ordinance is to provide a simpler review process for smaller developments. When developments where greater numbers of divisions will be made pending development of more homes, the long subdivision ordinance must be used in order to ensure that proper drainage facilities, roads, and services are available to the lots, and so that impacts of greater numbers of homes can be determined.

Mr. Hough stated that the courts found in Girard v. San Juan County that counties have the right to deny short plats based on the relationships of the parties short platting. Mr. Hough stated that Mr. Milnor purchased his property on February 26, 1992, and Mr. Campbell made his purchase on September 31, 1992. Shortly thereafter, application was made. The proximity of the parcels, the applicants' apparent attempt to configure the lots so as to avoid the long plat ordinance, and the developers' relationship all indicate that to allow these short plats to occur would be a circumvention of the long plat ordinance.

John Milnor represented his wife, Mr. and Mrs. Keith Johnson, and Mr. and Mrs. Kurt Campbell. He provided three maps with which to demonstrate his points.

Mr. Milnor first pointed out that last week's James Cook short subdivision application denial has no bearing on his application, as the three applicants, Milnor, Johnson and Campbell, are not family.

Mr. Milnor complained that it took staff four weeks to schedule his appeal.

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Mr. Milnor then proceeded to take the Board through a historical study of the subject property. He stated that originally, Skagit County itself segregated three of the parcels in the 1930's and 1940's. The subdivided property was later sold to the McDonalds, and later to the Johnsons. Other properties were at the same time being subdivided by the Minors, the Youngquists and the Smarts. Mr. Milnor stated that up until last year when the County changed its policy, a County road subdivided part of the Johnson property.

Mr. Milnor then made arguments suggesting that the lots are not contiguous, providing additional proof of their being unrelated. Mr. Milnor argued that Girard v. San Juan County does not apply to his application because applicants Milnor and Campbell did not perform the original subdivisions.

Mr. Milnor submitted that if the appeal is to be allowed, the applicants will also request a variance to the 600 foot maximum road length allowed within the short plat ordinance.

John Hicks, an attorney representing Mr. Milnor, then testified. Mr. Hicks pointed out that in Girard v. San Juan County, the court said that parcels could be sold and subdivided if they were legal lots of record. Only those that circumvented the long plat ordinance were denied. Mr. Hicks stated that the three lots owned by Milnor, Campbell and Johnson are legal lots of record, therefore Girard does not apply. Mr. Hicks warned that if denied, the applicants will return with a long plat application and increase the densities of homes on their parcels. This will give Campbells two more lots and Milnors four more.

Commissioner Vaux then requested a copy of Mr. Milnor's written remarks, and this was provided by Mr. Milnor.

The matter was set for decision for 3:15 p.m. on June 22, 1992.

MISCELLANEOUS ITEMS.

Commissioner Vaux was absent for the following item.

- A. In accordance with action taken the previous day, Commissioner Wylie motioned to adopt the resolution approving the submittal of an application to the Interagency Committee on Outdoor Recreation for funding to develop Skagit County's Centennial Trail, and pledging \$156,000 in General Funds to act as a 50% match. Commissioner Robinson seconded the motion, which carried and was so ordered. (Resolution #14349)
- B. Commissioner Wylie motioned to adopt the resolution authorizing a budget line item change in the amount of \$84,080 for the Current Expense Fund and \$45,000 for the 911 Emergency Communications Fund to include changes in the Cooperative Extension Office, Permit Center, Sheriff's Office, Treasurer's Office, Microfilming Department and Non-Departmental budget. Commissioner Vaux seconded the motion, which passed unanimously. (Resolution #14350)

DISCUSSION - DISTRICT COURT COLLECTIONS, JUDGE GENE ANDERSON.

Judge Anderson and Pam Terwilliger, District Court Administrator, explained to the Board that approximately \$2 million in outstanding fines is due to Skagit County. They proposed that a collections agency be contracted to recoup as many of the uncollected fines as possible.

The merits of Allied Credit Services and Skagit Bonded Collectors were debated. No agreements was

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reached; however, Mike Woodmansee, Budget/Finance Director, was asked to provide answers to questions that had come up during the discussion.

ADJOURNMENT:

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


**BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON**






Robby Robinson, Chairman

Ruth Wylie, Commissioner



W. W. Vaux, Commissioner

ATTEST:



Stephanie Wood, Clerk
Skagit County Board of Commissioners